

**INITIAL STUDY/
MITIGATED NEGATIVE DECLARATION
for
EVERGREEN VILLAGE
TOWNHOME PROJECT**

File Nos. PDC21-036, PD21-020, & ER21-281



**CITY OF SAN JOSE
CALIFORNIA**

January 2025

MITIGATED NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

PROJECT NAME: Evergreen Village Townhome Project

PROJECT FILE NOS.: PDC21-036, PD21-020, ER21-281

PROJECT DESCRIPTION: The project consists of a Planned Development (PD) Rezoning from A(PD) to MUN(PD) and a Planned Development (PD) Permit to construct 16 new multi-family residential units (townhomes) in three buildings on an approximately 1.5-acre project site.

LOCATION: The project is located on an approximately 1.5-acre site consisting of two parcels with unassigned addresses located at Evergreen Village Square and Classico Avenue in San José.

ASSESOR'S PARCEL NOS.: 659-57-015 & 659-84-093

COUNCIL DISTRICT: 8

APPLICANT CONTACT INFORMATION: HawkStone Development, 5665 Silver Creek Valley Road, #305, San José, CA 95138; Reyad Katwan, rkatwan@hawkstonedev.com

FINDING

The Director of Planning, Building and Code Enforcement finds the project described above would not have a significant effect on the environment if certain mitigation measures are incorporated into the project. The attached Initial Study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this Mitigated Negative Declaration (MND), has made or agrees to make project revisions that will clearly mitigate the potentially significant effects to a less than significant level.

ENVIRONMENTAL RESOURCE AREAS AND MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

- A. **AESTHETICS** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- B. **AGRICULTURE AND FORESTRY RESOURCES** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- C. **AIR QUALITY** – The project would not have a significant impact on this resource, therefore no

mitigation is required.

D. BIOLOGICAL RESOURCES

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

MM BIO-1: The project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive).

If demolition and construction cannot be scheduled to occur between September 1st and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist or biologist to ensure that no nests shall be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the breeding season (February 1st through August 31st, inclusive). During this survey, the ornithologist/biologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.

If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist/biologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction.

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

Impact BIO-2: Construction activities associated with the project could impact burrowing owls if they are present on the site at the time of construction.

MM BIO-2: Prior to issuance of any grading or building permits, the project applicant shall incorporate the following measures:

- Preconstruction Surveys: Prior to issuance of any grading or building permits, preconstruction surveys shall be conducted for burrowing owls regardless of whether impacts are to occur during the breeding or non-breeding season. These surveys consist of a minimum of two surveys conducted for a minimum of a 3-hour period within 1 hour of sunrise and/or sunset, with the first survey no more than 14 days prior to initial construction activities (i.e., vegetation removal, grading, excavation, etc.) and the second survey conducted no more than two days prior to initial construction activities. The survey shall ensure complete visual coverage of the site and a 250-foot radius of the site. These survey results shall be documented in a letter report to be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee for review and approval.

- Burrowing Owl Monitoring Plan: If burrowing owls are observed during the preconstruction surveys, occupied burrows shall be identified by the qualified biologist and a buffer shall be established. The qualified biologist shall submit a Burrowing Owl Monitoring Plan that shall include, but would not be limited to, the following:
 - Identification of appropriate non-disturbance buffers (i.e., 250-foot) around all active burrows as identified and defined by a qualified biologist.
 - Determination of nests and occupancy (i.e., vacant or not)
 - Determination of protocols to relocate nests, collapse suitable vacant burrows, or other equivalent protocol to ensure the safety of owls and habitat, consistent with Santa Clara Valley Habitat Plan (SCVHP) protocols.
 - Protocols for monitoring during non-nesting seasons if owls are found.
 - Protocols for avoidance measures.
 - Protocols for on-going reporting to the necessary agency.

- Non-nesting Season Avoidance Measures: Should a burrowing owl be located onsite in the non-breeding season (September 1 through January 31, inclusive), construction activities would not be allowed within the 250-foot buffer of the active burrow(s) used by any burrowing owl unless the following avoidance measures are adhered to. These include, but are not limited to, the following:
 - The qualified biologist monitors the owls for at least 3 days prior to construction to determine baseline nesting and foraging behavior (i.e., behavior without construction).
 - The qualified biologist monitors the owls during construction and finds no change in owl nesting and foraging behavior in response to construction activities, ending the monitoring requirement.
 - However, if the qualified biologist finds that there is any change in owl nesting and foraging behavior as a result of construction activities, these activities will cease within the 250-foot buffer. Construction cannot resume within the 250-foot buffer until the adults and juveniles from the occupied burrows have moved out of the project site. The results of this evaluation shall be documented in a letter report to be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee.
 - If monitoring indicates that the nest is abandoned prior to the end of nesting season and the burrow is no longer in use by owls, the non-disturbance buffer zone may be removed. The biologist will excavate the burrow to prevent reoccupation after receiving approval from the Wildlife Agencies.

These avoidance measures shall be documented in a letter report to be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee for review and approval.

- Nesting Season Reduced Buffer Exception: For permission to engage in construction activities within 250 feet of such burrows during the nesting season (February 1 through August 31, inclusive), an Avoidance, Minimization, and Monitoring Plan shall be prepared by a qualified biologist and approved by the SCVHP Implementing Agency (i.e., the City of San José) and the Wildlife Agencies prior to such encroachment. The plan shall ensure that burrowing owls and active nests are not impacted by the encroachment,

based on the professional judgement of the qualified biologist, and shall include the same criteria for non-nesting season encroachment.

- E. CULTURAL RESOURCES** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- F. ENERGY** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- G. GEOLOGY AND SOILS** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- H. GREENHOUSE GAS EMISSIONS** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- I. HAZARDS AND HAZARDOUS MATERIALS.**

Impact HAZ-1: Due to historical use of the project site for agricultural purposes, the project site may contain soils with residual pesticide contamination.

MM HAZ-1.1: Prior to issuance of any grading permits, the applicant shall retain a qualified consultant to collect shallow soil samples that will be taken in the near surface soil in the proposed project area and tested for organochlorine pesticides and pesticide-based metals such as arsenic and lead to determine if contaminants from previous agricultural operations occur at concentrations above established construction worker safety and residential standard environmental screening levels. The sampling methodology should follow the Department of Toxic Substances (DTSC) Interim Guidance for Sampling Agricultural Properties (Third Revision) dated August 7, 2008. The result of soil sampling and testing will be provided to the Director of Planning, Building and Code Enforcement or the Director's designee and the Environmental Compliance Officer in the City of San José's Environmental Services Department.

If pesticide contaminated soils are found in concentrations above the appropriate regulatory environmental screening levels for the proposed project the applicant shall obtain regulatory oversight from the Santa Clara County Department of Environmental Health (or Department of Toxic Substances Control) under their Site Cleanup Program. A Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document must be prepared by a qualified hazardous materials consultant. The plan must establish remedial measures and/or soil management practices to ensure construction worker safety and the health of future workers and visitors. The Plan and evidence of regulatory oversight shall be provided to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement, and the Environmental Compliance Officer in the City of San José's Environmental Services Department.

- J. HYDROLOGY AND WATER QUALITY** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- K. LAND USE AND PLANNING** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- L. MINERAL RESOURCES** – The project would not have a significant impact on this resource,

therefore no mitigation is required.

- M. NOISE** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- N. POPULATION AND HOUSING** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- O. PUBLIC SERVICES** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- P. RECREATION** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- Q. TRANSPORTATION** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- R. TRIBAL CULTURAL RESOURCES** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- S. UTILITIES AND SERVICE SYSTEMS** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- T. WILDFIRE** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- U. MANDATORY FINDINGS OF SIGNIFICANCE.**

Cumulative impacts would be less than significant. The project would comply with existing regulations and City standard conditions of approval. The proposed project would implement the identified mitigation measures and would either have no impacts or less than significant impacts on applicable biological resources protection ordinances, cultural resources (including tribal cultural resources), and hazards and hazardous materials. Therefore, the proposed project would not contribute to any cumulative impact for these resources. The project would not cause changes in the environment that have any potential to cause substantial adverse direct or indirect effects on human beings.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **March 10, 2025 at 5:00 p.m.** any person may:

1. Review the Draft Mitigated Negative Declaration (MND) and attached Initial Study as an informational document only; or
2. Submit written comments regarding the information and analysis in the Draft MND/Initial Study. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND/Initial Study, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND. Please submit comments to: Cort Hitchens, Environmental Project Manager; 200 E. Santa Clara Street – Tower 3; San Jose, CA 95113 or via e-mail at cort.hitchens@sanjoseca.gov.

CHRISTOPHER BURTON, Director
Planning, Building and Code Enforcement

Tina Garg

Deputy

February 6, 2025

Date

Cort Hitchens
Environmental Project Manager

**Circulation period: February 25, 2025 to March 18,
2025**

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- C. Greenhouse Gas Compliance Checklist
- D. Phase I Assessment
- E. Noise & Vibration Assessment

Chapter 1. Background Information

INTRODUCTION

This Initial Study has been prepared to conform to the requirements of the California Environmental Quality Act (CEQA), the CEQA Guidelines (Title 14, California Code of Regulations §15000 et seq.), and the regulations and policies of the City of San José. The purpose of this Initial Study is to provide objective information regarding the environmental consequences of the proposed project to the decision makers considering the project.

The City of San José is the lead agency under CEQA for the proposed project. The City has prepared this Initial Study to evaluate the environmental impacts that might reasonably be anticipated to result from the construction of this project, as described below.

Publication of this Initial Study marks the beginning of a 20-day public review and comment period. During this period, the Initial Study will be available to local, State, and federal agencies and to interested organizations and individuals for review. Written comments concerning the environmental review contained in this Initial Study during the 20-day public review period should be sent to:

City of San José Department of Planning, Building and Code Enforcement
200 East Santa Clara Street
Third Floor Tower
San José, California 95113
Attn: Cort Hitchens, Planner III
Email: Cort.Hitchens@sanjoseca.gov
Phone: (408) 794-7386

This Initial Study and all documents referenced in it are available for public review at the Department of Planning, Building and Code Enforcement at the above address.

Following the conclusion of the public review period, the City of San José will consider the adoption of the Initial Study/Mitigated Negative Declaration (IS/MND) for the project at a regularly scheduled public hearing. The City shall consider the IS/MND together with any comments received during the public review process. Upon adoption of the IS/MND, the City may proceed with project approval actions.

If the project is approved, the City of San José will file a Notice of Determination (NOD), which will be available for public inspection and posted within 24 hours of receipt at the County Clerk's Office for 30 days. The filing of the NOD starts a 30-day statute of limitations on court challenges to the approval under CEQA (CEQA Guidelines Section 15075(g)).

PROJECT DATA

1. **Project Title:** Evergreen Village Townhome Project
2. **Lead Agency Contact:** City of San José Department of Planning, Building and Code Enforcement, 200 East Santa Clara Street, San José, CA 95113
Environmental Planner: Cort Hitchens
3. **Project Owner and Applicant:** HawkStone Development, 5665 Silver Creek Valley Road, #305, San José, CA 95138. Contact: Reyad Katwan, President
4. **Project Location:** The project is located on an approximately 1.5-acre site consisting of two parcels with unassigned addresses located at Evergreen Village Square and Classico Avenue in San José.

Assessor's Parcel Numbers (APNs): 659-57-015 & 659-84-093 **City Council District:** 8
5. **Project Description Summary:** The project consists of a Planned Development (PD) Rezoning from A(PD) to MUN(PD) and a Planned Development (PD) Permit to construct 16 new multi-family residential units (townhomes) in three buildings on the 1.5-acre project site.
6. **Envision 2040 San José General Plan Designation:** *Mixed Use Neighborhood*
7. **Zoning Designations:** A(PD) – Planned Development
8. **Santa Clara Valley Habitat Conservation Plan Designations:**
Area 4: Urban Development Equal to or Greater than 2 Acres Covered
Land Cover: Urban-Suburban
Land Cover Fee Zone: Urban Areas (No Land Cover Fee)
9. **Surrounding Land Uses:**
 - North: Commercial, Ruby Avenue, Residential
 - South: Classico Avenue, Commercial, Residential
 - East: Evergreen Village Square, Commercial, Public/Quasi-Public (Library)
 - West: Evergreen Village Duck Pond, Residential

Chapter 2. Project Description

PROJECT LOCATION

The project is located on an approximately 1.5-acre site consisting of two parcels with unassigned addresses located at Evergreen Village Square and Classico Avenue. The project is located north of Classico Avenue, south of Ruby Avenue, east of the Evergreen Village Duck Pond, and west of Evergreen Village Square (refer to Figure 1). The project site consist of two parcels with Assessor's Parcel Numbers 659-57-015 and 659-84-093 (refer to Figure 2). An aerial photograph of the project site and surrounding area is presented in Figure 3. Photos of the site are presented in Figure 4.

PROJECT DESCRIPTION

The project consists of a PD Rezoning to facilitate the construction of 16 new multi-family residential units (townhomes) in three buildings on the site. The proposed townhomes would be three stories in height. Seven of the 16 proposed units would be designated “live-work” units.¹ The project would also include landscaping, drainage, and utility improvements. Each townhome unit would feature an enclosed garage accessed by new private driveways; no surface parking is proposed. The project site is located in a predominantly residential and commercial area. Table 1 identifies the General Plan land use designation, Zoning District, and existing uses of surrounding properties.

Table 1
Land Uses Surrounding the Project Site

Direction	General Plan Designation	Zoning District	Existing Use
North	<i>Mixed Use Neighborhood</i>	A(PD) Planned Development	Residential
South	<i>Mixed Use Neighborhood</i>	A(PD) Planned Development	Commercial (Retail), Public/Quasi-Public (Public Library)
East	<i>Open Space, Parklands, and Habitat and Mixed Use Neighborhood</i>	--	Evergreen Village Square Park
West	<i>Open Space, Parklands, and Habitat</i>	A(PD) Planned Development	Open Space/Park

Existing General Plan Land Use Designation and Zoning District

The project site is located in the Planned Development (PD) Zoning District and is designated *Mixed Use Neighborhood* in the Envision San José 2040 General Plan Land Use/Transportation Diagram (General Plan). The *Mixed Use Neighborhood* designation is applied to areas intended to accommodate a mixture of compatible residential and commercial uses, including townhouses or stacked flats and some opportunity for live/work, residential/commercial, or small stand-alone commercial uses. New development of a property with the *Mixed Use Neighborhood* designation is determined using an allowable FAR between 0.25 to 2.0.

Proposed Development

¹ “Live-work” is a space that combines a workspace with living quarters, typically with a dedicated area for work.

The project proposes a PD Rezoning to facilitate the construction of 16 new multi-family residential units (townhomes) in three buildings on the site. The proposed townhomes would be three stories in height. Seven of the 16 proposed units would be designated “live-work” units.² The project would also include landscaping, drainage, and utility improvements. Each townhome unit would feature an enclosed garage accessed by new private driveways; no surface parking is proposed.

The proposed site plan for the project is presented in Figure 5. Floor plans for the proposed townhomes are provided in Figures 6 through 8. Elevations are shown in Figures 9 through 11. Additional project details are provided below.

Access and Parking. Vehicular access to the project site would be provided via Ruby Avenue and Classico Avenue (refer to Figure 5). Each unit would contain a one or two-car garage.

Lighting. Outdoor lighting would be provided for site access and security purposes. All outdoor exterior lighting will conform to the City Council’s Outdoor Lighting Policy (4-3), Interim Lighting Policy Broad Spectrum Lighting (LED) for Private Development, and Citywide Design Standards and Guidelines.

Utilities. The project includes the provision of services and utilities to serve the project, including water, storm drainage, wastewater, and solid waste. A stormwater control plan is provided in Figure 12.

The project would be enrolled in either the San José Clean Energy (SJCE) TotalGreen program or GreenSource. To ensure enrollment in SJCE’s program and compliance with City Greenhouse Gas Reduction Strategy, the project would incorporate the following Condition of Approval:

Condition of Approval - **Proof of Enrollment in SJCE.** Prior to issuance of any Certificate of Occupancy for the project, the occupant shall provide to the Director of the Department of Planning, Building, and Code Enforcement (PBCE), or Director’s designee, proof of enrollment in either the San Jose Community Energy (SJCE) GreenSource program (approx. 95% renewable energy) or SJCE TotalGreen program (approx. 100% renewable energy). Program enrollment will be determined by the level assumed in the approved environmental clearance for the project in accordance with the California Environmental Quality Act (CEQA). If it is determined the project’s environmental clearance requires enrollment in the TotalGreen program, neither the occupant, nor any future occupant, may opt out of the TotalGreen program.

Grading. Development of the project would involve the excavation of approximately 100 cubic yards (CY) of material to be exported from the site. A grading and drainage plan is provided in Figure 13.

Public Improvements. The project proposes to retain the existing sidewalks along the project frontages along Ruby Avenue and Classico Avenue while adding new pedestrian access to the proposed development and vehicle access via two new driveways. The proposed 20-foot-wide vehicle driveways on Ruby Avenue and Classico Avenue will be constructed to meet the City’s driveway standards. Additional improvements include reconstruction of the existing handicap ramps

² “Live-work” is a space that combines a workspace with living quarters, typically with a dedicated area for work.

of the project frontages to be ADA-compliant along Ruby Avenue, Classico Avenue, and Evergreen Village Square per City Standard Detail R-11 - Wheelchair Ramp Center of Return (12' or greater sidewalk).

Landscaping and Tree Removal. Landscape plans have been prepared for the project, which are presented in Figure 14. The project does not propose to remove any existing trees, as none are present on the site.

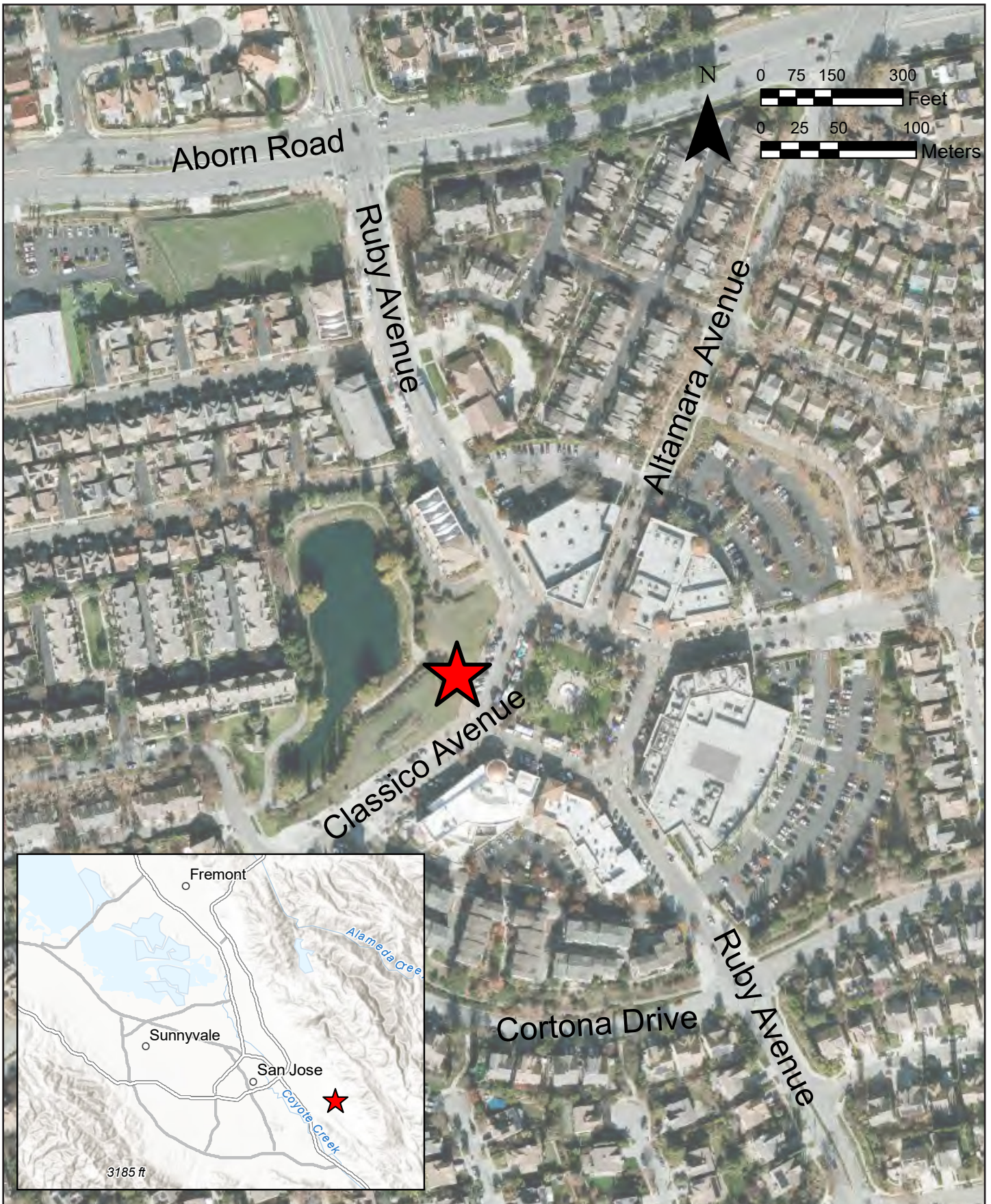
PROJECT CONSTRUCTION

The construction schedule for the project assumes a start in mid-2025. Construction is anticipated to take approximately six months to complete.

PROJECT APPROVALS

The City of San José is the lead agency with responsibility for approving the proposed project. The project applicant is seeking the following approvals for the project:

- Planned Development Rezoning
- Planned Development Permit
- Building Permits
- Grading Permit
- Public Street Improvement Permit
- Other Public Works Clearances, as applicable



Regional Map

Evergreen Village Townhome GPA
Initial Study

Figure

1



APN Map - Parcels 659-57-015 and 659-84-093



Vicinity Map



Photo #1: East facing view of APN 659-57-015 from Evergreen Square.
Source: Google - February 2019



Photo #2: Northeast facing view of APN 659-57-015 from Classico Ave.
Source: Google - February 2019



Photo #3: East facing view of APN 659-84-093 from Evergreen Square.
Source: Google - February 2019



Photo #4: Southeast facing view of APN 659-84-093 from Ruby Ave.
Source: Google - February 2019

Site Photos

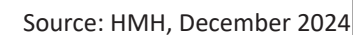


Figure
5

Evergreen Village Townhomes
Initial Study



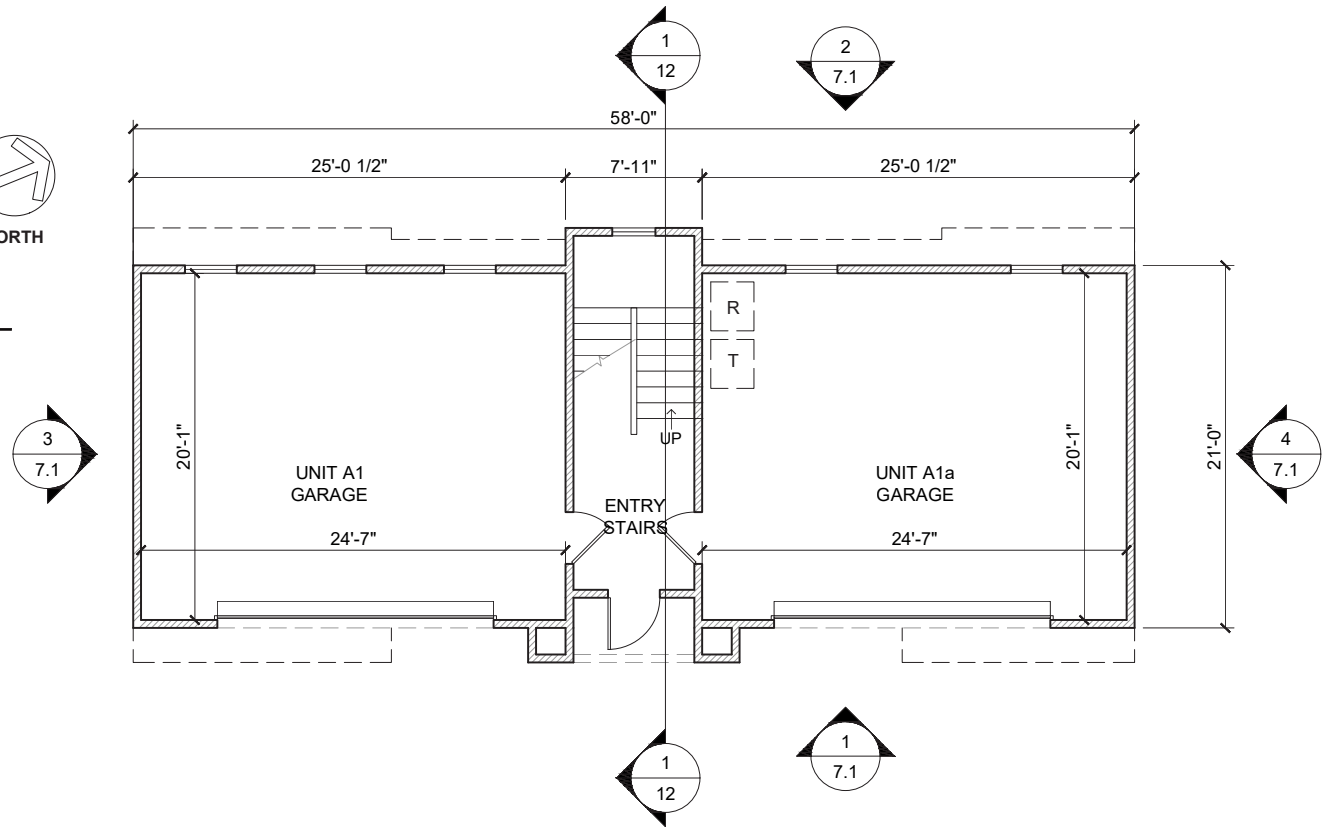
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FIRST FLOOR PLAN (GARAGE)

1/8" = 1'-0"

FLOOR AREA:
TOTAL BUILDING GROSS AREA = 1222 SF

GARAGE AREA UNIT A1 = 531 SF
GARAGE AREA UNIT A1a = 531 SF
COMMON STAIR = 160 SF

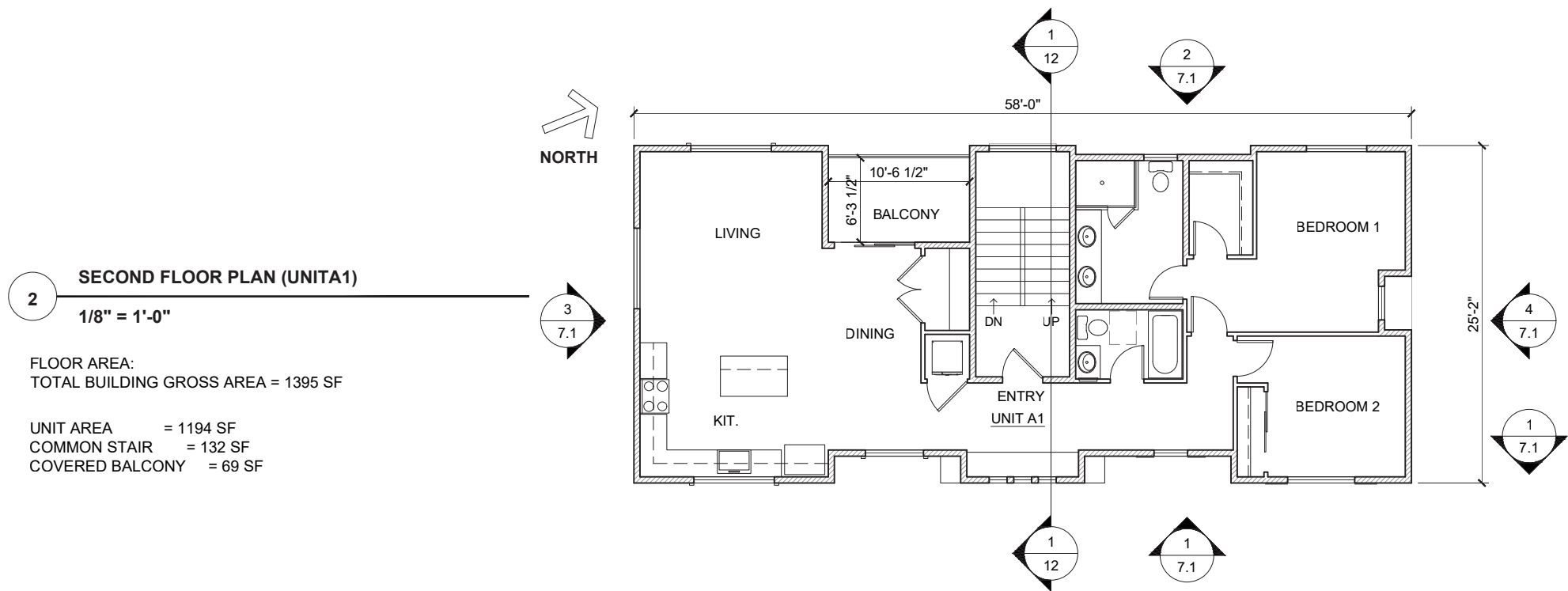


Source: LPMD Architects, January 2023

Floor Plan - Building A - First Floor

Evergreen Village Townhomes
Initial Study

Figure
6a



Source: LPMD Architects, January 2023

Floor Plan - Building A - Second Floor

Evergreen Village Townhomes
 Initial Study

Figure
6b

3

THIRD FLOOR PLAN (UNITA1a)**1/8" = 1'-0"**

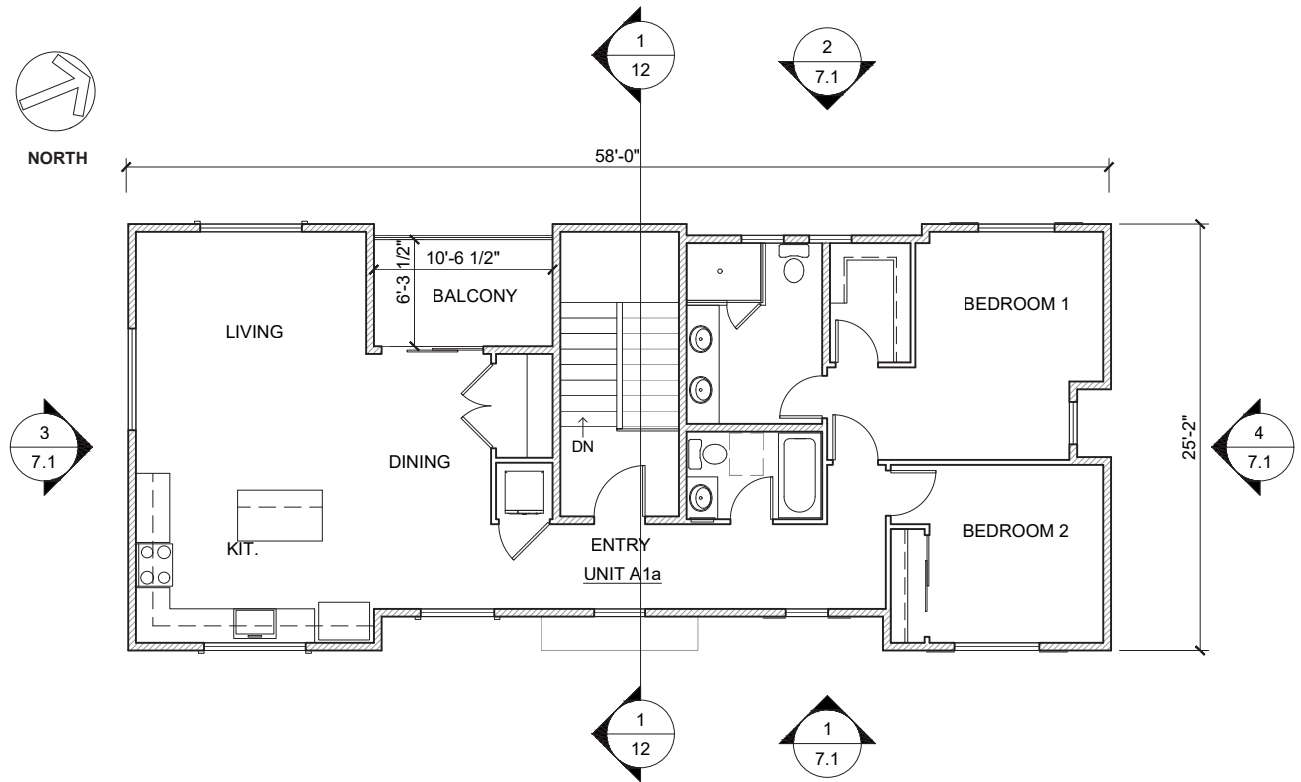
FLOOR AREA:

