650 EAST SANTA CLARA STREET URBAN RESIDENTIAL PROJECT

INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

File No. **SP24-015, T22-024, ER22-033**

Prepared for
City of San José

April 2025

ESA

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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 implementation. "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: 650 East Santa Clara Street Urban Residential Project

PROJECT FILE NUMBERS: SP24-015, T22-024, ER22-033

PROJECT DESCRIPTION: Special Use Permit to allow the demolition of an existing commercial building to construct a new six-story building comprising 50 residential units, approximately 7,012 square feet of retail space, and approximately 7,171 square feet of office space. The new building would include one level of underground parking to provide 60 automobile parking spaces and 21 motorcycle parking spaces. The project provides both private and shared outdoor open space in decks and rooftop areas.

PROJECT LOCATION: 644 East Santa Clara Street, San José, CA 95112

ASSESSORS PARCEL NOS.: 467-27-039 and 467-27-093 **COUNCIL DISTRICT:** 3

APPLICANT CONTACT INFORMATION: HS Santa Clara LLC (Attn: Sophie Xu); 644 E Santa Clara Street, San Jose, California 95112; sophiex@pinnacleredgroup.com; (408) 480-0560

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 supporting 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.

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: Implementation of the proposed Project could result in the disturbance of active bird nests containing eggs or chicks.

Mitigation Measure BIO-1:

1. **Avoidance:** Prior to any site disturbance or issuance of any grading, building or demolition permits (whichever occurs first), the Project applicant shall schedule all 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). Construction activities include any site disturbance such as, but not limited to, tree trimming or removal, demolition, grading, and trenching.
2. **Nesting Bird Surveys:** If construction activities 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 active nests shall be disturbed during construction activities. 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 area for nests.
3. **Buffer Zone:** 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 for raptors and 100 feet for other birds) to ensure that raptor or migratory bird nests shall not be disturbed during Project construction. The no-disturbance buffer shall remain in place until the biologist determines the nest is no longer active or if the nesting season ends. If construction ceases for 14 days or more during the early part of the breeding season (February 1st through April 30th, inclusive) or for 30 days or more during the late part of the breeding season (May 1st through August 31st, inclusive), then resumes again during the nesting season, an additional survey shall be necessary to avoid impacts on active bird nests that may have been established during the pause in construction.
4. **Reporting:** Prior to any site disturbance or the issuance of any grading, building 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 the Department of Planning, Building and Code Enforcement or the Director's designee.

E. CULTURAL RESOURCES:

Impact CR-1: The Project could cause a substantial adverse change in the significance of pre-contact and historic-era archaeological materials and features on site.

Mitigation Measure CR-1.1:

Cultural Resources Awareness Training. Prior to the issuance of any demolition, grading, or building permits, the project applicant shall conduct a Cultural Resources Awareness Training for construction personnel. The training shall be facilitated by a Secretary of the Interior-qualified archaeologist in collaboration with a Native American representative registered with the Native American Heritage Commission for the City of San José that is traditionally and culturally affiliated with the geographic area. Documentation verifying that a Cultural Resources Awareness Training has been conducted shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee.

Mitigation Measure CR-1.2:

Archaeological Testing. Prior to the issuance of any demolition, grading, or building permits, the project applicant shall complete subsurface testing to determine the extent of possible cultural resources in the Project site. All testing shall be completed by a Secretary of the Interior-qualified archaeologist in collaboration with a Native American representative registered with the Native American Heritage Commission for the City of San José that is traditionally and culturally affiliated with the geographic area.

Testing shall be completed according to an established Archaeological Testing Plan, which will be prepared and submitted to the Director of the City of San José Department of Planning, Building and Code Enforcement, or the Director's designee, for review and approval. The Archaeological Testing Plan shall include, at a minimum, the identification of the property types of the expected archaeological resource(s) that could be affected by construction; testing methods to be used (hand excavation, coring, and/or mechanical trenching); and the locations recommended for testing. The purpose of testing shall be to determine the presence or absence of archaeological resources to the extent feasible.

Mitigation Measure CR-1.3:

Archaeological Monitoring. Following testing, the qualified archaeologists may recommend monitoring during construction, if deemed necessary. Monitoring shall be conducted according to an established Archaeological Monitoring Plan, which will be prepared and submitted to the Director of the City of San José Department of Planning, Building and Code Enforcement, or the Director's designee, for review and approval. The Archaeological Monitoring Plan shall include, at a minimum, where monitoring will be completed and under what circumstances based on soil types, geology, distance to known sites, and other factors; person(s) responsible for conducting monitoring activities, including an archaeological monitor and a tribal monitor; schedule for submittal of monitoring logs/reports; and protocol

for notifications in case of encountering cultural resources, as well as methods of dealing with the encountered resources. During the course of the monitoring, the archaeological monitor and tribal monitor may adjust the frequency—from continuous to intermittent—of the monitoring based on the conditions and professional judgment regarding the potential to impact resources.

If any archaeological resources are encountered during testing and/or monitoring, the project applicant shall ensure that all resources are evaluated by a Secretary of the Interior-qualified archaeologist based on California Register of Historical Resources criteria and consistent with the approved plans. If the resource is determined to be significant, the project applicant, in consultation with the Director of the City of San José Department of Planning, Building and Code Enforcement, or the Director's designee shall determine whether preservation in place is feasible. Consistent with CEQA Guidelines Section 15126.4(b)(3), this may be accomplished through planning construction to avoid the resource; incorporating the resource within open space; or capping and covering the resource.

Mitigation Measure CR-1.4:

Archaeological Treatment. If a significant archaeological resource(s) is in the Project site and cannot be avoided, the project applicant, a Secretary of the Interior-qualified archaeologist, the Director of the City of San José Department of Planning, Building and Code Enforcement, or the Director's designee, and a Native American representative registered with the Native American Heritage Commission for the City of San José that is traditionally and culturally affiliated with the geographic area shall determine treatment measures to minimize or mitigate any potential impacts to the resource pursuant to PRC Section 21083.2 and CEQA Guidelines Section 15126.4. This include documentation of the resource and may include data recovery, if deemed appropriate, or other actions such as treating the resource with culturally appropriate dignity and protecting the cultural character and integrity of the resource.

If deemed appropriate, data recovery shall be completed according to an established Archaeological Resources Treatment Plan, which will be prepared and submitted to the Director of the City of San José Department of Planning, Building and Code Enforcement, or the Director's designee, for review and approval. The Archaeological Resources Treatment Plan shall include, at a minimum, the scope of work; the environmental setting; research questions and goals; a detailed field strategy to address research goals; analytical methods; disposition of artifacts; security approaches and protocols; and reporting requirements. Data recovery may include, but is not limited to, backhoe trenching shovel test units, hand auguring, and hand excavation.

Components of the Archaeological Testing Plan, Archaeological Monitoring Plan, and Archaeological Resources Treatment Plan may be combined, as deemed appropriate. All documentation shall be submitted to the Northwest Information Center, the Native American Heritage Commission Sacred Land Files and the Director of Planning, Building, and Code Enforcement or the Director's designee.

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** – The project would not have a significant impact on this resource; therefore, no mitigation is required.

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:**

Impact NOI-1: Construction activities associated with the Project could result in the generation of excessive groundborne vibration exceeding the City's General Plan Policy EC-2.3 construction vibration standards of 0.2 in/sec PPV.