TOTAL BUILDING GROSS AREA = 1376 SF

UNIT AREA = 1175 SF

COMMON STAIR = 132 SF

COVERED BALCONY = 69 SF



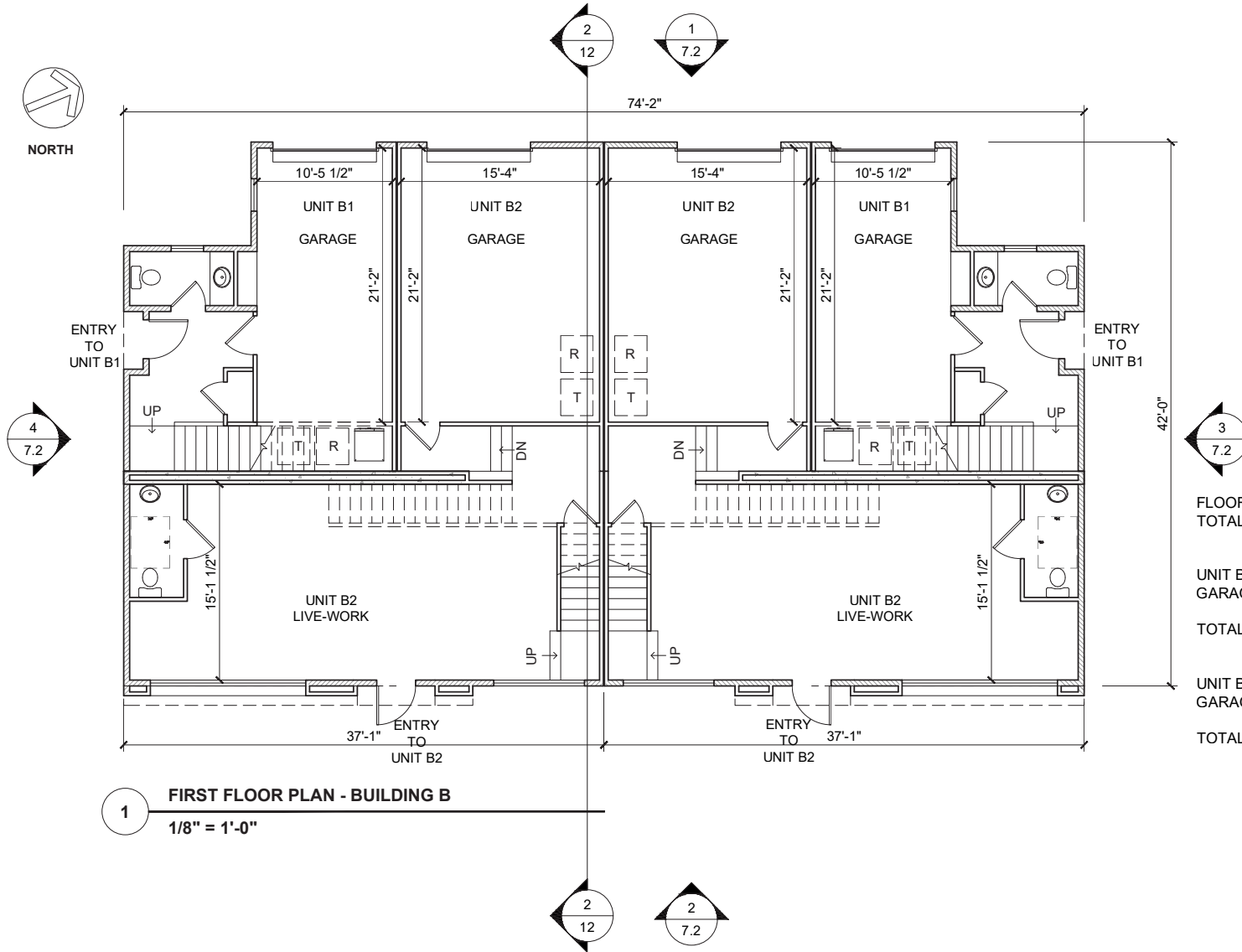
Source: LPMD Architects, January 2023

Floor Plan - Building A - Third Floor

Evergreen Village Townhomes
Initial StudyFigure
6c



NORTH



Source: LPMD Architects, January 2023

Floor Plan - Building B - First Floor

Evergreen Village Townhomes
Initial Study

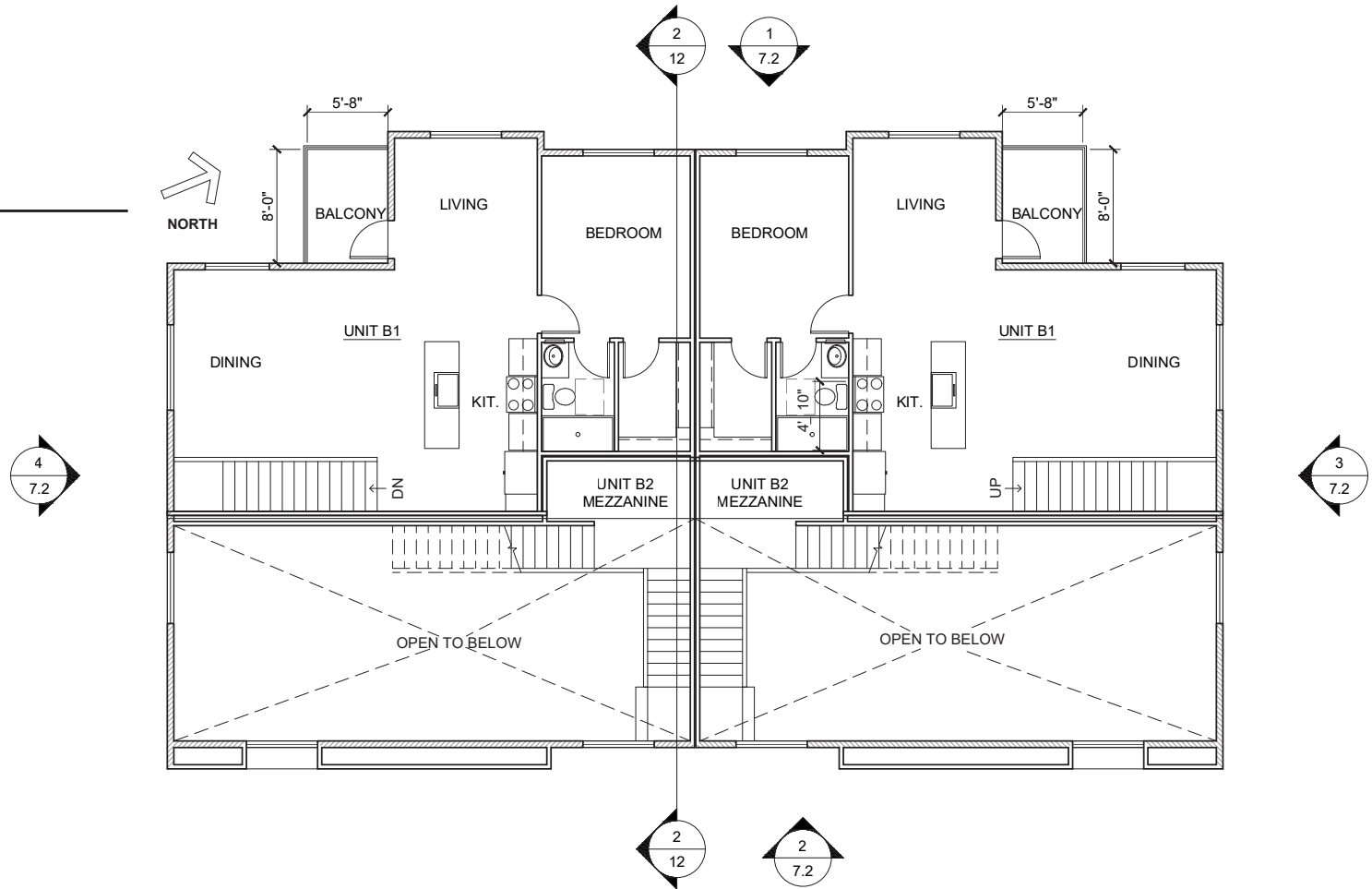
Figure
7a

2 SECOND FLOOR PLAN - BUILDING B
1/8" = 1'-0"

FLOOR AREA:
 TOTAL BUILDING GROSS AREA = 2984 SF

UNIT AREA = 2 x 804(B1) = 1608 SF
 BALCONY = 2 x 45(B1) = 90 SF
 I TO BELOW LIVE-WORK = 2 x 643(B2*) = 1286 SF

*: INCLUDE MEZZANINE

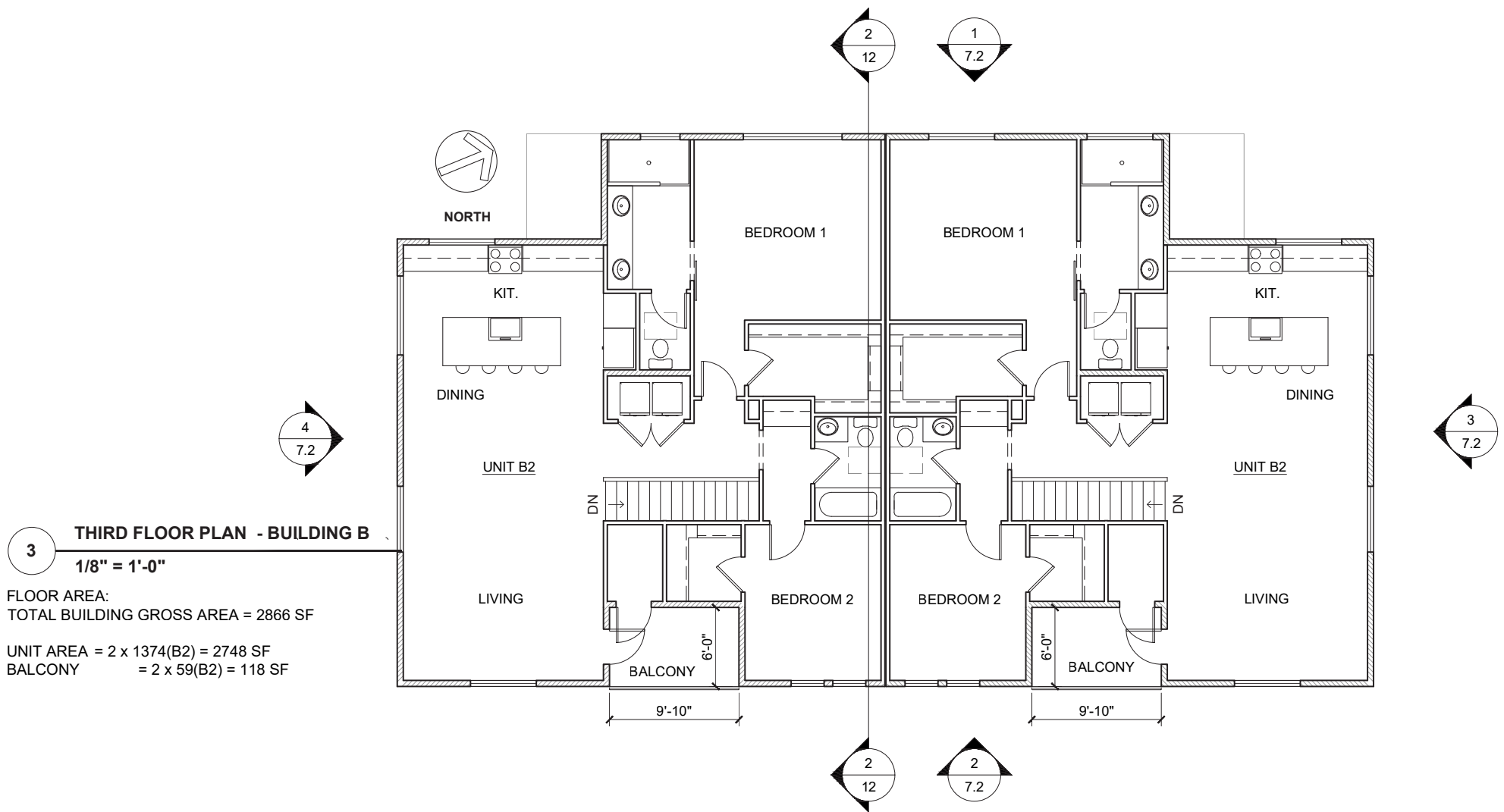


Source: LPMD Architects, January 2023

Floor Plan - Building B - Second Floor

Evergreen Village Townhomes
 Initial Study

Figure
7b

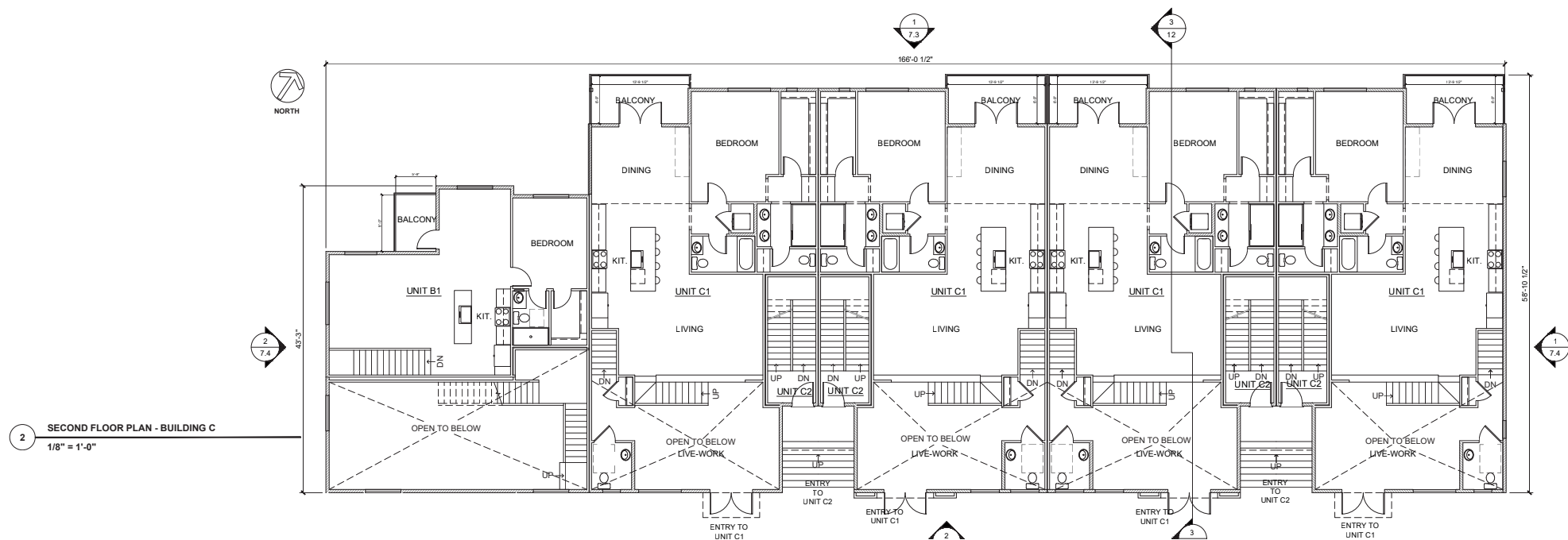


Source: LPMD Architects, January 2023

Floor Plan - Building B - Third Floor

Evergreen Village Townhomes
 Initial Study

Figure
7c

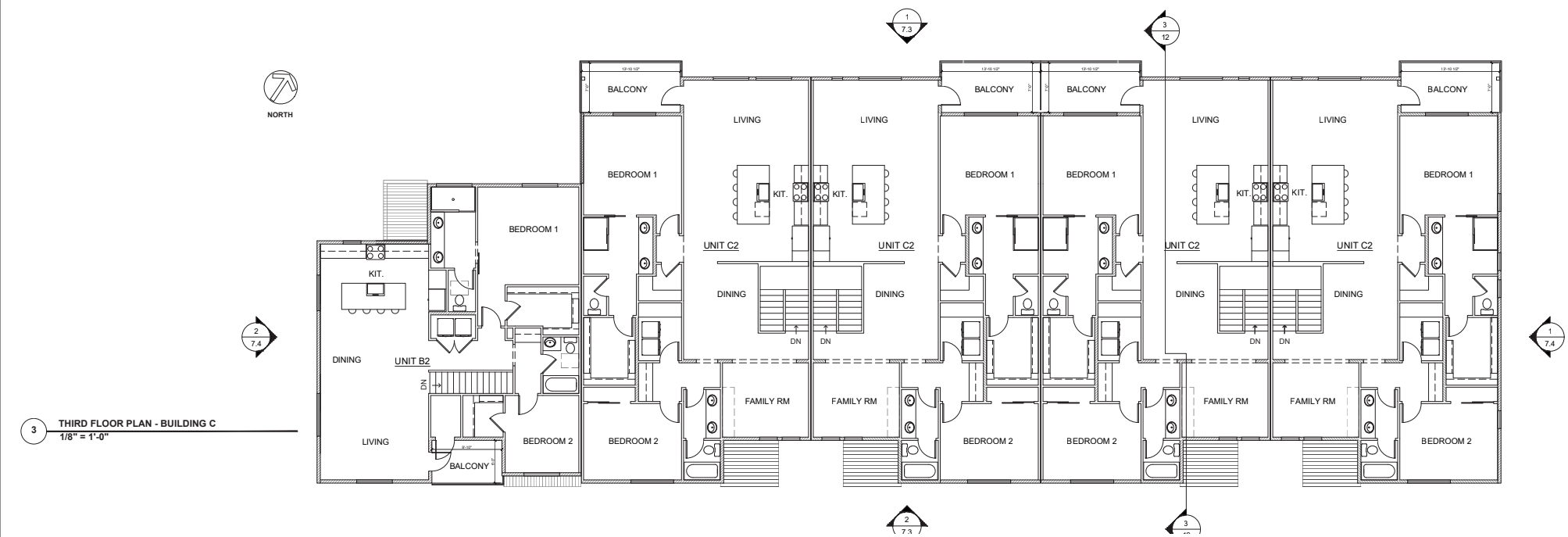


Source: LPMD Architects, January 2023

Floor Plan - Building C - Second Floor

Evergreen Village Townhomes
Initial Study

Figure
8b

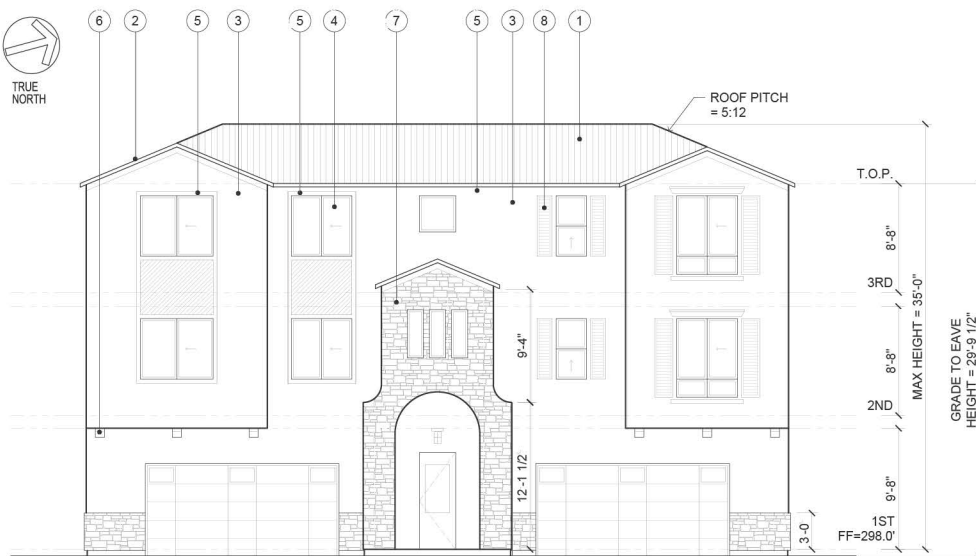


Source: LPMD Architects, January 2023

Floor Plan - Building C - Third Floor

Evergreen Village Townhomes
Initial Study

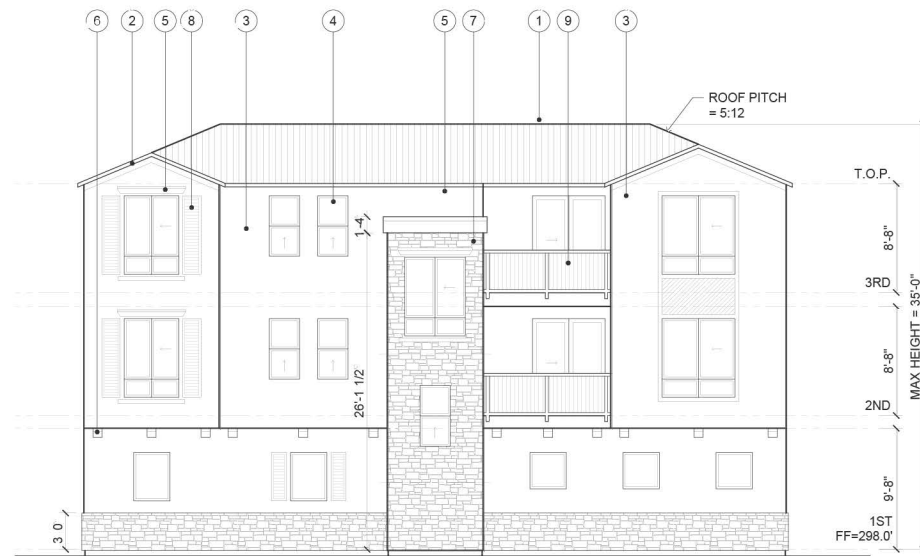
Figure
8c



BUILDING A ELEVATION (FRONT-GARAGE)

1

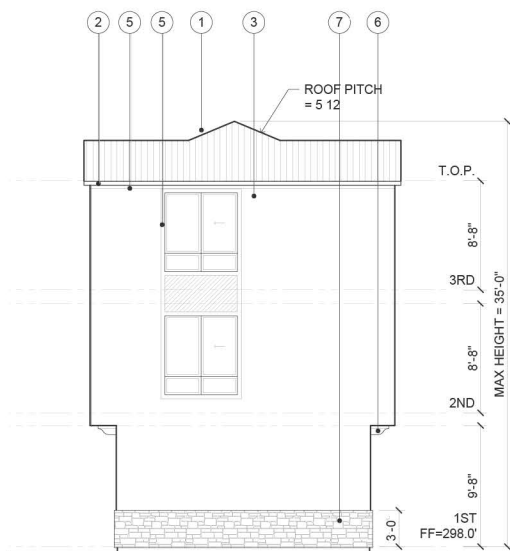
1/8" = 1'0"



BUILDING A ELEVATION (LAKE SIDE)

2

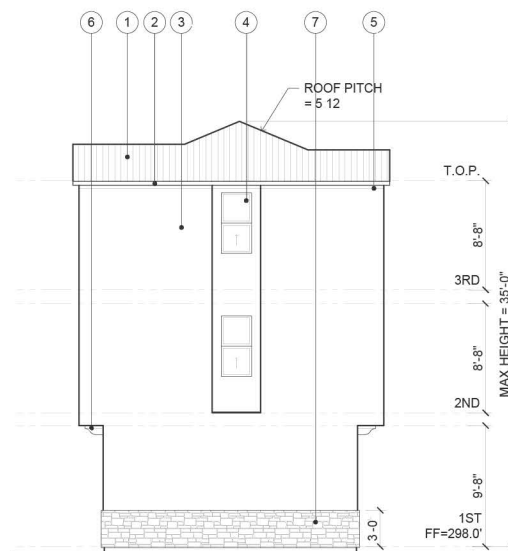
1/8" = 1'0"



BUILDING A ELEVATION (LEFT)

3

1/8" = 1'0"



BUILDING A ELEVATION (RIGHT)

4

1/8" = 1'0"

NOTE:
EXTERIOR WALL COMPONENTS OF THE RESIDENTIAL PORTION SHALL COMPLY WITH CRC SECTION R302 AND TABLE R302.1(1) OR R302.1(2)

MATERIAL LIST:

1. CONCRETE ROOF TILES
2. PAINTED WOOD FASCIA BOARDS
3. PAINTED STUCCO
4. VINYL WINDOW
5. STUCCO TRIMS
6. STUCCO CORBELS
7. MASONRY VENEER
8. DECORATIVE WOOD SHUTTERS
9. PAINTED WROUGHT IRON BALCONY RAILINGS

Source: LPMD Architects, January 2023

Elevations - Building A

Evergreen Village Townhomes
Initial Study

Figure
9



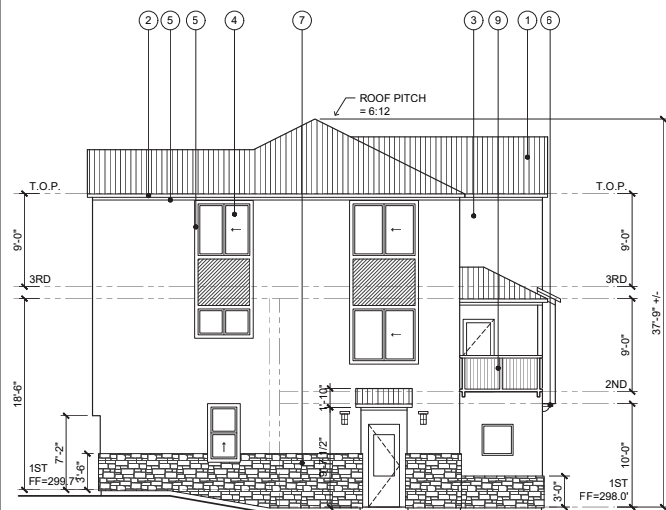
BUILDING B ELEVATION (FRONT-GARAGE)

1
1/8" = 1'-0"



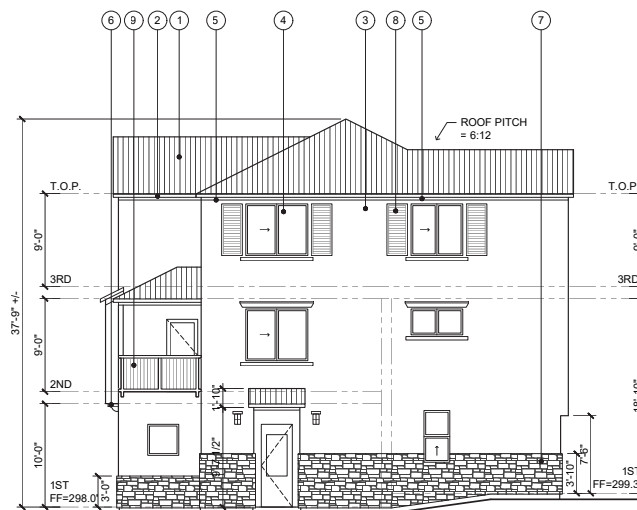
BUILDING B ELEVATION (STREET SIDE)

2
1/8" = 1'-0"



BUILDING B ELEVATION (LEFT)

3
1/8" = 1'-0"



BUILDING B ELEVATION (RIGHT)

4
1/8" = 1'-0"

NOTE:
EXTERIOR WALL COMPONENTS OF THE RESIDENTIAL
PORTION SHALL COMPLY WITH CRC SECTION R302 AND
TABLE R302.1(1) OR R302.1(2)

MATERIAL LIST:

1. CONCRETE ROOF TILES
2. PAINTED WOOD FASCIA BOARDS
3. PAINTED STUCCO
4. VINYL WINDOW
5. STUCCO TRIMS
6. STUCCO CORBELS
7. MASONRY VENEER
8. DECORATIVE WOOD SHUTTERS
9. PAINTED WROUGHT IRON BALCONY RAILINGS

Source: LPMD Architects, January 2023

Elevations - Building B

Evergreen Village Townhomes
Initial Study

Figure
10



1 BUILDING C ELEVATION (FRONT-GARAGE)
1/8" = 1'-0"



2 BUILDING C ELEVATION (STREET SIDE)
1/8" = 1'-0"

MATERIAL LIST:

1. CONCRETE ROOF TILES
2. PAINTED WOOD FASCIA BOARDS
3. PAINTED STUCCO
4. VINYL WINDOW
5. STUCCO TRIMS
6. STUCCO CORBELS
7. MASONRY VENEER
8. DECORATIVE WOOD SHUTTERS
9. PAINTED WROUGHT IRON BALCONY RAILINGS

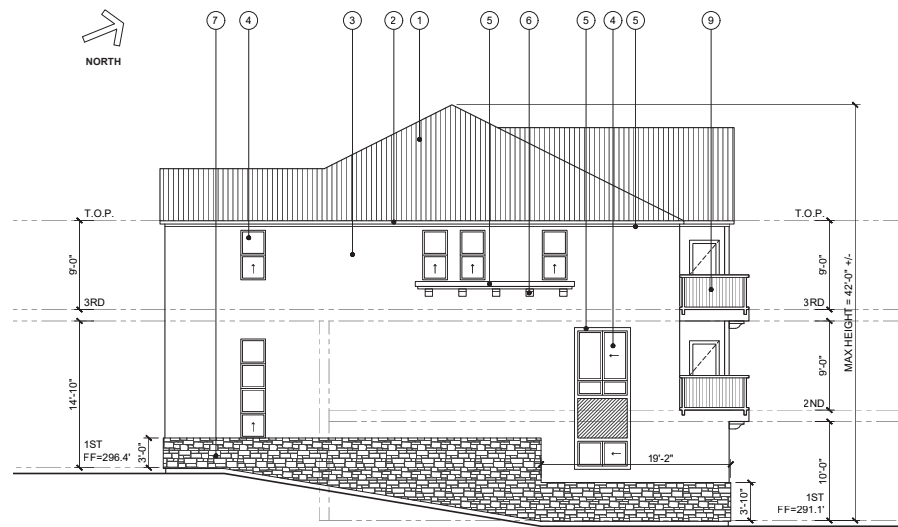
NOTE:
EXTERIOR WALL COMPONENTS OF THE RESIDENTIAL
PORTION SHALL COMPLY WITH CRC SECTION R302 AND
TABLE R302.1(1) OR R302.1(2)

Source: LPMD Architects, January 2023

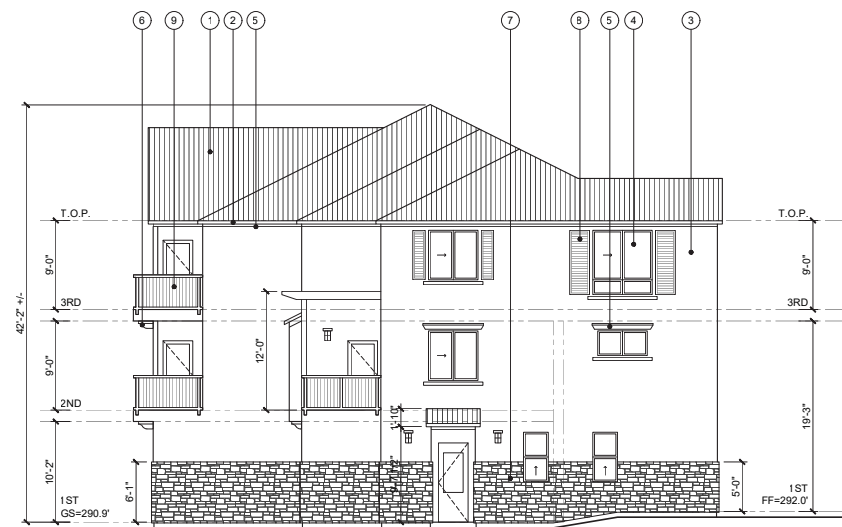
Elevations - Building C - Front & Street

Evergreen Village Townhomes
Initial Study

Figure
11a



1 BUILDING C ELEVATION (LEFT)
1/8" = 1'-0"



2 BUILDING C ELEVATION (RIGHT)
1/8" = 1'-0"

NOTE:
EXTERIOR WALL COMPONENTS OF THE RESIDENTIAL
PORTION SHALL COMPLY WITH CRC SECTION R302 AND
TABLE R302.1(1) OR R302.1(2)

MATERIAL LIST:

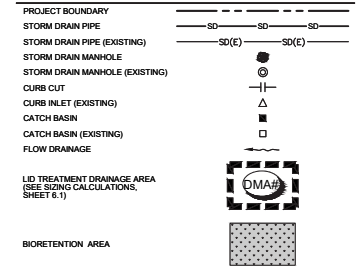
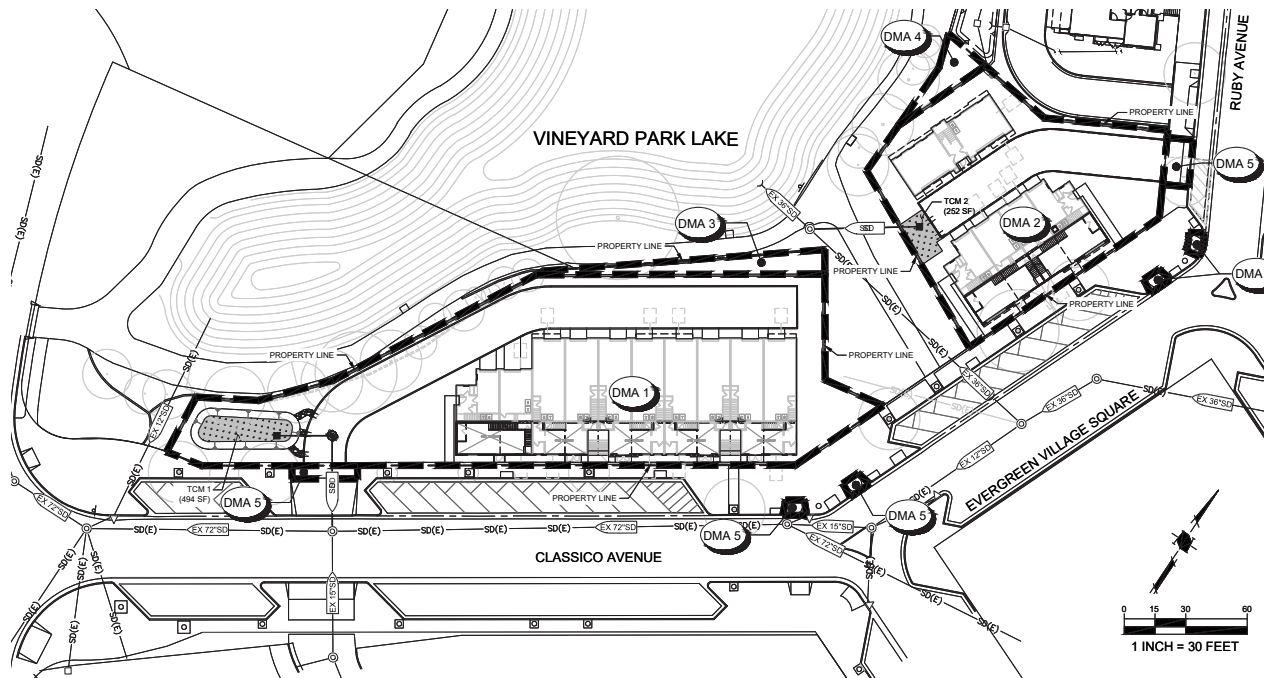
1. CONCRETE ROOF TILES
2. PAINTED WOOD FASCIA BOARDS
3. PAINTED STUCCO
4. VINYL WINDOW
5. STUCCO TRIMS
6. STUCCO CORBELS
7. MASONRY VENEER
8. DECORATIVE WOOD SHUTTERS
9. PAINTED WROUGHT IRON BALCONY RAILINGS

Source: LPMD Architects, January 2023

Elevations - Building C - Sides

Evergreen Village Townhomes
Initial Study

Figure
11b



STANDARD STORMWATER CONTROL NOTES:

- STANDING WATER SHALL NOT REMAIN IN THE TREATMENT MEASURES FOR MORE THAN FIVE DAYS, TO PREVENT MOSQUITO GENERATION. SHOULD ANY MOSQUITO ISSUES ARISE, CONTACT THE SANTA CLARA VALLEY VISITOR CONTROL DISTRICT (DISTRICT). MOSQUITO LARVICIDES SHALL BE APPLIED ONLY WHEN ABSOLUTELY NECESSARY, AS INDICATED BY THE DISTRICT, AND THEN ONLY BY A LICENSED PROFESSIONAL OR CONTRACTOR. CONTACT INFORMATION FOR THE DISTRICT IS PROVIDED BELOW.
- DO NOT USE PESTICIDES OR OTHER CHEMICAL APPLICATIONS TO TREAT DISEASED PLANTS, CONTROL WEEDS OR REMOVED UNWANTED GROWTH. EMPLOY NON-CHEMICAL CONTROLS (BIOLOGICAL, PHYSICAL AND CULTURAL CONTROLS) TO TREAT A PEST PROBLEM. PRUNE PLANTS PROPERLY AND AT THE APPROPRIATE TIME OF YEAR. PROVIDE ADEQUATE IRRIGATION FOR LANDSCAPE PLANTS. DO NOT OVER WATER.

OPERATION AND MAINTENANCE INFORMATION:

- I. PROPERTY INFORMATION:**
I.A. PROPERTY ADDRESS: EVERGREEN VILLAGE SQUARE AND CLASSICO AVENUE
 APN: 659-57-015, 659-84-093
- I.B. PROPERTY OWNER:**
 SHAPELL PROPERTIES
 CONTACT: THOMAS JAUH
 3860 LIBERTY ST, SUITE 400
 FREMONT, CA 94538
- II. RESPONSIBLE PARTY FOR MAINTENANCE:**
II.A. CONTACT: REYAD M. KATWAN
II.B. PHONE NUMBER OF CONTACT: (650) 380-1780
II.C. EMAIL: RKATWAN@HAWKSTONEDEV.COM
II.D. ADDRESS:
 5655 SILVER CREEK VALLEY ROAD, #305
 SAN JOSE, CA 95138-2473

SOURCE CONTROL MEASURES:

- BENEFICIAL LANDSCAPING.
- USE OF WATER EFFICIENT IRRIGATION SYSTEMS.
- MAINTENANCE (PAVEMENT SWEEPING, CATCH BASIN CLEANING, GOOD HOUSEKEEPING).
- STORM DRAIN LABELING.

SITE DESIGN MEASURES:

- DIRECT RUNOFF FROM ROOFS, SIDEWALKS, PATIOS TO LANDSCAPED AREAS.
- CLUSTER STRUCTURES/PAVEMENT.
- PLANT TREES ADJACENT TO AND IN PARKING AREAS AND ADJACENT TO OTHER IMPERVIOUS AREAS.

PROJECT SITE INFORMATION:

- SOILS TYPE: CLAY (D)
- GROUND WATER DEPTH: 30-60 FT
- NAME OF RECEIVING BODY: COYOTE CREEK
- FLOOD ZONE: ZONE D
- FLOOD ELEVATION (IF APPLICABLE): UNDETERMINED

2. AREA DATA					
2.a Enter the Project Phase Number (1,2,3 etc. or N/A if not Applicable)	N/A				
2.b Total area of Site	.81 acres				
2.c Total area of site that will be disturbed	.81 acres				
COMPARISON OF IMPERVIOUS AND PERVIOUS AREAS AT THE PROJECT SITE					
Site Category	Pre-Project Existing IA sq. ft.	Existing IA Remaining After IA2	Existing IA Replaced with IA2	New IA Created sq. ft.	Total Post-Project IA sq. ft.
2.d IMPERVIOUS AREA- IA					
Total IA	411.0	410.0	410.0	4.0	410.0
Total New and Replaced IA				4.0 (394.4/23,868)	4.0 (394.4/23,868)
Public Street Totals					
Total Public Streets IA	4.0	4.0	4.0	4.0	4.0
Total New and Replaced Public Street IA				4.0 (12.104/13.7)	4.0 (12.104/13.7)
Total Site and Public Streets IA	415.0 (414.0+1.0)	414.0	414.0	8.0	416.0 (415.0+1.0)
Percent Replacement of IA in Development Portion (4.38 / 10.50)					41.8%
2.5 PERVIOUS AREAS- PA					
Total PA	156,460	156,460	156,460	156,460	156,460
2f Total Area (IA+PA)	467.0 (11.14 + 7.7)	35,360	35,360	35,360	35,360

FOOTNOTES

- "Retained" in Item 2.d.2 means to leave existing IA in place. An IA that goes through maintenance (e.g., pavement resurfacing/curb/grade) but no change in grade is considered "retained."
- The "Impervious" and "Pervious" IA in Items 2.d.3 and 2.d.4 are based on the total area of the site and not specific locations on site. For example, impervious parking covered over a pervious area is not "new" IA if an equal amount of pervious area remains IA somewhere else on the site. Conversely, IA on a site that does not exceed the Total Pre-Project IA in Item 2.d.1, will be considered "retained" IA. A site will have "new" IA only if the Total Post-Project IA exceeds the Total Pre-Project IA (2.5.1 - 2.5.2 + 2.6.4).
- These areas are locations of the public street that are being dedicated (sidewalk or street easement) to the City of San Jose.
- Include bioretention areas, infiltration areas, green roofs, and pervious pavement in PA calculations.

TREATMENT CONTROL MEASURE SUMMARY TABLE

DMA #	TCM #	Location	Treatment Type	LID or Non-LID	Sizing Method	Drainage Area (s.f.)	Impervious Area (s.f.)	Pervious Area (Permeable Pavement) (s.f.)	Pervious Area (Other) (s.f.)	% Onsite Area Treated by LID or Non-LID TCM	Bioretention Area Required (s.f.)	Bioretention Area Provided (s.f.)	Overflow Riser Height (in)	Storage Depth Required (ft)	Storage Depth Provided (ft)	# of Cartridges Required	# of Cartridges Provided	Media Type	Cartridge Height (inches)	# of Credit Trees	Treatment Credit (s.f.)	Comments
1	1	Onsite	Bioretention unlined w/ underdrain	LID	3. Flow-Volume Combo	22,653	15,950	0	6,703	63.84%	472	494	12	-	-	-	-	-	-	-	-	
2	2	Onsite	Flow-Through planter (concrete lined) w/ underdrain	LID	3. Flow-Volume Combo	11,394	7,718	0	3,676	32.11%	236	252	12	-	-	-	-	-	-	-	-	
3	3	Onsite	Self-treating areas	LID	N/A	943	0	0	943	2.66%	-	-	-	-	-	-	-	-	-	-	-	
4	4	Onsite	Self-treating areas	LID	N/A	496	0	0	496	1.40%	-	-	-	-	-	-	-	-	-	-	-	
5	5	Offsite	Maintenance	N/A	N/A	208	208	0	0	-	-	-	-	-	-	-	-	-	-	-	-	
6	6	Offsite	Maintenance	N/A	N/A	295	274	0	21	-	-	-	-	-	-	-	-	-	-	-	-	
Totals:						35,466	23,668	0	11,818	100.00%												

Footnotes:

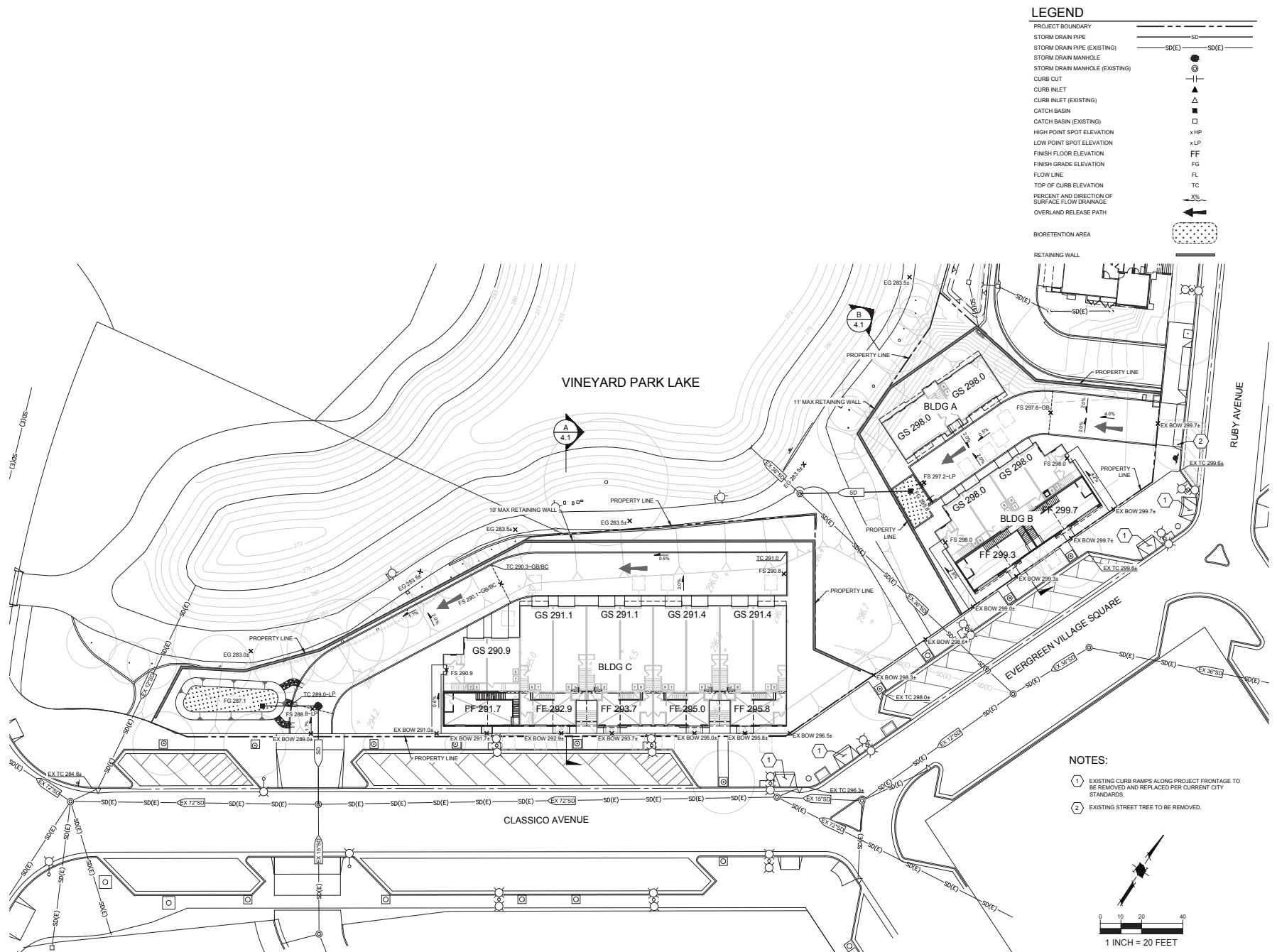
- * "Lined" refers to an impermeable liner placed on the bottom of a Bioretention basin or a concrete Flow-Through Planter, such that no infiltration into native soil occurs.

Source: HMM, December 2024

Stormwater Management Plan

Evergreen Village Townhomes
Initial Study

Figure
12



Grading and Drainage Plan

Evergreen Village Townhomes
Initial Study

Figure
13

PLANT PALETTE

KEY	CONTAINER SIZE	BOTANICAL NAME	COMMON NAME	WUCOLS RATING
TREES:				
T1	24" BOX	LAGERSTROEMIA INDICA "TUSCARORA"	CRAPE MYRTLE	L 8
T2	24" BOX	QUERCUS AGRIFOLIA (MULTI - TRUNK)	COAST LIVE OAK	VL 9
SHRUBS & PERENNIALS:				
S1	5 GAL.	ARBUTUS UNEDO "ELFIN KING"	STRAWBERRY TREE	L
S2	5 GAL.	BUXUS MICROPHYLLA JAPONICA "GREEN BEAUTY"	JAPANESE BOXWOOD	M
S3	5 GAL.	LIGUSTRUM JAPONICA "TEXANUM"	JAPANESE PRIVET	M
S4	1 GAL.	PHORMIUM HYBRID "DIET"	FLAX	L
S5	1 GAL.	PHORMIUM HYBRID "JESTER"	FLAX	L
S6	5 GAL.	PHORMIUM TENAX "ATROPURPUREUM"	NEW ZEALAND FLAX	L
S7	5 GAL.	RHAPHIOLEPIS INDICA "CLARA"	INDIAN HAWTHORN	L
S8	15 GAL.	ROSA HYBRID TEA "MISTER LINCOLN" (STANDARD)	ROSE	M
S9	1 GAL.	ROSA "RED MEIDLAND"	ROSE	L
S10	1 GAL.	ROSA "WHITE MEIDLAND"	ROSE	L
S11	5 GAL.	THUJA OCCIDENTALIS "EMERALD GREEN"	ARBORVITAE	M
S12	1 GAL.	TULBAGHIA VIOLACEA	SOCIETY GARLIC	M
VINES:				
V1	5 GAL.	ROSA BANKSIAE "LUTEA"	LADY BANK'S ROSE	L
GROUND COVERS:				
G1	1 GAL.	CEANOTHUS GRISEUS HORIZONTALIS "YANKEE POINT"	CARMEL CREEPER	L
G2	1 GAL.	COTONEASTER DAMMERI "EICHHOLZ" (@ 24" O.C.)	BEARBERRY	L
STORMWATER MANAGEMENT PLANTS:				
SW1	1 GAL.	CAREX DIVULSA (@ 24" O.C.)	SEDGE	M
SW2	1 GAL.	MAHONIA REPENS (@ 24" O.C.)	CREEPING MAHONIA	M

WUCOLS RATING (WATER USE CLASSIFICATION OF LANDSCAPE SPECIES)

VL	VERY LOW WATER USE
L	LOW WATER USE
M	MODERATE WATER USE
H	HIGH WATER USE

NOTE: RATINGS ARE BASED ON CURRENT WUCOLS EDITION (2014).