Mitigation Measure NOI-1:
Construction Vibration Reduction and Monitoring Plan. Prior to the issuance of any demolition, grading, or building permits, the Project applicant shall prepare and implement a construction vibration reduction and monitoring plan to be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review. The plan shall include, but not be limited to the following measures:

- Prohibit impact, sonic, or vibratory pile driving methods. Drilled piles cause lower vibration levels where geological conditions permit their use.
- A list of all heavy construction equipment to be used for this Project known to produce high vibration levels (large bulldozer, loaded trucks, jackhammers, etc.) shall be submitted to the City by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort for reducing vibration levels below the threshold of 0.2 in/sec PPV at the nearest residential structures to the Project site when construction takes place within 15 feet of adjacent residential structures.
- Place operating equipment on the construction site as far as possible from vibration-sensitive residential receptors to the east and south. The Project contractor shall avoid using large bulldozers, loaded trucks and other heavy vibration generating equipment within 15 feet of the Project site property line to the east and south, whenever possible.

- Use smaller equipment to minimize vibration levels below the limit, especially for construction activities adjacent to residences.
- Modify or identify alternative construction methods to reduce vibration below the limit.
- Avoid using vibratory rollers and tampers near sensitive areas.
- Avoid dropping heavy objects or materials near property lines shared with sensitive receptors.
- The contractor shall alert heavy equipment operators of the presence of adjacent structures sensitive to vibration (structures within 20 feet of construction activities), so they can exercise caution.
- Notify neighbors within 150 feet of the construction site of the construction schedule and that there could be noticeable vibration levels during Project construction activities.
- Designate a person responsible for registering and investigating claims of excessive vibration. The contact information for this person shall be clearly posted at the construction site.
- The contractor shall retain a qualified firm to conduct a pre- and post-construction cosmetic crack survey of the adjacent residential buildings to the eastern and southern boundaries and shall repair or compensate if damage has occurred due to construction. The surveys shall be submitted to the Director of Planning, Building and Code Enforcement or the designee.

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 / TRAFFIC** – The project would not have a significant impact on this resource; therefore, no mitigation is required.

R. **TRIBAL CULTURAL RESOURCES** – As listed under topic 5. Cultural Resources, above:
Mitigation Measure CR 1.1: Cultural Resources Awareness Training.
Mitigation Measure CR 1.2: Archaeological Testing, Evaluation, and Treatment.

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 proposed Project would implement

the identified mitigation measures and would have either have no impacts or less-than-significant impacts on air quality, hazards and hazardous materials, noise, and Tribal cultural resources. 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 **Friday, May 15, 2025** any person may:

1. Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or

2. Submit written comments regarding the information and analysis in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND.

   Written comments may be submitted via mail to:

   City of San José
   Planning, Building & Code Enforcement
   Attn: Nhu Nguyen, Planner II
   200 East Santa Clara Street
   San José, CA 95113

   Or via email to nhu.nguyen@sanjoseca.gov

Christopher Burton, Director
Planning, Building and Code Enforcement

4/23/25

Date

Deputy

Environmental Project Manager: Nhu Nguyen

Circulation period: April 25, 2025 through May 15, 2025

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ENVIRONMENTAL CHECKLIST

650 East Santa Clara Street Urban Residential Project - Initial Study / Mitigated Negative Declaration

Appendices

Tables

Figures

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1. Background and Project Data

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 650 East Santa Clara Street Urban Residential Project (Project) to the decision makers considering the Project.

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

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
Tower, Third Floor
San José, California 95113
Attn: Nhu Nguyen, Nhu.Nguyen@sanjoseca.gov

This Initial Study and all documents referenced in it are available for public review in 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 (MND) for the Project at a regularly scheduled public hearing. The City shall consider the Initial Study/MND together with any comments received during the 20-calendar-day public review process. Upon adoption of the 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)).

1.1 Project Information

Project Title: 650 East Santa Clara Street Urban Residential Project

Lead Agency Name and Address: City of San José, Department of Planning, Building and Code Enforcement, 200 East Santa Clara Street, San José, CA 95113

Contact Person and Phone Number: Nhu Nguyen, Planner I
408.535.6894
nhu.nguyen@sanjoseca.gov

Project Location: 644 East Santa Clara Street, San José, CA 95112[1]

Project Sponsor's Name and Address:

Frank Chiu
HS Santa Clara LLC
12 South 1st Street, Suite 1108
San José, California 95113

General Plan Designation: Urban Village

Zoning: Commercial General

Summary of Project:

The Project includes demolition and removal of the existing site features and subsequent construction of a new six-story building comprising 50 residential units, approximately 7,012 square feet of retail space, and approximately 7,171 square feet of office space. The new building would include one level of underground parking to provide 60 automobile parking spaces and 21 motorcycle parking spaces. Project provides both private and shared open space areas within the building. Private open space would be provided in a combination of outdoor decks, and a total of approximately 3,968 square feet of shared open space is proposed, in addition to landscaped areas at the rear yard of the building, including a landscaped bioretention area for stormwater control.

Surrounding Land Uses and Setting:

The Project site is located approximately 0.5 miles east of downtown San José. Adjacent properties along East Santa Clara Street contain commercial businesses, with medium-density

[1] The existing building address is 644 East Santa Clara Street. Combined parcels that encompass the Project site are also referenced in various studies as 610-655 East Santa Clara Street. The proposed Project title and proposed address is 650 East Santa Clara Street, as referenced for City Planning Project Number H22-005. The Project is consistently referenced in this CEQA document as 650 East Santa Clara Street, except where specifically referencing the existing structure on the site.

residential uses that make up the established neighborhood immediately south of the site. A 4.1-acre undeveloped property exists diagonally northeast across East Santa Clara Street.

Other public agencies whose approval is required: *(e.g., permits, financing approval, or participation agreement.)*

None.

California Native American Tribes: *Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code section 21080.3.1? If so, is there a plan for consultation that includes, for example, the determination of significance of impacts to tribal cultural resources, procedures regarding confidentiality, etc.?*

During preparation of this CEQA document, the City sent letters to the following Native American tribes who have requested consultation on projects in the City's Sphere of Influence: Ohlone Indian Tribe of the SF Bay Area on August 8, 2022, and the Indian Canyon Band of Costanoan Ohlone People and the Tamien Nation on March 15, 2022. As of publication of this CEQA document, no tribes have responded with request for consultation on the proposed Project.

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2. Project Description

2.1 Project Site and Surroundings

The Project site is located within the city limits of San José, in Santa Clara County, at 650 East Santa Clara Street, approximately 0.5 miles east of downtown San José. See **Figure 2-1, Project Location**.[2]

The 0.45- acre property (19,529 square feet) is at the southwest corner of East Santa Clara Street and South 14th Street. The Project site is comprised of two (2) parcels: Assessor's Parcel Number (APN) 467-27-039 (two lots) and APN 467-27-093. See **Figure 2-2, Existing Project Site Aerial and Parcels**.

The Project site currently contains one existing 13,669 square-foot, two-story commercial office building built in 1946. The building is a "U" shape with the open end and courtyard facing northward onto East Santa Clara Street and includes a surface parking lot in the rear that is accessed from South 14th Street, the east frontage of the Project site.

Adjacent properties along the major thoroughfare, East Santa Clara Street, are also commercial business uses. Directly north of the Project site across East Santa Clara Street is a nine-story mixed use office building with ground-level parking and an adjacent undeveloped lot. Diagonally northeast across East Santa Clara Street is an approximately 4.19-acre undeveloped property with active Planning permit applications for up to 559 units of affordable housing.