PLANTING NOTES

- STREET TREES SHOWN WITHIN THE PUBLIC RIGHT-OF-WAY ARE FOR INFORMATION ONLY. THE PLANNING PERMIT DOES NOT AUTHORIZE THE INSTALLATION OR REMOVAL OF TREES WITHIN THE PUBLIC RIGHT-OF-WAY. ACTUAL STREET TREE LOCATIONS WILL BE DETERMINED BY PUBLIC WORKS AT THE IMPLEMENTATION STAGE OF THE PUBLIC IMPROVEMENT PLAN. THE INSTALLATION OR REMOVAL OF THE STREET TREES REQUIRES A PERMIT FROM THE DEPARTMENT OF TRANSPORTATION. THE CITY ARBORIST WILL SPECIFY THE TREES.
- INSTALL THREE INCHES (3" O) OF COMPOSTED, NON-FLOATABLE MULCH IN AREAS BETWEEN STORMWATER PLANTINGS AND SIDE SLOPES.
- PROJECT WILL NOT LOCATE TREES WITHIN THE BASIN OR BANK PLANTING ZONES OF FLOW-THROUGH PLANTER BOXES AND BIO-RETENTION AREAS, BUT RATHER ON THE UPLAND PLANTING ZONES OF BIO-RETENTION AREAS PER APPENDIX D OF THE SCDWRPP C.3 STORMWATER HANDBOOK. TREES WILL ALSO NOT BE LOCATED DIRECTLY IN LINE WITH OR NEXT TO STORMWATER INLETS (CURB OPENINGS, DOWNSPOUTS, CHANNEL / GRATES, ETC.) AND WILL OFFSET OR RELOCATE TREES OUTSIDE OF FLOW-THROUGH PLANTER BOXES OR TO THE UPLAND PLANTING ZONES OF BIO-RETENTION AREAS.
- TREE LOCATIONS SHALL CONFORM TO UTILITY MINIMUM SETBACK & CLEARANCE REQUIREMENTS.

* INDICATES TREE LOCATION CLEARANCE FROM BUILDING



Source: Isaacson, Wood & Associates, March 2023

Landscape Plan

Evergreen Village Townhomes
Initial Study

Figure
14

Chapter 3. Environmental Evaluation

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The key environmental factors potentially impacted by the project are identified below and discussed within Chapter 3. Environmental Setting and Impacts. Sources used for analysis of environmental effects are cited in the checklist and listed in Chapter 4. References.

<input checked="" type="checkbox"/> Aesthetics	<input checked="" type="checkbox"/> Agricultural / Forestry Resources	<input checked="" type="checkbox"/> Air Quality
<input checked="" type="checkbox"/> Biological Resources	<input checked="" type="checkbox"/> Cultural Resources	<input checked="" type="checkbox"/> Energy
<input checked="" type="checkbox"/> Geology/Soils	<input checked="" type="checkbox"/> Greenhouse Gas Emissions	<input checked="" type="checkbox"/> Hazards/Hazardous Materials
<input checked="" type="checkbox"/> Hydrology/Water Quality	<input checked="" type="checkbox"/> Land Use/Planning	<input checked="" type="checkbox"/> Mineral Resources
<input checked="" type="checkbox"/> Noise	<input checked="" type="checkbox"/> Population/Housing	<input checked="" type="checkbox"/> Public Services
<input checked="" type="checkbox"/> Recreation	<input checked="" type="checkbox"/> Transportation	<input checked="" type="checkbox"/> Tribal Cultural Resources
<input checked="" type="checkbox"/> Utilities/Service Systems	<input checked="" type="checkbox"/> Wildfire	<input checked="" type="checkbox"/> Mandatory Findings of Significance

EVALUATION OF ENVIRONMENTAL IMPACTS

A brief explanation is required for all answers except “No Impact” answers. Answers need to be adequately supported by the information sources cited by the lead agency. A “No Impact” answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A “No Impact” answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on project-specific screening analysis).

The explanation of each issue should identify:

- a) The significance criteria or threshold, if any, used to evaluate each question; and
- b) The mitigation measure identified, if any, to reduce the impact to less than significance.

All answers must take into account the whole action involved, including offsite as well as onsite, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts. Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant.

- A “potentially significant impact” is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "potentially significant impact" entries when the determination is made, an EIR is required.
- A “less than significant with mitigation incorporated” response applies where the incorporation of mitigation measures has reduced an effect from a potentially significant impact to less than significant impact. The lead agency must describe the mitigation measures and briefly explain how they reduce the effect to a less than significant level.

Important Note to the Reader:

In a December 2015 opinion [California Building Industry Association v. Bay Area Air Quality Management District, 62 Cal. 4th 369 (No. S 213478)], the California Supreme Court confirmed that CEQA, with several specific exceptions, is concerned with the impacts of a project on the environment and not the effects that the existing environment may have on a project. Therefore, the evaluation of the significance of project impacts under CEQA in the following sections focuses on impacts of the project on the environment, including whether a project may exacerbate existing environmental hazards.

The City of San José currently has policies that address existing conditions (e.g., air quality, hazards, noise, etc.) that may affect a proposed project, which are also addressed below. This is consistent with one of the primary objectives of CEQA and this document, which is to provide objective information to decision-makers and the public regarding a project as a whole. The CEQA Guidelines and the courts are clear that a CEQA document (e.g., EIR or Initial Study) can include information of interest even if such information is not an “environmental impact” as defined by CEQA.

Therefore, where applicable, in addition to describing the impacts of the project on the environment, this Initial Study discusses “planning considerations” that relate to City policies pertaining to existing conditions. Such examples include, but are not limited to, locating a project near sources of air emissions that can pose a health risk, in a floodplain, in a geologic hazard zone, in a high noise environment, or on/adjacent to sites involving hazardous substances.

ENVIRONMENTAL SETTING AND IMPACTS

The following section describes the environmental setting and identifies the environmental impacts anticipated from implementation of the proposed project. The criteria provided in the CEQA environmental checklist was used to identify potentially significant environmental impacts associated with the project. Sources used for the environmental analysis are cited in the checklist and listed in Chapter 4 of this Initial Study.

A. AESTHETICS

Regulatory Framework

State

State Scenic Highways Program

The State Scenic Highways Program is managed by the California Department of Transportation (Caltrans) and is designed to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. The nearest state-designated scenic highway is located near Saratoga at the intersection of State Route 9 and Saratoga Avenue. This segment of the officially designated highway is located approximately 9.6 miles southwest of the project site.

Local

Outdoor Lighting on Private Developments Policy (City Council Policy 4-3)

The City of San José's Outdoor Lighting on Private Developments Policy (City Council Policy 4-3) and City of San José Interim Lighting Policy Broad Spectrum Lighting for Private Development promote energy efficient outdoor lighting on private development to provide adequate light for nighttime activities while benefiting the continued enjoyment of the night sky and continuing operation of the Lick Observatory by reducing light pollution and sky glow.

City's Scenic Corridors Diagram

The City's General Plan defines scenic vistas in the City of San José as views of and from the Santa Clara Valley, surrounding hillsides, and urban skyline. Scenic urban corridors, such as segments of major highways that provide gateways into the City, can also be defined as scenic resources by the City. The designation of a scenic route applies to routes affording especially aesthetically pleasing views. The project property is not located along any scenic corridors per the City's Scenic Corridors Diagram.

General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating aesthetic impacts from development projects. The following policies are applicable to the proposed project.

Envision San José 2040 Relevant Aesthetic Policies

Policy	Policy Text
Policy CD-1.1	Require the highest standards of architecture and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
Policy CD-1.8	Create an attractive street presence with pedestrian-scaled building and landscape elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity through the City.

Policy	Policy Text
Policy CD-1.12	Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
Policy CD-1.13	Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.
Policy CD-1.17	Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.
Policy CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
Policy CD-1.26	Apply the Historic Preservation Goals and Policies of this Plan to proposals that modify historic resources or include development near historic resources.
Policy CD-4.9	For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).
Policy CD-8.1	Ensure new development is consistent with specific height limits established within the City's Zoning Ordinance and applied through the zoning designation for properties throughout the City. Land use designations in the Land Use/ Transportation Diagram provide an indication of the typical number of stories.

Existing Setting

The project site is located on two vacant parcels within an urbanized area of San José. The site is located in a mixed residential, commercial, and open space area along and west of Evergreen Village Square, and is bordered by the following land uses:

- North: Commercial, Ruby Avenue, Residential
- South: Classico Avenue, Commercial, Residential
- East: Evergreen Village Square, Commercial, Public/Quasi-Public (Library)
- West: Evergreen Village Duck Pond, Residential

Photographs of the property are presented in Figure 4, and an aerial of the project area is provided in Figure 3. As shown in the photographs, the project site is currently vacant. In addition, offsite street trees front the property.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
1. AESTHETICS. Except as provided in Public Resources Code Section 21099, would the project:					
a) Have a substantial adverse effect on a scenic vista?			X		1, 2, 3
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?				X	1, 2, 3
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?			X		1, 2, 3
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?			X		1, 2, 3

Explanation

- a) **Less Than Significant Impact.** The City's General Plan states that San José contains scenic resources that include the broad sweep of the Santa Clara Valley, the hills and mountains that frame the Valley floor, the baylands, and the urban skyline itself, particularly high-rise development. The project site is located in an urbanized location in San José. The proposed project would result in the construction of 16 new townhomes in three, three-story buildings. The vicinity of the proposed project is relatively flat and surrounding buildings are one to three stories in height. The Diablo Mountain range is visible from some portions of the site. However, these views are largely obstructed or altered by existing urban development. The project, therefore, would have a less than significant impact on a scenic vista.
- b) **No Impact.** The project site is not located within a State-designated scenic route or City-designated scenic corridor. The nearest state-designated scenic highway is located near Saratoga at the intersection of State Route 9 and Saratoga Avenue. This segment of the officially designated highway is located approximately 14.5 miles west of the project site. The project site is not located along any scenic corridors identified the City's Scenic Corridors Diagram. The proposed rezoning and development of the 16 townhome units on the project site would not impact scenic resources within a scenic route.
- c) **Less Than Significant Impact.** The project would alter the existing visual character of the site and its immediate surroundings by introducing three new three-story buildings onto two sites that currently contain vacant land. The proposed building elevations are presented in Figures 9 through 11. The building heights for the proposed townhomes are approximately 36 to of 42 feet (refer to Figures 9 through 11). The project site is bordered by a mix of residential and commercial uses ranging from one to three stories in height to the south and north, and by residential uses to the west and commercial uses to the east. Due to the project

site's location in a primarily developed residential area of the City and the proximity to public transit uses (bus service), the project site is considered to be located in an urbanized area.

The proposed project would be required to 1) conform to the City's Design Guidelines, and 2) undergo design review to ensure the scale and mass are compatible with surrounding development. In addition, the project proposes landscaping to soften the visual effects of development through planting of shrubs and groundcover in outdoor areas. By adhering to these requirements, the project would not substantially degrade the existing visual character or quality of the site and its surroundings within this urbanized area.

- d) **Less Than Significant Impact.** The existing sources of light and glare at the project site are generated by streetlights, passing cars, and adjacent buildings. The project does not propose any major sources of lighting or glare. Outdoor lighting would be provided for access and security. All outdoor lighting would conform to the City's Outdoor Lighting policies and would be shielded to direct light downwards to ensure that lighting does not spill over onto nearby residential properties, consistent with City standards. In addition, the project does not propose to introduce materials into the design that would create substantial glare. The project would have a less than significant impact related to lighting and glare.

Conclusion: The project would have a less than significant impact on aesthetics.

B. AGRICULTURAL AND FORESTRY RESOURCES

Regulatory Framework

State

California Land Conservation Act

The Williamson Act, officially designated as the California Land Conservation Act of 1965, enables local governments to enter into contracts with private landowners, for the purpose of restricting specific parcels of land to agricultural or related open space uses. In return, landowners receive lower property tax assessments that are based on farming and open space as opposed to full market value. Regulations and rules regarding implementation of Williamson Act contracts are established by local participating cities and counties, as guided by the Williamson Act.

Land Evaluation and Site Assessment

The California Agricultural Land Evaluation and Site Assessment (LESA) was developed by the California Department of Conservation to provide a standardized point-based approach for the rating of relative importance of agricultural land. The LESA model ensures that an optional methodology is available for lead agencies to determine if a project will result in potentially significant effects on the environment as a result of agricultural land conversion. The LESA model is based on specific measurable features, including project size, soil quality, surrounding agricultural and/or protected resource lands, and water resource availability, which are weighted, rated and combined to provide a numeric score. The score serves as the basis for making a determination of potential significance for a project.

Farmland Mapping and Monitoring Program

The California Department of Conservation prepares and maintains farmland map data for Counties throughout the state, including for Santa Clara County, through the Farmland Mapping and Monitoring Program (FMMP). The FMMP produces statistical data and maps for the purpose of analyzing potential impacts on agricultural resources. The FMMP is designed to regulate the conversion of agricultural land to permanent non-agricultural uses. The FMMP contains a rating system based on soil quality and irrigation status, with the best quality land being designated as “Prime Farmland.” Maps are updated every two years using computer mapping, aerial photography, public review, and field reconnaissance. The FMMP for Santa Clara County has data from 1984 to the present day, including historical land use conversion, PDF maps, and GIS data.

General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating agricultural impacts from development projects. The following policies are applicable to the proposed project.

Envision San José 2040 Relevant Agricultural Resources Policies

Policy	Policy Text
Policy LU-12.3	<p>Protect and preserve the remaining farmlands within San José's sphere of influence that are not planned for urbanization in the timeframe of the Envision General Plan through the following means:</p> <ul style="list-style-type: none">• Limit residential uses in agricultural areas to those which are incidental to agriculture.• Restrict and discourage subdivision of agricultural lands. Encourage contractual protection for agricultural lands, such as Williamson Act contracts, agricultural conservation easements, and transfers of development rights.• Prohibit land uses within or adjacent to agricultural lands that would compromise the viability of these lands for agricultural uses.• Strictly maintain the Urban Growth Boundary in accordance with other goals and policies in this Plan.
Policy LU-12.4	<p>Preserve agricultural lands and prime soils in non-urban areas in order to retain the aquifer recharge capacity of these lands.</p>

Existing Setting

CEQA requires the evaluation of agricultural and forest/timber resources where they are present. The developed infill project site does not contain any agricultural and forest/timber resources.

In California, agricultural land is given consideration under CEQA. According to Public Resources Code §21060.1, "agricultural land" is identified as prime farmland, farmland of statewide importance, or unique farmland, as defined by the U.S. Department of Agriculture land inventory and monitoring criteria, as modified for California. CEQA also requires consideration of impacts on lands that are under Williamson Act contracts. The project area is identified as "Urban and Built-Up Land" on the 2016 Santa Clara County Important Farmland Map (California Department of Conservation).

The site does not contain any forest land as defined in Public Resources Code section 12220(g), timberland as defined by Public Resources Code section 4526, or property zoned for Timberland Production as defined by Government Code section 51104(g).

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
2. AGRICULTURAL AND FORESTRY RESOURCES. In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:					
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				X	1, 2, 4
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X	1, 2, 4
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?				X	1, 2, 4
d) Result in the loss of forest land or conversion of forest land to non-forest use?				X	1, 2, 4
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?				X	1, 2, 4

Explanation

- a) **No Impact.** The project site is an infill property and designated as Urban and Built-Up Land on the Important Farmland Map for Santa Clara County, and does not contain any prime farmland, unique farmland, or farmland of statewide importance. Conversion of the site's land use designation to *Mixed Use Neighborhood* and development of the site with 16 new townhome units would not impact agricultural land.
- b) **No Impact.** The project site is on a developed infill property, is not zoned for agricultural use, and does not contain lands under Williamson Act contract; therefore, conversion of the site's land use designation to *Mixed Use Neighborhood* and development of the site with 16 new townhome units would not conflict with agricultural uses and would result in no impact.
- c) **No Impact.** Conversion of the site's land use designation to *Mixed Use Neighborhood* and development of the site with 16 new townhome units would not impact forest resources since

the site does not contain any forest land as defined in Public Resources Code section 12220(g), timberland as defined by Public Resources Code section 4526, or property zoned for Timberland Production as defined by Government Code section 51104(g). There would be no impact as a result of the proposed project.

- d) **No Impact.** See c) above. No other changes to the environment would occur from the project that would result in the loss of forest land or conversion of forest land to non-forest uses. There would be no impact as a result of the proposed project.
- e) **No Impact.** As per the discussion above, the project would not involve changes in the existing environment which, due to their location or nature, could result in conversion of farmland or forest land, since none is present on the site. There would be no impact as a result of the proposed project.

Conclusion: The project would have no impact on agricultural and forest resources.

C. AIR QUALITY

An air quality assessment was prepared for the project by Illingworth & Rodkin, Inc. (March 2022). This report is included as Appendix A.

Regulatory Framework

Federal

Federal Clean Air Act and United States Environmental Protection Agency

The Federal Clean Air Act (CAA) authorized the establishment of federal air quality standards and set deadlines for their attainment. The CAA identifies specific emission reduction goals, requires both a demonstration of reasonable further progress and attainment, and incorporates more stringent sanctions for failure to meet interim milestones. The U.S. EPA is the federal agency charged with administering CAA and other air quality-related legislation. The CAA of 1970, as amended, establishes air quality standards for several pollutants.

The United States Environmental Protection Agency (U.S. EPA) administers the National Ambient Air Quality Standards (NAAQS) under the Federal Clean Air Act. The U.S. EPA sets the NAAQS and determines if areas meet those standards. Violations of ambient air quality standards are based on air pollutant monitoring data and judged for each air pollutant. Areas that do not violate ambient air quality standards are considered to have attained the standard. The U.S. EPA has classified the project region as a nonattainment area for the 8-hour O₃ standard and the 24-hour PM_{2.5} standard. The Bay Area has met the CO standards for over a decade and is classified as an attainment area by the U.S. EPA. The U.S. EPA has deemed the region as attainment/unclassified for all other air pollutants, which include PM₁₀. At the State level, the Bay Area is considered nonattainment for ozone, PM₁₀ and PM_{2.5}.

State

California Clean Air Act

The Federal Clean Air Act (CAA) allows California to seek a waiver of the federal preemption that prohibits states and local jurisdictions from enacting emission standards and other emission-related requirements for new motor vehicles and engines (CAA section 209(a)). The California Air Resources Board (CARB) serves as the representative of California in filing waiver requests with U.S. EPA. After California files a written request for a waiver, U.S. EPA will publish a notice for a public hearing and submission of comments in the *Federal Register*. After consideration of comments received, the Administrator of U.S. EPA will issue a written determination on California's request, which is also published the *Federal Register*.

Regional and Local

Bay Area Air Quality Management District

The BAAQMD is primarily responsible for assuring that the federal and state ambient air quality standards for criteria pollutants are attained and maintained in the Bay Area. The BAAQMD's May

2017 CEQA Air Quality Guidelines updated the 2010 CEQA Air Quality Guidelines, addressing the California Supreme Court’s 2015 opinion in the *California Building Industry Association vs. Bay Area Air Quality Management District* court case.

In an effort to attain and maintain federal and state ambient air quality standards, the BAAQMD establishes thresholds of significance for construction and operational period emissions for criteria pollutants and their precursors, which are summarized in Table 2 in the impact discussion below.

2017 Bay Area Clean Air Plan

The BAAQMD, along with other regional agencies such as the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC), develops plans to reduce air pollutant emissions. The most recent clean air plan is the *Bay Area 2017 Clean Air Plan: Spare the Air, Cool the Climate* (2017 CAP), which was adopted by BAAQMD in April 2017. This is an update to the 2010 CAP, and centers on protecting public health and climate. The 2017 CAP identifies a broad range of control measures. These control measures include specific actions to reduce emissions of air and climate pollutants from the full range of emission sources and is based on the following four key priorities:

- Reduce emissions of criteria air pollutants and toxic air contaminants from all key sources.
- Reduce emissions of “super-GHGs” such as methane, black carbon, and fluorinated gases.
- Decrease demand for fossil fuels (gasoline, diesel, and natural gas).
- Decarbonize our energy system.

General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating air quality impacts from development projects. The following policies are applicable to the proposed project.

Envision San José 2040 Relevant Air Quality Policies

Policy	Policy Text
Policy MS-10.1	Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement air emissions reduction measures.
Policy MS-10.2	Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region’s Clean Air Plan and State law.
Policy MS-11.1	Require completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution such as freeways and industrial uses. Require new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project designs or be located an adequate distance from sources of toxic air contaminants (TACs) to avoid significant risks to health and safety.

Policy	Policy Text
Policy MS-11.2	For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.
Policy MS-11.5	Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.
Policy MS-13.1	Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.
Policy CD-3.3	Within new development, create and maintain a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.

Existing Setting

Air Pollutants and Contaminants

Multiple federal and state standards govern air pollution to regulate and mitigate health impacts. At the federal level, there are six criteria pollutants for NAAQS have been established: carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO₂), ozone (O₃), suspended particulate matter (PM: PM_{2.5} and PM₁₀), and sulfur dioxide (SO₂). California sets standards similar to the NAAQS as California Ambient Air Quality Standards (CAAQS). Note that California includes pollutants or contaminants that are specific to certain industries and not associated with this project. These include hydrogen sulfide and vinyl chloride.

Ozone. Ozone is a secondary air pollutant produced in the atmosphere through a complex series of photochemical reactions involving reactive organic gases (ROG) and oxides of nitrogen (NO_x). The main sources of ROG and NO_x, often referred to as ozone precursors, are combustion processes (including combustion in motor vehicle engines) and the evaporation of solvents, paints, and fuels. In the Bay Area, automobiles are the single largest source of ozone precursors. Ozone is referred to as a regional air pollutant because its precursors are transported and diffused by wind concurrently with ozone production through the photochemical reaction process. Ozone causes eye irritation, airway constriction, shortness of breath, and can aggravate existing respiratory diseases such as asthma, bronchitis, and emphysema.

Carbon Monoxide. Carbon monoxide is an odorless, colorless gas usually formed as the result of the incomplete combustion of fuels. The single largest source of CO is motor vehicles. While CO transport is limited, it disperses with distance from the source under normal meteorological conditions. However, under certain extreme meteorological conditions, CO concentrations near congested roadways or intersections may reach unhealthful levels that adversely affect local sensitive receptors (e.g., residents, schoolchildren, the elderly, hospital patients, etc.). Typically, high CO

concentrations are associated with roadways or intersections operating at unacceptable levels of service (LOS) or with extremely high traffic volumes. Exposure to high concentrations of CO reduces the oxygen-carrying capacity of the blood and can cause headaches, nausea, dizziness, fatigue, impair central nervous system function, and induce angina (chest pain) in persons with serious heart disease. Very high levels of CO can be fatal.

Nitrogen Dioxide. Nitrogen Dioxide is a reddish-brown gas that is a byproduct of combustion processes. Automobiles and industrial operations are the main sources of NO₂. Aside from its contribution to ozone formation, NO₂ also contribute to other pollution problems, including a high concentration of fine particulate matter, poor visibility, and acid deposition. NO₂ may be visible as a coloring component on high pollution days, especially in conjunction with high ozone levels. NO₂ decreases lung function and may reduce resistance to infection. On January 22, 2010, the U.S. EPA strengthened the health-based NAAQS for NO₂.

Sulfur Dioxide. Sulfur dioxide is a colorless, irritating gas formed primarily from the incomplete combustion of fuels containing sulfur. Industrial facilities also contribute to gaseous SO₂ levels in the region. SO₂ irritates the respiratory tract, can injure lung tissue when combined with fine particulate matter and reduces visibility and the level of sunlight.

Particulate Matter. Particulate matter is the term used for a mixture of solid particles and liquid droplets found in the air. Coarse particles are those that are larger than 2.5 microns but smaller than 10 microns (PM₁₀). PM_{2.5} refers to fine suspended particulate matter with an aerodynamic diameter of 2.5 microns or less that is not readily filtered out by the lungs. Nitrates, sulfates, dust, and combustion particulates are major components of PM₁₀ and PM_{2.5}. These small particles can be directly emitted into the atmosphere as by-products of fuel combustion, through abrasions, such as tire or brake lining wear, or through fugitive dust (wind or mechanical erosion of soil). They can also be formed in the atmosphere through chemical reactions. Particulates may transport carcinogens and other toxic compounds that adhere to the particle surfaces and can enter the human body through the lungs.

Lead. Lead is a metal found naturally in the environment as well as in manufactured products. The major sources of lead emissions have historically been mobile and industrial. As a result of the phase-out of leaded gasoline, metal processing is currently the primary source of lead emissions. The highest levels of lead in the air are generally found near lead smelters. Other stationary sources are waste incinerators, utilities, and lead-acid battery manufacturers. Over 20 years ago, mobile sources were the main contributor to ambient lead concentrations in the air. In the early 1970s, the U.S. EPA established national regulations to gradually reduce the lead content in gasoline. In 1975, unleaded gasoline was introduced for motor vehicles equipped with catalytic converters. The EPA banned the use of leaded gasoline in highway vehicles in December 1995. As a result of the EPA's regulatory efforts to remove lead from gasoline, emissions of lead from the transportation sector and lead levels in the air decreased dramatically.

Air Pollutants of Concern in the Bay Area

High ozone levels are caused by the cumulative emissions of ROG and NO_x. These precursor pollutants react under certain meteorological conditions to form high ozone levels. Controlling the emissions of these precursor pollutants is the focus of the Bay Area's attempts to reduce ozone levels. The highest ozone levels in the Bay Area occur in the eastern and southern inland valleys that

are downwind of air pollutant sources. High ozone levels aggravate respiratory and cardiovascular diseases, reduce lung function, and increase coughing and chest discomfort.

Particulate matter is another problematic air pollutant of the Bay Area. Particulate matter is assessed and measured in terms of respirable particulate matter (PM₁₀) and fine particulate matter (PM_{2.5}). Elevated concentrations of PM₁₀ and PM_{2.5} are the result of both region-wide (or cumulative) emissions and localized emissions. High particulate matter levels aggravate respiratory and cardiovascular diseases, reduce lung function, increase mortality (e.g., lung cancer), and result in reduced lung function growth in children.

Toxic Air Contaminants

In addition to the criteria pollutants discussed above, TACs are another group of pollutants of concern. TACs are injurious in small quantities and are regulated by the EPA and CARB. Some examples of TACs include benzene, butadiene, formaldehyde, and hydrogen sulfide. The identification, regulation, and monitoring of TACs is relatively recent compared to that for criteria pollutants.

High volume freeways, stationary diesel engines, and facilities attracting heavy and constant diesel vehicle traffic (distribution centers, truck stops) were identified as posing the highest risk to adjacent receptors. Other facilities associated with increased risk include warehouse distribution centers, large retail or industrial facilities, high-volume transit centers, or schools with a high volume of bus traffic. Community health risk assessments typically look at all substantial sources of TACs located within 1,000 feet of project sites and at new TAC sources that the project would introduce. These sources include railroads, highways, busy surface streets, and stationary sources identified by BAAQMD.

Diesel exhaust is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs (based on the Bay Area average). According to the CARB, diesel exhaust is a complex mixture of gases, vapors, and fine particles. This complexity makes the evaluation of health effects of diesel exhaust a complex scientific issue. Some of the chemicals in diesel exhaust, such as benzene and formaldehyde, have been previously identified as TACs by the CARB, and are listed as carcinogens either under the state's Proposition 65 or under the Federal Hazardous Air Pollutants programs. Because chronic exposure can result in adverse health effects, TACs are regulated at the regional, state, and federal level.

Air Quality Setting

The project is located in Santa Clara County, which is part of the San Francisco Bay Area Air Basin. The Air Basin includes the counties of San Francisco, Santa Clara, San Mateo, Marin, Napa, Contra Costa, and Alameda, along with the southeast portion of Sonoma County and the southwest portion of Solano County. This project is within the jurisdiction of the BAAQMD. Air quality conditions in the San Francisco Bay Area have improved significantly since the BAAQMD was created in 1955. Ambient concentrations of air pollutants, and the number of days during which the region exceeds air quality standards, have fallen dramatically. Exceedances of air quality standards occur primarily during meteorological conditions conducive to high pollution levels, such as cold, windless winter nights or hot, sunny summer afternoons.

Local Climate and Air Quality

Air quality is a function of both local climate and local sources of air pollution. Air quality is the balance of the natural dispersal capacity of the atmosphere and emissions of air pollutants from human uses of the environment. Climate and topography are major influences on air quality.

Climate and Meteorology. During the summer, mostly clear skies result in warm daytime temperatures and cool nights in the Santa Clara Valley. Winter temperatures are mild, except for very cool but generally frost-less mornings. Further inland, where the moderating effect of the bay is not as strong, temperature extremes are greater. Wind patterns are influenced by local terrain, with a northwesterly sea breeze typically developing during the daytime. Winds are usually stronger in the spring and summer. Rainfall amounts are modest, ranging from 13 inches in the lowlands to 20 inches in the hills.

Air Pollution Potential. Ozone and fine particle pollution, or PM_{2.5}, are the major regional air pollutants of concern in the San Francisco Bay Area. Ozone is primarily a problem in the summer, and fine particle pollution in the winter. Most of Santa Clara County is well south of the cooler waters of the San Francisco Bay and far from the cooler marine air, which usually reaches across San Mateo County in summer. Ozone frequently forms on hot summer days when the prevailing seasonal northerly winds carry ozone precursors southward across the county, causing health standards to be exceeded. Santa Clara County experiences many exceedances of the PM_{2.5} standard each winter. This is due to the high population density, wood smoke, industrial and freeway traffic, and poor wintertime air circulation caused by extensive hills to the east and west that block wind flows into the region. Recently, wildfires have caused many days per year of unhealthy air during summer and fall due to high particle pollution (e.g., PM_{2.5} and PM₁₀ levels that exceed standards).

Attainment Status Designations. The CARB is required to designate areas of the state as attainment, nonattainment, or unclassified for all state standards. An “attainment” designation for an area signifies that pollutant concentrations did not violate the standard for that pollutant in that area. A “nonattainment” designation indicates that a pollutant concentration violated the standard at least once, excluding those occasions when a violation was caused by an exceptional event, as defined in the criteria. An “unclassified” designation signifies that data does not support either an attainment or nonattainment status. The CCAA divides districts into moderate, serious, and severe air pollution categories, with increasingly stringent control requirements mandated for each category.

Existing Air Pollutant Levels. BAAQMD monitors air pollution at various sites within the Bay Area. The closest air monitoring station (158 Jackson Street) that monitored O₃, CO, NO, NO₂, PM₁₀, and PM_{2.5} over the past five years (2017 through 2022) is in the City of San José, approximately seven miles northwest of the project site. The data shows that the project area has exceeded the state and/or federal O₃, PM₁₀, and PM_{2.5} ambient air quality standards during the past few years. The most recent time-period available illustrating air quality trends collected by BAAQMD and CARB is presented in Appendix A.

Sensitive Receptors

Some groups of people more affected by air pollution than others. CARB has identified the following persons who are most likely to be affected by air pollution: children under 16 years old, the elderly over 65 years old, athletes, and people with cardiovascular and chronic respiratory diseases. These groups are classified as sensitive receptors. Locations that may contain a high concentration of these

sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, and elementary schools. For cancer risk assessments, children are the most sensitive receptors, since they are more susceptible to cancer causing TACs. Residential locations are assumed to include infants and small children.

The closest sensitive receptors to the project site are in the single-family townhome residences to the north of the project site, the nearest of which is located approximately 35 feet from the site. Other sensitive receptors are found at further distances, including receptors at the nearby Primrose School of Evergreen, approximately 800 feet to the northwest, with children of ages ranging from 6 weeks to 12 years, and the Evergreen Montessori Preschool (approximately 1,075 feet to the northwest) with children of ages ranging from 1.5 years to 6 years. This project would also introduce new sensitive receptors (i.e., residents) to the area.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
3. AIR QUALITY. Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations. Would the project:					
a) Conflict with or obstruct implementation of the applicable air quality plan?			X		1, 2, 5, 6,
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?			X		1, 2, 5, 6, 7
c) Expose sensitive receptors to substantial pollutant concentrations?			X		2, 5, 6, 7
d) Result in other emissions (such as those leading to odors adversely affecting a substantial number of people)?			X		1, 2, 5, 6

Explanation

- a) **Less Than Significant Impact.** The 2017 Clean Air Plan (CAP), adopted by BAAQMD in April 2017, includes control measures that are intended to reduce air pollutant emissions in the Bay Area either directly or indirectly. Plans must show consistency with the control measures listed within the CAP. Using the BAAQMD's methodology, a determination of consistency with the 2017 CAP - should demonstrate that a project: 1) supports the primary goals of the air quality plan; 2) includes applicable control measures from the air quality plan, and 3) does not disrupt or impede implementation of air quality plan control measures.

The 2017 CAP defines an integrated, multipollutant control strategy to reduce emissions of particulate matter, toxic air contaminants, ozone precursors, and greenhouse gases. The 2017 CAP has control measures that are designed to indirectly or directly reduce air pollutants emissions in the Bay Area. These measures are divided into five categories, including:

- Measures to reduce emissions from stationary area sources;
- Mobile source measures;
- Transportation control measures
- Land use and local impact measures; and
- Energy and climate measures

As summarized in the “Project Consistency” column of Table 2, the project would not conflict with the 2017 CAP’s goal to attain air quality standards and would not result in exceedances of BAAQMD 2017 thresholds for criteria air pollutants as described in b) below. Therefore, the project would have a less than significant impact on clean air planning efforts.

Table 2
2017 CAP Applicable Control Measures

Control Measures	Description	Project Consistency
<i>Transportation Measure - Bicycle and Pedestrian Access and Facilities</i>	Encourage planning for bicycle and pedestrian facilities in local plans, e.g., general and specific plans, fund bike lanes, routes, paths and bicycle parking facilities.	The project would include long-term bicycle parking (via individual garages for each unit) consistent with City’s Zoning Ordinance standards. The project site is located in an area with pedestrian facilities and is within walking distance to a variety of commercial uses. Therefore, the project is consistent with this measure.
<i>Energy Control Measures - Decrease Electricity Demand</i>	Work with local governments to adopt additional energy efficiency policies and programs. Support local government energy efficiency program via best practices, model ordinances, and technical support. Work with partners to develop messaging to decrease electricity demand during peak times.	The project would be required to comply with Building Energy Efficiency Standards (Municipal Code Title 24), which would help reduce energy consumption. The project would also be required to comply with the City’s Green Building Policy (Council Policy 8-13), Private Sector Green Building Policy (Council Policy 6-32) and the City’s Green Building Ordinance, which would increase building efficiency over standard construction. Therefore, the project is consistent with this control measure.

Control Measures	Description	Project Consistency
<i>Building Control Measures - Green Buildings</i>	Collaborate with partners such as KyotoUSA to identify energy-related improvements and opportunities for onsite renewable energy systems in school districts; investigate funding strategies to implement upgrades. Identify barriers to effective local implementation of the CALGreen (Title 24) statewide building energy code; develop solutions to improve implementation/enforcement. Work with ABAG's BayREN program to make additional funding available for energy-related projects in the buildings sector. Engage with additional partners to target reducing emissions from specific types of buildings.	The project would be required to comply with CALGreen and the City's Green Building Policy (Council Policy 8-13), Private Sector Green Building Policy (Council Policy 6-32) the City's Green Building Ordinance, and the most recent California Building Code which would increase building efficiency over standard construction. Therefore, the project is consistent with this control measure
<i>Building Control Measures - Urban Heat Island Mitigation</i>	Develop and urge adoption of a model ordinance for "cool parking" that promotes the use of cool surface treatments for new parking facilities.	The project would locate vehicle parking in individual vehicle garages. In addition, the project would provide new landscaping, including planting of shrubs, groundcover, and trees to outdoor areas. These features would minimize surface parking and reduce the project's heat island effect. The project, therefore, is consistent with this measure.
<i>Water Management Control Measures - Support Water Conservation</i>	Develop a list of best practices that reduce water consumption and increase on-site water recycling in new and existing buildings; incorporate into local planning guidance.	The project would be required to adhere to State and local policies to conserve water, including, but not limited to, AB 1668: Water Conservation and Drought Planning, AB 2731: Landscape Water Use Efficiency, implementation of a stormwater control plan, and adherence to the City's levelled water shortage restrictions on potable water use. Therefore, the project is consistent with this control measure.
<i>Natural and Working Lands Measures - Urban Tree Planting</i>	Develop or identify an existing model municipal tree planting ordinance and encourage local governments to adopt such an ordinance. Include tree planting recommendations, the Air District's technical guidance, best management practices for local plans, and CEQA review.	The project does not involve any removal of existing trees. In addition, the project would plant 10 trees and would include other landscaping features such as planting of various shrubs and groundcover in outdoor areas. Therefore, the project is consistent with this control measure.

- b) **Less Than Significant Impact.** The San Francisco Bay Area is considered a non-attainment area for ground-level ozone and PM_{2.5} under both the federal Clean Air Act and the California Clean Air Act. The area is also considered non-attainment for PM₁₀ under the California Clean Air Act, but not the federal act. The area has attained both State and federal ambient air quality standards for carbon monoxide.

The City of San José uses the thresholds of significance established by the BAAQMD to assess air quality impacts of proposed development. The BAAQMD CEQA Guidelines include screening levels and thresholds for evaluating air quality impacts in the San Francisco Bay Area Air Basin. As part of an effort to attain and maintain ambient air quality standards for ozone and PM₁₀, the BAAQMD has established thresholds of significance for these air pollutants and their precursors. These thresholds are for ozone precursor pollutants (ROG and NO_x), PM₁₀, and PM_{2.5} and apply to both construction period and operational period impacts. The applicable thresholds are presented below in Tables 3a through 3d.

Table 3a
BAAQMD Air Quality Significance Thresholds - Criteria Air Pollutants

Pollutant	Construction Thresholds - Average Daily Emissions (lbs./day)	Operational Threshold - Average Daily Emissions (lbs./day)	Operational Threshold - Annual Average Emissions (tons/year)
ROG, NO _x , PM _{2.5} (exhaust)	54	54	10
PM ₁₀ (exhaust)	82	82	15
CO	Not Applicable	9.0 ppm (8-hour average) or 20.0 ppm (1-hour average)	9.0 ppm (8-hour average) or 20.0 ppm (1-hour average)
Fugitive Dust (PM _{2.5} , PM ₁₀)	Construction Dust Ordinance or other Best Management Practices	Not Applicable	Not Applicable

Table 3b
BAAQMD Air Quality Significance Thresholds
Health Risks and Hazards for Sources within 1,000 Feet of Project

Pollutant	Construction Thresholds - Average Daily Emissions (lbs./day)	Operational Threshold - Average Daily Emissions (lbs./day)	Operational Threshold - Annual Average Emissions (tons/year)
Excess Cancer Risk	10 per one million	10 per one million	10 per one million
Chronic or Acute Hazard Index	1.0	1.0	1.0
Incremental annual average PM _{2.5}	0.3 µg/m ³	0.3 µg/m ³	0.3 µg/m ³

Table 3c
BAAQMD Air Quality Significance Thresholds
Health Risks and Hazards for Sensitive Receptors (Cumulative from All Sources within 1,000-Foot Zone of Influence) and Cumulative Thresholds for New Sources

Pollutant	Construction Thresholds - Average Daily Emissions (lbs./day)	Operational Threshold - Average Daily Emissions (lbs./day)	Operational Threshold - Annual Average Emissions (tons/year)
Excess Cancer Risk	100 per 1 million	100 per 1 million	100 per 1 million
Chronic Hazard Index	10.0	10.0	10.0

Pollutant	Construction Thresholds - Average Daily Emissions (lbs./day)	Operational Threshold - Average Daily Emissions (lbs./day)	Operational Threshold - Annual Average Emissions (tons/year)
Annual Average PM _{2.5}	0.8 µg/m ³	0.8 µg/m ³	0.8 µg/m ³

**Table 3d
BAAQMD Air Quality Significance Thresholds
Greenhouse Gas Emissions (Land Use Projects)**

Pollutant	Construction Thresholds - Average Daily Emissions (lbs./day)	Operational Threshold - Average Daily Emissions (lbs./day)	Operational Threshold - Annual Average Emissions (tons/year)
GHG Annual Emissions	1,100 metric tons or 4.6 metric tons per service population	1,100 metric tons or 4.6 metric tons per service population	1,100 metric tons or 4.6 metric tons per service population

Notes: ROG = reactive organic gases, NO_x = nitrogen oxides, PM₁₀ = coarse particulate matter or particulates with an aerodynamic diameter of 10 micrometers (µm) or less, and PM_{2.5} = fine particulate matter or particulates with an aerodynamic diameter of 2.5µm or less; GHG = greenhouse gas; ppm = parts per million; µg/m³ = micrograms per cubic meter

The air quality assessment for the project (Appendix A) used the California Emissions Estimator Model (CalEEMod) Version 2020.4.0 to estimate air pollutant emissions from construction and operation of the project at buildout.³

Operational Emissions

The project proposes 16 townhomes and would not exceed the BAAQMD the screening size for operational criteria pollutants of 451 residential units. The project, therefore, would not result in air quality impacts from operations.

Construction Emissions

CalEEMod computes annual emissions for construction based on the project type, size and acreage. The model provides emission estimates for both on-site and off-site construction activities. On-site activities are primarily made up of construction equipment emissions (e.g., from tractors, backhoes, etc.), while offsite activity includes worker, hauling, and vendor traffic. The construction build-out scenario, including equipment list and schedule, was based on information using CalEEMod default values for a project of this type and size, which was reviewed and approved by the project applicant. The construction schedule for the air quality assessment assumed a start date of January 2023, occurring over a period of approximately 6 months (115 construction workdays).

Average daily emissions were annualized for each year of construction by dividing the total annual construction emissions by the number of active workdays during that year. Table 4 shows annualized average daily construction emissions of ROG, NO_x, PM₁₀ exhaust, and PM_{2.5} exhaust during construction of the entire project. As indicated in Table 4, predicted

³ CalEEMod quantifies ozone precursors, criteria pollutants, and greenhouse gas emissions from the construction and operation of new land use development and linear projects in California.

annualized project construction emissions for the entire project would not exceed the BAAQMD significance thresholds during any year of construction.