The area south of the Project site transitions to a residential neighborhood of one- and two-story homes. Existing mature street trees currently exist along the north and east street frontages of the Project site. See **Figure 2-3, Aerial of Project Site and Surrounding Area**.

2.2 Project Characteristics

Demolition and New Building

The proposed Project involves demolition of the existing building and paved parking area that exist on the Project site. All existing on-site improvements would be demolished or removed.

The Project would construct a new 87,750 gross-square-foot multi-use building fronting East Santa Clara Street and South 14th Street. See **Figure 2-4, Proposed Site Plan**. The new six-story building would include 50 residential units, 7,012 square feet of retail space, approximately 7,171 square feet of office space, and approximately 15,447 square feet of parking, storage, and utility space in a basement level.

The first floor (street level) of the building would include the retail uses. The second floor would include the commercial office uses, 18 residential units, and outdoor amenity space. The third

[2] All referenced figures are included at the end of Section 2 of this document.

through sixth floors would contain the remaining 32 residential units and outdoor space, including outdoor space on a portion of the roof. The basement level would provide parking for 62 automobiles, 21 motorcycles, and areas for storage and utilities. See **Figures 2-5 through 2-12, Building Floor Plans.**

As shown in the Figure 2-4, the new building would front East Santa Clara Street and be built to the two street-adjacent (north and east) property lines and the side (west) property line and set back approximately five feet from the rear (south) property line. See **Figures 2-13 through 2-16, Building Elevations**, which show that the proposed building would have a maximum height of approximately 65 feet from finished grade to the top of the roof, excluding a 14-foot 10-inch elevator/stairway penthouse projection. Building floors one through three would encompass the full floor plate of the building, which would then step back progressively at each level above a private common outdoor space on the third floor and a large private outdoor space on the fourth floor. The building design also provides recessed private deck spaces for certain units on each façade of the building. (Also see *Open Space*, below.) Exterior building materials would include neutral-colored stucco facades with composite panels; dark metal trims, awnings, and roof cornices; aluminum storefronts on the ground floor; and aluminum-trimmed clear glass deck railings. See **Figure 2-17, View toward Northeast Corner of Project**, and **Figure 2-18, View toward Southeast Corner of Project**.

General Plan and Zoning

As established in the *Envision San José 2040 General Plan* and the *East Santa Clara Street Urban Village Plan*, the Project site is within the "Urban Village" land use designation, which allows residential uses in a mixed-use format, specifically, residential and commercial mixed-use projects in one integrated development, mixed vertically or, where a larger site allows, horizontally. The Project site is also within the "CG Commercial General" Zoning District, which allows for a full range of retail and commercial uses with a local or regional market. The Project applicant seeks application of State Assembly Bill (AB) 3194 under the Housing Accountability Act (HAA) for the Project, therefore the City has elected to apply its "Urban Village" Zoning District standards to the Project.

Development Density and Intensity

With 50 dwelling units on the 0.45-acre Project site, the proposed residential density is approximately 111 dwelling units per acre. The Project also represents a 4.2 floor area ratio (FAR), considering the building's total (gross) floor area of 87,750 square feet on the 19,529 square-foot (0.45-acre) Project site.

Parking and Access

Figure 2-6, Basement and Parking Plan, shows the proposed vehicular access to the Project site would be provided via a replacement of the existing driveway from South 14th Street at the southeast corner of the site. In addition, 24 bicycle parking spaces would be provided on the first floor of the building, accessed both from the building lobby and from a building entrance from

South 14th Street. Racks to accommodate four short-term bicycle parking are proposed on the ground level at the southeast corner of the site (see Figure 2-5, referenced below).

Figure 2-5, First Floor Plan (Street Level), shows pedestrian access to the commercial uses on the first and second floors of the building would be provided from the East Santa Clara Street frontage. The primary access to the ground floor residential lobby would be provided from South 14th Street, with secondary pedestrian entrance and egress points provided from the east corners of the building along the interior property line. New sidewalks would be constructed along both street frontages of the Project site, as well as along the rear (south) edge of the building to serve the secondary pedestrian entrances and egress points of the building.

Open Space

The proposed Project provides both private and shared open space areas within the building. Private open space would be provided in individual outdoor decks to 37 of the proposed dwelling units. The private decks would range from 29 to 264 square feet in area in addition to a single 906 square-foot private deck dedicated to one fourth-floor corner unit.

A total of approximately 3,961 square feet of shared open space would be provided for use by building occupants in two separate areas: a 2,642 square-foot shared deck on the third floor and a 1,319 square-foot amenity space on a portion of the roof.

Landscaping and Lighting

The proposed building would be built to the north, east and west property lines and replace existing concrete sidewalks along the street frontages, where new landscaped planters would also be introduced. Landscaping would also encompass the rear area of the site, between the (south) property line and the newly paved walkway abutting the south wall of the building. A new five-foot-tall concrete wall would be constructed on the south property line. As shown in **Figure 2-19, Landscape and Bioretention Plan**, adjacent to the wall would be an approximately five-foot-wide landscaped buffer strip spanning the width of the Project site. Abutting the landscaped strip would be an approximately 10-foot-wide linear landscaped bioretention area with flow-through planters spanning the width of the site and that would be one of the primary treatment measures implementing the Project's stormwater control plan.

There are six existing ordinance-sized street trees along the Project frontage: four along East Santa Clara Street that would be retained, and two along South 14th Street, one of which that would be retained and one that would remove to accommodate the new driveway to the Project. A new street tree would be planted in a new planter aligned with the retained tree on South 14th Street and in a location approximately 15 feet north of the tree to be removed. See Figure 2-19.

Exterior lighting for the residential units, commercial areas, parking garage, walkways, and other outdoor areas is proposed for security and access. Lighting is also proposed for the third-floor shared deck and the rooftop amenity space. All exterior lighting would conform to the City

Council's Outdoor Lighting on Private Development Policy (City Council Policy 4-3) and Zoning Ordinance lighting requirements under Municipal Code Section 20.40.530 and 20.40.540.

Utilities and Infrastructure

The Project site is currently served by existing utility infrastructure for water, wastewater, gas, electricity and cable. New storm drainage laterals and service lines will be introduced extending from East Santa Clara Street along South 16th Street. The Project applicant indicates the intended installation and use photo-voltaic (PV) solar panels within the Project to supplement the electrical power supply to the building, as much as is feasible.

Construction and Phasing

Construction is anticipated to occur over a period of approximately six months. The Project would be developed in a single phase, as it involves a single structure and immediately adjacent site improvements. Construction would include demolition of all existing structures and site improvements, including grading, basement excavation to approximately 10 feet 6 inches, foundation construction, building development, and paving and architectural coatings. Site development would involve the excavation of approximately 1,380 cubic yards of soil, 1,375 cubic yards of which would be exported from the site.