Table 4
Construction Period Emissions

Year	ROG	NOx	PM₁₀ Exhaust	PM_{2.5} Exhaust
<i>Construction Emissions Per Year (Tons) - 2023</i>	0.22	0.37	0.02	0.02
<i>Average Daily Construction Emissions Per Year (pounds/day) - 2023 (115 construction workdays)</i>	3.91	6.52	0.33	0.30
<i>BAAQMD Thresholds (pounds per day)</i>	54 lbs./day	54 lbs./day	82 lbs./day	54 lbs./day
Exceed Threshold?	No	No	No	No

Construction activities, particularly during site preparation and grading, would temporarily generate fugitive dust in the form of PM₁₀ and PM_{2.5}. Sources of fugitive dust would include disturbed soils at the construction site and trucks carrying uncovered loads of soil. Unless properly controlled, vehicles leaving the site would deposit mud on local streets, which could be an additional source of airborne dust after it dries.

Although construction period emissions would not exceed the BAAQMD significance thresholds, the BAAQMD CEQA Air Quality Guidelines require implementation of best management practices. During any construction period ground disturbance, the applicant shall ensure that the project contractor implement measures to control dust and exhaust. Implementation of the measures recommended by BAAQMD and listed below as standard permit conditions would reduce the air quality impacts associated with grading and new construction to a less than significant level. Additional measures are identified to reduce construction equipment exhaust emissions. The contractor shall implement the following best management practices that are required of all projects:

Standard Permit Condition

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

- Water active construction areas at least twice daily or as often as needed to control dust emissions.
- Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- Remove visible mud or dirt track-out onto adjacent public roads using wet-power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).

- Pave new or improved roadways, driveways, and sidewalks as soon as possible.
- Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- Replant vegetation in disturbed areas as quickly as possible.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Minimize idling times either by shutting off equipment when not in use, or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.
- Maintain and properly tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

In addition to the BAAQMD-recommended best management practices listed above as standard permit conditions, implementation of the mitigation measure in c) below would include construction equipment exhaust control measures to reduce construction particulate matter impacts. As the project would not result in emissions that exceed the BAAQMD thresholds, it would not contribute substantially to existing or projected violations of air quality standards.

- c) **Less Than Significant Impact.** Project impacts related to increased community risk can occur either by introducing a new source of TACs with the potential to adversely affect existing sensitive receptors in the project vicinity or by significantly exacerbating existing cumulative TAC impacts. This project would introduce new sources of TACs during construction.

Construction equipment and associated heavy-duty truck traffic generates diesel exhaust, which is a known TAC. The exhaust air pollutant emissions resulting from construction of the project would not be considered to contribute substantially to existing or projected air quality violations. Construction exhaust emissions may still pose health risks for sensitive receptors such as surrounding residents. The primary community risk impact issues associated with construction emissions are cancer risk and exposure to PM_{2.5}. Diesel exhaust poses both a potential health and nuisance impact to nearby receptors.

A health risk assessment of the project construction activities was conducted that evaluated potential health effects to nearby sensitive receptors from construction emissions of DPM and PM_{2.5} (refer to Appendix A).⁴ This assessment included dispersion modeling to predict the

⁴ DPM is identified by California as a toxic air contaminant due to the potential to cause cancer.

offsite and onsite concentrations resulting from project construction, so that lifetime cancer risks and non-cancer health effects could be evaluated.

Sensitive receptors are considered the maximally exposed individuals (MEI) and are shown in Figure 15. The maximum DPM and PM_{2.5} concentrations from project construction were identified at nearby sensitive receptors (refer to Figure 15) to find the maximally exposed individuals (MEI). The construction residential MEI is located on the second floor (15 feet above ground) at an adjacent single-family townhome approximately 35 feet north of the project site. Table 5 summarizes the maximum cancer risks, PM_{2.5} concentrations, and health hazard indexes for project related construction activities affecting the construction MEI. Modeling was also conducted for nearby schools.

The cumulative impacts of TAC emissions from construction of the project and traffic on Aborn Road on the construction MEI were also evaluated and are summarized in Table 5. As shown in Table 5, the combined cancer risk and hazard risk values would not exceed the cumulative thresholds.

In summary, the project would not have an exceedance with respect to community risk caused by project construction activities since the unmitigated cancer risk, annual PM_{2.5} concentration, and hazard index do not exceed the BAAQMD single-source or cumulative-source threshold.

Table 5
Impacts from Combined TAC Sources at Project MEI

Source	Cancer Risk (per million)	Annual PM _{2.5} (µg/m ³)	Hazard Index
Project Impacts - Project Construction Unmitigated	5.98 (infant)	0.04	0.01
<i>BAAQMD Single-Source Threshold</i>	<i>10</i>	<i>0.3</i>	<i>1.0</i>
<i>Exceed Threshold?</i>			
Unmitigated	<i>No</i>	<i>No</i>	<i>No</i>
Cumulative Source - Aborn Road, ADT 26,193	0.32	0.03	<0.01
Cumulative Total Unmitigated	6.30	0.07	<0.02
<i>BAAQMD Cumulative Source Threshold</i>	<i>100</i>	<i>0.8</i>	<i>10.0</i>
<i>Exceed Threshold?</i>			
Unmitigated	<i>No</i>	<i>No</i>	<i>No</i>

- d) **Less Than Significant Impact.** Common sources of odors and odor complaints are uses such as transfer stations, recycling facilities, painting/coating facilities, landfills, and wastewater treatment plants. Development of the site with a new residential development would not result in substantial new odor sources on the site.

During construction, the use of diesel-powered vehicles and equipment could temporarily generate localized odors, which would cease upon project completion. This represents a temporary impact and implementation of abatement measures for construction period emissions identified in c) above would further assure that this impact is less than significant.

UTM - Monitoring (meters)



Source: Illingworth & Rodkin, March 2022

Location of Nearby Sensitive Receptors and Maximally Exposed Individual

Evergreen Village Townhomes
Initial Study

Figure
15

Non CEQA Effects

The project would introduce new residents that are sensitive receptors. In December 2015, the California Supreme Court issued an opinion in the California Building Industry Association vs. Bay Area Air Quality Management District (CBIA vs. BAAQMD) case that CEQA is primarily concerned with the impacts of a project on the environment, not the effects of the existing environment on a project. In light of this ruling, the effect of existing air pollutants from off-site sources on new sensitive receptors introduced by the project would not be considered an impact under CEQA.

However, General Plan Policy MS-11.1 requires completion of air quality modeling for new sensitive land uses located near sources of pollution and the identification of project design measures to avoid significant risks to future residents and users of the project. The project proposes new sensitive receptors (residential occupants) in the proximity of nearby potential TAC sources, as shown in Figure 16. In addition, Figure 17 shows the location of maximum TAC impacts. Though not necessarily a CEQA issue, the effect of existing TAC sources on future project receptors was conducted to comply with the 2017 CAP goal of reducing TAC exposure and protecting public health as well as the City's General Plan Policy MS-11.1. The types of uses proposed by the project (residential) would not create a substantial source of localized TACs.

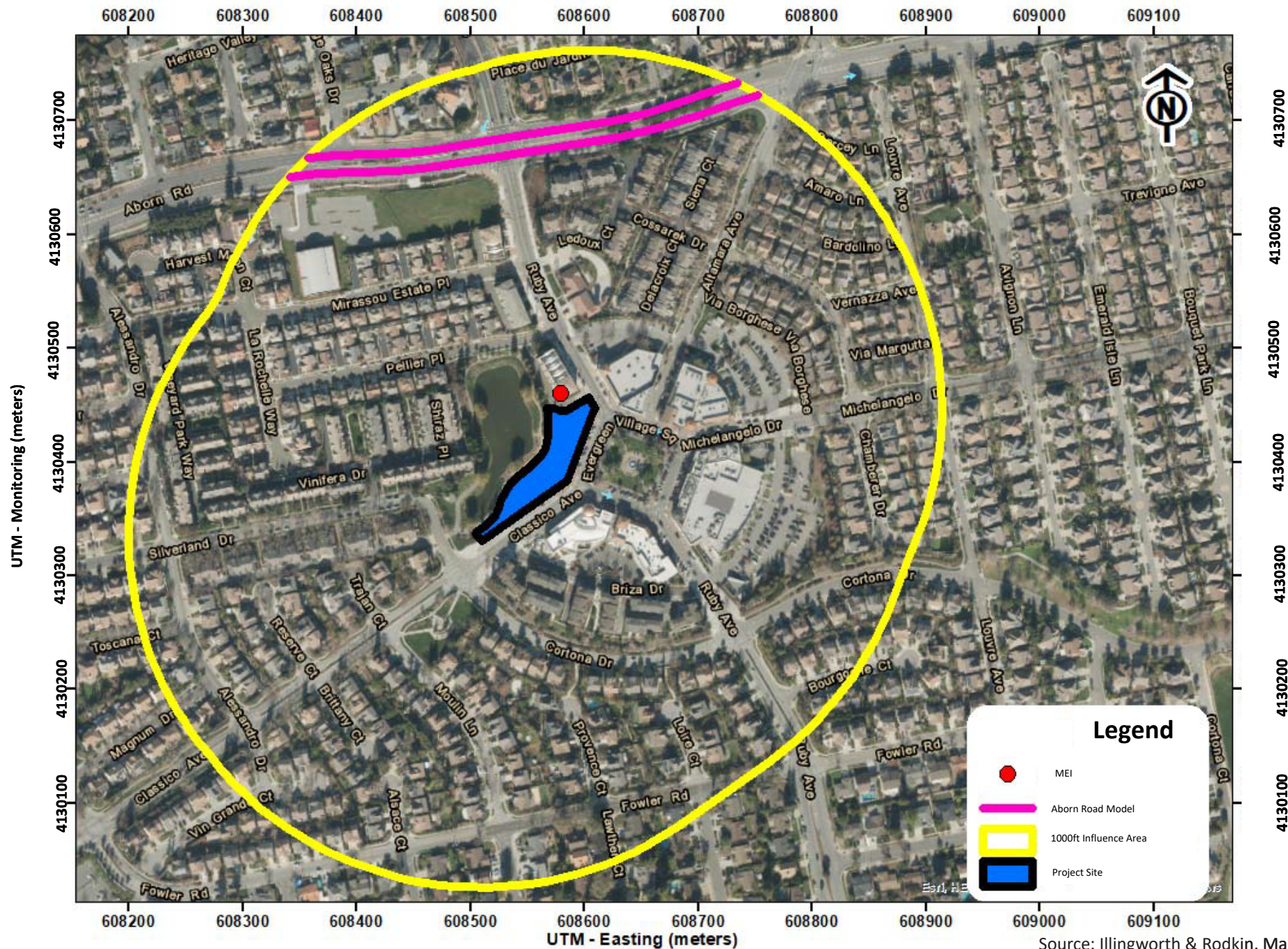
A health risk assessment was completed to determine the impact that existing TAC sources would have on the new proposed sensitive residential receptors introduced by the project (refer to Appendix A). The same TAC sources identified above were used in the health risk assessment described in c) above.

Community risk impacts from the existing and TAC sources on the project site are presented in Table 6. The risks from the singular TAC sources are compared against the BAAQMD single-source threshold. The risks from all the sources are then combined and compared against the BAAQMD cumulative-source threshold. As shown, none of the sources exceed the single-source or cumulative-source thresholds.

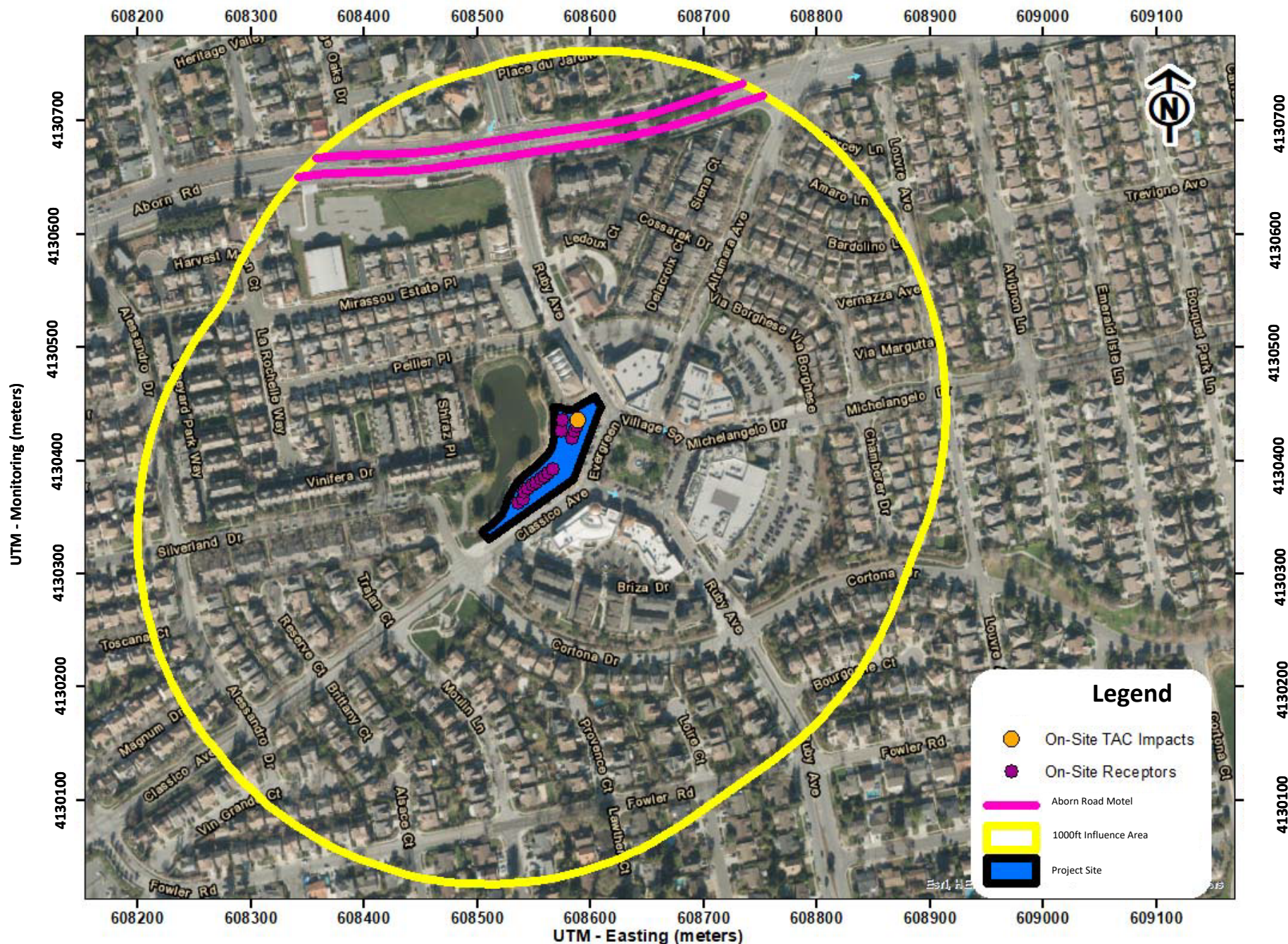
Table 6
Impacts from Combined Sources to Project Site Receptors

Source	Maximum Cancer Risk (per million)	Maximum Annual PM _{2.5} (µg/m ³)	Maximum Hazard Index
Aborn Road, ADT 26,424	0.42	0.02	<0.01
<i>BAAQMD Single-Source Threshold</i>	<i>10</i>	<i>0.3</i>	<i>1.0</i>
<i>Exceed Threshold?</i>	<i>No</i>	<i>No</i>	<i>No</i>
Cumulative Total	0.42	0.02	<0.01
<i>BAAQMD Cumulative Source Threshold</i>	<i>100</i>	<i>0.8</i>	<i>10.0</i>
<i>Exceed Threshold?</i>	<i>No</i>	<i>No</i>	<i>No</i>

Conclusion: The project would have a less than significant impact on air quality with implementation of identified permit conditions and applicable General Plan Policies.



Nearby TAC and PM_{2.5} Sources



Project Site and Location of Maximum TAC Impacts

Evergreen Village Townhomes
Initial Study

Figure
17

D. BIOLOGICAL RESOURCES

This section is based on a Biological Evaluation prepared for the project site by Live Oak Associates, Inc. (March 8, 2022). A copy of this report is provided as Appendix B. The conclusions and recommendations of this report are discussed in the following section.

Regulatory Framework

Federal and State

Special-Status Species

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

In addition to species listed under state and federal Endangered Species Acts, Section 15380(b) and (c) of the CEQA Guidelines provided that all potential rare or sensitive species, or habitats capable of supporting rare species, are considered for environmental review per the CEQA Guidelines. These may include plant species of concern in California listed by the California Native Plant Society and CDFW listed “Species of Special Concern.”

Migratory Bird and Birds of Prey Protection

The federal Migratory Bird Treaty Act (MBTA) prohibits killing, possessing, or trading in migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. This act encompasses whole birds, parts of birds, and bird nests and eggs. Construction disturbances during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment, a violation of the MBTA. Additionally, nesting birds are considered special-status species are protected by the USFWS. The CDFW also protects migratory and nesting birds under California Fish and Game Code Sections 3503, 3503.5, and 3800. The CDFW defines taking as causing abandonment and/or loss of reproductive efforts through disturbance.

Sensitive Habitats

Wetland and riparian habitats are considered sensitive habitats under CEQA. They are also afforded protection under applicable federal, state, and local regulations, and are generally subject to regulation, protection, or consideration by the US Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), CDFW, and/or the USFWS under provisions of the federal Clean Water Act (e.g., Sections 303, 304, 404) and State of California Porter-Cologne Water Quality Control Act.

Regional and Local

Santa Clara Valley Habitat Plan/Natural Communities Conservation Plan

The Santa Clara Valley Habitat Plan/Natural Communities Conservation Plan (SCVHP or Habitat Plan) was developed through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District, Santa Clara Valley Transportation Authority, U.S. Fish and Wildlife Service, and California Department of Fish and Wildlife. The SCVHP is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County. The project site is located within the boundaries of the HCP and is designated as follows:

- Area 4: Urban Development Equal to or Greater than 2 Acres Covered
- Land Cover: Urban-Suburban
- Land Cover Fee Zone: Urban Areas (No Land Cover Fee)

In addition, the SCVHP indicates that nitrogen deposition has damaging effects on many of the serpentine plants in the SCVHP area, including the host plants that support the Bay checkerspot butterfly. Because serpentine soils tend to be nutrient poor and nitrogen deposition artificially fertilizes serpentine soils, nitrogen deposition facilitates the spread of invasive plant species. Nitrogen tends to be efficiently recycled by the plants and microbes in infertile soils such as those derived from serpentine, so that fertilization impacts could persist for years and result in cumulative habitat degradation. All major remaining populations of the Bay checkerspot butterfly and many of the sensitive serpentine plant populations occur in areas subject to air pollution from vehicle exhaust and other sources throughout the Bay Area, including the project site. The displacement of native serpentine plant species and subsequent decline of several federally listed species, including the Bay checkerspot butterfly and its larval host plants, has been documented on Coyote Ridge in central Santa Clara County near the project site.

City of San José Tree Ordinance

The City of San José's Municipal Code includes tree protection measures (Municipal Code Title 13, Chapters 13.28 [Street Trees, Hedges and Shrubs] and 13.32 [Tree Removal Controls]) that regulate the removal of trees. An "ordinance-sized tree" on private property is defined as any tree having a main stem or trunk, 12 inches in diameter (38 inches or more in circumference) at a height measured 54 inches (4.5 feet) above ground. For multi-trunk trees, the circumference is measured as the sum of the circumferences of all trunks at 54 inches above grade. On single-family or duplex lots, a permit is required to remove ordinance-sized trees, even if they are unhealthy or dead. On multi-family, commercial, or industrial lots, a permit is required to remove a tree of any size. The Code defines a "heritage tree" as any tree that because of factors including but not limited to its history, girth, height, species or unique quality, has been found by the City Council to have a special significance to the community. Pruning or removing a heritage tree is illegal without first consulting the City Arborist and obtaining a permit. Finally, street trees are those that are located in the public right-of-way between the curb and sidewalk. A permit is required before pruning or removing a street tree.

General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating biological resource impacts from development projects. The following policies are applicable to the proposed project.

Envision San José 2040 Relevant Biological Resource Policies

Policy	Policy Text
Policy CD-1.24	Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse effect on the health and longevity of such trees through design measures, construction, and best maintenance practices. When tree preservation is not feasible, include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.
Policy ER-5.1	Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance of activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.
Policy ER-5.2	Require that development projects incorporate measures to avoid impacts to nesting migratory birds.
Policy MS-21.4	Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.
Policy MS-21.5	As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse effect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.
Policy MS-21.6	As a condition of new development, require, where appropriate, the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.
Policy MS-21.8	For Capital Improvement Plan or other public development projects, or through the entitlement process for private development projects, require landscaping including the selection and planting of new trees to achieve the following goals: 1. Avoid conflicts with nearby power lines. 2. Avoid potential conflicts between tree roots and developed areas. 3. Avoid use of invasive, non-native trees. 4. Remove existing invasive, non-native trees. 5. Incorporate native trees into urban plantings in order to provide food and cover for native wildlife species. 6. Plant native oak trees and native sycamores on sites which have adequately sized landscape areas and which historically supported these species.

Existing Setting

A Biological Evaluation was completed for the project by Live Oak Associates (Appendix B). This evaluation includes a discussion of habitat types present on the property, special-status species with the potential to occur on the project site, and presence of jurisdictional waters within the project site. The project site is currently vacant. The project site is located approximately 400 feet from the nearest riparian edge (Fowler Creek) and is surrounded by urban development. The Evergreen Village Duck Pond, a manmade water feature constructed in 2003, is located adjacent to the project site. The Evergreen Village Duck Pond did not replace a previously existing water feature and does not provide habitat for special-status species. Habitat within the project site consist solely of ruderal California annual grassland. The site was found to lack suitable habitat for any special status plant species known to occur in the region. Of the 24 special-status wildlife species that occur regionally, only four had the potential to be present on the site.

The site supports limited, but potential breeding and marginal foraging habitat for the white-tailed kite and marginal potential foraging habitat for the Townsend's big-eared bat and pallid bat species. Trees along the border of the site appear to lack suitable cavities, crevices and/or dense foliage suitable for bats, therefore, bats may be expected to forage over the site, but would not be expected to roost onsite, therefore, preconstruction surveys for bats are not necessary.

The site supports a few California ground squirrel burrows. The Evergreen area of San José is known to support burrowing owls on smaller parcels. Burrowing owls and their signs were not observed during the March 2022 site visit. Although breeding burrowing owls are not expected to occur onsite due to the size of the non-developed area, an errant burrowing owl may temporarily move onto the marginable suitable site, especially during the overwintering season.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
4. BIOLOGICAL RESOURCES. Would the project:					
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?		X			1, 2, 11
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?				X	1, 2, 11
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?			X		1, 2, 11

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?			X		1, 2, 9, 10
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?			X		1, 2, 9, 10
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?			X		1, 2, 9, 10

Explanation

- a) **Less Than Significant with Mitigation Incorporated.** The project site is currently vacant. The site has been graded as part of adjacent development. The site is surrounded by commercial and residential land use, parking lots, major and minor roads, and a large man-made duck pond.

Nesting Birds

The project site contains mature shrubs which may provide nesting habitat for migratory birds, including raptors (birds of prey). In addition, there are mature street trees adjacent to the project site. Raptors and their nests are protected under the Migratory Bird Treaty Act of 1918 and California Fish and Game Code Sections 3503 and 3503.5. These species could be disturbed during tree removal and construction activities.

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

Mitigation Measure

MM BIO-1 The project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive).

If demolition and construction cannot be scheduled to occur between September 1st and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist or biologist to ensure that no nests shall be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during of the breeding season (February 1st through August 31st, inclusive). During this survey, the ornithologist/biologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.

If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist/biologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction.

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

With implementation of the identified mitigation measure, the project's impact to nesting birds and raptors would be less than significant.

Burrowing Owls

The site supports a few California ground squirrel burrows. The Evergreen area of San José is known to support burrowing owls on smaller parcels. Burrowing owls and their signs were not observed during the March 2022 site visit. Although breeding burrowing owls are not expected to occur onsite due to the size of the non-developed area, an errant burrowing owl may temporarily move onto the marginable suitable site, especially during the overwintering season.

Impact BIO-2: Construction activities associated with the project could impact burrowing owls if they are present on the site at the time of construction.

Mitigation Measures

MM BIO-2 Prior to issuance of any grading or building permits, the project applicant shall incorporate the following measures.

- **Preconstruction Surveys:** Prior to issuance of any grading or building permits, preconstruction surveys shall be conducted for burrowing owls regardless of whether impacts are to occur during the breeding or non-breeding season. These surveys consist of a minimum of two surveys conducted for a minimum of a 3-hour period within 1 hour of sunrise and/or sunset, with the first survey no more than 14 days prior to initial construction activities (i.e., vegetation removal, grading, excavation, etc.) and the second survey conducted no more than two days prior to initial construction activities. The survey shall ensure complete visual coverage of the site and a 250-foot radius of the site. These survey results shall be documented in a letter report to be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee for review and approval.

- Burrowing Owl Monitoring Plan: If burrowing owls are observed during the preconstruction surveys, occupied burrows shall be identified by the qualified biologist and a buffer shall be established. The qualified biologist shall submit a Burrowing Owl Monitoring Plan that shall include, but would not be limited to, the following:
 - Identification of appropriate non-disturbance buffers (i.e., 250-foot) around all active burrows as identified and defined by a qualified biologist.
 - Determination of nests and occupancy (i.e., vacant or not)
 - Determination of protocols to relocate nests, collapse suitable vacant burrows, or other equivalent protocol to ensure the safety of owls and habitat, consistent with Santa Clara Valley Habitat Plan (SCVHP) protocols.
 - Protocols for monitoring during non-nesting seasons if owls are found.
 - Protocols for avoidance measures.
 - Protocols for on-going reporting to the necessary agency.

Only after the biologist determines that the active burrow has become vacant can the non-disturbance buffer zone be removed. This Monitoring Plan shall be documented in a letter report to be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee for review and approval.

- Non-nesting Season Avoidance Measures: Should a burrowing owl be located onsite in the non-breeding season (September 1 through January 31, inclusive), construction activities would not be allowed within the 250-foot buffer of the active burrow(s) used by any burrowing owl unless the following avoidance measures are adhered to. These include, but are not limited to, the following:
 - The qualified biologist monitors the owls for at least 3 days prior to construction to determine baseline nesting and foraging behavior (i.e., behavior without construction).
 - The qualified biologist monitors the owls during construction and finds no change in owl nesting and foraging behavior in response to construction activities, ending the monitoring requirement.
 - However, if the qualified biologist finds that there is any change in owl nesting and foraging behavior as a result of construction activities, these activities will cease within the 250-foot buffer. Construction cannot resume within the 250-foot buffer until the adults and juveniles from the occupied burrows have moved out of the project site. The results of this evaluation shall be documented in a letter report to be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee.
 - If monitoring indicates that the nest is abandoned prior to the end of nesting season and the burrow is no longer in use by owls, the non-

disturbance buffer zone may be removed. The biologist will excavate the burrow to prevent reoccupation after receiving approval from the Wildlife Agencies.

These avoidance measures shall be documented in a letter report to be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee for review and approval.

- Nesting Season Reduced Buffer Exception: For permission to engage in construction activities within 250 feet of such burrows during the nesting season (February 1 through August 31, inclusive), an Avoidance, Minimization, and Monitoring Plan shall be prepared by a qualified biologist and approved by the SCVHP Implementing Agency (i.e., the City of San José) and the Wildlife Agencies prior to such encroachment. The plan shall ensure that burrowing owls and active nests are not impacted by the encroachment, based on the professional judgement of the qualified biologist, and shall include the same criteria for non-nesting season encroachment.
- b) **No Impact.** The project is located on a disturbed infill site and does not contain any sensitive natural communities. The nearest riparian corridor is Fowler Creek, located approximately 400 feet south of the site. The proposed project would not impact sensitive natural communities within or adjacent to Fowler Creek including riparian habitats. The Evergreen Village Duck Pond did not replace a previously existing water feature and does not provide habitat for special-status species. The project would have no impact to sensitive natural communities.
- c) **Less than Significant Impact.** The project site consists of ruderal California Annual Grassland and does not contain any State or federally protected wetlands or other jurisdictional wetlands. The Evergreen Village Duck Pond did not replace a previously existing water feature and does not provide habitat for special-status species. The project, therefore, would have a less than significant impact on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.
- d) **Less than Significant Impact.** The project site is located in a developed area that does not support any watercourse or river. In addition, the project site does not provide habitat that facilitates the movement of any native resident or migratory fish or wildlife species. Therefore, the proposed development of 16 townhome residential units would not substantially interfere with the movement of any native resident or migratory fish or wildlife species or impede the use of native wildlife nursery sites since none are located on or near the project site. However, construction activities could potentially disrupt nesting raptors. With the implementation of MM BIO-1, the proposed project would reduce this potential impact to a less than significant levels. Therefore, the proposed project would not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites. This represents a less than significant impact.

- e) **Less Than Significant Impact.** The project site does not contain any trees or sensitive habitats. Several trees are located along the project frontage and along the entry to the pedestrian path between the two development parcels. The proposed project would be required to protect adjacent trees during construction. The project, therefore, would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. This represents a less than significant impact.
- f) **Less Than Significant Impact.** The project is located within the Santa Clara Valley Habitat Plan (SCVHP) plan area and is considered a Covered Activity. The project is located on land designated by the SCVHP as Urban-Suburban. The nitrogen deposition fee applies to all projects that create new vehicle trips. A nitrogen deposition fee will be required for each new vehicle trip generated by the project, at the time of development. The project would implement the following standard permit condition in accordance with the SCVHP.

Standard Permit Condition

Santa Clara Valley Habitat Plan (SCVHP). The project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant shall submit the Santa Clara Valley Habitat Plan Coverage Screening Form (<https://www.scv-habitatagency.org/DocumentCenter/View/151/Coverage-Screening-Form?bidId=>) to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee for approval and payment of all applicable fees prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at <https://scv-habitatagency.org/178/Santa-Clara-Valley-Habitat-Plan>

With implementation of this standard permit condition, the project would comply with the SCVHP, resulting in a less than significant impact.

Conclusion: The project would have a less than significant impact on biological resources with implementation of identified mitigation measures and the standard permit condition listed above.

E. CULTURAL RESOURCES

An Archaeological Review and Assessment was prepared for the project site by Charles Mikulik Archaeological Consulting, LLC (CMAC) for the project site (March 2022). *The archaeological literature review may discuss locations of specific archaeological sites and is confidential. For this reason, it is not included in this document. Qualified personnel, however, may request a copy of the report from the Department of Planning, Building and Code Enforcement located at 200 East Santa Clara Street, 3rd Floor, during normal business hours.*

Regulatory Framework

Federal

National Register of Historic Places

The National Register of Historic Places (National Register or NRHP) is the nation's most comprehensive list of historic resources and includes historic resources significant in American history, architecture, archeology, engineering, and culture, at the local, State, and national level. National Register Bulletin Number 15, How to Apply the National Register Criteria for Evaluation, describes the Criteria for Evaluation as being composed of two factors. First, the property must be "associated with an important historic context" and second, the property must retain integrity of those features necessary to convey its significance. A resource is considered eligible for the National Register if the quality of significance in American history, architecture, archaeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association and:

1. are associated with events that have made a significant contribution to the broad pattern of our history; or
2. are associated with the lives of persons significant to our past; or
3. embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
4. yielded, or may be likely to yield, information important in prehistory or history.

State

California Health and Safety Code Sections 7050.5 and 7054

Section 7050.5 states that "[i]n the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the coroner of the county in which the human remains are discovered has determined... that the remains are not subject to the provisions of Section 27491 of the Government Code or any other related provisions of law concerning investigation of the circumstances, manner and cause of any death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible for the excavation". The coroner shall make his or her determination within two working days from the time the person responsible for the excavation, or his or her authorized representative, notifies the coroner of the discovery or recognition of the human remains. If the coroner determines that the remains are not subject to his or her authority and if the coroner

recognizes the human remains to be those of a Native American, or has reason to believe that they are those of a Native American, he or she shall contact the Native American Heritage Commission by telephone within 24 hours.

Section 7054 of the California Health and Safety Code regulates the disposal of human remains, classifying the disposal of human remains in any place, except in a cemetery, as a misdemeanor offense, punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding ten thousand dollars (\$10,000), or both that imprisonment and fine. This section does not apply to the reburial of Native American remains.

California Environmental Quality Act (CEQA) and California Register of Historical Resources

CEQA requires regulatory compliance for projects involving historic resources throughout the State. Under CEQA, public agencies must consider the effects of their actions on historic resources (Public Resources Code, Section 21084.1). The CEQA Guidelines define a significant resource as any resource listed in or determined to be eligible for listing in the California Register of Historical Resources (California Register) [see Public Resources Code, Section 21084.1 and CEQA Guidelines Section 15064.5 (a) and (b)].

The California Register of Historical resources was created to identify resources deemed worthy of preservation and was modeled closely after the National Register of Historic Places. The criteria are nearly identical to those of the National Register, which includes resources of local, State, and regional and/or national levels of significance. Under California Code of Regulation Section 4852(b) and Public Resources Code Section 5024.1, an historical resource generally must be greater than 50 years old and must be significant at the local, State, or national level under one or more of the following four criteria:

1. It is associated with events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States.
2. It is associated with the lives of persons important to local, California, or national history.
3. It embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of a master or important creative individual or possesses high artistic values.
4. It has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California, or the nation.

Properties of local significance that have been designated under a local preservation ordinance (local landmarks register or landmark districts) or that have been identified in a local historical resources inventory may be eligible for listing in the California Register and are presumed to be historical resources for the purposes of CEQA unless a preponderance of evidence indicates otherwise (Public Resources Code, Section 5024.1g; California Code of Regulations, Title 14, Section 4850).

California Code of Regulations Section 4852(c) addresses the issue of “integrity,” which is necessary for eligibility for the California Register. Integrity is defined as “the authenticity of an historical resource’s physical identity evidenced by the survival of characteristics that existed during the resource’s period of significance.” Section 4852(c) provides that historical resources eligible for listing in the California Register must meet one of the criteria for significance defined by 4852(b)(1 through 4), and retain enough of their historic character of appearance to be recognizable as historical resources and to convey the reasons for their significance. The Graves House was found in the

historic evaluation to be eligible for the California Register of Historical Resources under Criterion 1 (Events) and Criterion 3 (Design and Construction).

Native American Heritage Commission

The Native American Heritage Commission (NAHC) was created by statute in 1976, is a nine-member body appointed by the Governor to identify and catalog cultural resources (i.e., places of special religious or social significance to Native Americans, and known graves and cemeteries of Native Americans on private lands) in California. The Commission is responsible for preserving and ensuring accessibility of sacred sites and burials, the disposition of Native American human remains and burial items, maintaining an inventory of Native American sacred sites located on public lands, and reviewing current administrative and statutory protections related to these sacred sites.

California Assembly Bill 52

California Assembly Bill (AB) 52 went into effect on July 1, 2015 and establishes a new category of CEQA resources for “tribal cultural resources” (Public Resources Code §21074). The intent of AB 52 is to provide a process and scope that clarifies California tribal government’s involvement in the CEQA process, including specific requirements and timing for lead agencies to consult with tribes on avoiding or mitigating impacts to tribal cultural resources. AB 52 also creates a process for consultation with California Native American Tribes in the CEQA process. Tribal Governments can request consultation with a lead agency and give input into potential impacts to tribal cultural resources before the agency decides what kind of environmental assessment is appropriate for a proposed project. The Public Resources Code requires avoiding damage to tribal cultural resources, if feasible. If not, lead agencies must mitigate impacts to tribal cultural resources to the extent feasible.

Archaeological Resources and Human Remains

Archaeological sites are protected by policies and regulations under the California Public Resources Code, California Code of Regulations (Title 14 Section 1427), and California Health and Safety Code. California Public Resources Code Sections 5097.9-5097.991 require notification of discoveries of Native American remains and identifies appropriate measures for the treatment and disposition of human remains and grave-related items.

Both State law and the County of Santa Clara County Code (Sections B6-19 and B6-20) require that the Santa Clara County Coroner be notified if cultural remains are found. If the Coroner determines the remains are Native American, the Native American Heritage Commission (NAHC) and a “most likely descendant” must also be notified.

Local

Historic Preservation Ordinance: City of San José’s Criteria for Local Significance

Under the City of San José Historic Preservation Ordinance (Chapter 13.48 of the Municipal Code), preservation of historically or architecturally worthy structures and neighborhoods that impart a distinct aspect to the City of San José and that serve as visible reminders of the historical and cultural heritage of the City of San José, the State, and the nation is promoted. This is encouraged in order to 1) stabilize neighborhoods and areas of the city; 2) enhance, preserve and increase property values; 3) carry out the goals and policies of the City’s General Plan; 4) increase cultural, economic, and

aesthetic benefits to the City and its residents; 5) preserve, continue, and encourage the development of the City to reflect its historical, architectural, cultural, and aesthetic value or traditions; 6) protect and enhance the City's cultural and aesthetic heritage; and 7) promote and encourage continued private ownership and utilization of such structures.

The landmark designation process requires that findings be made that proposed landmarks have special historical, architectural, cultural, aesthetic, or engineering interest or value of an historical nature, and that designation as a landmark conforms to the goals and policies of the General Plan.

Part 5 of the City of San José Historic Preservation Ordinance includes provisions for the designation of Conservation Areas to recognize, preserve, and enhance the character of qualifying neighborhoods. A "conservation area" means a geographically definable area of urban or rural character with identifiable attributes embodied by: 1) architecture, urban design, development patterns, setting, or geography; and 2) history. Every potential conservation area proposed for designation must qualify as a conservation area pursuant to Section 13.48.610 and meet one or both of the following additional criteria: a) the neighborhood or area has a distinctive character conveying: (1) a sense of cohesiveness through its design, architecture, setting, materials, or natural features; and (2) its history; or b) the neighborhood or area reflects significant geographical or developmental patterns associated with different eras of growth in the city. Because the threshold of significance for this local designation is significantly lower than City Landmark Historic District designation, Conservation Areas are considered historic resources of lesser significance.

General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating cultural resource impacts from development projects. Policies applicable to the project are presented below.

Envision San José 2040 Relevant Cultural Resource Policies

Policy	Policy Text
Policy LU-13.15	Implement City, State, and Federal historic reservation laws, regulations, and codes to ensure the adequate protection of historic resources.
Policy LU-13.22	Require the submittal of historic reports and surveys prepared as part of the environmental review process. Materials shall be provided to the City in electronic form once they are considered complete and acceptable.
Policy LU-14.1	Preserve the integrity and enhance the fabric of areas or neighborhoods with a cohesive historic character as a means to maintain a connection between the various structures in the area.
Policy LU-14.4	Discourage demolition of any building or structure listed on or eligible for the Historic Resources Inventory as a Structure of Merit by pursuing the alternatives of rehabilitation, re-use on the subject site, and/or relocation of the resource.
Policy ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.

Policy	Policy Text
Policy ER-10.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.
Policy ER-10.3	Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

Existing Setting

Historical Resources

No historic resources are located on the site, since the property is vacant.

Archaeological Resources

Cultural resource specialists at CMAC conducted a preliminary cultural resource assessment of the project area. This background research included obtaining information concerning previously conducted cultural resource surveys and previously recorded sites in the area as well as examining historical maps, aerials, and land patents, and a review geologic and soils data to determine the potential for buried archaeological resources.

In March 2022, CMAC conducted an archival search at the Northwest Information Center (NWIC) of the California Historical Resources Information System (CHRIS) to obtain and review previous cultural resource records, cultural resource studies, and any additional documentation pertaining to historic properties located within a quarter mile of the project site. In addition, CMAC staff reviewed files held by the National Register of Historic Places (NRHP) under the National Parks Service (NPS), California Office of Historic Preservation (OHP) under the California State Historic Preservation Officer (SHPO), Directory of Properties in the Historic Property Data File (HPD dated 2012-2013), Built Environment Resource Directory (BERD, 2020), local government listings, and additional listings (i.e., historical society and museum records), as available.

The review of soils and geologic data indicates that the site has a low to moderate sensitivity for containing buried archaeological material.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
5. CULTURAL RESOURCES. Would the project:					
a) Cause a substantial adverse change in the significance of a historical resource pursuant to in §15064.5?				X	1, 2, 3

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?			X		1, 2, 3, 8
c) Disturb any human remains, including those interred outside of dedicated cemeteries?			X		1, 2, 3

Explanation

- a) **No Impact.** The project site is vacant and does not contain any historic structures, therefore the project would have no impact to historical resources.
- b) **Less Than Significant Impact.** Based on the archaeological literature review prepared for the project, no archaeological sites have been identified in the project's vicinity. The project site has a low sensitivity for historic-era archaeological deposits, and a low to moderate sensitivity for buried pre-contact archaeological deposits within the project area. The project involves the construction of three new three-story townhome buildings, which would require new foundations and soil excavation. As a result, it is possible that older soils with archaeological remains may be encountered during construction.

As part of the development permit approval, the project will conform to the following standard permit conditions to avoid impacts associated with disturbance to buried archaeological resources and human remains during construction for accidental discovery outside of the monitored times.

Standard Permit Conditions

- **Subsurface Cultural Resources.** If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist in consultation with a Native American Tribal representative registered with the Native American Commission for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3 shall examine the find. The archaeologist in consultation with the Tribal representative shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and 2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to the Director of PBCE or the Director's designee and the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.
- **Human Remains.** If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and

Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance.