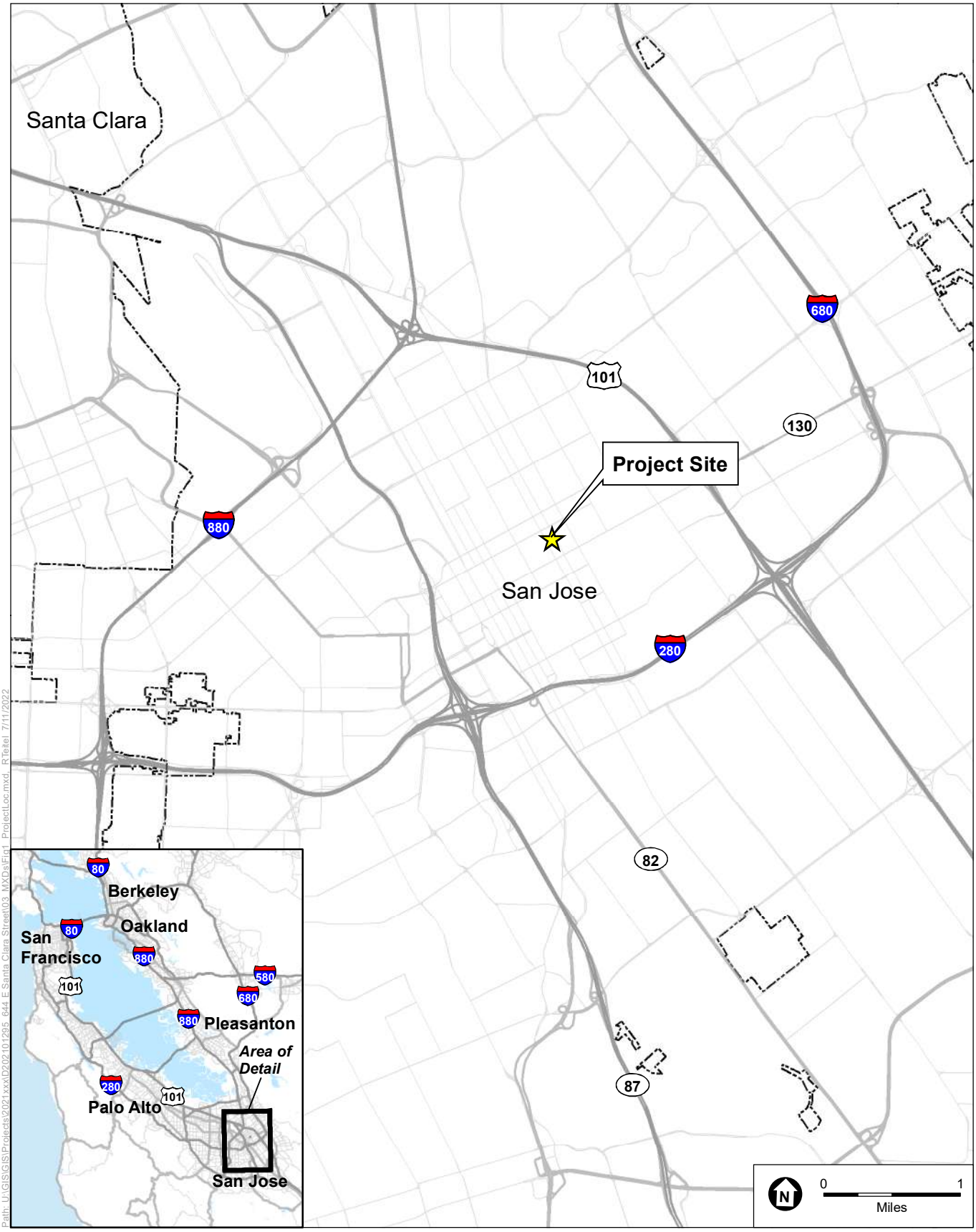
Off-site improvements will include bulb-outs and ADA curb ramps at the southeast and southwest corners of the East Santa Clara Street and 14th Street intersection. To accommodate City plans for future transit alignment improvements along East Santa Clara Street, an existing small portion of the median island at the northbound approach from 14th Street would be removed.

Construction activity would adhere to the standard hours permitted per City of San José requirements. Standard construction equipment that would be used includes backhoes, dozers, pavers, concrete mixers, trucks, air compressors, saws, and hammers. No pile driving is proposed. A truck trip and haul route map, in addition to a construction staging and worker parking plan will be prepared by the Project contractor and submitted to the City prior to the building permit issuance for City review and approval. All construction circulation would avoid use of South 14th Street southward of the Project site.

2.3 Project-Related Approvals, Permits, and Clearances

The City of San José is the lead agency with responsibility for approving the Project. This CEQA document will be relied upon for, but not limited to, the following Project-specific discretionary and other approvals necessary to implement the Project as proposed:

- Special Use Permit
- Vesting Tentative Map
- Grading Permits and other Public Works Clearances
- Building Permits.



SOURCE: ESA, 2020; ESRI, 2020

650 E Santa Clara Street

Figure 2-1

ESA

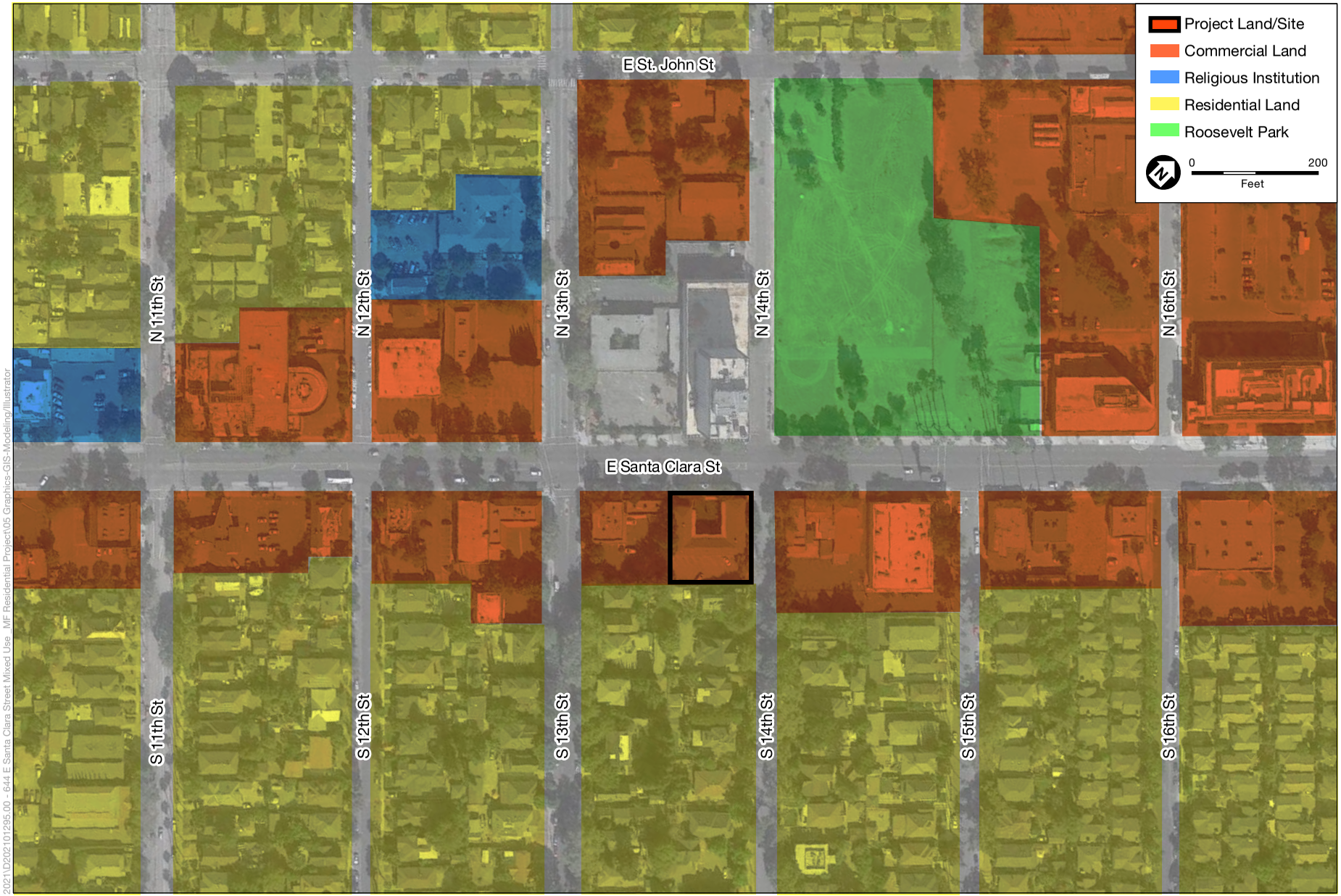
2021\D202101295.00 - 644 E Santa Clara Street Mixed Use _MF Residential Project\05 Graphics-GIS-Modeling/Illustrator

SOURCE: Lea & Braze Engineering, Inc., 2022

644 E Santa Clara Street

Figure 2-2
Existing Project Site Aerial and Parcels

ESA

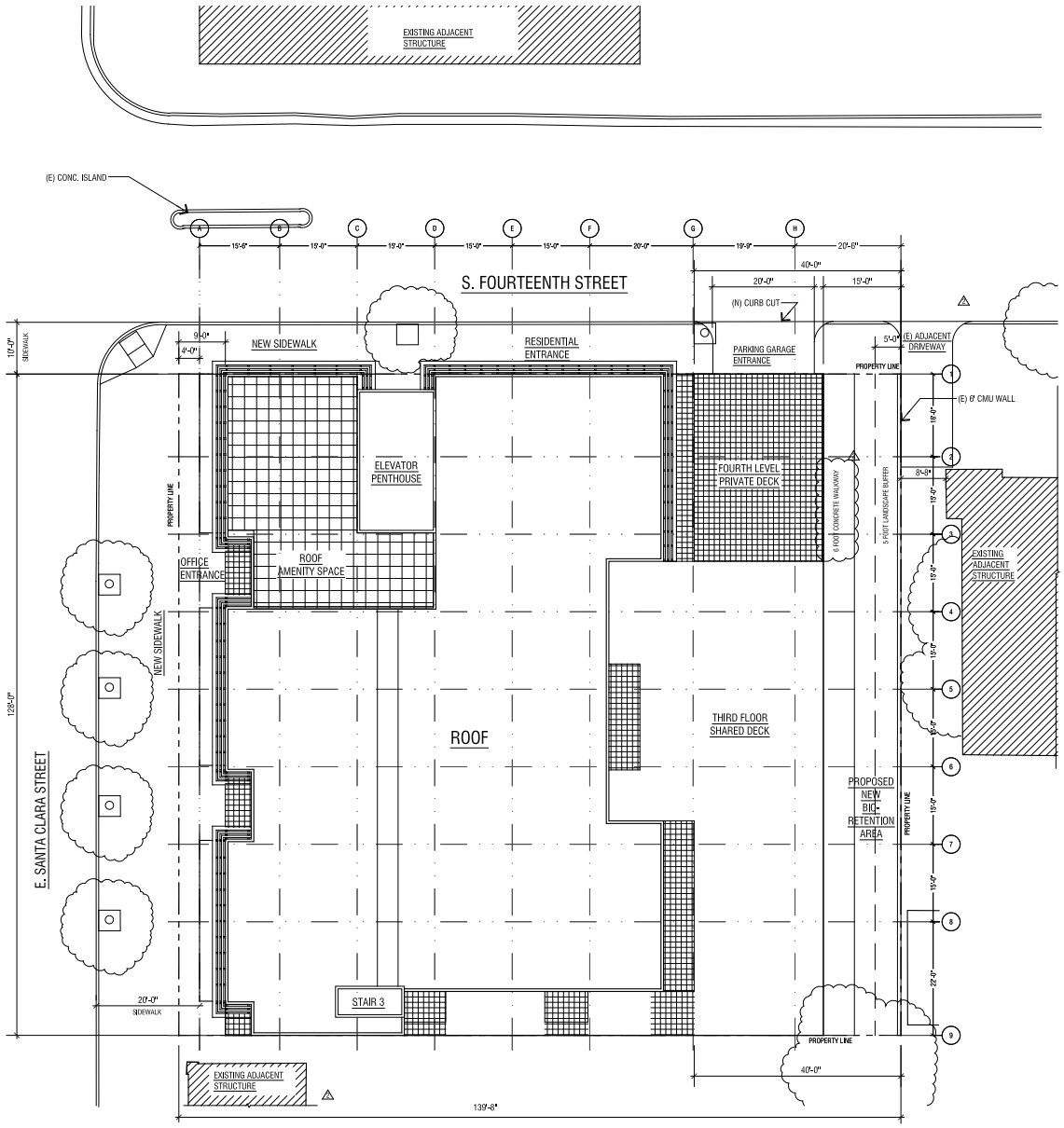


SOURCE: ESA, 2022; Base - Google Earth, 2022

650 E Santa Clara Street

Figure 2-3
Aerial of the Project Site and Surrounding Area