- The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
- The MLD identified fails to make a recommendation; or
- The landowner or his authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.

- c) **Less Than Significant Impact.** Though unlikely, human remains may be encountered during construction activities. Standard permit conditions are identified in b) above to avoid impacts associated with disturbance to human remains, including those interred outside of dedicated cemeteries.

Conclusion: The project would have a less than significant impact on cultural resources with implementation of mitigation measures and standard permit conditions.

F. ENERGY

Regulatory Framework

Many federal, State, and local statutes and policies address energy conservation. At the federal level, energy standards set by the U.S. Environmental Protection Agency (EPA) apply to numerous consumer and commercial products (e.g., the EnergyStar™ program). The EPA also sets fuel efficiency standards for automobiles and other modes of transportation.

State

California Renewable Energy Standards

In 2002, California established its Renewables Portfolio Standard (RPS) Program, with the goal of increasing the percentage of renewable energy in the State's electricity mix to 20 percent of retail sales by 2010. In 2006, California's 20 percent by 2010 RPS goal was codified under Senate Bill (SB) 107. Under the provisions of SB 107 (signed into law in 2006), investor-owned utilities were required to generate 20 percent of their retail electricity using qualified renewable energy technologies by the end of 2010. In 2008, Executive Order S-14-08 was signed into law and requires that retail sellers of electricity serve 33 percent of their load with renewable energy by 2020.

In October 2015, Governor Brown signed SB 350 to codify California's climate and clean energy goals. A key provision of SB 350 for retail sellers and publicly owned utilities, requires them to procure 50 percent of the State's electricity from renewable sources by 2030.

California Building Codes

At the State level, the Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6, of the California Code of Regulations (Title 24), was established in 1978 in response to a legislative mandate to reduce California's energy consumption. Title 24 is updated approximately every three years. Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.⁵

The California Green Building Standards Code (CalGreen) establishes mandatory green building standards for all buildings in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resource efficiency, and indoor environmental quality.

⁵ CEC. 2016 Building Energy Efficiency Standards for Residential and Nonresidential Buildings. 2013. <http://www.energy.ca.gov/2015publications/CEC-400-2015-037/CEC-400-2015-037-CMF.pdf>.

Local

Council Policy 6-32 Private Sector Green Building Policy

At the local level, the City of San José sets green building standards for municipal development. All projects are required to submit a Leadership in Energy and Environmental Design (LEED),⁶ GreenPoint,⁷ or Build-It-Green checklist as part of their development permit applications. Council Policy 6-32 “Private Sector Green Building Policy,” adopted in October 2008, establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. It fosters practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water and other resources in the City of San José. Private developments are required to implement green building practices if they meet the Applicable Projects criteria defined by Council Policy 6-32 and shown in Table 7 below.

Table 7
Private Sector Green Building Policy Applicable Projects

Applicable Project Minimum Green Building Rating	Minimum Green Building Rating
Commercial/Industrial – Tier 1 (Less than 25,000 square feet)	LEED Applicable New Construction Checklist
Commercial/Industrial – Tier 2 (25,000 square feet or greater)	LEED Silver
Residential – Tier 1 (Less than 10 units)	GreenPoint or LEED Checklist
Residential – Tier 2 (10 units or greater)	GreenPoint Rated 50 points or LEED Certified
High Rise Residential (75 feet or higher)	LEED Certified

Source: City of San José. Private Sector Green Building Policy: Policy Number 6-32. October 7, 2008.

<https://www.sanjoseca.gov/your-government/departments-offices/environmental-services/energy/green-building/private-sector-green-building>

Municipal Code

The City’s Municipal Code includes regulations associated with energy efficiency and energy use. City regulations include a Green Building Ordinance (Chapter 17.84) to foster practices to minimize the use and waste of energy, water and other resources in the City of San José, Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.10), requirements for Transportation Demand Programs for employers with more than 100 employees (Chapter 11.105), and a Construction and Demolition Diversion Deposit Program that fosters recycling of construction and demolition materials (Chapter 9.10).

Climate Smart San José

Climate Smart San José is a plan developed by the City to reduce air pollution, save water, and create a healthier community. The plan articulates how buildings, transportation/mobility, and citywide growth need to change in order to minimize impacts on the climate. The plan outlines strategies that City departments, related agencies, the private sector, and residents can take to reduce carbon emissions consistent with the Paris Climate Agreement. The plan recognizes the scaling of renewable

⁶ Created by the U.S. Green Building Council, LEED is a certification system that assigns points for green building measures based on a 110-point rating scale.

⁷ Created by Build It Green, GreenPoint is a certification system that assigns points for green building measures based on a 381-point scale for multi-family developments and 341-point scale for single-family developments.

energy, electrification and sharing of vehicle fleets, investments in public infrastructure, and the role of local jobs in contributing to sustainability. It includes detailed carbon-reducing commitments for the City, as well as timelines to deliver on those commitments.

In January 2010, the State of California adopted the California Green Building Standards Code (CalGreen) that establishes mandatory green building standards for all buildings in California. The code was subsequently updated in 2013. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resource efficiency, and indoor environmental quality.

San José Reach Code Initiative for Building Efficiency

The City Council approved Ordinance No. 30311 in September 2019 to amend various sections of Title 24 of the City's Municipal Code to adopt provisions of the 2019 California Green Building Standards Code and California Building Energy Efficiency Standards with certain exceptions, modifications and additions which serve as a Reach Code to increase building efficiency, mandate solar readiness and increase requirements related to electric vehicle charging stations. The Reach Code goes into effect on January 1, 2020 and affects all new construction.

San José Clean Energy

San José Clean Energy (SJCE) is an electricity supplier operated by the City's Community Energy Department. Since launching in February 2019, SJCE has provided City businesses and residents with access to cheaper and cleaner energy sources. SJCE serves as an alternative to traditionally privatized energy sources by being a community-governed organization. Oversight for SJCE activities is provided by City Council in cooperation with a Community Advisory Commission.

General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating energy impacts from development projects. Policies applicable to the project are presented below.

Envision San José 2040 Relevant Energy Policies

Policy	Policy Text
Policy MS-1.6	Recognize the interconnected nature of green building systems, and, in the implementation of Green Building Policies, give priority to green building options that provide environmental benefit by reducing water and/or energy use and solid waste.
Policy MS-2.1	Develop and maintain policies, zoning regulations, and guidelines that require energy conservation and use of renewable energy sources
Policy MS-2.2	Encourage maximized use of on-site generation of renewable energy for all new and existing buildings.
Policy MS-2.3	Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
Policy MS-2.4	Promote energy efficient construction industry practices.
Policy MS-2.6	Promote roofing design and surface treatments that reduce the heat island effect of new and existing development and support reduced energy use, reduced air pollution, and a healthy urban forest. Connect businesses and residents with cool roof rebate programs through City outreach efforts.

Policy	Policy Text
Policy MS-2.11	Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize the effectiveness of passive solar design).
Policy MS-3.1	Require water-efficient landscaping, which conforms to the State’s Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions
Policy MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
Policy MS-14.1	Promote job and housing growth in areas served by public transit and that have community amenities within a 20-minute walking distance.
Policy MS-14.4	Implement the City’s Green Building Policies (see Green Building Section) so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.
Policy TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
Policy TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

Existing Setting

San José Clean Energy (SJCE) is the electricity provider for residents and businesses in the City of San José. SJCE sources electricity, and the Pacific Gas and Electric Company (PG&E) delivers it to customers using existing PG&E utility lines. SJCE buys its power from a number of suppliers. Sources of renewable and carbon-free power include California wind, solar, and geothermal; Colorado wind; and hydroelectric power from the Pacific Northwest. SJCE customers are automatically enrolled in the GreenSource program, which provides 80 percent GHG emission-free electricity. Customers can enroll in the TotalGreen program through SJCE and receive 100 percent GHG-free electricity from entirely renewable resources. It is expected that the project would be enrolled in and receive energy from the SJCE program.

PG&E also furnishes natural gas for residential, commercial, industrial, and municipal uses. In 2021, natural gas facilities provided 7 percent of PG&E’s electricity delivered to retail customers; nuclear plants provided 39 percent; hydroelectric operations provided 4 percent; and renewable energy facilities including solar, geothermal, and biomass provided 50 percent.⁸

⁸ Pacific Gas & Electric (PG&E), Clean energy solutions, 2021.

Total energy usage in California was approximately 7,881 trillion British thermal units (Btu) in the year 2017, the most recent year for which this data was available. In 2017, California was ranked second in total energy consumption in the nation, and 48th in energy consumption per capita. The breakdown by sector was approximately 18 percent (1,416 trillion Btu) for residential uses, 19 percent (1,473 trillion Btu) for commercial uses, 23 percent (1,818 trillion Btu) for industrial uses, and 40 percent (3,175 trillion Btu) for transportation. This energy is mainly supplied by natural gas, petroleum, nuclear electric power, and hydroelectric power.

Electricity

Electricity in Santa Clara County in 2020 was consumed primarily by the commercial sector (72 percent), followed by the residential sector consuming 26 percent. In 2020, a total of approximately 16,435 gigawatt hours (GWh) of electricity was consumed in Santa Clara County.⁹ SJCE is the electricity provider for residents and businesses in the City of San José. SJCE sources the electricity and PG&E delivers it via their existing utility lines. SJCE customers are automatically enrolled in the GreenSource program, which provides 80 percent GHG emission-free electricity. Customers can choose to enroll in SJCE's TotalGreen program at any time to receive 100 percent GHG emission-free electricity from entirely renewable sources.

Natural Gas

PG&E provides natural gas services within the City of San José. In 2018, approximately one percent of California's natural gas supply came from in-state production, while the remaining supply was imported from other western states and Canada.¹⁰ In 2018, residential and commercial customers in California used 34 percent of the state's natural gas, power plants used 35 percent, the industrial sector used 21 percent, and other uses used 10 percent. Transportation accounted for one percent of natural gas use in California. In 2020, Santa Clara County used approximately 3.4 percent of the state's total consumption of natural gas.¹¹

Fuel for Motor Vehicles

In 2019, 15.4 billion gallons of gasoline were sold in California.¹² The average fuel economy for light-duty vehicles (autos, pickups, vans, and sport utility vehicles) in the United States has steadily increased from about 13.1 miles per gallon (mpg) in the mid-1970s to 25.4 mpg in 2020.¹³ Federal fuel economy standards have changed substantially since the Energy Independence and Security Act was passed in 2007. That standard, which originally mandated a national fuel economy standard of 35 miles per gallon by the year 2020, was subsequently revised to apply to cars and light trucks model years 2011 through 2020.^{14 15}

⁹ CEC, Energy Consumption Data Management System: Electricity Consumption by County, 2021.

¹⁰ California Gas and Electric Utilities, 2019 California Gas Report Supplement, 2019.

¹¹ CEC, Energy Consumption Data Management System: Gas Consumption by County, 2021.

¹² California Department of Tax and Fee Administration, Motor Vehicle Fuel Distribution, 2020.

¹³ United States Environmental Protection Agency (EPA), The 2021 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975, 2021.

¹⁴ United States Department of Energy, Alternative Fuels Data Center: Energy Independence and Security Act of 2007, 2007.

¹⁵ United States Government Publishing Office, Public Law 110-140—Dec. 19, 2007 Energy Independence and Security Act of 2007, 2007.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
6. ENERGY. Would the project:					
a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?			X		1, 2, 3, 7
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?			X		1, 2, 3

Explanation

- a) **Less Than Significant Impact.** A discussion of the project's effect on energy use is presented below.

Construction Impacts

The anticipated construction schedule assumes that the project would be built out over a period of approximately six months. The project would require demolition, site preparation, grading, site construction, paving, and architectural coating. The construction phase would require energy for the manufacture and transportation of building materials, preparation of the site (e.g., excavation, and grading), and the actual construction of the buildings. Petroleum-based fuels such as diesel fuel and gasoline would be the primary sources of energy for these tasks. The construction energy use has not been determined at this time.

The overall construction schedule and process is already designed to be efficient in order to avoid excess monetary costs. That is because equipment and fuel are not typically used wastefully due to the added expense associated with renting, maintaining, and fueling of construction equipment. Therefore, the opportunities for future efficiency gains during construction are limited. The proposed project does, however, include several measures that would improve the efficiency of the construction process. Implementation of the BAAQMD BMPs detailed as standard permit conditions in *Section C. Air Quality* would restrict equipment idling times to five minutes or less and would require the applicant to post signs on the project site reminding workers to shut off idle equipment.

With implementation of the BAAQMD BMPs, the short-term energy impacts associated with use of fuel or energy related to construction would be less than significant.

Operational Impacts

Operation of the proposed project would consume energy, in the form of electricity primarily for building heating and cooling, lighting, cooking, and water heating. The City of San José passed an ordinance in December 2020 that prohibits the use of natural gas infrastructure in new buildings. This ordinance applies to any new construction (with the exception of

hospitals, restaurants, etc.) that started on August 1, 2021. The ordinance is the latest milestone for Climate Smart San José, the City’s GHG emission reduction plan adopted by City Council in 2018. Table 8 summarizes the estimated energy use of the proposed project.

Table 8
Estimated Annual Energy Use of Proposed Project

Proposed Project	Electricity Use (kWh)	Natural Gas Use¹ (kBtu)
Condo/Townhouse	77,575.5 kWh per year	0

Source: Illingworth & Rodkin, Inc., Air Quality Assessment, pages 51 and 52, March 2022.

¹ All project natural gas use was set to zero and assigned to electricity use in CalEEMod in accordance with Climate Smart San José.

The energy use increase is a conservative estimate because these estimates for energy use do not take into account the efficiency measures incorporated into the project. In addition, the project would be built to the 2019 California Building Code standards and Title 24 energy efficiency standards (or subsequently adopted standards during the one-year construction term), and CALGreen code. These measures include insulation and design provisions to minimize wasteful energy consumption, thereby improving the efficiency of the overall project. In addition, the project would be required to submit a LEED, GreenPoint, or Build-It-Green checklist as part of their development permit applications in accordance with Council Policy 6-32, which promotes practices to minimize the use and waste of energy, water, and other resources in the City of San José

Transportation-Related Energy-Use

The proposed project would result in a very modest increase in traffic to the project site from the development of 16 new townhomes (fewer than 160 daily trips, based conservatively on 10 trips per unit). The project is located in proximity to transit services (refer to *Section Q. Transportation*). Proximity to transit would incentivize the use of alternative methods of transportation to and from the site. Implementation of the proposed project would not result in a substantial increase on auto-related energy use.

The proposed project would be required to build to the State’s CALGreen code, which includes insulation and design provisions to minimize wasteful energy consumption. Although the proposed project does not include on-site renewable energy resources, the proposed buildings would be built to align with LEED standards, consistent with San José Council Policy 6-32. Based on the project’s alignment with these measures, the proposed development would comply with existing State energy standards.

Based on the discussion above, the project would not result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources during project construction or operation.

- b) **Less Than Significant Impact.** Operation of the proposed project would consume energy for building heating and cooling, lighting, water heating, and other activities. Energy would also be consumed during vehicle trips generated by residential occupants. Although the project would increase the project site’s energy use, the proposed development would be completed in compliance with the current energy efficiency standards set forth in Title 24, CALGreen,

and the City's Municipal Code. The project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. This represents a less than significant impact.

Conclusion: The project would have less than significant impacts related to energy use.

G GEOLOGY AND SOILS

Regulatory Framework

State

Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Earthquake Zoning Act was passed in 1972 with the intent to reduce the loss of life and property associated with surface rupture caused by active fault lines. The Alquist-Priolo Earthquake Zoning Act prohibits the placement of structures for human occupancy above active faults and sets minimum distances for construction away from the fault line. These fault lines are shown on Alquist-Priolo Maps, which are produced by the California Geological Survey.

Seismic Hazards Mapping Act

The 1990 Seismic Hazards Mapping Act (SHMA) directs the California Geological Survey to identify and map areas prone to various earthquake-related hazards, including liquefaction, landslides, and amplified ground shaking. The SHMA is intended to reduce the threat of seismic hazards to public health and to minimize the loss of life and property through identification and mitigation of seismic hazards. The State Geologist establishes regulatory zones (Zones of Required Investigation) and issues Seismic Hazard Zone Maps. These maps are distributed to all affected cities, counties, and state agencies for their use in planning and controlling construction and development.

California Building Code

The 2022 California Building Standards Code (CBC) was published on July 1, 2022 and took effect on January 1, 2023. The CBC is a compilation of three types of building criteria from three different origins:

- Building standards that have been adopted by state agencies without change from building standards contained in national model codes;
- Building standards that have been adopted and adapted from the national model code standards to meet California conditions; and
- Building standards, authorized by the California legislature, that constitute extensive additions not covered by the model codes that have been adopted to address particular California concerns.

The CBC identifies acceptable design criteria for construction that addresses seismic design and load-bearing capacity, including specific requirements for seismic safety; excavation, foundation and retaining wall design, site demolition, excavation, and construction, and; drainage and erosion control.

Paleontological Resources Regulations - California Public Resources Code

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. They range from mammoth and dinosaur bones to impressions of ancient animals and plants, trace remains, and microfossils. California Public Resources Code (Section 5097.5) stipulates that the unauthorized removal of a paleontological resource is a misdemeanor. Under the CEQA Guidelines, a project would have a significant impact on paleontological resources if it would disturb or destroy a unique paleontological resource or site or unique geologic feature.

Local

Municipal Code Chapter 17.10 – Geologic Hazard Regulations

Chapter 17.10 of the City’s municipal code provides regulations for natural and artificial geologic hazards. Geologic hazard zones are defined as being any land in an area identified as very high, high, or moderate/high landslide susceptibility zones, being on a California earthquake fault zone map, or one of the City maps dated 1983 or 1985. Provisions made under this Chapter include prohibiting construction or grading of any property in a geologic hazard zone except in full compliance with Chapter 17.10, and granting any certificate holder, contractor, certified engineering geologist or consulting geotechnical and/or civil engineer the power to order immediate cessation of construction in the event a new geologic hazard is discovered.

Section 17.10.600 of this code states that “[n]o regional study which requires or contemplates any invasive testing or soil disturbance shall be conducted by an applicant unless and until the director approves a plan for the regional study.” This section outlines various requirements for such a report, including requiring supervision of a certified engineering geologist or geotechnical engineer, incorporation of dust control measures to avoid air quality impacts from fugitive dust, requiring preparation of a cultural resources assessment to avoid cultural impacts, and other requirements.

Municipal Code Chapter 17.40 – Dangerous Building Code

Chapter 17.40 of the City’s municipal code regulates dangerous buildings, defined as “any building or structure or portion thereof which creates an endangerment to the life, limb, health, property, safety or welfare of the occupants of the building or members of the public.” Dangerous buildings are considered to be “public nuisances” and the City Manager has the power to restrict such buildings from use or occupancy and to initiate abatement procedures.

General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating geology and soils impacts from development projects. Policies applicable to the project are presented below.

Envision San José 2040 Relevant Geology and Soil Policies

Policy	Policy Text
Policy EC-3.1	Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.

Policy	Policy Text
Policy EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.
Policy EC-4.2	Development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process. [The City Geologist will issue a Geologic Clearance for approved geotechnical reports.]
Policy EC-4.4	Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
Policy EC-4.5	Ensure that any development activity that requires grading does not impact adjacent properties, local creeks, and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 1 and April 30.
Action EC-4.11	Require the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards, and require review and implementation of mitigation measures as part of the project approval process.
Action EC-4.12	Require review and approval of grading plans and erosion control plans prior to issuance of grading permits by the Director of Public Works.
Policy ES-4.9	Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.

Existing Setting

The project property is an essentially flat lot with an elevation of approximately 300 feet above mean sea level (Google Earth, February 2022). Regionally, the topographic slope is to the north, towards San Francisco Bay. The project site consists of two vacant parcels.

The project site is located in Santa Clara Valley, an alluvial basin that lies between the Santa Cruz Mountains to the southwest and the Diablo Range to the northeast. Santa Clara Valley bedrock consists of Franciscan Complex and Cretaceous-age marine sediment. This bedrock is overlain by Santa Clara Formation sediments, which consist of a complex distribution of sand, silt, and clay lenses.

The project is located in the seismically-active San Francisco Bay Area region. Major active fault systems in the area are the San Andreas, Calaveras, Hayward, and Monte Vista-Shannon. Surface fault rupture tends to occur along existing fault traces. The California Geological Survey (formerly Division of Mines and Geology) has produced maps showing Alquist-Priolo Earthquake Fault Zones

along faults that pose a potential surface faulting hazard. No Alquist-Priolo zones are mapped in the vicinity of the project. In addition, the Santa Clara County Fault Rupture Hazard Zones map does not identify any fault hazard zones in the project area.

The site is not located within an area zoned by the State of California as having potential for seismically induced liquefaction hazards.¹⁶ In addition, the site is not located within an area zoned in the Santa Clara County Geologic Hazard Zone maps as a Liquefaction Hazard Zone.¹⁷ Liquefaction is a phenomenon in which the strength and stiffness of a soil is reduced by seismic shaking or other rapid loading. Liquefied soil can also settle.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
7. GEOLOGY AND SOILS. Would the project:					
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:					
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.				X	1, 2
ii) Strong seismic ground shaking?			X		1, 2
iii) Seismic-related ground failure, including liquefaction?			X		1, 2, 12
iv) Landslides?			X		1, 2
b) Result in substantial soil erosion or the loss of topsoil?			X		1, 2
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?			X		1, 2, 12
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?			X		1, 2
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?				X	1, 2
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?			X		1, 2, 3

¹⁶ California Geological Service, EQ Zapp: California Earthquake Hazards Zone Application, 2019.

¹⁷ Santa Clara County, Santa Clara County Geologic Hazard Zones, 2012.

Explanation

- ai) **No Impact.** The site is not located within a State of California Earthquake Fault Hazard Zone and no known active faults cross the site. The risk of ground rupture within the site is considered low. The project site is not mapped within an Alquist-Priolo Earthquake Fault Zone. Furthermore, the project will be designed and developed in accordance with the California Building Code guidelines to avoid or minimize potential direct or indirect damage from seismic shaking on the project site as described below.
- aii) **Less Than Significant Impact.** Due to its location in a seismically active region, the proposed structures would be subject to strong seismic ground shaking during their design life in the event of a major earthquake on any of the region's active faults. This could pose a risk to proposed structures and infrastructure. Seismic impacts will be minimized by implementation of standard engineering and construction techniques in compliance with the requirements of the California and Uniform Building Codes for Seismic Zone 4.
- aiii) **Less Than Significant Impact.** As described above, the project site may be subject to strong ground shaking in the event of a major earthquake. A geotechnical analysis would be required prior to construction to identify potential geotechnical hazards and provide recommendations to minimize these hazards. The project will be designed and constructed in accordance with a design-level geotechnical investigation as a standard permit condition.

Standard Permit Conditions

Seismic Hazards

- To avoid or minimize potential damage from seismic shaking, the project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the City of San José Department of Public Works as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.
- All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
- Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
- Ditches shall be installed to divert runoff around excavations and graded areas if necessary.
- The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior

to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.

- aiv) **Less Than Significant Impact.** The project is located relatively near the base of the foothills of the Diablo Range, which are subject to landslides. However, the project site is located approximately 4,000 feet from the base of the foothills, in a topographically flat area and would not be subject to landslides.
- b) **Less Than Significant Impact.** Development of the project would involve the excavation of approximately 100 cubic yards (CY) of material, which could result in a temporary increase in erosion. The project will implement the standard measures identified in *Section J. Hydrology and Water Quality* section of this Initial Study as well as the standard permit conditions above under aiii) to minimize erosion.
- c) **Less Than Significant Impact.** The project may contain soil and geologic hazards that could result in lateral spreading, subsidence, or liquefaction, which could damage proposed structures. Impacts associated with these soil and geotechnical hazards would be minimized by applying appropriate engineering and construction techniques. A geotechnical analysis would be prepared to provide recommendations to minimize these hazards as described in aiii) above. This would reduce any potentially significant geotechnical impacts to a less than significant level.
- d) **Less Than Significant Impact.** The project may contain expansive soils, which could damage proposed structures on the site. Impacts associated with expansive soils or other soil hazards would be minimized by applying appropriate engineering and construction techniques. A geotechnical analysis would be prepared to provide recommendations to minimize these hazards as described in the standard permit condition for a iii) above. This would reduce any potentially significant direct or indirect geotechnical impacts to less than significant.
- e) **No Impact.** The project does not propose any septic systems. The proposed project would connect to the City's existing sanitary sewer system. There would be no impact.
- f) **Less Than Significant Impact.** The project site is located in an area mapped as "high sensitivity at surface" in the 2040 General Plan EIR.¹⁸ The project proposes grading that could potentially disturb paleontological resources. Consistent with General Plan Policy ER-10.3, the following standard permit condition would be implemented by the project to avoid or minimize impacts to paleontological resources during construction. No other unique geological features are found on the site.

¹⁸ Figure 3.11-1 "Palaeontologic Sensitivity of City of San Jose Geologic Units," from the *Draft Program Environmental Impact Report (PEIR) for the Envision San José 2040 General Plan*, June 2011.

Standard Permit Condition

Paleontological Resources

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

Conclusion: The project would have a less than significant impact on geology and soils with implementation of identified standard permit conditions.

H. GREENHOUSE GAS EMISSIONS

Regulatory Framework

Federal

The Federal Clean Air Act (CAA), first passed in 1970, is the overarching federal-level law that, as of 2007 via the U.S. Supreme court decision in *Massachusetts v. EPA*, enables the U.S. EPA to provide regulations of key GHG emissions sources (mobile emissions), established a mandatory emissions reporting program for large stationary emitters, and implementation of vehicle fuel efficiency standards.

State

Assembly Bill 32 – California Global Warming Solutions Act

Assembly Bill (AB) 32, the Global Warming Solutions Act of 2006, codifies the State of California's GHG emissions target by directing CARB to reduce the state's global warming emissions to 1990 levels by 2020. AB 32 was signed and passed into law by Governor Schwarzenegger on September 27, 2006. Since that time, the CARB, the California Energy Commission (CEC), the California Public Utilities Commission (CPUC), and the Building Standards Commission have all been developing regulations that will help meet the goals of AB 32 and Executive Order S-3-05.¹⁹

A Scoping Plan for AB 32 was adopted by CARB in December 2008. It contains the State of California's main strategies to reduce GHGs from business as usual (BAU) emissions projected in 2020 back down to 1990 levels. BAU is the projected emissions in 2020, including increases in emissions caused by growth, without any GHG reduction measures. The Scoping Plan has a range of GHG reduction actions, including direct regulations, alternative compliance mechanisms, monetary and non-monetary incentives, voluntary actions, and market-based mechanisms such as a cap-and-trade system. It required CARB and other state agencies to develop and adopt regulations and other initiatives reducing GHGs by 2012.

As directed by AB 32, CARB has also approved a statewide GHG emissions limit. On December 6, 2007, CARB staff resolved an amount of 427 MMT of CO₂e as the total statewide GHG 1990 emissions level and 2020 emissions limit. The limit is a cumulative statewide limit, not a sector-or facility-specific limit. CARB updated the future 2020 BAU annual emissions forecast, in light of the economic downturn, to 545 MMT of CO₂e. Two GHG emissions reduction measures currently enacted that were not previously included in the 2008 Scoping Plan baseline inventory were included, further reducing the baseline inventory to 507 MMT of CO₂e. Thus, an estimated reduction of 80 MMT of CO₂e is necessary to reduce statewide emissions to meet the AB 32 target by 2020.

Senate Bill 1368

Senate Bill (SB) 1368 is the companion bill of AB 32 and was signed by Governor Schwarzenegger in September 2006. SB 1368 required the CPUC to establish a greenhouse gas emission performance standard. Therefore, on January 25, 2007, the CPUC adopted an interim GHG Emissions Performance Standard in an effort to help mitigate climate change. The Emissions Performance

¹⁹ Note that AB 197 was adopted in September 2016 to provide more legislative oversight of CARB.

Standard is a facility-based emissions standard requiring that all new long-term commitments for baseload generation to serve California consumers be with power plants that have emissions no greater than a combined cycle gas turbine plant. That level is established at 1,100 pounds of CO₂ per megawatt-hour. "New long-term commitment" refers to new plant investments (new construction), new or renewal contracts with a term of five years or more, or major investments by the utility in its existing baseload power plants. In addition, the CEC established a similar standard for local publicly owned utilities that cannot exceed the greenhouse gas emission rate from a baseload combined-cycle natural gas fired plant. On July 29, 2007, the Office of Administrative Law disapproved the CEC's proposed Greenhouse Gases Emission Performance Standard rulemaking action and subsequently, the CEC revised the proposed regulations. SB 1368 further requires that all electricity provided to California, including imported electricity, must be generated from plants that meet the standards set by the CPUC and CEC.

Senate Bill 32 – California Global Warming Solutions Act of 2006

In September 2015, the California Legislature passed SB 350 (de Leon 2015), which increases the State's Renewables Portfolio Standard (RPS) for content of electrical generation from the 33 percent target for 2020 to a 50 percent renewables target by 2030.

Senate Bill 375 – California's Regional Transportation and Land Use Planning Efforts

SB 375, signed in August 2008, requires sustainable community strategies (SCS) to be included in regional transportation plans (RTPs) to reduce emissions of GHGs. The MTC and ABAG adopted an SCS in July 2013 that meets GHG reduction targets. The Plan Bay Area is the SCS document for the Bay Area, which is a long-range plan that addresses climate protection, housing, healthy and safe communities, open space and agricultural preservation, equitable access, economic vitality, and transportation system effectiveness within the San Francisco Bay region (MTC 2013). The document is updated every four years so the MTC and ABAG are currently developing the Plan Bay Area 2040.

Executive Order S-03-05

On June 1, 2005 Governor Schwarzenegger signed Executive Order S-03-05, the purpose of which was to implement requirements for the California Environmental Protection Agency (EPA) to provide ongoing reporting on a biennial basis to the State Legislature and Governor's Office on how global warming is affecting the State. Required areas of impact reporting include public health, water supply, agriculture, coastline, and forestry. The EPA secretary is required to prepare and report on ongoing and upcoming mitigation designed to counteract these impacts.

Executive Order B-30-15

On April 15, 2015 Governor Brown signed Executive Order B-30-15, the purpose of which is to establish a GHG reduction of 40 percent below 1990 levels by 2030. The Executive Order is intended to help the State work towards a further emissions reduction target of 80 percent below 1990 levels by the year 2050. The order directed state agencies to prepare for climate change impacts through prioritization of adaptation actions to reduce GHG emissions, preparation for uncertain climate impacts through implementation of flexible approaches, protection of vulnerable populations, and prioritization of natural infrastructure approaches.

Executive Order B-55-18 and SB 100 – 100 Percent Clean Energy Act of 2018

On September 10, 2018 Governor Brown signed both SB 100 – 100 Percent Clean Energy Act of 2018 and Executive Order B-55-18 to Achieve Carbon Neutrality. SB 100 sets California on course to achieving carbon-free emissions from the electric power production sector by 2045. SB100 also increases the required emissions reduction generated by retail sales to 60% by 2030, an increase in 10% compared to previous goals. B-55-18 establishes a new goal of achieving statewide “carbon neutrality as early as possible and no later than 2045, and to achieve and maintain net negative emissions thereafter”.

Regional and Local

Bay Area Air Quality Management District

The BAAQMD is primarily responsible for assuring that the federal and state ambient air quality standards for criteria pollutants are attained and maintained in the Bay Area. The BAAQMD’s May 2017 CEQA Air Quality Guidelines update the 2010 CEQA Air Quality Guidelines, addressing the California Supreme Court’s 2015 opinion in the *California Building Industry Association vs. Bay Area Air Quality Management District* court case.

In an effort to attain and maintain federal and state ambient air quality standards, the BAAQMD establishes thresholds of significance for construction and operational period emissions for criteria pollutants and their precursors (refer to Table 1).

2017 Bay Area Clean Air Plan

The BAAQMD, along with other regional agencies such as the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC), develops plans to reduce air pollutant emissions. The most recent clean air plan is the *Bay Area 2017 Clean Air Plan: Spare the Air, Cool the Climate* (2017 CAP), which was adopted by BAAQMD in April 2017. This is an update to the 2010 CAP, and centers on protecting public health and climate. The 2017 CAP identifies a broad range of control measures. These control measures include specific actions to reduce emissions of air and climate pollutants from the full range of emission sources and is based on the following four key priorities:

- Reduce emissions of criteria air pollutants and toxic air contaminants from all key sources.
- Reduce emissions of “super-GHGs” such as methane, black carbon, and fluorinated gases.
- Decrease demand for fossil fuels (gasoline, diesel, and natural gas).
- Decarbonize our energy system.

City of San José Municipal Code

The City’s Municipal Code includes the following regulations that would reduce GHG emissions from the proposed development:

- Green Building Ordinance (Chapter 17.84)
- Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.10)

- Transportation Demand Programs for employers with more than 100 employees (Chapter 11.105)
- Construction and Demolition Diversion Deposit Program (Chapter 9.10)
- Wood Burning Ordinance (Chapter 9.10)

Council Policy 6-32 Private Sector Green Building Policy

In October 2008, the City Council adopted the Council Policy 6-32 “Private Sector Green Building Policy”, which identifies baseline green building standards for new private construction and provides a framework for the implementation of these standards. This Policy requires that applicable projects achieve minimum green building performance levels using the Council adopted standards.

City of San José Greenhouse Gas Reduction Strategy

On December 15, 2015, the San José City Council certified a Supplemental Program Environmental Impact Report to the Envision San José 2040 Final Program Environmental Impact Report and re-adopted the City’s GHG Reduction Strategy in the General Plan. The GHG Reduction Strategy is intended to meet the mandates as outlined in the CEQA Guidelines and standards for “qualified plans” as set forth by BAAQMD. Projects that conform to the General Plan Land Use/Transportation Diagram and supporting policies are considered consistent with the City’s GHG Reduction Strategy.

The GHG Reduction Strategy identifies GHG emissions reduction measures to be implemented by development projects in three categories: built environment and energy; land use and transportation; and recycling and waste reduction. Some measures are mandatory for all proposed development projects and others are voluntary. Voluntary measures can be incorporated as mitigation measures for proposed projects, at the City’s discretion.

The Greenhouse Gas Reduction Strategy was updated for 2030. The 2030 GHG Reduction Strategy was adopted and the EIR Addendum were certified by the City Council on 11/17/2020. The 2030 GHG Reduction Strategy went into effect on 12/17/2020.

The 2030 GHG Reduction Strategy outlines the actions the City will undertake to achieve its proportional share of State GHG emission reductions for the interim target year 2030. The 2030 GHG Reduction Strategy presents the City’s comprehensive path to reduce GHG emissions to achieve the 2030 reduction target, based on SB 32, BAAQMD, and OPR requirements. Additionally, the 2030 GHG Reduction Strategy leverages other important City plans and policies; including the General Plan, Climate Smart San José, and the City Municipal Code in identifying reductions strategies that achieve the City’s target. CEQA Guidelines Section 15183.5 allows for public agencies to analyze and mitigate GHG emissions as part of a larger plan for the reduction of GHGs. Accordingly, the City of San José’s 2030 GHG Reduction Strategy represents San José’s qualified climate action plan in compliance with CEQA.

As described in the 2030 GHG Reduction Strategy, the GHG reductions will occur through a combination of City initiatives in various plans and policies to provide reductions from both existing and new developments. A GHG Reduction Strategy Compliance Checklist (checklist) was developed that applies to proposed discretionary projects that require CEQA review. Therefore, the checklist is a critical implementation tool in the City’s overall strategy to reduce GHG emissions. Implementation of applicable reduction actions in new development projects will help the City

achieve incremental reductions toward its target. Per the 2030 GHG Reduction Strategy, the City will monitor strategy implementation and make updates, as necessary, to maintain an appropriate trajectory to the 2030 GHG target. Specifically, the purpose of the checklist is to:

- Implement GHG reduction strategies from the 2030 GHGRS to new development projects.
- Provide a streamlined review process for proposed new development projects that are subject to discretionary review and trigger environmental review pursuant to CEQA.

Climate Smart San José

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

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

The California Energy Commission (CEC) updates the California Building Energy Efficiency Standards every three years, in alignment with the California Code of regulations. Title 24 Parts 6 and 11 of the California Building Energy Efficiency Standards and the California Green Building Standards Code (CALGreen) address the need for regulations to improve energy efficiency and combat climate change. The 2019 CAL Green standards include some substantial changes intended to increase the energy efficiency of buildings. For example, the code encourages the installation of solar and heat pump water heaters in low-rise residential buildings. The 2019 California Code went before City Council in October 2019 for approval, with an effective date of January 1, 2020. As part of this action, the City adopted a “reach code” that requires development projects to exceed the minimum Building Energy Efficiency requirements.²⁰ The City’s reach code applies only to new residential and non-residential construction in San José. It incentivizes all-electric construction, requires increased energy efficiency and electrification-readiness for those choosing to maintain the presence of natural gas. The code requires that non-residential construction include solar readiness. It also requires additional EV charging readiness and/or electric vehicle service equipment (EVSE) installation for all development types.

General Plan Policies

In addition to the above, policies in the General Plan have been adopted for the purpose of avoiding or mitigating greenhouse gas emissions impacts from development projects. Policies applicable to the project are presented below.

²⁰ City of San José Transportation and Environmental Committee, *Building Reach Code for New Construction Memorandum*, August 2019.

Envision San José 2040 Relevant Greenhouse Gas Reduction Policies

Policy	Policy Text
Policy MS-1.2	Continually increase the number and proportion of buildings within San José that make use of green building practices by incorporating those practices into both new construction and retrofit of existing structures.
Policy MS-2.3	Encourage consideration of solar orientation, including building placement, landscaping, design, and construction techniques for new construction to minimize energy consumption.
Policy MS-2.11	Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g. design to maximize cross ventilation and interior daylight) and through site design techniques (e.g. orienting buildings on sites to maximize the effectiveness of passive solar design).
Policy MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City
Policy MS-6.5	Reduce the amount of waste disposed in landfills through waste prevention, reuse, and recycling of materials at venues, facilities, and special events.
Policy MS-6.8	Maximize reuse, recycling, and composting citywide.
Policy MS-14.4	Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.
Policy LU-5.4	Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections; and including secure and convenient bike storage.
Policy TR-2.18	Provide bicycle storage facilities as identified in the Bicycle Master Plan.
Policy CD-2.5	Integrate Green Building Goals and Policies of this Plan into site design to create healthful environments. Consider factors such as shaded parking areas, pedestrian connections, minimization of impervious surfaces, incorporation of stormwater treatment measures, appropriate building orientations, etc.
Policy CD-3.3	Within new development, create and maintain a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.
Policy CD-5.1	Design areas to promote pedestrian and bicycle movements and to facilitate interaction between community members and to strengthen the sense of community.

Existing Setting

Various gases in the earth's atmosphere, classified as atmospheric GHGs, play a critical role in determining the earth's surface temperature. Solar radiation enters the atmosphere from space and a portion of the radiation is absorbed by the earth's surface. The earth emits this radiation back toward space, but the properties of the radiation change from high-frequency solar radiation to lower-

frequency infrared radiation. Greenhouse gases, which are transparent to solar radiation, are effective in absorbing infrared radiation. As a result, this radiation that otherwise would have escaped back into space is retained, resulting in a warming of the atmosphere. This phenomenon is known as the greenhouse effect. Among the prominent GHGs contributing to the greenhouse effect, or climate change, are carbon dioxide (CO₂), methane (CH₄), ozone (O₃), water vapor, nitrous oxide (N₂O), and chlorofluorocarbons (CFCs). Human-caused emissions of these GHGs in excess of natural ambient concentrations are responsible for enhancing the greenhouse effect. Climate change is a cumulative effect from local, regional, and global GHG emission contributions. According to the EPA on a Global scale, CARB on a state scale, and BAAQMD on a County scale, the transportation sector is the largest emitter of GHG emissions, followed by electricity generation and the industrial sector.^{21, 22},²³ The City of San José also has the transportation sector as the largest emitter of GHG emission, but followed by residential and commercial development.²⁴

The U.S. EPA reported that in 2020, total gross nationwide GHG emissions were 5,981.4 million metric tons (MMT) carbon dioxide equivalent (CO₂e).²⁵ These emissions were lower than peak levels of 7,434.8 MMT that were emitted in 2005. CARB updates the statewide GHG emission inventory on an annual basis where the latest inventory includes 2000 through 2019 emissions.²⁶ In 2019, GHG emissions from statewide emitting activities were 418.2 MMT. The 2020 emissions have decreased by 15 percent since peak levels in 2004 and are 13 MMT below the 1990 emissions level and the State's 2020 GHG limit. Per capita GHG emissions in California have dropped from a 2001 peak of 14.1 MT per person to 10.5 MT per person in 2019. The most recent Bay Area emission inventory was computed for the year 2011.²⁷ The Bay Area GHG emission were 87 MMT. As a point of comparison, statewide emissions were about 444 MMT in 2011. According to San José's GHGRS, the City's emissions were 5.71 MMT.

The project site is currently vacant and does not generate an existing GHG emissions.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
8. GREENHOUSE GAS EMISSIONS. Would the project:					
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?			X		1, 2, 3, 16
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?			X		1, 3, 16

²¹ EPA, Inventory of U.S. Greenhouse Gas Emissions and Sinks, 2022.

²² CARB, Current California GHG Emission Inventory Data, 2022.

²³ BAAQMD, Bay Area Emissions Inventory Summary Report: Greenhouse Gases Base Year 2011, 2015.

²⁴ City of San José, San José 2030 Greenhouse Gas Reduction Strategy, August 2020.