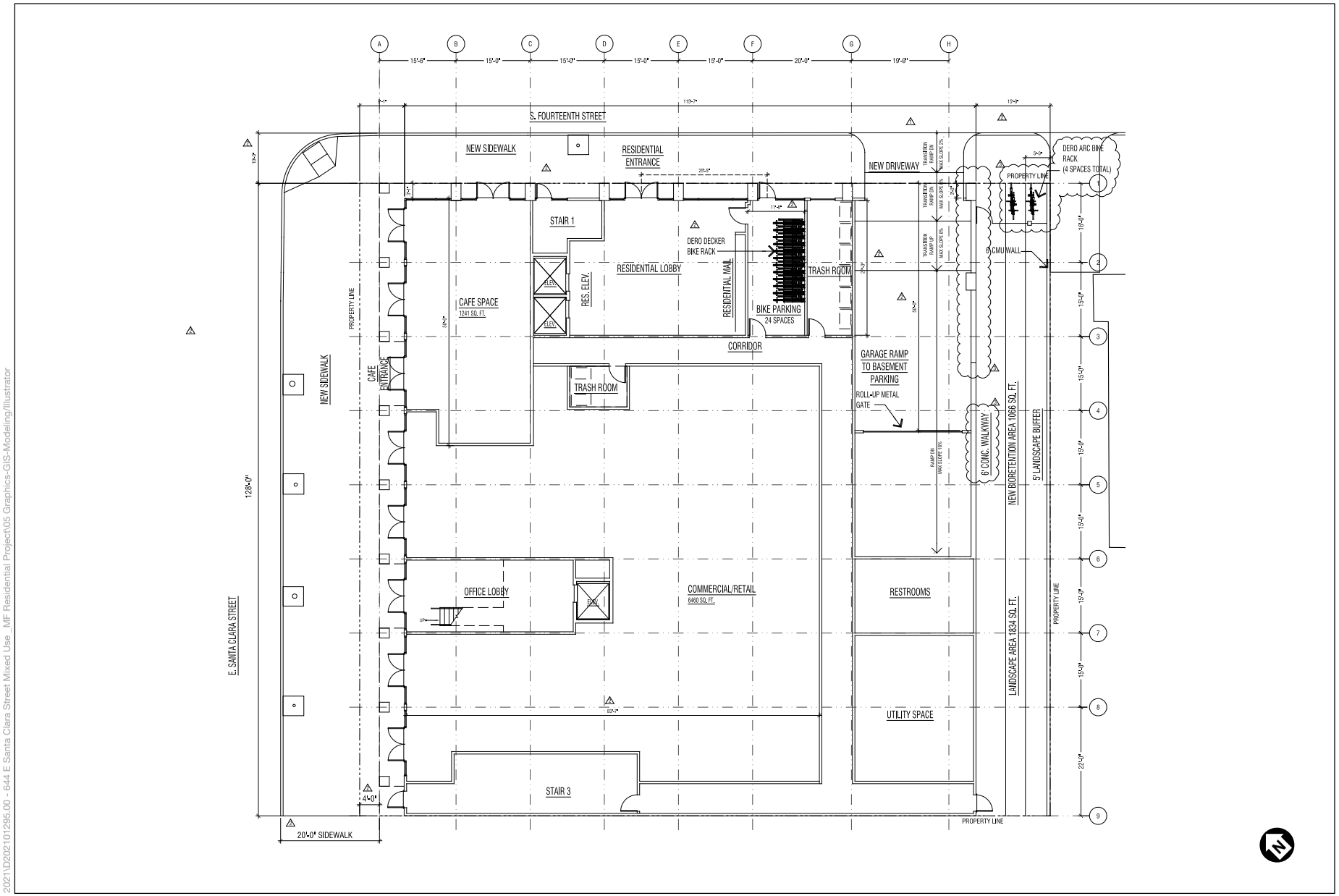
ESA



SOURCE: Fillon Solis, 2022

644 E Santa Clara Street

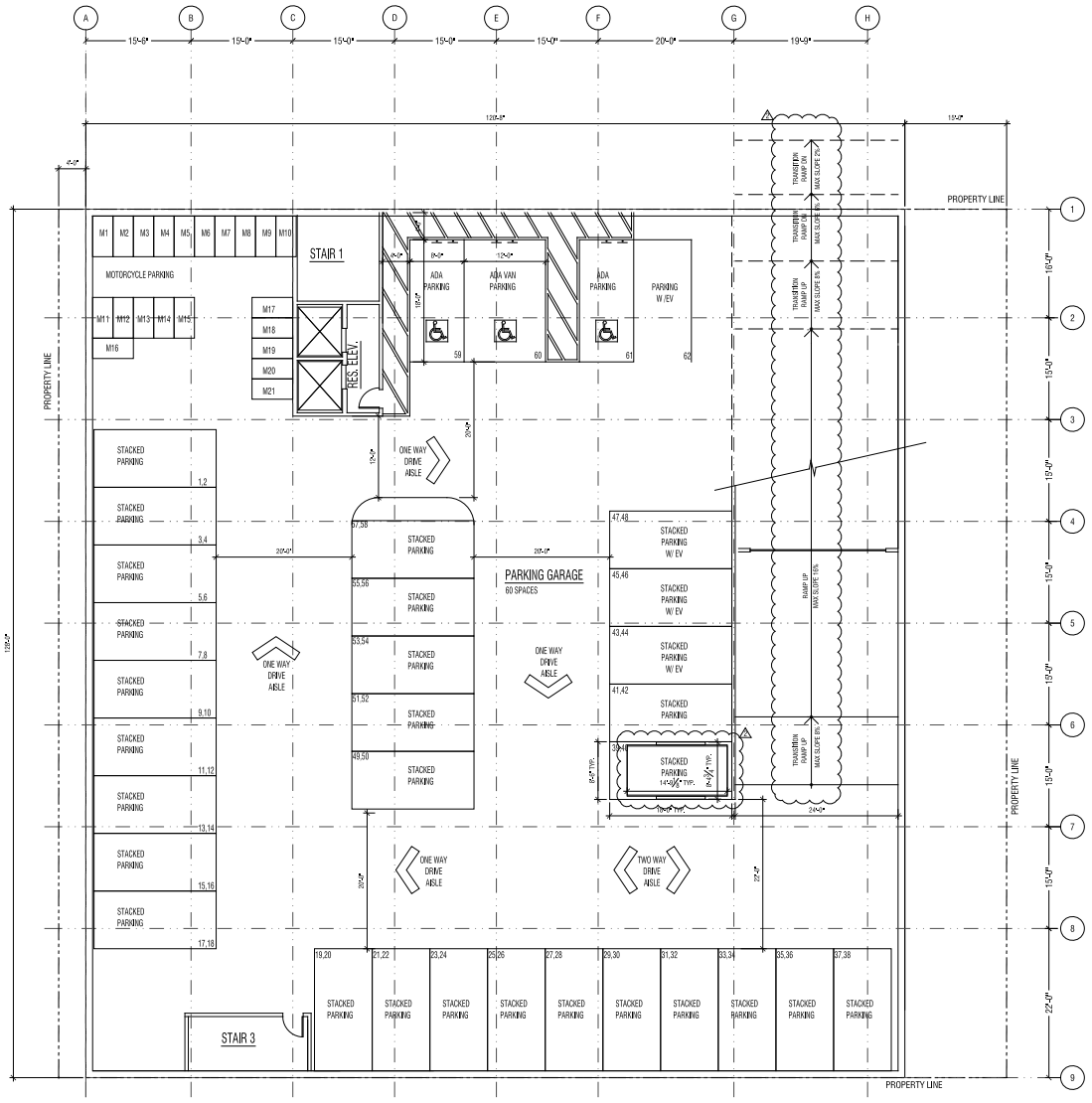
Figure 2-4
Proposed Site Plan



SOURCE: Fillon Solis, 2024

644 E Santa Clara Street

Figure 2-5
First Floor Plan (Street Level)

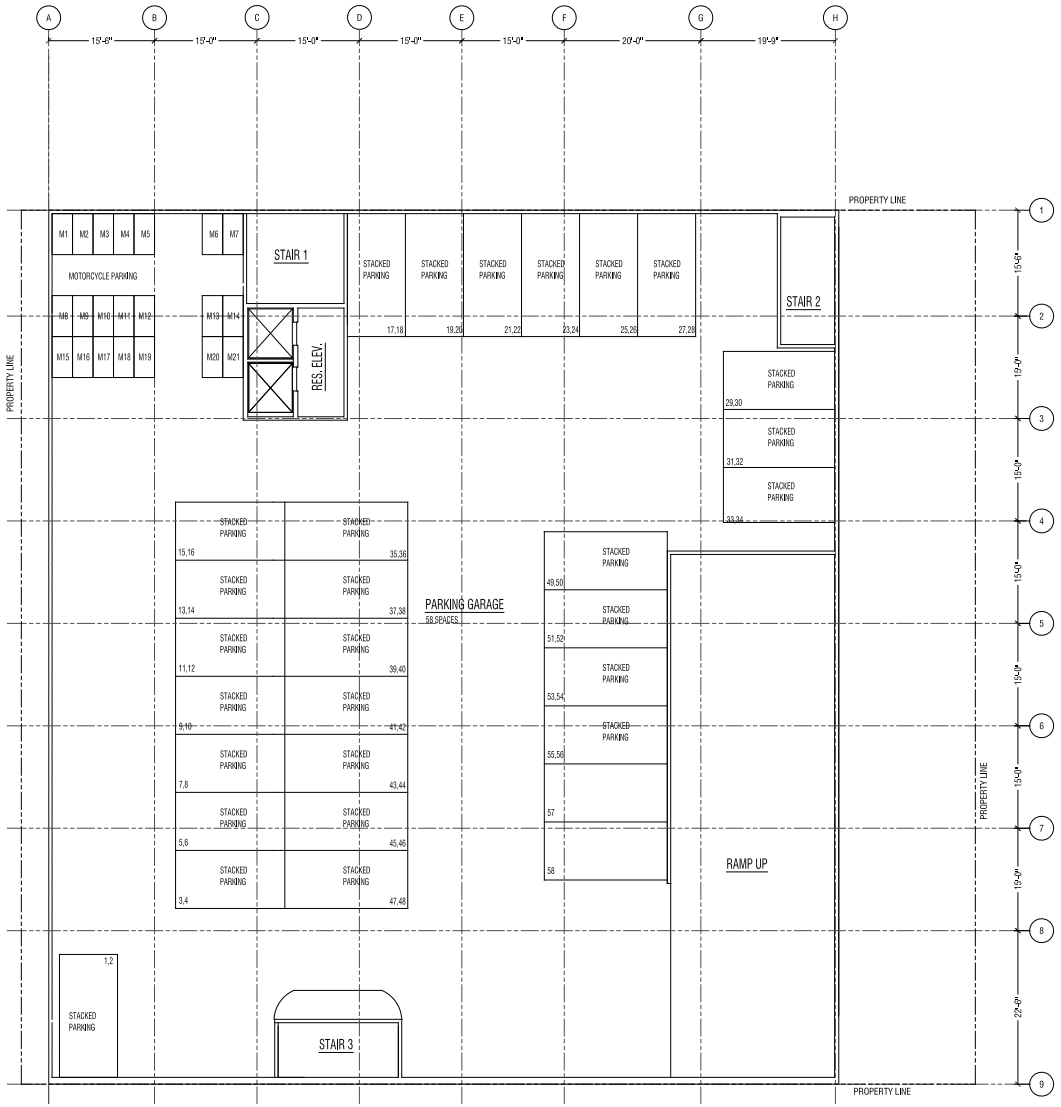


SOURCE: Fillon Solis, 2024

644 E Santa Clara Street

Figure 2-6
Basement and Parking Plan

ESA

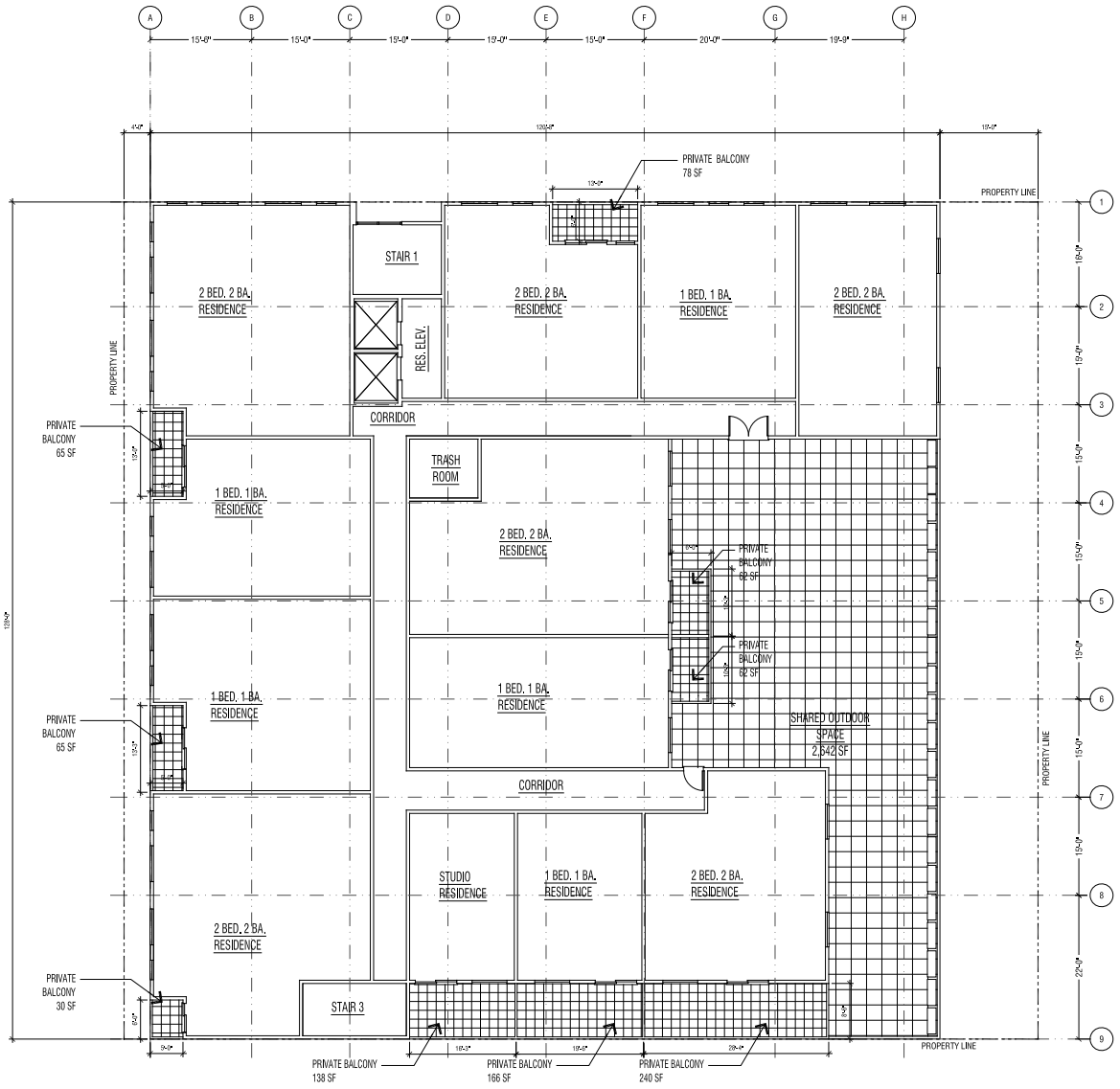


SOURCE: Fillon Solis, 2024

644 E Santa Clara Street

Figure 2-7
Second Floor Plan

ESA



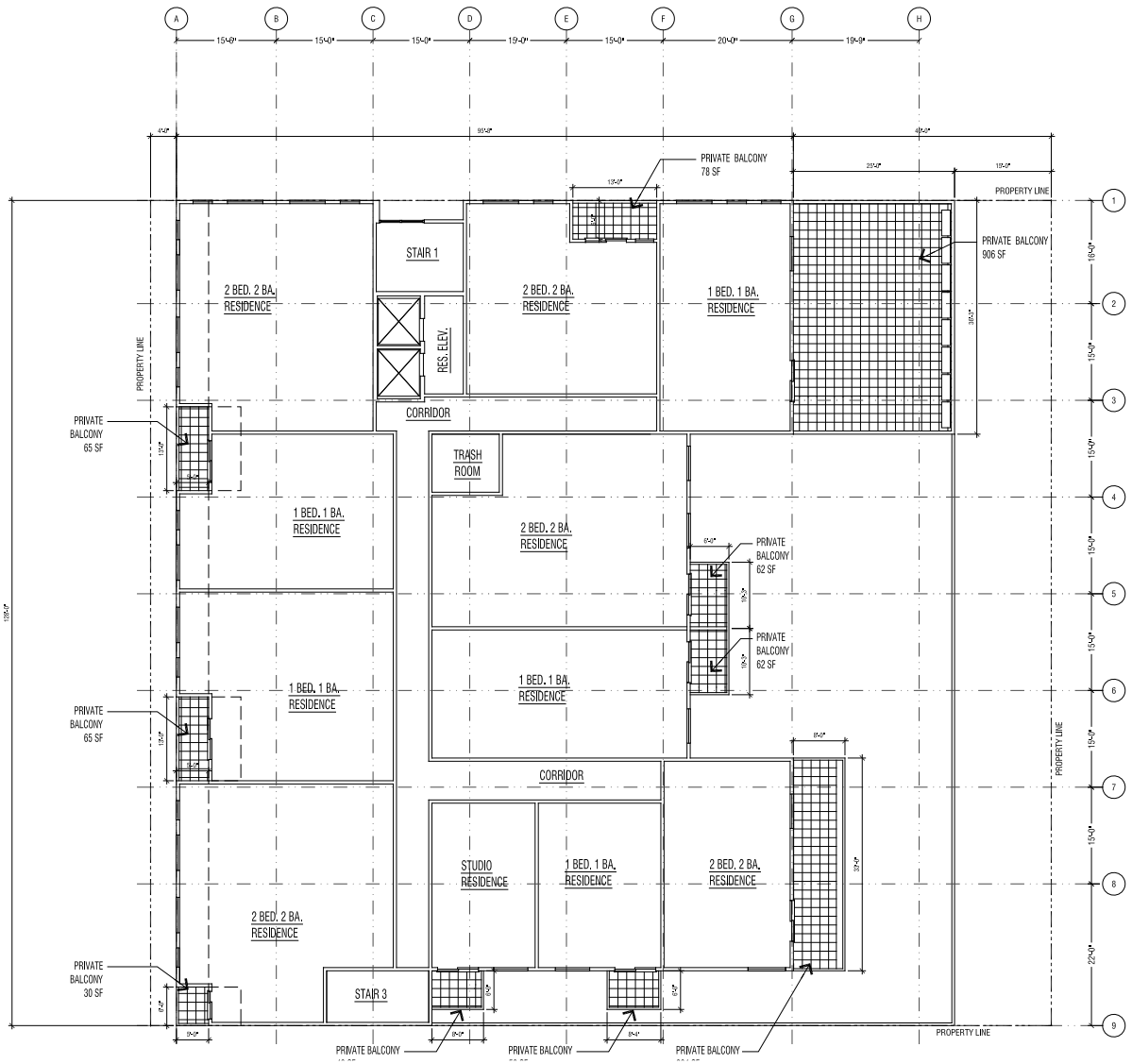