²⁵ EPA, Inventory of U.S. Greenhouse Gas Emissions and Sinks, 2022.

²⁶ CARB, Current California GHG Emission Inventory Data, 2022.

²⁷ BAAQMD, Bay Area Emissions Inventory Summary Report: Greenhouse Gases Base Year 2011, 2015.

Explanation

- a) **Less Than Significant Impact.** Development of the project would generate GHG emissions. GHG emissions associated with development would occur over the short-term from construction activities, consisting primarily of emissions from equipment exhaust and worker and vendor trips. Long-term operational emissions would also be generated from vehicular traffic, energy and water use, and solid waste disposal. However, the GHG generation would be considered less than significant provided the project demonstrates that it is consistent with the City's 2030 GHG Reduction Strategy.

The project is subject to the GHG reduction strategies identified in the City's 2030 GHG Reduction Strategy Compliance Checklist. The project would implement and comply with all relevant GHG reduction measures as determined by the City to reduce the project's GHG emissions. The applicant will enroll in the San Jose Clean Energy (SJCE) Program to utilize renewable energy procured by SJCE.

The GHG Reduction Strategy Compliance Checklist for the project is contained in Appendix C. The project would be consistent with the General Plan designation of *Mixed Use Neighborhood*. Pedestrian facilities are already in place in the vicinity of the proposed project, including sidewalks, crosswalks and pedestrian trails. The project is an infill project in a developed area where the public infrastructure has already been built.

The GHG Reduction Strategy Compliance Checklist for the project is contained in Appendix C. The GHG Reduction Strategies to be incorporated into the proposed project include the following:

- Implementation of green building measures through construction techniques and architectural design
- Incorporation of energy conservation measures
- Installation of high efficiency appliances
- Incorporation of water-efficient landscaping
- Incorporation of appropriate landscaping species
- Installation of solar panels
- Exclusion of natural gas infrastructure

With implementation of GHG reduction strategies, the proposed development would have a less than significant impact related to GHG emissions.

- b) **Less Than Significant Impact.** The City's 2030 GHG Reduction Strategy Compliance Checklist has been completed for the project, as presented in Appendix C. The project would include all electrical infrastructure and would not utilize natural gas in fulfillment of GHG Reduction Strategy #2. The project includes installation of solar panels, in compliance with GHG Reduction Strategy #3. The project would participate in the City's Zero Waste Strategic plan per GHG Reduction Strategy #5. The project would utilize high efficiency appliances, water efficient landscaping species and equipment consistent with GHG Reduction Strategy #7. Finally, the project would be consistent with the General Plan land use designation of *Mixed Use Neighborhood*, is built in an area where the public infrastructure, including

pedestrian sidewalks, crosswalks, and trails, are already built-out, and would comply with green building ordinances and all applicable energy efficiency measures. Therefore, the project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs, since the project would comply with the City's 2030 GHG Reduction Strategy.

Conclusion: The project would have a less than significant impact related to GHG emissions.

I. HAZARDS AND HAZARDOUS MATERIALS

A Phase I Environmental Site Assessment was prepared for the project by McCloskey Consultants, Inc. (July 26, 2022) and is contained in Appendix D.

Regulatory Framework

Federal

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, was enacted by Congress in 1980 and is administered by the U.S. EPA. This law created a tax on the chemical and petroleum industries and provided broad Federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment. CERCLA established prohibitions and requirements concerning closed and abandoned hazardous waste sites, provided for liability of persons responsible for releases of hazardous waste at these sites; and established a trust fund to provide for cleanup when no responsible party could be identified.

Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act (RCRA) is a Federal law passed by Congress in 1976 to address the increasing problems from the nation's growing volume of municipal and industrial waste. RCRA creates the framework for the proper management of hazardous and non-hazardous solid waste and is administered by the U.S. EPA. RCRA protects communities and resource conservation by enabling the EPA to develop regulations, guidance, and policies that ensure the safe management and cleanup of solid and hazardous waste, and programs that encourage source reduction and beneficial reuse. The term RCRA is often used interchangeably to refer to the law, regulations, and EPA policy and guidance.

State

California Department of Toxic Substances Control

The California Department of Toxic Substances Control (DTSC) is a State agency that protects State citizens and the environment from exposure to hazardous wastes by enforcing hazardous waste laws and regulations. DTSC enforces action against violators; oversees cleanup of hazardous wastes on contaminated properties; makes decisions on permit applications from companies that want to store, treat or dispose of hazardous waste; and protects consumers against toxic ingredients in everyday products.

Cortese List: Section 65692.5(a)

California Code of Regulations Section 65962.5(a) requires that the DTSC compile and update an annual list, known as the Cortese List, of all hazardous waste facilities subject to corrective action, pursuant to Section 25187.5 of the Health and Safety Code. Facilities are added to the Cortese List are those that have failed to comply with a posted date for taking corrective action for an existing

hazard or because DTSC determined that immediate corrective action is necessary to abate an imminent or substantial endangerment.

California Code of Regulations, Title 8 Section 1529 – Asbestos

California Code of Regulations, Title 8, Section 1529 regulates asbestos exposure in all construction work, including structure demolition, removal of asbestos-containing materials, activities involving construction or alteration of existing structures that contain asbestos, installation of asbestos-containing products, emergency cleanup, and other activities. Section 1529 regulates permissible exposure limits for individual employees, standards for demarcation of regulated asbestos work areas, and safety protocol and equipment.

California Code of Regulations, Title 8 Section 1532.1 – Lead

California Code of Regulations, Title 8, Section 1532.1 applies to all construction work where an employee may be occupationally exposed to lead. As defined in this section, an employer shall assure that no employee is exposed to lead at concentrations greater than fifty micrograms per cubic meter of air ($50\mu\text{g}/\text{m}^3$) averaged over an 8-hour period. Employers are required to identify hazards at existing job sites and provide workers with training and sanitation stations for decontamination. Compliance is regulated by the California Occupational Safety Health Program (CAL/OSHA).

California Accidental Release Prevention Program

The California Accidental Release Prevention (CalARP) program is designed to help prevent the accidental release of substances that pose harm to public health and the environment. CalARP also provides guidance for minimizing damage from spills and requires businesses to develop Risk Management Plans (RMPs) if they handle a certain amount of a regulated substance. RMPs are detailed engineering documents that analyze the potential accident factors and identify mitigation for rapid implementation to reduce accident potential and address any accidental releases. The CalARP program is implemented by Unified Program Agencies (UPAs) at the local government levels. UPAs work directly with businesses to review and approve RMPs, conduct inspections, and provide public-facing data.

California State Water Resources Control Board

The California State Water Resources Control Board (SWRCB) and its nine regional boards are responsible for preserving, enhancing, and restoring the quality of California's water resources and drinking water for the protection of the environment, public health, and all beneficial uses. Through the 1969 Porter-Cologne Act, the State and Regional Water Boards have been entrusted with broad duties and powers to preserve and enhance all beneficial uses of the state's water resources.

Local

Regional Water Quality Control Board

The San Francisco Bay Regional Water Quality Control Board (RWQCB) is the lead agency responsible for identifying, monitoring and remediating leaking underground storage tanks in the Bay

Area. Local jurisdictions may take the lead agency role as a Local Oversight Program (LOP) entity, implementing State as well as local policies.

Santa Clara Department of Environmental Health

The County of Santa Clara Department of Environmental Health reviews California Accidental Release Prevention (CalARP) risk management plans as the Certified Unified Program Agency (CUPA) for the City. The CalARP Program aims to prevent accidental releases of regulated hazardous materials that represent a potential hazard beyond property boundaries. Facilities that are required to participate in the CalARP Program use or store specified quantities of toxic and flammable substances (hazardous materials) that can have off-site consequences if accidentally released. A Risk Management Plan (RMP) is required for such facilities. The intents of the RMP are to provide basic information that may be used by first responders in order to prevent or mitigate damage to the public health and safety and to the environment from a release or threatened release of a hazardous material, and to satisfy federal and state Community Right-to-Know laws.

General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating hazardous materials impacts from development projects. Development of the site would be subject to the hazardous materials policies in the General Plan presented below.

Envision San José 2040 Relevant Hazardous Material Policies

Policy	Policy Text
Policy EC-6.6	Address through environmental review for all proposals for new residential, park and recreation, school, day care, hospital, church or other uses that would place a sensitive population in close proximity to sites on which hazardous materials are or are likely to be located, the likelihood of an accidental release, the risks posed to human health and for sensitive populations, and mitigation measures, if needed, to protect human health.
Policy EC-7.1	For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.
Policy EC-7.2	Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.
Policy EC-7.4	On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-paint and asbestos-containing materials, shall be implemented in accordance with state and federal laws and regulations.

Policy	Policy Text
Policy EC-7.5	In development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and State requirements.
Action EC-7.8	Where an environmental review process identifies the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce impacts to human health and safety and to the environment are required of or incorporated into the projects. This applies to hazardous materials found in the soil, groundwater, soil vapor, or in existing structures.
Action EC-7.9	Ensure coordination with the County of Santa Clara Department of Environmental Health, Regional Water Quality Control Board, Department of Toxic Substances Control or other applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists.
Action EC-7.10	Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.
Action EC-7.11	Require sampling for residual agricultural chemicals, based on the history of land use, on sites to be used for any new development or redevelopment to account for worker and community safety during construction. Mitigation to meet appropriate end use such as residential or commercial/industrial shall be provided.
Policy MS-13.2	Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxics control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

Existing Setting

The purpose of a Phase I Assessment is to identify the potential presence of any hazardous substances or petroleum products, their use, storage, and disposal at and in the vicinity of the site. The Phase I included the following scope: 1) site inspection; 2) review of site history; 3) review of historic aerial photos; 4) review of local, state and federal regulatory records (database search); and 5) consultation with the applicant/owner.

The Phase I was investigated to determine the presence of any Recognized Environmental Condition (REC), Controlled REC Condition (CREC), or Historical REC Condition (HREC). A summary of the Phase I report is provided below.

The existing property is currently vacant. Based on historical review, the site appeared to be cultivated with vineyards from as early as 1939. The property at APN 659-84-093 remained cultivated through the late 1990/early 2000s; APN 659-57-015 was undeveloped by 1998. Following removal of the vineyards, the site remained undeveloped to the present time, with an existing soil stockpile present on the site from circa 2016.

Though relatively uncommon in vineyards, agricultural practices utilized during cultivation of the site may have included the application of persistent agricultural chemicals, including arsenical pesticides and herbicides. However, analytical results from soil samples collected in previously cultivated areas on the former Mirassou property, which includes parcel APN 659-84-093 of the project site, in 2009 did not detect significant concentrations of organochlorine pesticides, arsenic, lead or mercury (refer to Appendix D). Sample locations from the 2009 study included one soil sample collected on or adjoining the northern boundary of APN 659-84-093. Based on the 2009 soil quality data, residual soil impact from historical vineyard cultivation, if any, appears unlikely to be a concern.

At the time of the site reconnaissance, the property was undeveloped and covered with dry, disked weeds and grasses. Aged silt fencing surrounded the majority of the perimeter of APN 659-57-015 and a shoe and clothing collection box was also present. Utility vaults were observed on the perimeter of APN 659-84-093. A large, approximately 90-foot by 30-foot, several feet tall stockpile of soil was staged on the center of APN 659-57-015. Appearing originally placed on plastic sheeting and covered with the same sheeting, the stockpile was aged, the sheeting largely gone and the stockpile growing with some dry weeds at the time of the reconnaissance. Documentation on the origin or quality of the soil was unavailable in the reasonably ascertainable sources.

In summary, hazardous materials and wastes are not present at the site and there is no record of their presence. Information contained in the database search report did not reveal the presence of vicinity properties appearing likely to have significantly impacted the site through documented releases to soil and/or groundwater.

The Phase I concluded that the site has no evidence of a REC, CREC, or HREC in connection with the site. However, the following de minimis condition²⁸ is identified.

- A soil stockpile is present on APN 659-57-015. The soil reportedly was imported to the site from a nearby construction project; the exact source and quality of the soil was unable to be documented through sources available for this study. The current property owner proposes to remove the stockpiled soil from the site prior to ownership transfer.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS		Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
9.	HAZARDS AND HAZARDOUS MATERIALS. Would the project:					
a)	Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?			X		1, 2

²⁸ De minimis condition indicates that the level or quantity of hazardous materials, or the storage, use, disposal, or release of materials does not constitute a violation of, or require any regulation or any reporting, remediation, or other action under any hazardous materials laws.

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?			X		1, 2, 17
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?			X		1, 2, 17
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				X	1, 2, 17
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?				X	1, 2
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?			X		1, 2
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires				X	1, 2

Explanation

- a) **Less Than Significant Impact.** The proposed residential development would not result in the use, storage, or transport of a substantial amount of hazardous substances. This represents a less than significant impact.
- b) **Less Than Significant Impact with Mitigation Incorporated.** The Phase I Assessment concluded that the site has no evidence of a REC, CREC, or HREC. However, this project is located in an area with historical agricultural uses. As a result, the proposed project could contain soils with contamination from the previous agricultural use, and shallow soil sampling is required to be undertaken for determining potential impacts from historic agricultural pesticide application in accordance with the Envision San José 2040 General Plan Policy EC-7-11. This is a potentially significant impact. The following mitigation measure would be implemented to reduce this impact to a less than significant level.

Impact HAZ-1: Due to historical use of the project site for agricultural purposes, the project site may contain soils with residual pesticide contamination that could be exposed during construction activities.

Mitigation Measures

MM HAZ-1 Prior to issuance of any grading permits, the applicant shall retain a qualified consultant to collect shallow soil samples that will be taken in the near surface soil in the proposed project area and tested for organochlorine pesticides and pesticide-based metals such as arsenic and lead to determine if

contaminants from previous agricultural operations occur at concentrations above established construction worker safety and residential standard environmental screening levels. The sampling methodology should follow the Department of Toxic Substances (DTSC) Interim Guidance for Sampling Agricultural Properties (Third Revision) dated August 7, 2008. The result of soil sampling and testing will be provided to the Director of Planning, Building and Code Enforcement or the Director's designee and the Environmental Compliance Officer in the City of San José's Environmental Services Department.

If pesticide contaminated soils are found in concentrations above the appropriate regulatory environmental screening levels for the proposed project the applicant shall obtain regulatory oversight from the Santa Clara County Department of Environmental Health (or Department of Toxic Substances Control) under their Site Cleanup Program. A Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document must be prepared by a qualified hazardous materials consultant. The plan must establish remedial measures and/or soil management practices to ensure construction worker safety and the health of future workers and visitors. The Plan and evidence of regulatory oversight shall be provided to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement, and the Environmental Compliance Officer in the City of San José's Environmental Services Department.

In addition, a soil stockpile is present on APN 659-57-015. The soil reportedly was imported to the site from a nearby construction project; the exact source and quality of the soil was unable to be documented through sources available for this study. The current property owner proposes to remove the stockpiled soil from the site prior to ownership transfer. The Phase I Assessment recommends confirmation of removal and collection/analysis of verification soil samples from native soil beneath the former stockpile prior to closure of the transaction. Incorporation of MM HAZ-1 would ensure that no release of hazardous materials would occur during removal of the stockpiled soil.

- c) **Less Than Significant Impact.** The schools nearest to the project site are Primrose School of Evergreen and Evergreen Montessori Preschool, located northwest approximately 800 feet and 1,075 feet, respectively. The project would not have a potential for hazardous impacts from the project as described above. The impact to any schools would be less than significant.
- d) **No Impact.** The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 (i.e., Cortese List) based on a search of the California Department of Toxic Substances Control EnviroStor database.²⁹

²⁹ California Department of Toxic Substances Control. EnviroStor: Hazardous Waste and Substances Site List (Cortese). Available at: https://www.envirostor.dtsc.ca.gov/public/search?cmd=search&reporttype=CORTESE&site_type=CSITES,FUDS&status=ACT,BKLG.COM&reporttitle=HAZARDOUS+WASTE+AND+SUBSTANCES+SITE+LIST+%28CORTESE%29

- e) **No Impact.** Reid-Hillview Airport and Mineta San José International Airport are public airports located approximately 2.5 and 8.1 miles from the project site, respectively. Because the project is not located within two miles of a public airport or public use airport, it would not result in a safety hazard or excessive noise for people residing or working in the project area
- f) **Less Than Significant Impact.** The proposed project would result in the development of 16 new townhome residential units in three new three-story buildings. The project would not interfere with any adopted emergency or evacuation plans. The project would not create any barriers to emergency or other vehicle movement in the area and would be designed to incorporate all Fire Code requirements. This represents a less than significant impact.
- g) **No Impact.** The project would not expose people or structures to risk of loss, injury or death from wildland fires since it is located in a highly urbanized area that is not prone to such events. See also *Section T. Wildfire* of this Initial Study.

Conclusion: The project would have a less than significant impact related to hazards and hazardous materials with mitigation.

J. HYDROLOGY AND WATER QUALITY

Regulatory Framework

The federal Clean Water Act and California's Porter-Cologne Water Quality Control Act are the primary laws regulating water quality in California. Requirements established by the U.S. Environmental Protection Agency (EPA) and the State Water Resources Control Board (SWRCB) have been developed to fulfill the requirements of this legislation. EPA regulations include the National Pollutant Discharge Elimination System (NPDES) permit program, which controls sources that discharge pollutants into the waters of the United States (e.g., streams, lakes, bays, etc.). These regulations are implemented at the regional level by the Regional Water Quality Control Boards (RWQCBs). The project site is within the jurisdiction of the San Francisco Bay RWQCB.

Federal and State

Clean Water Act – Section 404

The Clean Water Act (CWA) establishes the basic structure for regulating discharges of pollutants into the waters of the United States (waters of the U.S.) and regulating quality standards for surface waters. Its goals are to restore and maintain the chemical, physical, and biological integrity of the nation's waters. Under the CWA, the US EPA has implemented pollution control programs and established water quality standards, and together with the U.S. Army Corps of Engineers, regulates discharge of dredged and fill material into waters of the U.S. under Section 404 of the CWA and its implementing regulations. Waters of the U.S. are defined broadly as waters susceptible to use in commerce (including waters subject to tides, interstate waters, and interstate wetlands) and other waters.

National Flood Insurance Program

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

Porter-Cologne Water Quality Act

The Porter-Cologne Act delegates authority to the SWRCB to establish regional water quality control boards. The San Francisco Bay Area RWQCB has authority to use planning, permitting, and enforcement to protect beneficial uses of water resources in the project region. Under the Porter-Cologne Water Quality Control Act (California Water Code Sections 13000-14290), the RWQCB is authorized to regulate the discharge of waste that could affect the quality of the state's waters, including projects that do not require a federal permit through the USACE. To meet RWQCB 401 Certification standards, all hydrologic issues related to a project must be addressed, including the following:

- Wetlands

- Watershed hydrograph modification
- Proposed creek or riverine related modifications
- Long-term post-construction water quality

Any construction or demolition activity that results in land disturbance equal to or greater than one acre must comply with the Construction General Permit (CGP), administered by the SWRCB. The CGP requires the installation and maintenance of BMPs to protect water quality until the site is stabilized. The project would require CGP coverage based on area of land disturbed (1.23 acres).

Statewide Construction General Permit

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

Regional and Local

San Francisco Bay Basin Plan

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

Municipal Regional Stormwater Permit

The San Francisco Bay RWQCB has issued a Municipal Regional Stormwater NPDES Permit (MRP) to regulate stormwater discharges from municipalities and local agencies (co-permittees) in Alameda, Contra Costa, San Mateo, and Santa Clara Counties, and the cities of Fairfield, Suisun City, and Vallejo. The City of San José is required to operate under the MRP to discharge stormwater from the City's storm drain system to surface waters. The MRP mandates that the City of San José use its planning and development review authority to require that stormwater management measures are included in new and redevelopment projects to minimize and properly treat stormwater runoff. Provision C.3 of the MRP regulates the following types of development projects:

- Projects that create or replace 10,000 square feet or more of impervious surface.
- Special Land Use Categories that create or replace 5,000 square feet or more of impervious surface.

The MRP requires regulated projects to include Low Impact Development (LID) practices. These include site design features to reduce the amount of runoff requiring treatment and maintain or restore the site’s natural hydrologic functions, source control measures to prevent stormwater from pollution, and stormwater treatment features to clean polluted stormwater runoff prior to discharge into the storm drain system. The MRP requires that stormwater treatment measures are properly installed, operated, and maintained.

City of San José Post-Construction Urban Runoff Management (Policy 6-29)

The City of San José’s Policy 6-29 implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. The City of San José’s Policy 6-29 requires all new development and redevelopment projects to implement post-construction BMPs and Treatment Control Measures (TCMs). This policy also establishes specific design standards for post-construction TCM for projects that create, add, or replace 10,000 square feet or more of impervious surfaces.

City of San José Post-Construction Hydromodification Management (Policy 8-14)

The City of San José’s Policy No. 8-14 implements the stormwater treatment requirements of Provision C.3 of the MRP. Policy No. 8-14 requires all new and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP).

Green Stormwater Infrastructure Plan

The City of San José has developed a Green Stormwater Infrastructure Plan (GSI Plan) to lay out the approach, strategies, targets, and tasks needed to transition traditional “gray” infrastructure to include green stormwater infrastructure over the long term and to implement and institutionalize the concepts of GSI into standard municipal engineering, construction, and maintenance practices. The GSI Plan is intended to serve as an implementation guide for reducing the adverse water quality impacts of urbanization and urban runoff on receiving waters over the long term, and a reporting tool to provide reasonable assurance that specific pollutant reductions from discharges to local creeks and San Francisco Bay will be met. The GSI Plan is required by the City’s MRP for the discharge of stormwater runoff from the City’s storm drain system.

General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating hydrology and water quality impacts from development projects. Policies applicable to the project are presented below.

Envision San José 2040 Relevant Hydrology and Water Quality Policies

Policy	Policy Text
Policy IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.

Policy	Policy Text
Policy IN-3.9	Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards.
Policy MS-3.4	Promote the use of green roofs (i.e., roofs with vegetated cover), landscape-based treatment measures, pervious materials for hardscape, and other stormwater management practices to reduce water pollution.
Policy ER-8.1	Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
Policy ER-8.3	Ensure that private development in San José includes adequate measures to treat stormwater runoff.
Policy ER-8.5	Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite.
Policy EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and stormwater controls.
Policy EC-5.7	Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.
Policy EC-5.16	Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.
Policy EC-7.10	Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.

Existing Setting

The project site does not contain any natural drainages or waterways. The nearest waterways are Quimby Creek located about 3,168 feet northwest of the site and Fowler Creek located approximately 400 feet southeast of the site. The Flood Insurance Rate Maps issued by the Federal Emergency Management Agency (FEMA) indicate that the project site is located predominantly within Flood Zone D. Flood Zone D is defined as an area of undetermined but possible flood hazard outside the 100-year floodplain. The City does not have any current restrictions for development within Flood Zone D.

The project site is not located within an inundation area for any dams, based on the "California Dam Breach Inundation Maps" map provided by the California Department of Water Resources.³⁰

³⁰ https://fmds.water.ca.gov/webgis/?appid=dam_prototype_v2

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
10. HYDROLOGY AND WATER QUALITY. Would the project:					
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?			X		1, 2
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?			X		1, 2
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:					
i) Result in substantial erosion or siltation on- or off-site;			X		1, 2
ii) Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite;			X		1, 2, 3
iii) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or			X		1, 2
iv) Impede or redirect flood flows?			X		1, 2, 13
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?			X		1, 2, 13
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?			X		1, 2

Explanation

- a) **Less Than Significant Impact.** The City's National Pollutant Discharge Elimination System (NPDES) Municipal Permit, urban runoff policies, and the Municipal Code are the primary means of enforcing water quality measures through the grading and building permit process. All construction/demolition projects must comply with the City of San José's Grading Ordinance, which requires the use of erosion and sediment controls to protect water quality while the site is under construction. The project is subject to Municipal Code Section 20.100.470, which requires the project to incorporate BMPs to control the discharge of storm water pollutants including sediments associated with construction activities including erosion, as outlined in the standard permit conditions in item ci) below. The project is located in an urban environment and construction and operation of the proposed 16-unit townhome development would not utilize materials that would significantly harm the water quality in the area. Furthermore, the project would comply with applicable regulations and laws to ensure proper discharge into the City's stormwater and sanitary infrastructure, would not violate any water quality standards or waste discharge requirements, or degrade surface or groundwater quality.

- b) **Less Than Significant Impact.** The project site is located within the Recharge Area of the Santa Clara Valley Basin where groundwater occurs under unconfined conditions. The site is not, however, located within or adjacent to a SCVWD groundwater recharge facility.³¹ The project proposes excavation to construct foundations for the three new townhome buildings. According to data available from the nearest monitoring well (#07S02E21G010M) located at 280 South Fowler Way, groundwater depth in the project area is approximately 84 feet below surface.³² Historical records from this monitoring well show groundwater level ranging between 50 and 100 feet. The project would require minor excavation to construct the foundations for the proposed development, which would not be expected to encounter groundwater. The project does not propose any wells or groundwater pumping. Thus, the project would not decrease groundwater supplies or interfere substantially with groundwater recharge.
- ci) **Less Than Significant Impact.** Construction of the project would require grading activities that could result in a temporary increase in erosion affecting the quality of storm water runoff. This increase in erosion is expected to be minimal, due to the small size and flatness of the site. The City's implementation requirements to protect water quality are described below.

Construction Impacts

Prior to the commencement of any clearing, grading or excavation, the project is required to comply with the State Water Resources Control Board's National Pollutant Discharge Elimination System (NPDES) General Construction Activities Permit, to the satisfaction of the Director of Public Works. The project applicant is required to develop, implement, and maintain a Storm Water Pollution Prevention Plan (SWPPP) to control the discharge of stormwater pollutants including sediments associated with construction activities. Additionally, the project applicant is required to file a Notice of Intent (NOI) with the State Water Resource Control Board (SWRCB) to comply with the General Permit and prepare a SWPPP that includes measures that would be included in the project to minimize and control construction and post-construction runoff. The SWPPP shall be posted at the project site and will be updated to reflect current site conditions.

The project shall incorporate Best Management Practices (BMPs) into the project to control the discharge of stormwater pollutants including sediments associated with construction activities. Examples of BMPs are contained in the publication *Blueprint for a Clean Bay*³³, and include preventing spills and leaks, cleaning up spills immediately after they happen, storing materials under cover, and covering and maintaining dumpsters. Prior to the issuance of a grading permit, the project applicant may be required to submit an Erosion Control Plan to the Department of Public Works. The Erosion Control Plan may include BMPs as specified in ABAG's *Manual of Standards Erosion & Sediment Control Measures* for reducing impacts on the City's storm drainage system from construction activities.

³¹ Valley Water, *Annual Groundwater Report 2019*, July 2020. Available at: https://www.valleywater.org/sites/default/files/2020-09/2019_Annual_Groundwater_Report_Web_Version.pdf

³² California Department of Water, SGMA Data Viewer, Accessed March 4th, 2022, available at: <https://sgma.water.ca.gov/webgis/?appid=SGMADataViewer#gwlevels>

³³ Bay Area Stormwater Management Agencies Association.

All projects in the City, including the proposed project are required to comply with the City of San José Grading Ordinance, including erosion and dust control during site preparation, as well as the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction. The following specific BMPs are required to be implemented by all projects in the City as standard permit conditions to prevent stormwater pollution and minimize potential sedimentation during construction.

The project would increase impervious surfaces on the site by 23,688 square feet and slightly modify the drainage pattern on the site. Consistent with the regulations and policies described above, the project will follow all standard permit conditions. The following measures are based on RWQCB BMPs and have been included in the project to reduce construction and development-related water quality impacts. These BMPs would be implemented prior to and during earthmoving activities onsite and would continue until the construction is complete and during the post-construction period as appropriate.

Standard Permit Conditions

Construction-related Water Quality

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

Post-Construction Impacts

The project is required to comply with applicable provisions of the following City Council Policies: Council Policy 6-29 Post-Construction Urban Runoff Management and Council Policy 8-14 Post-Construction Hydromodification Management. For Council Policy 6-29 Post-Construction Urban Runoff Management, the project will be required to implement BMPs, which includes site design measures, source controls, and numerically-sized LID stormwater treatment measures to minimize stormwater pollutant discharges. A portion of the project site is located in a Hydromodification Management (HM) area. However, the project would not create and/or replace one acre or more of impervious surface within the HM area. Details of specific Site Design, Pollutant Source Control, and Stormwater Treatment Control Measures demonstrating compliance with Provision C.3 of the MRP (NPDES Permit Number CAS612008), will be included in the project design, to the satisfaction of the Director of Planning, Building and Code Enforcement.

Stormwater will be collected into LID treatment measures prior to entering the City's storm drain system. In conclusion, the project would not substantially alter existing drainage patterns or cause alteration of streams or rivers by conforming with the requirements of Council Policy 6-29 and 8-14. The project would not result in substantial erosion or siltation on or off site by complying with the State's Construction Stormwater Permit and the City's Grading Ordinance.

- cii) **Less Than Significant Impact.** The project would increase the amount of impervious area on the project site compared to existing developed conditions. The project would implement a stormwater control plan to manage runoff from the site. Runoff will be collected in a storm drain system and conveyed within a proposed storm drain system prior to entering into the City's storm drainage system. A table showing the pervious and impervious surfaces on the site pre- and post-construction is provided in the stormwater control plan in Figure 12.

Existing storm drain inlets are located within Ruby Avenue and Classico Avenue along or near the project frontage. No other existing storm drain systems are currently present along project frontages. The existing storm drain inlets would be preserved as part of the project. New storm drain laterals would be built and would connect to the existing storm drainage system in Classico Avenue and underneath the pedestrian path located between the development parcels. As a result, the proposed project would have a less than significant impact associated with flooding on- or off-site due to increased surface runoff.

- ciii) **Less Than Significant Impact.** The project proposes to connect to the City's existing storm drainage system. The project is not expected to contribute runoff that would exceed the capacity of existing or planned stormwater drainage systems or result in substantial additional sources of polluted runoff. See also ci) above.
- civ) **Less Than Significant Impact.** The project site is located within Flood Zone D, which is considered to be outside of the 100-year floodplain. Development of the site with 16 new townhome residential units would not significantly impede or redirect flood flows. This represents a less than significant impact.

- d) **Less Than Significant Impact.** As described above, the project is located in Flood Zone D and is considered to be outside of the 100-year floodplain or flood hazard zone and would not be subject to flood hazards. Based on a review of the California Department of Water Resources' California Dam Breach Inundation Maps, the project site is not located within an area susceptible to dam inundation. The proposed project is not located in a coastal area and would not be subject to tsunamis.
- e) **Less Than Significant Impact.** The project consists of development on an approximately 0.82 gross acre site. As described above, grading and construction activities could result in a temporary increase in erosion affecting the quality of storm water runoff. However, construction and operation of the project would not result in significant water quality or groundwater quality impacts since the proposed project would be required to comply with the City of San José Grading Ordinance and implement standard BMPs during construction. Therefore, the project would not result in impacts that would conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan.

Conclusion: The project would have a less than significant impact on hydrology and water quality with implementation of identified standard permit conditions.

K. LAND USE AND PLANNING

Regulatory Framework

Regional and Local

Santa Clara Valley Habitat Plan

As discussed in *Section D. Biological Resources*, the HCP was developed through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District, Santa Clara Valley Transportation Authority, U.S. Fish and Wildlife Service, and California Department of Fish and Wildlife. As it pertains to issues of land use, the HCP helps public and private entities within the HCP's jurisdiction plan and conduct projects and activities in ways that lessen the impact on natural resources.

General Plan Designation

The project site is designated *Mixed Use Neighborhood* in the City's Envision San José 2040 General Plan Land Use/Transportation Diagram.

General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating land use impacts from development projects. Policies applicable to the project are presented below.

Envision San José 2040 Relevant Land Use and Planning Policies

Policy	Policy Text
Policy CD-1.1	Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
Policy CD-1.8	Create an attractive street presence with pedestrian-scaled building and landscape elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity through the City
Policy CD-4.9	For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).
Policy LU-1.2	Create safe, attractive, and accessible pedestrian connections between developments and to adjacent public streets to minimize vehicular miles traveled.
Policy LU-1.6	With new development or expansion and improvement of existing development or uses, incorporate measures to comply with current Federal, State, and local standards.
Policy LU-9.7	Ensure that new residential development does not impact the viability of adjacent employment uses that are consistent with the Envision General Plan Land Use / Transportation Diagram.

Policy	Policy Text
Policy VN-1.7	Use new development within neighborhoods to enhance the public realm, provide for direct and convenient pedestrian access, and visually connect to the surrounding neighborhood. As opportunities arise, improve existing development to meet these objectives as well.
Policy VN-1.11	Protect residential neighborhoods from the encroachment of incompatible activities or land uses which may have a negative impact on the residential living environment.
Policy VN-1.12	Design new public and private development to build upon the vital character and desirable qualities of existing neighborhoods

Existing Setting

The project is located in an area primarily developed with a variety of commercial, residential, and open space uses. The site is currently vacant. Land uses surrounding the site are listed below as shown in the aerial in Figure 3.

- North: Commercial, Ruby Avenue, Residential
- South: Classico Avenue, Commercial, Residential
- East: Evergreen Village Square, Commercial, Public/Quasi-Public (Library)
- West: Evergreen Village Duck Pond, Residential

The project site is designated *Mixed Use Neighborhood* in the City's Envision San José 2040 General Plan Land Use/Transportation Diagram. The property is currently in the A(PD) Planned Development Zoning District and a new Planned Development Zoning District, MUN (PD) is proposed for the project to facilitate development of the 16 townhome residential units. The *Mixed Use Neighborhood* designation is applied to areas intended to accommodate a mixture of compatible residential and commercial uses, including townhouses or stacked flats and some opportunity for live/work, residential/commercial, or small stand-alone commercial uses. The proposed project would involve development of 16 new townhome residential units in three new three-story buildings on the project site.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
11. LAND USE AND PLANNING. Would the project:					
a) Physically divide an established community?			X		1, 2
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?			X		1-17

Explanation

- a) **Less Than Significant Impact.** Examples of projects that have the potential to physically divide an established community include new freeways and highways, major arterial streets, and railroad lines. The proposed project is a Planned Development Zoning to allow construction of a 16 townhome residential units in three new three-story buildings on a previously vacant site. The project site is located in an urbanized area surrounded primarily by commercial and residential development, as well as open space. The project site is bordered by Ruby Avenue to the north and Classico Avenue to the south. Emergency vehicle access would be provided via either of these roadways. Access to and from these and other nearby streets would not be affected by the project nor would access to the manmade duck pond from Evergreen Village Square. The proposed project would not necessitate new roadways or major physical factors that would physically divide a community. The proposed project would integrate into the surrounding neighborhood context and would not physically divide the existing surroundings. This represents a less than significant impact.
- b) **Less Than Significant Impact.** The project site is designated in the General Plan as *Mixed Use Neighborhood*. This designation is applied to areas intended to accommodate a mixture of compatible residential and commercial uses, including townhouses or stacked flats and some opportunity for live/work, residential/commercial, or small stand-alone commercial uses.

The project proposes development of the existing vacant site with 16 new townhome units in three new three-story buildings. Development of the site would be required to comply with General Plan policies and other land use regulations to assure that the proposed project does not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project, adopted for the purpose of avoiding or mitigating an environmental effect. The impact would be less than significant.

Conclusion: The project would have a less than significant impact on land use and planning.

L. MINERAL RESOURCES

Regulatory Framework

State

Surface Mining and Reclamation Act

Under the Surface Mining and Reclamation Act of 1975 (SMARA), the State Mining and Geology Board has designated only the Communications Hill Area of San José as containing mineral deposits of regional significance for aggregate (Sector EE). There are no mineral resources in the project area. Neither the State Geologist nor the State Mining and Geology Board has classified any other areas in San José as containing mineral deposits that are of statewide significance or for which the significance requires further evaluation. Other than the Communications Hill area cited above, San José does not have mineral deposits subject to SMARA.

Existing Setting

There are no mineral resources in the project area. Neither the State Geologist nor the State Mining and Geology Board has classified any other areas in San José as containing mineral deposits that are of statewide significance or for which the significance requires further evaluation. Other than the Communications Hill area cited above, San José does not have mineral deposits subject to SMARA. The project site lies outside of the Communications Hill area.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
12. MINERAL RESOURCES. Would the project:					
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X	1, 2
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				X	1, 2

Explanation

- a) **No Impact.** The project site is located about 4.75 miles east of the Communications Hill area, the only area in San José containing mineral deposits subject to SMARA. The proposed project would not result in a significant impact from the loss of availability of a known mineral resource, resulting in no impact.

- b) **No Impact.** The project site is not delineated in the General Plan or other land use plan or specific plan as a locally-important mineral site and would not result in the loss of availability of a locally important mineral resource site.

Conclusion: The project will have no impact on mineral resources.

M. NOISE

A noise and vibration assessment has been prepared for the project by Illingworth & Rodkin, Inc. (March 2022), which is contained in Appendix E. The following discussion summarizes the results of this assessment.

Regulatory Framework

Federal

Federal Highway Administration Roadway Construction Noise Model

The Federal Highway Administration (FHWA) Roadway Construction Noise Model (RNCM) is the national model for prediction of noise generated by construction projects. Since construction frequently occurs near residences and businesses, the FHWA developed the RNCM in an effort to control and monitor construction noise to avoid impacts on surrounding communities and neighborhoods. The RNCM provides a federally-recognized construction noise screening tool to reliably and easily predict construction noise levels and to determine compliance with noise limits for construction projects of varying types.

State

California Building Code

The 2019 California Building Code (CBC) requires interior noise levels attributable to exterior environmental noise sources to be limited to a level not exceeding 45 dBA DNL/CNEL in any habitable room. The State of California established exterior sound transmission control standards for new non-residential buildings as set forth in the California Green Building Standards Code (Section 5.507.4.1 and 5.507.4.2). These sections identify the standards, such as Sound Transmission Class ratings,³⁴ that project building materials and assemblies need to comply with based on the noise environment.

Local

San José General Plan Noise Compatibility Guidelines

The City's General Plan includes goals and policies pertaining to noise and vibration. Community Noise Levels and Land Use Compatibility (commonly referred to as the Noise Element) of the General Plan utilizes the DNL descriptor and identifies interior and exterior noise standards for residential uses. The General Plan include the following criteria for land use compatibility and acceptable exterior noise levels in the City based on land use types.

General Plan




The City's General Plan includes goals and policies pertaining to noise and vibration. Community Noise Levels and Land Use Compatibility (commonly referred to as the Noise Element) of the General Plan utilizes the DNL descriptor and identifies interior and exterior noise standards for

³⁴ Sound Transmission Class (STC) is a single figure rating designed to give an estimate of the sound insulation properties of a partition. Numerically, STC represents the number of decibels of speech sound reduction from one side of the partition to the other.

residential uses. The General Plan include the following criteria for land use compatibility and acceptable exterior noise levels in the City based on land use types.

**EXTERIOR NOISE EXPOSURE (DNL IN DECIBELS DBA)
FROM GENERAL PLAN TABLE EC-1: Land Use Compatibility Guidelines for
Community Noise in San José
(Exterior DNL Value In Decibels)**

Land Use Category	55	60	65	70	75	80	
1. Residential, Hotels and Motels, Hospitals and Residential Care							
2. Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds							
3. Schools, Libraries, Museums, Meeting Halls, and Churches							
4. Office Buildings, Business Commercial, and Professional Offices							
5. Sports Arenas, Outdoor Spectator Sports							
6. Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters							

Acceptability	Description
	Normally Acceptable: Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements.
	Conditionally Acceptable: Specified land use may be permitted only after detailed analysis of the noise reduction requirements and noise mitigation features included in the design.
	Unacceptable: New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies. (Development will only be considered when technically feasible mitigation is identified that is also compatible with relevant design guidelines.)

Additionally, policies in the General Plan have been adopted for the purpose of avoiding or mitigating noise and vibration impacts from development projects. Policies applicable to the project are presented below.

Envision San José 2040 Relevant Noise Policies

Policy	Policy Text
Policy EC-1.1	<p>Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include:</p> <p>Interior Noise Levels</p> <ul style="list-style-type: none"> The City’s standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected <i>Envision General Plan</i> traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan. <p>Exterior Noise Levels</p> <ul style="list-style-type: none"> The City’s acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (refer to Table EC-1 in the General Plan. Residential uses are considered “normally acceptable” with exterior noise exposures of up to 60 dBA DNL and “conditionally compatible” where the exterior noise exposure is between 60 and 75 dBA DNL such that the specified land use may be permitted only after detailed analysis of the noise reduction requirements and needed noise insulation features are included in the design.
Policy EC-1.2	<p>Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Land Use Categories 1, 2, 3 and 6 in Table EC-1 in the General Plan by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would:</p> <ul style="list-style-type: none"> Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain “Normally Acceptable”; or Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the “Normally Acceptable” level.
Policy EC-1.3	<p>Mitigate noise generation of new nonresidential land uses to 55 dBA DNL at the property line when located adjacent to existing or planned noise-sensitive residential and public/quasi-public land uses.</p>
Policy EC-1.6	<p>Regulate the effects of operational noise from existing and new industrial and commercial development on adjacent uses through noise standards in the City’s Municipal Code.</p>

Policy	Policy Text
Policy EC-1.7	<p>Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would:</p> <ul style="list-style-type: none"> • Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months. <p>For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.</p>
Policy EC-2.3	<p>Require new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, including ruins and ancient monuments or buildings that are documented to be structurally weakened, a continuous vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A continuous vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Avoid use of impact pile drivers within 125 feet of any buildings, and within 300 feet of a historical building, or building in poor condition. On a project-specific basis, this distance of 300 feet may be reduced where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction.</p>

San José Municipal Code

Per the San José Municipal Code Title 20 (Zoning Ordinance) Noise Performance Standards, the sound pressure level generated by any use or combination of uses on a property shall not exceed the decibel levels indicated in the table below at any property line, except upon issuance and in compliance with a Special Use permit or Conditional Use Permit as provided in Chapter 20.100.

City of San José Zoning Ordinance Noise Standards

Land Use Types	Maximum Noise Levels in Decibels at Property Line
Residential, open space, industrial or commercial uses adjacent to a property used or zoned for residential purposes	55
Open space, commercial, or industrial use adjacent to a property used for zoned for commercial purposes or other non-residential uses	60
Industrial use adjacent to a property used or zoned for industrial use or other use other than commercial or residential purposes	70

Chapter 20.100.450 of the Municipal Code establishes allowable hours of construction within 500 feet of a residential unit between 7:00 AM and 7:00 PM Monday through Friday unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.

Existing Setting

Noise Fundamentals

Noise is measured in decibels (dB) and is typically characterized using the A-weighted sound level or dBA. This scale gives greater weight to the frequencies to which the human ear is most sensitive. The City's Envision San José 2040 General Plan applies the Day-Night Level (DNL) descriptor in evaluating noise conditions. The DNL represents the average noise level over a 24-hour period and penalizes noise occurring between the hours of 10 PM and 7 AM by 10 dB.

Vibration Fundamentals

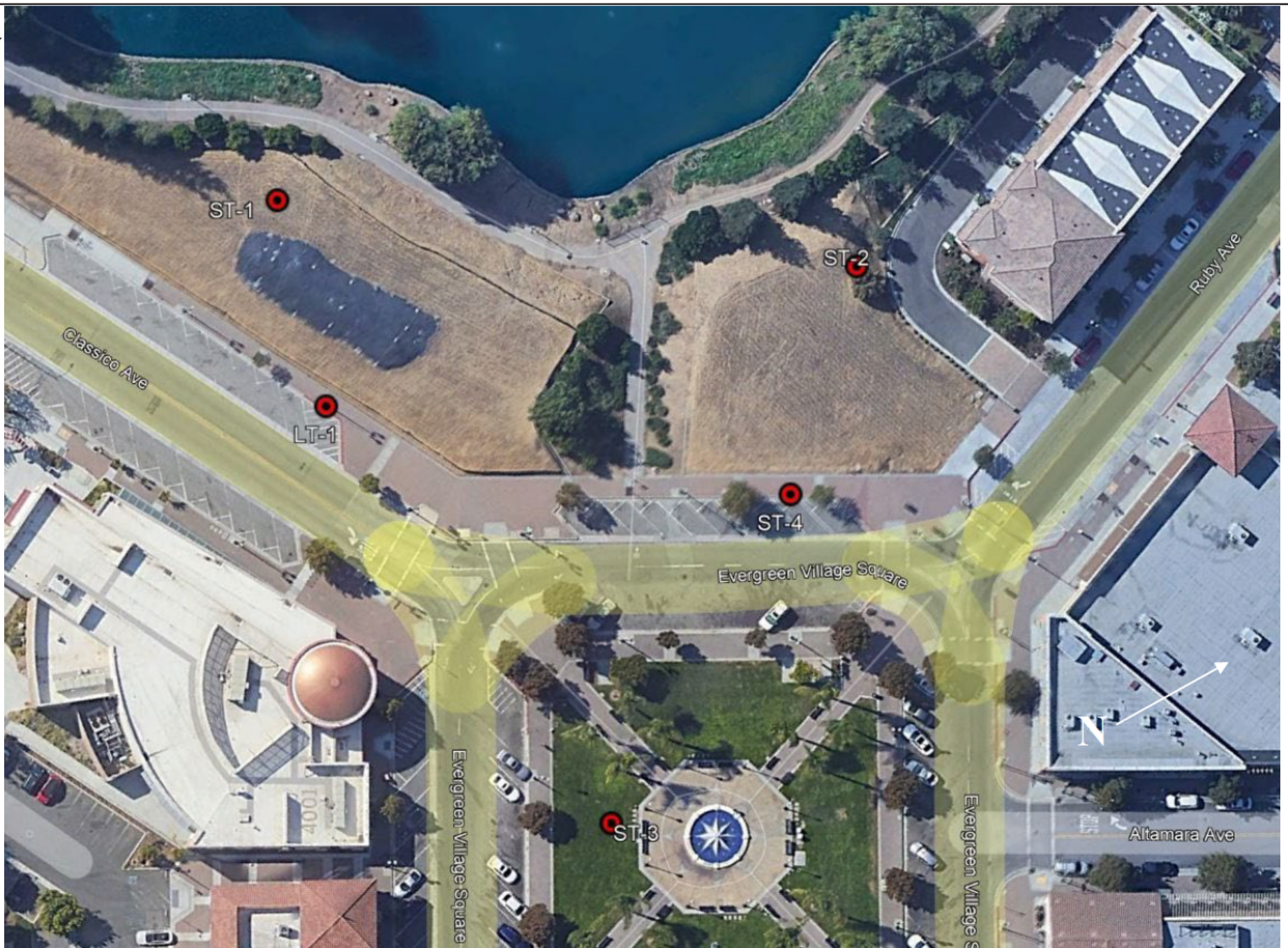
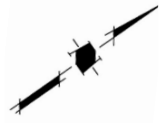
Several different methods are typically used to quantify vibration amplitude. One method, used by the City, is Peak Particle Velocity (PPV). The PPV is defined as the maximum instantaneous positive or negative peak of the vibration wave. For this analysis, the PPV descriptor with units of mm/sec or in/sec is used to evaluate construction generated vibration for building damage and human annoyance.

Existing Noise Environment

The project site is located along Ruby Avenue, Classico Avenue, and Evergreen Village Square. Existing residential uses lie to the north and to the west of the project site, with commercial uses to the south and east across Classico Avenue, Evergreen Village Square, and Ruby Avenue. Nearby outdoor use areas include the Evergreen Village Square to the east and the Evergreen Village Duck Pond to the west of the site.

The noise environment at the site and in the surrounding area is dominated by local vehicular traffic along Classico Avenue and Evergreen Village Square, with aircraft also contributing to the noise environment. A noise monitoring survey consisting of one long-term (LT-1) and four short-term (ST-1 through ST-4) noise measurements was conducted at the site between Tuesday, February 8, 2022, and Friday, February 11, 2022. The measurement locations are shown in Figure 18

Long-term noise measurement LT-1 was made approximately 37 feet north of the centerline of Classico Avenue to represent typical noise levels at the façade of the proposed building along Classico Avenue. The day-night average noise levels were 59 dBA DNL on Wednesday, February 9, 2022, and 59 dBA DNL on Thursday, February 10, 2022.



Source: Illingworth & Rodkin, March 2022

Noise Measurement Locations

Evergreen Village Townhomes
Initial Study

Figure
18

The results of the short-term measurements are summarized in Table 9 below.

Table 9
Summary of Short-Term Noise Measurement Data

Noise Measurement Location (Date, Time)	Date, Time	L _{max}	L ₍₁₎	L ₍₁₀₎	L ₍₅₀₎	L ₍₉₀₎	L _{eq} (10-min)
ST-1: ~100 feet northwest of the centerline of Classico Avenue	2/8/2022, 10:30-10:40 am	56	53	49	45	42	46
ST-2: ~122 feet west of the centerline of Ruby Avenue	2/8/2022, 10:50-11:00 am	59	55	51	48	44	49
ST-3: ~67 feet north of the centerline of Evergreen Village Square	2/8/2022, 10:50-11:00 am	64	61	59	57	55	57
ST-4: ~32 feet west of the centerline of Evergreen Village Square	2/8/2022, 10:30-10:40 am	71	65	61	54	50	57

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
13. NOISE. Would the project result in					
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?			X		1, 2, 3, 14
b) Generation of excessive groundborne vibration or groundborne noise levels?			X		1, 2, 3, 14
c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?			X		1, 2, 3

Explanation

Significance Criteria

The following criteria were used to evaluate the significance of environmental noise resulting from the project:

- A significant noise impact would be identified if the project would generate a substantial temporary or permanent noise level increase over ambient noise levels at existing noise-sensitive receptors surrounding the project site and that would exceed applicable noise standards presented in the General Plan or Municipal Code at existing noise-sensitive receptors surrounding the project site.
 - A significant noise impact would be identified if construction-related noise would temporarily increase ambient noise levels at sensitive receptors. The City of San José

considers large or complex projects involving substantial noise-generating activities and lasting more than 12 months significant when within 500 feet of residential land uses or within 200 feet of commercial land uses or offices.

- A significant permanent noise level increase would occur if project-generated traffic would result in: a) a noise level increase of 5 dBA DNL or greater, with a future noise level of less than 60 dBA DNL, or b) a noise level increase of 3 dBA DNL or greater, with a future noise level of 60 dBA DNL or greater.
- A significant noise impact would be identified if the project would expose persons to or generate noise levels that would exceed applicable noise standards presented in the General Plan.
- A significant impact would be identified if the construction of the project would generate excessive vibration levels surrounding receptors. Groundborne vibration levels exceeding 0.2 in/sec PPV would have the potential to result in cosmetic damage to normal buildings. For sensitive historic structures, a continuous vibration limit of 0.08 in/sec PPV is used to determine the impact significance.
- A significant noise impact would be identified if the project would expose people residing or working in the project area to excessive aircraft noise levels.
- a) **Less Than Significant Impact.** The following addresses the temporary and permanent increase in ambient noise levels in the vicinity of the project in excess of applicable standards. The noise and vibration effects associated with the project are described below based on the results of the noise and vibration study (refer to Appendix E).

Project-Generated Noise Impacts During Construction

Noise impacts resulting from construction depend upon the noise generated by various pieces of construction equipment, the timing and duration of noise-generating activities, and the distance between construction noise sources and noise-sensitive areas. Construction noise impacts primarily result when construction activities occur during noise-sensitive times of the day (e.g., early morning, evening, or nighttime hours), the construction occurs in areas immediately adjoining noise-sensitive land uses, or when construction lasts over extended periods of time.

Policy EC-1.7 of the City's General Plan requires that all construction operations within the City to use best available noise suppression devices and techniques and to limit construction hours near residential uses per the Municipal Code allowable hours, which are between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday when construction occurs within 500 feet of a residential land use. Further, the City considers significant construction noise impacts to occur if a project that is located within 500 feet of residential uses or 200 feet of commercial or office uses would involve substantial noise-generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months.

The noise assessment assumed that project construction would start in January 2023 and be built out over a period of approximately six months. Pursuant to the Zoning Code, construction would be allowed between 7:00 a.m. and 7:00 p.m., Monday through Friday. The construction of the project would require site preparation, grading/excavation, trenching/foundation, exterior building. During each stage of construction, a different mix of equipment would operate, varying the noise levels at nearby properties.

The nearest noise sensitive receptors are located along Ruby Avenue to the north, Vinifera Drive, and Shiraz Place to west, and south of the site along Classico Avenue at distances ranging from approximately 145 to 230 feet from the construction activity (center) on the project site to the nearest property boundary of the sensitive receptor. Table 10 below presents the construction activities expected from the proposed project along with the respective noise levels calculated from each phase of construction at a distance of 50 feet and to the closest receptor (145 feet away).

Table 10
Total Calculated Noise Levels at 50 Feet and Closest Affected Receptor

Construction Phase	Equipment	Quantity	Total Calculated Leq (dBA) at 50 feet	Total Calculated Leq (dBA) at Closest Receptor (At 145 feet)
Site Preparation	Graders	1	82	73
Site Preparation	Tractors/Loaders/Backhoes	1	82	73
Grading/Excavation	Graders	1	83	74
Grading/Excavation	Rubber Tired Dozers	1	83	74
Grading/Excavation	Tractors/Loaders/Backhoes	1	83	74
Trenching/Foundation	Excavators	1	79	70
Trenching/Foundation	Tractors/Loaders/Backhoes	2	79	70
Building - Exterior	Cranes	1	77	68
Building - Exterior	Forklifts	2	77	68
Building - Exterior	Tractors/Loaders/Backhoes	1	77	68
Building - Interior/Architectural Coating	Air Compressors	1	71	64
Paving	Cement and Mortar Mixers	4	84	75
Paving	Pavers	1	84	75
Paving	Rollers	1	84	75
Paving	Tractors/Loaders/Backhoes	1	84	75

Pursuant to General Plan Policy EC-1.7, project construction operations shall use best available noise suppression devices and techniques including, but not limited to the following standard permit conditions.

Standard Permit Condition

Construction-related Noise. Noise minimization measures include, but are not limited to, the following:

- Pile driving is prohibited.

- Limit construction hours to between 7:00 a.m. and 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific “construction noise mitigation plan” and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.
- Construct solid plywood fences around ground level construction sites adjacent to operational business, residences, or other noise-sensitive land uses.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Prohibit unnecessary idling of internal combustion engines.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Utilize “quiet” air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site.
- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of “noisy” construction activities to adjacent land uses and nearby residences.
- If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
- Designate a “disturbance coordinator” who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

With the implementation of GP Policy EC-1.7, Zoning Code requirements, and the above measures and Standard Permit Conditions, the temporary construction noise impact would be less-than-significant.

Project-Generated Noise Impacts During Operations

According to Policy EC-1.2 of the City's General Plan, a significant permanent noise increase would occur if the project would increase noise levels at noise-sensitive receptors by 3 dBA DNL or more where ambient noise levels exceed the "normally acceptable" noise level standard. Where ambient noise levels are at or below the "normally acceptable" noise level standard, noise level increases of 5 dBA DNL or more would be considered significant. The City's General Plan defines the "normally acceptable" outdoor noise level standard for the nearby residential land uses to be 60 dBA DNL. Existing ambient levels, based on the measurements made in the project vicinity, exceed 60 dBA DNL. Therefore, a significant impact would occur if the proposed project would permanently increase ambient levels by 3 dBA DNL.

A traffic study was not completed for this project. However, 10-minute local traffic counts were completed during the noise survey which included 19 vehicles along Classico Avenue, 39 vehicles along Evergreen Village Square, and 56 vehicles along Ruby Avenue. As described in the Existing Setting, the noise measurements were conducted at the site between Tuesday, February 8, 2022 and Friday, February 11, 2022. According to the Envision San Jose 2040 General Plan EIR, the traffic noise level increase in the Evergreen Planning Area for the project site would be up to 1 dBA DNL higher by the year 2035. It is assumed that the additional daily trips generated by the new project will not contribute substantially to the existing traffic conditions (less than 1 dBA DNL).

In summary, vehicle trips generated by the proposed project would not significantly increase existing traffic levels and the proposed residential uses are not anticipated to generate excessive noise beyond the existing traffic noise. Therefore, this represents a less than significant impact.

- b) **Less Than Significant Impact.** The construction of the project may generate perceptible vibration when heavy equipment or impact tools (e.g., jackhammers, hoe rams) are used. Construction activities would include site preparation, excavation, trenching, and building construction, and paving. Pile driving equipment, which can cause excessive vibration, is not expected to be required for the proposed project.

According to Policy EC-2.3 of the City of San José General Plan, a vibration limit of 0.08 in/sec PPV shall be used to minimize the potential for cosmetic damage to sensitive historical structures, and a vibration limit of 0.20 in/sec PPV shall be used to minimize damage at buildings of normal conventional construction. The vibration limits contained in this policy are conservative and designed to provide the ultimate level of protection for existing buildings in San José. As discussed in detail below, vibration levels exceeding these thresholds would be capable of cosmetically damaging adjacent buildings.

Table 11 presents typical vibration levels that could be expected from construction equipment at a distance of 25 feet. Project construction activities, such as drilling, the use of jackhammers, rock drills and other high-power or vibratory tools, and rolling stock equipment (tracked vehicles, compactors, etc.), may generate substantial vibration in the immediate vicinity. Jackhammers typically generate vibration levels of 0.035 in/sec PPV, and drilling typically generates vibration levels of 0.09 in/sec PPV at a distance of 25 feet.

Vibration levels would vary depending on soil conditions, construction methods, and equipment used. Table 11 also summarizes the distances to the 0.08 in/sec PPV threshold for historical buildings and to the 0.2 in/sec PPV threshold for all other buildings. Since no historical buildings are located within 60 feet of the site, the 0.08 in/sec PPV threshold would not be exceeded at any historical buildings during project construction and is not discussed further.

Table 11
Vibration Source Levels for Construction Equipment

Equipment	PPV at 25 ft. (in/sec)	Minimum Distance to Meet 0.08 in/sec PPV (feet)	Minimum Distance to Meet 0.2 in/sec PPV (feet)
Clam shovel drop	0.202	59	26
Hydromill (slurry wall) in soil	0.008	4	2
Hydromill (slurry wall) in rock	0.017	7	3
Vibratory Roller	0.210	61	27
Hoe Ram	0.089	28	13
Large bulldozer	0.089	28	13
Caisson drilling	0.089	28	13
Loaded trucks	0.076	24	11
Jackhammer	0.035	12	6
Small bulldozer	0.003	2	<1

Source: Transit Noise and Vibration Impact Assessment Manual, Federal Transit Administration, Office of Planning and Environment, U.S. Department of Transportation, September 2018, as modified by Illingworth & Rodkin, Inc., August 2021.

Vibration levels are highest close to the source, and then attenuate with increasing distance. Table 12 summarizes the vibration levels expected at nearby buildings.

Table 12
Vibration Source Levels at Nearby Buildings (PPV (in/sec))

Equipment	North Residences (35ft)	West Residences (125ft)	SW Residences (135ft)	SE Commercial (90ft)
Clam shovel drop	0.140	0.034	0.032	0.049
Hydromill (slurry wall) in soil	0.006	0.001	0.001	0.002
Hydromill (slurry wall) in rock	0.012	0.003	0.003	0.004
Vibratory Roller	0.145	0.036	0.033	0.051
Hoe Ram	0.061	0.015	0.014	0.022
Large bulldozer	0.061	0.015	0.014	0.022
Caisson drilling	0.061	0.015	0.014	0.022
Loaded trucks	0.052	0.013	0.012	0.019
Jackhammer	0.024	0.006	0.005	0.009
Small bulldozer	0.002	0.001	0.000	0.0007

Heavy vibration-generating construction equipment, such as vibratory rollers or clam shovel drops, would have the potential to produce vibration levels up to 0.145 in/sec PPV at residential buildings adjoining the project site. At all other structures in the project vicinity, construction would not generate vibration levels exceeding 0.051 in/sec PPV. At these locations, and in other surrounding areas where vibration would not be expected to cause

cosmetic damage, vibration levels may still be perceptible. However, as with any type of construction, minor vibrations would be anticipated and would not be considered significant, given the intermittent and short duration of the phases that have the highest potential of producing vibration (use of jackhammers and other high-power tools). By use of administrative controls presented as standard permit conditions in a) above, such as notifying neighbors of scheduled construction activities and scheduling construction activities with the highest potential to produce perceptible vibration during hours with the least potential to affect nearby businesses, perceptible vibration can be kept to a minimum.

In summary, the construction of the project would not generate vibration levels exceeding the General Plan threshold of 0.2 in/sec PPV at conventional buildings in the project vicinity. This represents a less than significant impact.

- c) **Less Than Significant Impact.** Reid-Hillview Airport and Mineta San José International Airport are public airports located approximately 2.5 and 8.1 miles from the project site, respectively. The project site lies outside the Reid-Hillview Airport's 2022 60 dBA CNEL noise contour. Based on the City's Airport Master Plan Environmental Impact Report for Mineta Airport, the project lies well outside the 60 dBA CNEL/DNL contour line. Future exterior noise levels due to aircraft from these airports are compatible with the proposed land use resulting in a less than significant impact.

Non-CEQA Effects

In December 2015, the California Supreme Court issued an opinion in the California Building Industry Association vs. Bay Area Air Quality Management District (*CBI v. BAAQMD*) case that CEQA is primarily concerned with the impacts of a project on the environment, not the effects of the existing environment on a project. In light of this ruling, the effect of existing ambient noise on future users or residents of the project would not be considered an impact under CEQA. However, General Plan Policy EC-1.1 requires that existing ambient noise levels be analyzed for new residences, hotels, motels, residential care facilities, hospitals, and other institutional facilities, and that noise attenuation be incorporated into the project in order to reduce interior and exterior noise levels to acceptable limits.

The exterior noise threshold established in the City's General Plan for new residential projects is 60 dBA DNL at usable outdoor activity areas, excluding balconies and porches. For commercial uses, the City's "normally acceptable" threshold for outdoor activity areas is 65 dBA DNL. The City requires that interior noise levels be maintained at 45 dBA DNL or less for residential land uses, and the Cal Green Code applies to the non-residential components of the proposed mixed-use project.

The future noise environment at the site would continue to result primarily from local vehicular traffic along Classico Avenue, Evergreen Village Square, and Ruby Avenue. According to the *Envision San José 2040 General Plan Comprehensive Update EIR*,³⁵ the traffic noise level increase in the Evergreen Planning Area shows that the project site would be up to 1 dBA DNL higher by the year 2035. A traffic study was not provided for the proposed project. Noise levels from local vehicular traffic along Classico Avenue, Evergreen Village Square, and Ruby Avenue are not expected to change substantially under future conditions.

³⁵ *Envision San José 2040 General Plan Comprehensive Update EIR*, State Clearinghouse Number 2009072096, File number PP09-011, June 2011.

Future Exterior Noise Environment

The site plan does not show any common exterior use areas. Private balconies, decks, and front yards would not be considered outdoor use areas subject to the General Plan's exterior noise thresholds, yet the proposed setbacks are sufficient to result in exterior noise levels of 60 dBA DNL or less. Therefore, additional noise control measures are not required.

Future Interior Noise Environment

Standard residential construction provides approximately 15 dBA of exterior-to-interior noise reduction, assuming the windows are partially open for ventilation. Standard construction with the windows closed provides approximately 20 to 25 dBA of noise reduction in interior spaces. Where exterior noise levels range from 60 to 65 dBA DNL, the inclusion of adequate forced-air mechanical ventilation is often the method selected to reduce interior noise levels to acceptable levels by closing the windows to control noise. Where noise levels exceed 65 dBA DNL, forced-air mechanical ventilation systems and sound-rated construction methods are normally required. Such methods or materials may include a combination of smaller window and door sizes as a percentage of the total building façade facing the noise source, sound-rated windows and doors, sound rated exterior wall assemblies, and mechanical ventilation so windows may be kept closed at the occupant's discretion. Building A would be set back approximately 110 feet from the centerline of Evergreen Village Square and would be partially shielded from local traffic noise by Building B. At this distance, the units facing Evergreen Village Square would be exposed to future exterior noise levels up to 53 dBA DNL. Assuming windows to be partially open, future interior noise levels in these units would be up to 38 dBA DNL.

Building B would be set back approximately 40 feet from the centerline of Evergreen Village Square. At this distance, the units facing Evergreen Village Square would be exposed to future exterior noise levels up to 60 dBA DNL. Assuming windows to be partially open, future interior noise levels in these units would be at or below 45 dBA DNL.

Building C would be set back approximately 40 feet from the centerline of Classico Avenue. At this distance, the units facing Classico Avenue would be exposed to future exterior noise levels up to 60 dBA DNL. Assuming windows to be partially open, future interior noise levels in these units would be at or below 45 dBA DNL.

Interior noise level standards of 45 dBA DNL set forth by the City of San José would be met assuming standard construction methods with the windows open for ventilation, and the implementation of additional noise insulation features would not be required.

Standard Permit Condition

Interior Noise Standard for Residential Development

- The project applicant shall prepare final design plans that incorporate building design and acoustical treatments to ensure compliance with State Building Codes and City noise standards. A project-specific acoustical analysis shall be prepared to ensure that the design incorporates design controls to reduce interior noise levels to 45 dBA DNL or lower within

the residential unit. The project applicant shall conform with any special building construction techniques requested by the City's Building Department, which may include sound-rated windows and doors, sound-rated wall constructions, and acoustical caulking.

Conclusion: The project would have a less than significant impact related to noise and vibration with incorporation standard permit conditions.

N. POPULATION AND HOUSING

Regulatory Framework

State

Housing-Element Law

State requirements mandating that housing be included as an element of each jurisdiction's general plan is known as housing-element law. The Regional Housing Need Allocation (RHNA) is the state mandated process to identify the total number of housing units (by affordability level) that each jurisdiction must accommodate in its housing element. California housing-element law requires cities to: 1) zone adequate lands to accommodate its RHNA; 2) produce an inventory of sites that can accommodate its share of the RHNA; 3) identify governmental and non-governmental constraints to residential development; 4) develop strategies and a work plan to mitigate or eliminate those constraints; and 5) adopt a housing element and update it on a regular basis.³⁶ The City of San José Housing Element and related land use policies were last updated in January 2015.

Regional and Local

Plan Bay Area 2040

Plan Bay Area 2040 is a long-range transportation, land-use, and housing plan intended support a growing economy, provide more housing and transportation choices, and reduce transportation related pollution and greenhouse gas (GHG) emissions in the Bay Area. Plan Bay Area 2040 promotes compact, mixed-use residential and commercial neighborhoods near transit, particularly within identified Priority Development Areas (PDAs).³⁷

The Association of Bay Area Governments (ABAG) allocates regional housing needs to each city and county within the nine-county San Francisco Bay Area, based on statewide goals. ABAG also develops forecasts for population, households, and economic activity in the Bay Area. ABAG, the Metropolitan Transportation Commission (MTC), and local jurisdiction planning staff created the Regional Forecast of Jobs, Population, and Housing, which is an integrated land use and transportation plan through the year 2040 (upon which Plan Bay Area 2040 is based).

General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating population and housing impacts from development projects. Policies applicable to the project are presented below.

³⁶ California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements". <http://hcd.ca.gov/community-development/housingelement/index.shtml>

³⁷ Association of Bay Area Governments and Metropolitan Transportation Commission. "Project Mapper." <http://projectmapper.planbayarea.org/>

Envision San José 2040 Relevant Population and Housing Policies

Policy	Policy Text
Policy CD-1.9	Give the greatest priority to developing high-quality pedestrian facilities in areas that will most promote transit use and bicycle and pedestrian activity. In pedestrian oriented areas such as Downtown, Urban Villages, or along Main Streets, place commercial and mixed-use building frontages at or near the street-facing property line with entrances directly to the public sidewalk, provide high-quality pedestrian facilities that promote pedestrian activity, including adequate sidewalk dimensions for both circulation and outdoor activities related to adjacent land uses, a continuous tree canopy, and other pedestrian amenities. In these areas, strongly discourage parking areas located between the front of buildings and the street to promote a safe and attractive street facade and pedestrian access to buildings

Existing Setting

Based on information from the State Department of Finance, the City of San José's population was estimated to be 976,482 in January 2022 and had an estimated total of 344,112 housing units, with an average of 2.91 persons per household.³⁸ ABAG projects that the City's population will reach 1,377,145 with 448,310 households by 2040.³⁹

A project can induce substantial population growth by: 1) proposing new housing beyond projected or planned development levels, 2) generating demand for housing as a result of new businesses, 3) extending roads or other infrastructure to previously undeveloped areas, or 4) removing obstacles to population growth (e.g., expanding capacity of a wastewater treatment plant beyond that necessary to serve planned growth). The General Plan EIR concluded that the potential for direct growth inducing impacts from buildout of the General Plan would be minimal because planned growth would consist entirely of development within the City's existing Urban Growth Boundary and Urban Service Area.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
14. POPULATION AND HOUSING. Would the project:					
a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?			X		1, 2, 3
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?				X	1, 2

³⁸ California Department of Finance, E-5 Population and Housing Estimates for Cities, Counties, and the State, 2021.

³⁹ Association of Bay Area Governments and Metropolitan Transportation Commission, Plan Bay Area 2040 Projections 2040, 2022.

Explanation

- a) **Less Than Significant Impact.** The project proposes up to 16 residential units with total future population at the proposed project site estimated at 47 individuals (based on 2.91 persons per household). The development is proposed to accommodate the growing demand for housing within San José. The development of 16 new residential units and estimated population increase of 47 individuals does not represent substantial additional growth compared to the overall growth forecasts and conclusions of the 2040 General Plan. This represents a less than significant impact.
- b) **No Impact.** The project site is currently vacant and does not contain any existing housing. Development of the site with 16 new townhome residential units in three new three-story buildings would not displace existing people, remove existing housing, or require the construction of replacement housing. There would be no impact.

Conclusion: The project would have a less than significant impact related to population and housing.

O. PUBLIC SERVICES

Regulatory Framework

State

California Government Code Section 65996

California Government Code Section 65996 stipulates that an acceptable method of offsetting a project's effect on the adequacy of school facilities is the payment of a school impact fee prior to issuance of a building permit. The legislation states that payments of school impact fees "are hereby deemed to provide full and complete school facilities mitigation" under CEQA [§65996(b)]. The school district is responsible for implementing the specific methods of school impact mitigation under the Government Code. The CEQA documents must identify that school impact fees and the school districts' methods of implementing measures specified by Government Code 65996 would adequately mitigate project-related increases in student enrollment.

Quimby Act – California Code Sections 66475-66478

The Quimby Act (California Government Code Sections 66475-66478) was approved by the California legislature to preserve open space and parkland in the State. The Quimby Act authorizes local governments to establish ordinances requiring developers of new subdivisions to dedicate parks, pay an in-lieu fee, or perform a combination of the two. As described below, the City has adopted a Parkland Dedication Ordinance and a Park Impact Ordinance, consistent with the Quimby Act.

Local

Parkland Dedication Ordinance and Park Impact Ordinance

The City of San José has adopted the Parkland Dedication Ordinance (PDO, Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO, Municipal Code Chapter 14.25), requiring new residential development to either dedicate sufficient land to serve new residents or pay fees to offset the increased costs of providing new park facilities for new development. Under the PDO and PIO, a project can satisfy half of its total parkland obligation by providing private recreational facilities onsite. For projects exceeding 50 units, the City decides whether the project will dedicate land for a new public park site or provide a fee in-lieu of land dedication. The acreage of parkland required is based on the minimum acreage dedication formula outlined in the PDO.

General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating public service impacts from development projects. Policies applicable to the project are presented below.

Envision San José 2040 Relevant Public Service Policies

Policy	Policy Text
Policy CD-5.5	Include design elements during the development review process that address security, aesthetics, and safety. Safety issues include, but are not limited to, minimum clearances around buildings, fire protection measures such as peak load water requirements, construction techniques, and minimum standards for vehicular and pedestrian facilities and other standards set forth in local, state, and federal regulations.
Policy FS-5.6	When reviewing major land use or policy changes, consider the availability of police and fire protection, parks and recreation and library services to the affected area as well as the potential impacts of the project on existing service levels.
Policy ES-2.2	Construct and maintain architecturally attractive, durable, resource-efficient, and environmentally healthful library facilities to minimize operating costs, foster learning, and express in built form the significant civic functions and spaces that libraries provide for the San José community. Library design should anticipate and build in flexibility to accommodate evolving community needs and evolving methods for providing the community with access to information sources. Provide at least 0.59 SF of space per capita in library facilities.
Policy ES-3.1	Provide rapid and timely Level of Service (LOS) response time to all emergencies: 1. For police protection, use as a goal a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls. 2. For fire protection, use as a goal a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents. 3. Enhance service delivery through the adoption and effective use of innovative, emerging techniques, technologies and operating models. 4. Measure service delivery to identify the degree to which services are meeting the needs of San José's community. 5. Ensure that development of police and fire service facilities and delivery of services keeps pace with development and growth in the city.
Policy ES-3.9	Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly-visible and accessible spaces.
Policy ES-3.11	Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.
Policy PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
Policy PR-1.2	Provide 7.5 acres per 1,000 population of citywide /regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
Policy PR-1.12	Regularly update and utilize San José's Parkland Dedication Ordinance/Parkland Impact Ordinance (PDO/PIO) to implement quality facilities.
Policy PR-2.4	To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a ¾ mile radius of the project site that generates the funds.

Policy	Policy Text
Policy PR-2.5	Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.

Existing Setting

Fire Protection: Fire protection services are provided to the project site by the San José Fire Department (SJFD). The closest fire station to the project site is Station #31, located about 200 feet north of the site at 3100 Ruby Avenue.

Police Protection: Police protection services are provided to the project site by the San José Police Department (SJPD) headquartered at 201 West Mission Street. The City has four patrol divisions and 16 patrol districts. Patrols are dispatched from police headquarters and the patrol districts consist of 83 patrol beats, which include 357 patrol beat building blocks.

Schools: The project site is within the boundaries of Evergreen Elementary School District (EESD) and East Side Unified High School District (ESUHSD). These districts operate a combined 33 schools (two elementary schools, two elementary/middle charter schools, one middle school, eleven traditional high schools, five alternative education high schools, and 12 charter high schools) serving approximately 35,735 students.⁴⁰ The project site is served primarily by Evergreen Elementary School (kindergarten through sixth grade), Chaboya Middle School (seventh through eighth grade) and Evergreen Valley High School. Evergreen Elementary School is located 3010 Fowler Road, Chaboya Middle School is located 3276 Cortona Drive, and Evergreen Valley High School is located at 3300 Quimby Road.

Parks: Parks and recreation facilities within the project area are provided by the City of San José. The closest park facility to the project site is Evergreen Village Duck Pond, immediately adjacent to the west of the project site. Other park facilities in the vicinity of the project include, but are not limited to, Vinifera Parklet, Vineyard Parklet, Michelangelo Park, Montelena Park, and Dante Park.

Libraries: The City of San José is served by the San José Public Library System. The San José Public Library System consists of one main library (Dr. Martin Luther King Jr.) and 24 branch libraries. The nearest public library is Evergreen Village Square Branch Library, approximately 150 feet east of the project site.

⁴⁰ EdData Education Data Partnership, Accessed February 16, 2022. Available at: <http://www.ed-data.org/>.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
15. PUBLIC SERVICES. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:					
a) Fire protection?			X		1, 2
b) Police protection?			X		1, 2
c) Schools?			X		1, 2
d) Parks?			X		1, 2
e) Other public facilities?			X		1, 2

Explanation

- a) **Less Than Significant Impact.** The project proposes to develop the now vacant site with 16 new townhome units in three new tree-story buildings, which would intensify the use of the site and generate additional occupants in the area. This would result in an incremental increase in the demand for fire protection services. The project site, however, is currently served by the SJFD and the amount of proposed development represents a small fraction of the total population in the City. The project would not preclude the SJFD from meeting their service goals and would not require the construction of new or expanded fire facilities. In addition, the proposed townhome project would be constructed in accordance with current building and Fire codes and would be required to be maintained in accordance with applicable City policies to promote public and property safety. Therefore, the proposed residential development would not significantly impact fire protection services or require the construction of new or remodeled facilities.
- b) **Less Than Significant Impact.** The project proposes to develop the site, which would intensify the use of the site and generate additional occupants in the area. This would result in an incremental increase in the demand for police protection services. The project site, however, is currently served by the SJPD and the amount of proposed development represents a small fraction of the total population in the City. The project would not preclude the SJPD from meeting their service goals and would not require the construction of new or expanded police facilities. In addition, the proposed project would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies to promote public and property safety. Therefore, the proposed project would not significantly impact police protection services or require the construction of new or remodeled facilities.

- c) **Less Than Significant Impact.** The proposed residential development would generate additional new students. The project would be subject to school impact fee to accommodate the incremental demand on school services, including the state-mandated school district impact fee, to compensate for any impacts to school services.
- d) **Less Than Significant Impact.** The proposed project would generate some additional park users. While future occupants of the site may utilize nearby parks, they are unlikely to place a major physical burden on these facilities. The City's Parkland Dedication Ordinance and Park Impact Ordinance require residential developers to dedicate public park land or pay in-lieu fees (or both) to compensate for the increase in demand for neighborhood parks.
- e) **Less Than Significant Impact.** The proposed residential development could have an incremental increase in the demand for other public services, including library services. The additional ± 50 residents generated by the project would be negligible and would not substantially increase demand on library services. This represents a less than significant impact.

Conclusion: The project would have a less than significant impact on public services.

P. RECREATION

Regulatory Framework

State

Assembly Bill 1191 and 1359 – Quimby Act

The Quimby Act, which is within the Subdivision Map Act, authorizes the legislative body of a city or county to require the dedication of land or impose fees for park or recreational purposes as a condition to the approval of a tentative or parcel subdivision map, if specified requirements are met. On September 8th, 2015 Governor Brown signed the AB 1359, the purpose of which was to amend the existing Quimby Act to authorize local governments to spend Quimby Act funds beyond parks that serve the development from where the funds were sourced. To reallocate the funds in this manner, AB 1359 requires the legislative body to hold a public hearing before using fees as prescribed in the bill.

Subsequently, on September 8th, 2015 Governor Brown signed the AB 1191, the purpose of which was to amend the existing Quimby Act to authorize the legislative bodies of cities and counties to require land dedication or to impose fees for future park or recreational purposes as a required condition of approval of a tentative or parcel subdivision map. AB 1191 also eliminated the requirement for a local municipality to repay any unspent funds accrued through the Quimby Act after a five-year period resulting from such fees.

Local

Parkland Dedication Ordinance and Park Impact Ordinance

The City of San José has adopted the Parkland Dedication Ordinance and Park Impact Ordinance, which require residential developers to dedicate public park land or pay in-lieu fees (or both) to compensate for the increase in demand for neighborhood parks. See *Section O. Public Services* for additional discussion.

Activate SJ Strategic Plan

The Activate SJ Strategic Plan was developed by the City of San José as a replacement to the Greenprint 2009 Plan. The Plan serves as an outline of goals and policies of the City's Department of Parks, Recreation, and Neighborhood Services, and is intended to act as a 20-year strategic plan in alignment with the Envision San José 2040 General Plan. The Activate SJ Strategic Plan will be updated at five-year intervals. The Plan identifies five major guiding principles, Stewardship, Nature, Equity & Access, Identity, and Public Life, to achieve the City's goal of connecting people through parks, recreation, and neighborhood services.

General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating recreation impacts from development projects. Policies applicable to the proposed project are presented below.

Envision San José 2040 Relevant Recreation Policies

Policy	Policy Text
Policy PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
Policy PR-1.2	Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
Policy PR-1.3	Provide 500 square feet per 1,000 population of community center space.
Policy PR-2.4	To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a 3/4 mile radius of the project site that generates the funds.
Policy PR-2.5	Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, dog parks, sport fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.

Existing Setting

The City of San José owns and maintains approximately 3,502 acres of parkland, including neighborhood parks, community parks, and regional parks, for a total of 206 public parks. The City has 50 community centers and over 61 miles of trails. The City's Department of Parks, Recreation, and Neighborhood Services is responsible for development, operation, and maintenance of all City park facilities.

The closest park facility to the project site is Evergreen Village Duck Pond, immediately adjacent to the west of the project site. Other park facilities in the vicinity of the project include, but are not limited to, Vinifera Parklet, Vineyard Parklet, Michelangelo Park, Montelena Park, and Dante Park.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
16. RECREATION. Would the project:					
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?			X		1, 2
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?			X		1, 2

Explanation

- a), b) **Less Than Significant Impact.** The proposed project consists of a Planned Development Rezoning, and Planned Development Permit for the development of 16 residential units with total future population of approximately 47 individuals (based on 2.91 persons per household). This would incrementally increase the demands on nearby recreational facilities. The City of San José has adopted the Parkland Dedication Ordinance and Park Impact Ordinance, which require residential developers to dedicate public park land or pay in-lieu fees (or both) to compensate for the increase in demand for neighborhood parks (refer to *Section O. Public Services*). The project would be required to comply with the City's park ordinances, which would offset impacts to park/recreation facilities.

Conclusion: The project would have a less than significant impact on recreational facilities.

Q. TRANSPORTATION

Regulatory Framework

State

Regional Transportation Plan

The MTC is the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area, including Santa Clara County. MTC is charged with regularly updating the Regional Transportation Plan, a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle, and pedestrian facilities in the region. MTC and ABAG adopted Plan Bay Area 2040 in July 2017, which includes a Regional Transportation Plan to guide regional transportation investment for revenues from federal, state, regional and local sources through 2040.

Senate Bill 743

Senate Bill 743 (SB 743), which became effective September 2013, initiated reforms to the CEQA Guidelines to establish new criteria for determining the significance of transportation impacts that “promote the reduction of greenhouse gas (GHG) emissions, the development of multimodal transportation networks, and a diversity of land uses.” Specifically, SB 743 directs the Governor’s Office of Planning and Research (OPR) to update the CEQA Guidelines to replace automobile delay—as described solely by level of service (LOS) or similar measures of vehicular capacity or traffic congestion—with vehicle miles traveled (VMT) as the recommended metric for determining the significance of transportation impacts. OPR has approved the CEQA Guidelines implementing SB 743.

SB 743 did not authorize OPR to set specific VMT impact thresholds, but it did direct OPR to develop guidelines for jurisdictions to use. CEQA Guidelines Section 15064.3(b)(1) describes factors that might indicate whether a development project’s VMT may be significant or not. Notably, projects that are located within one half mile of transit should be considered to have a less than significant transportation impact based on OPR guidance.

Regional and Local

Final Plan Bay Area 2040

The Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG) adopted the Final Plan Bay Area 2040 in July 2017. The Final Plan Bay Area 2040 is an updated long-range Regional Transportation Plan and Sustainable Communities Strategy for the nine-county San Francisco Bay Area. This plan focuses on the following strategies:

- Forecasting transportation needs through the year 2040.
- Preserving the character of our diverse communities.
- Adapting to the challenges of future population growth.

This effort grew out of the California Sustainable Communities and Climate Protection Act of 2008 (California Senate Bill 375, Steinberg), which requires each of the state’s 18 metropolitan areas – including the Bay Area – to reduce greenhouse gas emissions from cars and light trucks. Plan Bay

Area 2040 is a limited and focused update of the region's previous integrated transportation and land use plan, Plan Bay Area, adopted in 2013.

Santa Clara County Congestion Management Program

In accordance with California Statute (Government Code 65088), Santa Clara County has established a Congestion Management Program (CMP). The intent of the CMP legislation is to develop a comprehensive transportation improvement program among local jurisdictions to reduce traffic congestion and improve land use decision-making and air quality. VTA serves as the Congestion Management Agency (CMA) for Santa Clara County and maintains the County's CMP.

Council Policy 5-1 Transportation Analysis

In alignment with SB 743 and the City's goals in the Envision San José 2040 General Plan, the City has adopted a "Transportation Analysis Policy" (Council Policy 5-1) to replace the former Transportation Level of Service Policy (Council Policy 5-3). The new policy establishes the thresholds for transportation impacts under CEQA based on VMT rather than intersection level of service (LOS). VMT is the total miles of travel by personal motorized vehicles from a project in a day. The intent of this change in policy is to shift the focus of transportation analysis under CEQA from vehicle delay and roadway capacity to a reduction in vehicle emissions and the creation of multimodal networks that support integrated land uses.⁴¹ According to the policy, an employment facility (e.g., office, R & D) or a residential project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average regional VMT per employee, or the existing average citywide or regional per capita VMT respectively. For industrial projects (e.g., warehouse, manufacturing, distribution), the impact would be less than significant if the project VMT is equal to or less than existing average regional per capita VMT per employee. The threshold for a retail project is whether it generates net new regional VMT, as new retail typically redistributes existing trips and miles traveled as opposed to inducing new travel. If a project's VMT does not meet the established thresholds, mitigation measures would be required, where feasible.

The policy may also require preparation of a Local Transportation Analysis (LTA) to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, and site access and circulation. The LTA also addresses CEQA issues related to pedestrian, bicycle access, and transit.

Screening criteria have been established to determine which projects require a detailed VMT analysis. If a project meets the relevant screening criteria, it is considered to have a less than significant VMT impact. Under Policy 5-1, the screening criteria are as follows:

1. Small Infill Projects,
2. Local-Serving Retail,
3. Local-Serving Public Facilities,
4. Transit Supportive Projects in Planned Growth Areas with Low VMT and High-Quality Transit,
5. Restricted Affordable, Transit Supportive Residential Projects in Planned Growth Areas with High Quality Transit, and
6. Transportation Projects that reduce or do not increase VMT.

⁴¹ The new policy took effect on March 29, 2018.

General Plan Policies

Various policies in the City's 2040 General Plan have been adopted for reducing or avoiding impacts related to transportation, as listed in the following table.

Envision San José 2040 Relevant Transportation Policies

Policy	Policy Text
Policy TR-1.1	Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT).
Policy TR-1.2	Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.
Policy TR-1.4	Through the entitlement process for new development, fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities and services that encourage reduced vehicle travel demand.
Policy TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
Policy TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute towards transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.
Policy TR-5.3	Development projects' effects on the transportation network will be evaluated during the entitlement process and will be required to fund or construct improvements in proportion to their impacts on the transportation system. Improvements will prioritize multimodal improvements that reduce VMT over automobile network improvements. <ul style="list-style-type: none">• Downtown. Downtown San José exemplifies low-VMT with integrated land use and transportation development. In recognition of the unique position of the Downtown as the transit hub of Santa Clara County, and as the center for financial, business, institutional and cultural activities, Downtown projects shall support the long-term development of a world class urban transportation network.
Policy TR-8.4	Discourage, as part of the entitlement process, the provision of parking spaces significantly above the number of spaces required by code for a given use.
Policy TR-9.1	Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.

Existing Setting

Roadway System

The project site is located at the corner of Ruby and Classico Avenues, within the boundaries of the Evergreen-East Hills Development Policy. The roadway network in the project area is summarized below.

U.S. 101, which extends north-south through California, is the primary freeway providing access to the project area. In the City of San Jose, U.S. 101 is generally four lanes in each direction. The nearest interchanges are located at Capitol Expressway and Yerba Buena Road.

Capitol Expressway is limited-access roadway that extends from State Route 87 to Interstate 680. It is generally four lanes in each direction. It provides access to the project site via Aborn Road.

Ruby Avenue is a north-south collector that extends through the Evergreen area of San Jose. In the project vicinity, it is a four-lane facility north of Aborn Road and a two-lane facility south of Aborn Road.

Classico Avenue is a collector that extends east-west through the Evergreen area of San Jose. In the project vicinity, it is a two-lane facility south of Ruby Avenue.

Public Transit

The Santa Clara Valley Transportation Authority (VTA) operates a bus and light rail transit (LRT) system in Santa Clara County. The nearest bus line to the project site is Line 39, which extends along Ruby Avenue. The Ruby & Evergreen Village Square bus stop for Line 39 is located about 20 feet from the proposed project site. This line travels between The Villages on San Felipe Road and the Eastridge Transit Center. Currently, no rail service is available within the Evergreen-East Hills area. VTA is planning to extend light rail transit service to the area as part of its Eastridge to BART Regional Connector Project (formerly the Capitol Expressway Light Rail Project).⁴²

Bicycle and Pedestrian Facilities

Bicycle facilities consist of on-street Class I bikeways (shared-use paths) along Evergreen Village Duck Pond. Pedestrian facilities in the project area include sidewalks along both sides of Ruby Avenue and Classico Avenue and the shared-use paths around Evergreen Village Duck Pond.

⁴² Valley Transit Authority, Eastridge to BART Regional Connector, Available at: <https://www.vta.org/projects/eastridge-bart-regional-connector>

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
17. TRANSPORTATION. Would the project:					
a) Conflict with program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?			X		1, 2, 3
b) Would the project conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?			X		1, 2, 3
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?			X		1, 2
d) Result in inadequate emergency access?			X		1, 2

Explanation

a) **Less Than Significant Impact.** Due to the small size of the project (16 townhomes), a local transportation analysis (LTA) was not required by the City Department of Public Works to analyze operational transportation issues. The City will review the project design plans for vehicle, bicycle, and pedestrian access as well as access to public transportation for consistency with the General Plan Policies and design guidelines. Therefore, the project would not conflict with program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities. This represents a less than significant impact.

b) **Less Than Significant Impact.** SB 743, which was codified in PRC Section 21099, required changes to the CEQA Guidelines regarding the analysis of transportation impacts. Pursuant to Section 21099, the criteria for determining the significance of transportation impacts must “promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses.” As a result, the Governor’s Office of Planning and Research (OPR) proposed changes to the CEQA Guidelines that identify vehicle miles traveled (VMT) as the most appropriate metric to evaluate a project’s transportation impacts. VMT refers to the amount and distance of automobile travel attributable to a project.

In 2018, OPR released a technical advisory containing the recommendations regarding the assessment of VMT (OPR Technical Advisory on Evaluating Transportation Impacts in CEQA, December 2018). The technical advisory provides recommendations for assessing VMT and significance thresholds for residential, office, retail, and transportation projects. As noted in the advisory, agencies are directed to choose metrics that are appropriate for their jurisdiction to evaluate the potential impacts of a project in terms of VMT. The change to VMT was formally adopted as part of updates to the CEQA Guidelines on December 28, 2018. The deadline for adopting policies to implement SB 743 and the provisions of CEQA Guidelines Section 15064.3(b) was July 1, 2020. The OPR Technical Advisory offers recommendations to screen affordable housing, indicating that it is presumed to have a less than significant transportation VMT impact for a 100 percent affordable residential

development (or the residential component of a mixed-use development). Lead agencies may develop their own presumption of a less than significant impact for residential projects (or residential portions of mixed-use projects) containing a particular amount of affordable housing, based on local circumstances and evidence.⁴³ Due to the location and small size of the project, a VMT analysis is not required by the City.

- c) **Less than Significant Impact.** The project would not substantially increase hazards due to a geometric design feature or incompatible uses. During the development review process, vehicle circulation on the project site is reviewed by City staff to assure that the project complies with the City's regulations and policies.
- d) **Less than Significant Impact.** The City of San José Fire Department requires that all portions of the building be within 150 feet of a fire department access road and requires a minimum of 6 feet clearance from the property line along all sides of the building. The project would be required to meet these emergency vehicle access (EVA) requirements.

Conclusion: The project would have a less than significant impact on transportation.

⁴³ <https://opr.ca.gov/ceqa/sb-743/faq.html#housing-projects>

R. TRIBAL CULTURAL RESOURCES

Regulatory Framework

State

Assembly Bill 52

Assembly Bill (AB) 52, effective July of 2015, established a new category of resources for consideration by public agencies when approving discretionary projects under CEQA, called Tribal Cultural Resources (TCRs). AB 52 requires lead agencies to provide notice of projects to tribes that are traditionally and culturally affiliated with the geographic area if they have requested to be notified. Where a project may have a significant impact on a tribal cultural resource, consultation is required until the parties agree to measures to mitigate or avoid a significant effect on a tribal cultural resource or when it is concluded that mutual agreement cannot be reached. Under AB 52, TCRs are defined as follows:

- Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are also either:
 - Included or determined to be eligible for inclusion in the California Register of Historic Resources,⁴⁴ or
 - Included in a local register of historical resources as defined in Public Resources Code Section 5020.1(k).
- Resources determined by the lead agency to be TCRs.

AB 52 notification and consultation applies to projects for which a Notice of Intent or Notice of Availability is issued after the effective date of AB 52 in 2015. Notification and consultation are not required for projects covered by a prior EIR or Mitigated Negative Declaration (MND) that either predates AB 52 or that has already complied with AB 52.

Native American Heritage Commission

The Native American Heritage Commission (NAHC) was created by statute in 1976, is a nine-member body appointed by the Governor to identify and catalog cultural resources (i.e., places of special religious or social significance to Native Americans and known graves and cemeteries of Native Americans on private lands) in California. The Commission is responsible for preserving and ensuring accessibility of sacred sites and burials, the disposition of Native American human remains and burial items, maintaining an inventory of Native American sacred sites located on public lands, and reviewing current administrative and statutory protections related to these sacred sites.

⁴⁴ See Public Resources Code section 5024.1. The State Historical Resources Commission oversees the administration of the CRHR and is a nine-member state review board that is appointed by the Governor, with responsibilities for the identification, registration, and preservation of California's cultural heritage. The CRHR "shall include historical resources determined by the commission, according adopted procedures, to be significant and to meet the criteria in subdivision (c) (Public Resources Code, Section 5024.1 (a)(b)).

General Plan

The Envision San José 2040 General Plan includes the following tribal cultural resource policies applicable to the Proposed Project:

Envision San José 2040 Relevant Tribal Cultural Resources Policies

Policy	Policy Text
Policy ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
Policy ER-10.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced
Policy ER-10.3	Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

Environmental Setting

Assembly Bill (AB) 52, effective July of 2015, established a new category of resources for consideration by public agencies when approving discretionary projects under CEQA, called Tribal Cultural Resources (TCRs). AB 52 requires lead agencies to provide notice of projects to tribes that are traditionally and culturally affiliated with the geographic area if they have requested to be notified. See additional discussion under “Regulatory Framework” above.

On March 21, 2022, the City sent AB 52 notifications to the local tribes to solicit interest in consulting on the project. No responses were received.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
18. TRIBAL CULTURAL RESOURCES. Would the project:					
a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and, and that is: i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k), or ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.			X		1, 2

Explanation

- a) i, ii **Less Than Significant Impact.** Tribal cultural resources consider the value of a resource to tribal cultural tradition, heritage, and identity, in order to establish potential mitigation and to recognize that California Native American tribes have expertise concerning their tribal history and practices. No tribal cultural resources have been listed or determined eligible for listing in the California Register or a local register of historical resources.

AB 52 requires lead agencies to conduct formal consultations with California Native American tribes during the CEQA process to identify tribal cultural resources that may be subject to significant impacts by a project. Where a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. This consultation requirement applies only if the tribes have sent written requests for notification of projects to the lead agency. At the time of preparation of this Initial Study, no Native American tribes have sent written requests for notification of projects to the City of San José except for those in Coyote Valley (approximately 11 miles south of the site) and downtown San José (about 7.7 miles west of the site). In addition, the City sent out referral and consultation requests to all applicable tribal representatives for the project on March 21, 2022 and did not receive any consultation requests.

Conclusion: The project would have a less than significant impact on tribal resources.

S. UTILITIES AND SERVICE SYSTEMS

Regulatory Framework

State

Assembly Bill 939

California AB 939 established the California Integrated Waste Management Board (CalRecycle), which required all California counties to prepare Integrated Waste Management Plans. In addition, AB 939 required all municipalities to divert 50 percent of their waste stream by the year 2000.

Assembly Bill 341 (2011)

California AB 341 sets forth the requirements of the statewide mandatory commercial recycling program for businesses that generate four or more cubic yards of commercial solid waste per week and multi-family dwellings with five or more units in California. AB 341 sets a statewide goal for 75 percent disposal reduction by the year 2020.

Assembly Bill 1826 (2014)

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

Senate Bill 1383 (2016)

SB 1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025. The bill grants CalRecycle the regulatory authority required to achieve the organic waste disposal reduction targets and establishes an additional target that at least 20 percent of currently disposed edible food is recovered for human consumption by 2025.

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

In January 2017, California adopted the most recent version of the California Green Building Standards Code, which establishes mandatory green building standards for new and remodeled structures in California. These standards include a mandatory set of guidelines and more stringent voluntary measures for new construction projects, in order to achieve specific green building performance levels as follows:

- Reduce indoor water use by 20 percent;
- Reduce wastewater by 20 percent;
- Recycling and/or salvaging 65 percent of nonhazardous construction and demolition (“C&D”) debris, or meeting the local construction and demolition waste management

- ordinance, whichever is more stringent (refer to San José-specific CALGreen building code requirements in the local regulatory framework section below); and
- Provide readily accessible areas for recycling by occupant.

Local

San José Zero Waste Strategic Plan/Climate Smart San José

Climate Smart San José provides a comprehensive approach to achieving sustainability through new technology and innovation. The San José Zero Waste Strategic Plan outlines policies to help the City of San José foster a healthier community and achieve its Climate Smart San Jose goals, including 75 percent diversion of waste from the landfill by 2013 and zero waste by 2022. Climate Smart San José also includes ambitious goals for economic growth, environmental sustainability, and enhanced quality of life for San José residents and businesses.

Construction and Demolition Diversion Deposit Program

The Construction and Demolition Diversion Deposit Program (CDDD) requires projects to divert at least 50% of total projected project waste to be refunded the deposit. Permit holders pay this fully refundable deposit upon application for the construction permit with the City if the project is a demolition, alteration, renovation, or a certain type of tenant improvement. The minimum project valuation for a deposit is \$2,000 for an alteration-renovation residential project and \$5,000 for a non-residential project. There is no minimum valuation for a demolition project and no square footage limit for the deposit applicability. The deposit is fully refundable if construction and demolition materials were reused, donated, or recycled at a City-certified processing facility. Reuse and donation require acceptable documentation, such as photographs, estimated weight quantities, and receipts from donations centers stating materials and quantities.

Though not a requirement, the permit holder may want to consider conducting an inventory of the existing building(s), determining the material types and quantities to recover, and salvaging materials during deconstruction.

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

The City of San José requires 75 percent diversion of nonhazardous construction and demolition debris for projects that qualify under CALGreen, which is more stringent than the state requirement of 65 percent (San José Municipal Code Section 9.10.2480).

Council Policy 8-13 Green Building Policy

Council Policy 8-13 “Green Building Policy” for private sector new construction encourages building owners, architects, developers, and contractors to incorporate sustainable building goals early in the building design process. This policy establishes baseline green building standards for new private construction projects and provides a framework for the implementation of these standards. The Policy is also intended to enhance the public health, safety, and welfare of the City’s residents, workers, and visitors by encouraging design, construction, and maintenance practices that minimize the use and waste of energy, water, and other resources in the City.

General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating utilities and service system impacts from development projects. Policies applicable to the proposed project are presented below.

Envision San José 2040 Relevant Utilities and Service System Policies

Policy	Policy Text
Policy MS-1.4	Foster awareness in San José's business and residential communities of the economic and environmental benefits of green building practices. Encourage design and construction of environmentally responsible commercial and residential buildings that are also operated and maintained to reduce waste, conserve water, and meet other environmental objectives.
Policy MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.
Policy MS-3.2	Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply as building codes permit. For example, promote the use of captured rainwater, graywater, or recycled water as the preferred source for non-potable water needs such as irrigation and building cooling, consistent with Building Codes and other regulations.
Policy MS-3.3	Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.
Policy MS-19.3	Expand the use of recycled water to benefit the community and the environment.
Policy MS-19.4	Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.
Action EC-5.16	Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.
Policy IN-3.3	Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.
Policy IN-3.5	Require development which will have the potential to reduce downstream LOS to lower than "D", or development which would be served by downstream lines already operating at a LOS lower than "D", to provide mitigation measures to improve the LOS to "D" or better, either acting independently or jointly with other developments in the same area or in coordination with the City's Sanitary Sewer Capital Improvement Program.
Policy IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
Policy IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.
Policy IN-3.10	Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES) permit.

Existing Setting

Utilities and services are furnished to the project site by the following providers:

- Wastewater Treatment: treatment and disposal provided by the San José/Santa Clara Water Regional Wastewater Facility (RWF); sanitary sewer lines maintained by the City of San José
- Water Service: San José Municipal Water System
- Storm Drainage: City of San José
- Solid Waste: Garden City Sanitation (solid waste), California Waste Solutions (recycling), and GreenWaste Recovery (yard trimmings)
- Natural Gas & Electricity: San Jose Clean Energy and PG&E

Existing Water Supply

Water service to the project site is provided by San José Municipal Water System (SJMWS), which is owned and operated by the City of San José. SJMWS provides Evergreen area customers with treated surface water, acquired via a purchase agreement with Valley Water. This source water is primarily imported from the South Bay Aqueduct, Lake Del Valle, and San Luis Reservoir. Local surface water reservoirs also utilized for this supply include the Anderson Reservoir and Calero Reservoir. Water from these reservoirs is pumped to the Santa Teresa Water Treatment Plan in San José prior to delivery to customers.⁴⁵

Recycled Water

South Bay Water Recycling (SBWR) has been serving Silicon Valley communities since 1993. In 1997, SJWC entered into a Wholesaler-Retailer Agreement with the City of San José to provide recycled water to SJMWS's existing and new customers near SBWR recycling water distribution facilities. In accordance with the terms of this agreement, SJMWS allowed SBWR to construct recycled water pipelines in its service area. SBWR pipelines are located beneath Ruby Avenue and Classico Avenue within the vicinity of the project. However, eligibility for SBWR water supplies is limited to commercial operations – the proposed residential development would not be eligible for SBWR recycled water supplies.⁴⁶

Wastewater/Sanitary Sewer System

The City's sanitary sewer/wastewater treatment system has two distinct components: 1) a network of sewer mains/pipes that conveys effluent from its source to the treatment plant; and 2) the water pollution control plant that treats the effluent, including a system of mains/pipes that transports a portion of the treated wastewater for non-potable uses (e.g., irrigation of landscaping, agricultural irrigation, dust suppression during construction, etc.).

Sanitary sewer lines in the project area are owned and maintained by the City of San José. Wastewater generated on sites adjacent the project site is discharged to the existing 18-inch vitrified

⁴⁵ San José, City of, Water Supply. Available at: [sanjoseca.gov/your-government/environment/water-utilities/drinking-water/water-supply](https://www.sanjoseca.gov/your-government/environment/water-utilities/drinking-water/water-supply)

⁴⁶ San José, City of, Recycled Water. Available at: <https://www.sanjoseca.gov/your-government/environment/water-utilities/recycled-water>

clay pipe (VCP) sanitary sewer line located in Ruby Avenue and a six-inch vitrified clay pipe located in Classico Avenue. The proposed development would include the construction of new wastewater laterals to connect to this existing wastewater infrastructure.

Wastewater treatment service for the project area is provided by the City of San José through the San José-Santa Clara Regional Wastewater Facility (RWF). The RWF is located in Alviso and serves over 1,500,000 people in San José, Santa Clara, Milpitas, Campbell, Cupertino, Los Gatos, Saratoga, and Monte Sereno. The RWF treats approximately 110 million gallons per day (mgd) of sewage during dry weather flow, and has a capacity of 167 mgd.⁴⁷ The City of San José generates approximately 69.8 mgd of dry weather average flow.⁴⁸ Fresh water flow from the RWF is discharged to the South San Francisco Bay or delivered to the South Bay Water Recycling Project for distribution.

Existing Solid Waste Disposal System

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California Integrated Waste Management Board (CIWMB) in 1996 and was reviewed in 2004, 2007, 2011, and 2016. Each jurisdiction in the county has a diversion requirement of 50 percent for 2000 and each year thereafter. Each jurisdiction in the County has a landfill diversion requirement of 50 percent per year. According to the IWMP, the County has adequate disposal capacity beyond 2030.⁴⁹ In 2019, there were approximately 600,000 tons of material generated in San Jose that was disposed in various landfills throughout the State. Newby Island, however, only received approximately 290,000 of that tonnage.

Electricity and Natural Gas

SJCE is the electricity provider for residents and businesses in the City of San José. SJCE sources electricity, and PG&E delivers it to customers using existing PG&E utility lines. SJCE buys its power from a number of suppliers. Sources of renewable and carbon-free power include California wind, solar, and geothermal; Colorado wind; and hydroelectric power from the Pacific Northwest. SJCE customers are automatically enrolled in the GreenSource program, which provides 80 percent GHG emission-free electricity. Customers can enroll in the TotalGreen program through SJCE and receive 100 percent GHG-free electricity from entirely renewable resources. It is assumed that, once operational, the project would utilize SJCE.

PG&E also furnishes natural gas for residential, commercial, industrial, and municipal uses. In 2018, natural gas facilities provided 15 percent of PG&E's electricity delivered to retail customers; nuclear plants provided 34 percent; hydroelectric operations provided 13 percent; renewable energy facilities including solar, geothermal, and biomass provided 39 percent, and two percent was unspecified.⁵⁰

Total energy usage in California was approximately 7,881 trillion Btu in the year 2017, the most recent year for which this data was available. In 2017, California was ranked second in total energy consumption in the nation, and 48th in energy consumption per capita. The breakdown by sector was

⁴⁷ City of San José. "San José/Santa Clara Regional Wastewater Facility." Accessed April 29, 2020. <https://www.sanjoseca.gov/your-government/environment/water-utilities/regional-wastewater-facility>.

⁴⁸ City of San José. *Envision San José 2040 General Plan FEIR*. September 2011. Page 648.

⁴⁹ Santa Clara County. *Five-Year CIWMP/RAIWMP Review Report*. June 2016.

⁵⁰ PG&E, Delivering low-emission energy. Available at: https://www.pge.com/en_US/about-pge/environment/what-we-are-doing/clean-energy-solutions/clean-energy-solutions.page

approximately 18 percent (1,416 trillion Btu) for residential uses, 19 percent (1,473 trillion Btu) for commercial uses, 23 percent (1,818 trillion Btu) for industrial uses, and 40 percent (3,175 trillion Btu) for transportation. This energy is mainly supplied by natural gas, petroleum, nuclear electric power, and hydroelectric power.

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
19. UTILITIES AND SERVICE SYSTEMS. Would the project:					
a) Require or result in the relocation or construction of new or expanded water, or wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?			X		1, 2
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?			X		1, 2
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?			X		1, 2
d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?			X		1, 2
e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?			X		1, 2

Explanation

- a) **Less Than Significant Impact.** The project would incrementally increase demands on utility services. Given the small scale of the project (16 residential units), the increase in utility demand is expected to be minor.

Water service to the site would be supplied by the City of San José. The City of San José owns and maintains the sanitary sewer drain system in the project area. Existing 18" sewer mains extend along Ruby Avenue and 6" sewer mains extend along Classico Avenue in the vicinity of the project. The development on APN 659-84-093 would involve construction of a new sanitary sewer main to connect to the existing sewer main on Ruby Avenue. The development on APN 659-57-015 would involve construction of a new sanitary sewer main to connect with the existing sewer main on Classico Avenue. These new sewer mains would tie into the City's existing sewer mains described above.

As described in *Section J. Hydrology and Water Quality*, the project would not significantly impact storm drainage facilities. The development on APN 659-57-015 is proposing a storm lateral connection to the existing 72" storm main on Classico Avenue. The development on

APN 659-84-093 is proposing a storm drain connection to the existing 36" storm pipe that drains into the Vineyard Park Lake. While the project would result in an increase in the amount of impervious surfaces on the site, the resulting increase in runoff from the site would be managed and treated in accordance with City policies, which includes implementation of a stormwater control plan.

As described in *Section F. Energy*, the project would have a less than significant impact related to natural gas and electricity use (among other energy sources). The provision/relocation of telecommunication facilities would be coordinated between the project applicant and telecommunication provider and no significant environmental effects are anticipated as a result of this infill project.

For the reasons presented above, the project is not expected to require or result in the relocation or construction of new or expanded water, wastewater treatment, storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects.

- b) **Less Than Significant Impact.** As described above, the project site would be served by SJMWS. SJMWS would confirm that adequate local and imported water supplies are available to serve proposed residential development (during normal, dry and multiple dry years).⁵¹
- c) **Less Than Significant Impact.** Wastewater from the City of San José is treated at the RWF. The RWF has the capacity to provide tertiary treatment of up to 167 million gallons of wastewater per day (mgd) but is limited to a 120 mgd dry weather effluent flow by the State and Regional Water Quality Control Boards. Based on the General Plan EIR, the City's average dry weather flow is approximately 69.8 million gallons per day and the City's capacity allocation is approximately 108.6 mgd, leaving the City with approximately 38.8 mgd of excess treatment capacity. Given the relatively small scale of the proposed project (16 units), it is not expected to exceed the City's allocated capacity at the RWF; therefore, development of the project would have a less than significant impact on wastewater treatment capacity.
- d) **Less Than Significant Impact.** The project would not generate substantial solid waste that would adversely affect any landfills. The proposed development of 16 residential units would not generate substantial waste. In addition, the increase in solid waste generation from development of the project would be avoided through implementation of the City's Zero Waste Strategic Plan, which set a goal of 75 percent waste diversion by 2013 and zero waste by 2022. The Waste Strategic Plan in combination with existing regulations and programs, would ensure that the project would not result in significant impacts on solid waste generation, disposal capacity, or otherwise impair the attainment of solid waste reduction goals. Furthermore, with the implementation of City policies to reduce waste the project would comply with all federal, state, and local statutes and regulations related to solid waste.
- e) **Less Than Significant Impact.** Final project design would be required to comply with all federal, State, and local statutes and regulations related to solid waste disposal.

Conclusion: The project would have a less than significant impact on utilities and service systems.

⁵¹ San José, City of, Water Supply, Available at: <https://www.sanjoseca.gov/your-government/environment/water-utilities/drinking-water/water-supply>

T. WILDFIRE

Regulatory Framework

State

Public Resources Code Section 4201 – 4204

Sections 4201 through 4204 of the California Public Resources Code direct Cal Fire to map Fire Hazard Severity Zones (FHSZ) within State Responsibility Areas (SRA), based on relevant factors such as fuels, terrain, and weather. Mitigation strategies and building code requirements to reduce wildland fire risks to buildings within SRAs are based on these zone designations.

Government Code Section 51175 – 51189

Sections 51175 through 51189 of the California Government Code directs Cal Fire to recommend FHSZs within Local Responsibility Areas (LRA). Local agencies are required to designate VHFHSZs in their jurisdiction within 120 days of receiving recommendations from Cal Fire, and may include additional areas not identified by Cal Fire as VHFHSZs.

California Fire Code

The California Fire Code establishes the requirements for development within wildland-urban interface areas, including regulations for wildfire protection building construction, hazardous vegetation and fuel management, and defensible space maintained around buildings and structures.

Local

General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating wildfire impacts from development projects. Relevant policies applicable to the project are presented below.

Envision San José 2040 Relevant Wildfire Policies

Policy	Policy Text
Policy EC-8.1	Minimize development in very high fire hazard zone areas. Plan and construct permitted development so as to reduce exposure to fire hazards and to facilitate fire suppression efforts in the event of a wildfire.
Policy EC-8.2	Avoid actions which increase fire risk, such as increasing public access roads in very high fire hazard areas, because of the great environmental damage and economic loss associated with a large wildfire.
Policy EC-8.3	For development proposed on parcels located within a very high fire hazard severity zone or wildland-urban interface area, implement requirements for building materials and assemblies to provide a reasonable level of exterior wildfire exposure protection in accordance with City-adopted requirements in the California Building Code.
Policy EC-8.4	Require use of defensible space vegetation management best practices to protect structures at and near the urban/wildland interface.

Existing Setting

The project site, located in an urbanized part of the City, is surrounded by industrial development and commercial development, and is not located within a Very-High Fire Hazard Severity Zone (VHFHSZ) for wildland fires, as designated by the California Department of Forestry and Fire Protection (Cal Fire, Fire Hazard Severity Maps, 2007, 2008).

Impacts and Mitigation

ENVIRONMENTAL IMPACTS		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
20.	WILDFIRE. If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:					
a)	Substantially impair an adopted emergency response plan or emergency evacuation plan?			X		1, 2, 3
b)	Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?			X		1, 2, 15
c)	Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?			X		1, 2, 15
d)	Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?			X		1, 2, 15

Explanation

- a) **Less Than Significant Impact.** The project would not substantially impair an adopted emergency response plan or emergency evacuation plan. As stated above in *Section J. Hazards and Hazardous Materials*, the project would not create any barriers to emergency or other vehicle movement in the area and final design would incorporate all Fire Code requirements.
- b) **Less Than Significant Impact.** The project would not exacerbate wildfire risks due to slope, prevailing winds, and other factors due to the project's urbanized location away from natural areas susceptible to wildfire. The project site is not located within an area of moderate, high, or very high Fire Hazard Severity for the Local Responsibility Area nor does it contain any areas of moderate, high, or very high Fire Hazard Severity for the State Responsibility Area.
- c) **Less Than Significant Impact.** Due to the project's urbanized location and lack of interface with any natural areas susceptible to wildfire, the project would not require the installation or maintenance of associated fire suppression or related infrastructure.

- d) **Less Than Significant Impact.** See above discussion. The project would not expose people or structures to significant wildfire risks given its highly urban location away from natural areas susceptible to wildfire.

Conclusion: The project would result in a less than significant impact related to wildfire.

U. MANDATORY FINDINGS OF SIGNIFICANCE

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
21. MANDATORY FINDINGS OF SIGNIFICANCE.					
a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?		X			1-17
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?			X		1-17
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?		X			1-17

Explanation

- a) **Less Than Significant Impact with Mitigation Incorporated.** Based on the analysis provided in this Initial Study, the proposed project would not substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory.

The project may impact archaeological cultural resources in the event that buried archaeological resources are uncovered. In addition, project may result in potential impacts to biological resources (nesting birds and burrowing owls) if present. Mitigation measures and standard permit conditions are identified for potential impacts of the project on archaeological resources and on biological resources, including special status species (nesting birds and burrowing owls), to reduce these effects to less than significant.

- b) **Less Than Significant Impact.** Under Section 15065(a)(3) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has potential environmental effects “that are individually limited, but cumulatively considerable.” As defined in Section 15065(a)(3) of the CEQA Guidelines, cumulatively considerable means “that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.”

With the implementation of measures in accordance with the City’s General Plan and Municipal Code and other applicable plans, policies, regulations, and ordinances,

development of the proposed 16 residential units would not result in significant cumulative impacts. In addition, the project would not impact agricultural and forest resources or mineral resources; therefore, the project would not contribute to a significant cumulative impact on these resources.

- c) **Less Than Significant Impact with Mitigation Incorporated.** Based on the analysis provided in this Initial Study, the proposed project would not result in environmental effects that would cause substantial adverse effects on human beings, either directly or indirectly, with implementation of identified mitigation measures and standard permit conditions. See a) above.

Conclusion: The project would have a less than significant impact on the CEQA mandatory findings of significance with the incorporation of mitigation measures, standard permit conditions, and General Plan policies identified in this document.

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Chapter 4. References

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BIBLIOGRAPHY

Association of Bay Area Governments and Metropolitan Transportation Commission. Project Mapper.
Available at: <http://projectmapper.planbayarea.org/>

Bay Area Air Quality Management District, *Bay Area Emissions Inventory Summary Report: Greenhouse Gases*, Updated January 2015. Available at:
https://www.baaqmd.gov/~media/Files/Planning%20and%20Research/Emission%20Inventory/BY2011_GHGSummary.ashx?la=en&la=en

Bay Area Air Quality Management District, *BAAQMD CEQA Guidelines*, revised May 2017.

Bay Area Air Quality Management District, *Bay Area 2017 Clean Air Plan: Spare the Air, Cool the Climate*, April 2017.

California Air Resources Board, Current California GHG Emission Inventory Data, Accessed March 2021, Available at: <https://ww2.arb.ca.gov/ghg-inventory-data>

California Department of Conservation, *Santa Clara County Important Farmlands Map*, accessed online.

California Department of Finance, E-5 Population and Housing Estimates for Cities, Counties, and the State, 2011-2020 with 2010 Census Benchmark, Accessed March 2022, Available at: <https://www.dof.ca.gov/Forecasting/Demographics/Estimates/e-5/>

- California Department of Housing and Community Development. “Regional Housing Needs Allocation and Housing Elements” Accessed March 2022. <https://www.hcd.ca.gov/community-development/rhna/index.shtml>
- California Department of Tax and Fee Administration. “Net Taxable Gasoline Gallons.” Accessed March 2022. <https://www.cdtfa.ca.gov/dataportal/dataset.htm?url=VehicleTaxableFuelDist>.
- California Department of Water Resources, California Dam Breach Inundation Maps, Accessed March 2022, Available at: https://fmds.water.ca.gov/webgis/?appid=dam_prototype_v2
- California Department of Toxic Substances Control. EnviroStor: Hazardous Waste and Substances Site List (Cortese). Available at: https://www.envirostor.dtsc.ca.gov/public/search?cmd=search&reporttype=CORTESE&site_type=CSITES,FUDS&status=ACT,BKLG,COM&reporttitle=HAZARDOUS+WASTE+AND+SUBSTANCES+SITE+LIST+%28CORTESE%29
- California Department of Water Resources, Sustainable Groundwater Management Act Map Viewer. Accessed March 2022, Available at: <https://sgma.water.ca.gov/webgis/?appid=SGMADataViewer#gwlevels>
- California Energy Commission. 2016 Building Energy Efficiency Standards for Residential and Nonresidential Buildings. 2013.
- California Energy Commission. Energy Consumption Data Management System. “Electricity Consumption by County.” Accessed March 2022. <http://ecdms.energy.ca.gov/elecbycounty.aspx>.
- California Energy Commission. “Natural Gas Consumption by County.” Accessed March 2022. <http://ecdms.energy.ca.gov/gasbycounty.aspx>.
- CalFire, Fire Hazard Severity Maps, 2007 & 2008.
- California Gas and Electric Utilities. 2019 *California Gas Report*. Accessed March 2022. https://www.socalgas.com/regulatory/documents/cgr/2019_CGR_Supplement_7-1-19.pdf.
- California Geological Service, EQ Zapp: California Earthquake Hazards Zone Application, 2019.
- Charles Mikulik Archaeological Consulting, LLC, *Results of a Historical/Archaeological Review and Assessment for the Proposed Townhome Development at Evergreen Village Square and Classico Avenue, San Jose, Santa Clara County, California*. March 2022.
- Dowding, C.H., Construction Vibrations, Prentice Hall, Upper Saddle River, 1996.
- EdData Education Data Partnership, Accessed February 16, 2022. Available at: <http://www.ed-data.org/>.
- Federal Emergency Management Agency, Flood Insurance Map, Panel # 0259H, Map # 06085C0259H

Google Earth, Accessed February 2022.

IFC International, *Final Santa Clara Valley Habitat Plan*, August 2012.

Illingworth & Rodkin, *Evergreen Village Square Townhome Development Construction Community Risk Assessment*, March 11, 2022.

Illingworth & Rodkin, *Evergreen Village Noise and Vibration Assessment*, March 11, 2022.

Live Oak Associates, Biological Evaluation Letter Report for the Evergreen Village site in the City of San Jose, Santa Clara County, California (PN 2676-01), March 8, 2022.

McCloskey Consultants, *Phase I Environmental Site Assessment, Evergreen Village Square Parcels APNs 659-84-093 and 659-57-015, San Jose, California 95135*, July 26, 2022.

Pacific Gas & Electric (PG&E), Delivering low-emission energy, Accessed March 2022, Available at: https://www.pge.com/en_US/about-pge/environment/what-we-are-doing/clean-energy-solutions/clean-energy-solutions.page

Public Law 110–140—December 19, 2007. Energy Independence & Security Act of 2007. Accessed March 2022. <http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf>.

San José, City of, Private Sector Green Building Policy: Policy Number 6-32. October 7, 2008.

San José, City of, *Norman Y. Mineta San José International Airport Master Plan Update Project: Twelfth Addendum to the Environmental Impact Report*, City of San José Public Project File No. PP 18-059, May 15, 2018.

San José, City of, *Greenhouse Gas Reduction Strategy for the City of San José*, Updated August 2020. Available at: <https://www.sanjoseca.gov/your-government/departments-directory/planning-building-code-enforcement/planning-division/environmental-planning/greenhouse-gas-reduction-strategy>

San José, City of, *San José 2040 Envision San José General Plan*, adopted November 2012 and updated through 2021.

San José, City of, “San José-Santa Clara Regional Wastewater Facility”, Accessed March 2022, Available at: <https://www.sanjoseca.gov/your-government/environment/water-utilities/regional-wastewater-facility>

San José, City of, Water Supply. Accessed March 2022. Available at: <https://www.sanjoseca.gov/your-government/environment/water-utilities/drinking-water/water-supply>

San José, City of, Transportation and Environmental Committee, *Building Reach Code for New Construction Memorandum*, August 2019.

San José, City of, Recycled Water. Available at: <https://www.sanjoseca.gov/your-government/environment/water-utilities/recycled-water>

- Santa Clara, County of, *Reid-Hillview Airport Master Plan*, March 2006. Available at: https://countyairports.sccgov.org/sites/g/files/exjcpb686/files/RHV_Masterplan-complete.pdf
- Santa Clara, County of, Santa Clara County Geologic Hazard Zones, 2012.
- Santa Clara, County of, *Five-Year CIWMP/RAIWMP Review Report*, June 2016.
- Siskind, D.E., M.S. Stagg, J.W. Kopp, and C.H. Dowding, Structure Response and Damage Produced by Ground Vibration from Surface Mine Blasting, RI 8507, Bureau of Mines Report of Investigations, U.S. Department of the Interior Bureau of Mines, Washington, D.C., 1980.
- United States Department of Energy. Energy Independence & Security Act of 2007. Accessed March 2022. <http://www.afdc.energy.gov/laws/eisa>.
- United States Geological Surveys (USGS), Liquefaction Hazard Maps, Northern Santa Clara Valley, Accessed March 2022, Available at: <https://earthquake.usgs.gov/hazards/urban/sfbay/liquefaction/scvalley/>
- United States Environmental Protection Agency (USEPA), Highlights of the Automotive Trends Report, Accessed March 2022, Available at: <https://www.epa.gov/automotive-trends/highlights-automotive-trends-report#:~:text=Preliminary%20data%20suggest%20improvements%20in,0.8%20mpg%20to%2025.7%20mpg>
- United States Environmental Protection Agency, 2020. *Inventory of U.S. Greenhouse Gas Emissions and Sinks 1990-2018*. Web: <https://www.epa.gov/sites/production/files/2020-04/documents/us-ghg-inventory-2020-main-text.pdf>
- United States Geological Surveys (USGS), The National Map Viewer, Accessed March 2022, Available at: <https://www.usgs.gov/core-science-systems/national-geospatial-program/national-map>
- Valley Transit Authority. VTA Transit Map. Available at: <https://www.vta.org/sites/default/files/2019-11/VTA%20Transit%20Map.pdf>
- Valley Transit Authority, Eastridge to BART Regional Connector, Available at: <https://www.vta.org/projects/eastridge-bart-regional-connector>
- Valley Water, *Annual Groundwater Report 2019*, July 2019. Available at: https://www.valleywater.org/sites/default/files/2020-09/2019_Annual_Groundwater_Report_Web_Version.pdf

CHECKLIST SOURCES

1. CEQA Guidelines and professional expertise of consultant
2. Project plan and site review
3. 2040 Envision San José General Plan
4. Santa Clara County Important Farmlands Map
5. BAAQMD 2017 CAP
6. BAAQMD CEQA Guidelines, 2017
7. Air Quality Assessment, 2022
8. Archaeological Report, 2022
9. Santa Clara Valley Habitat Plan, 2012
10. Santa Clara Valley Habitat Agency Geobrowser
11. Biological Evaluation, 2022
12. USGS Liquefaction Maps
13. FEMA Flood Map
14. Noise & Vibration Assessment, 2022
15. Cal Fire, Fire Hazard Severity Maps, 2007 & 2008
16. Greenhouse Gas Compliance Checklist
17. Phase I ESA, 2022

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