2021\D202101295.00 - 644 E Santa Clara Street Mixed Use _MF Residential Project\05 Graphics-GIS-Modeling/Illustrator

SOURCE: Fillon Solis, 2024

644 E Santa Clara Street

Figure 2-8
Third Floor Plan and Shared Outdoor Space

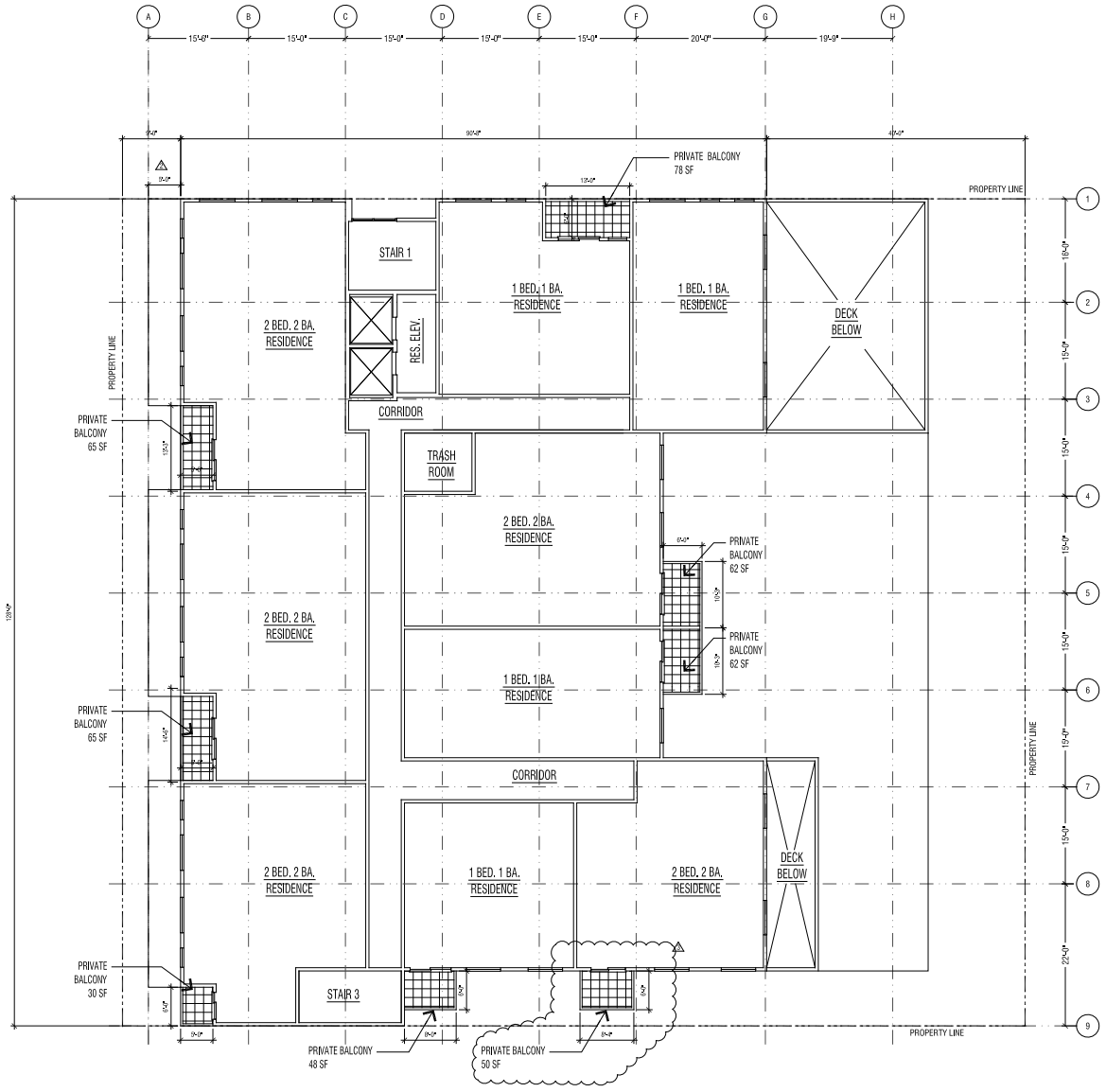
ESA



SOURCE: Fillon Solis, 2024

644 E Santa Clara Street

Figure 2-9
Fourth Floor Plan



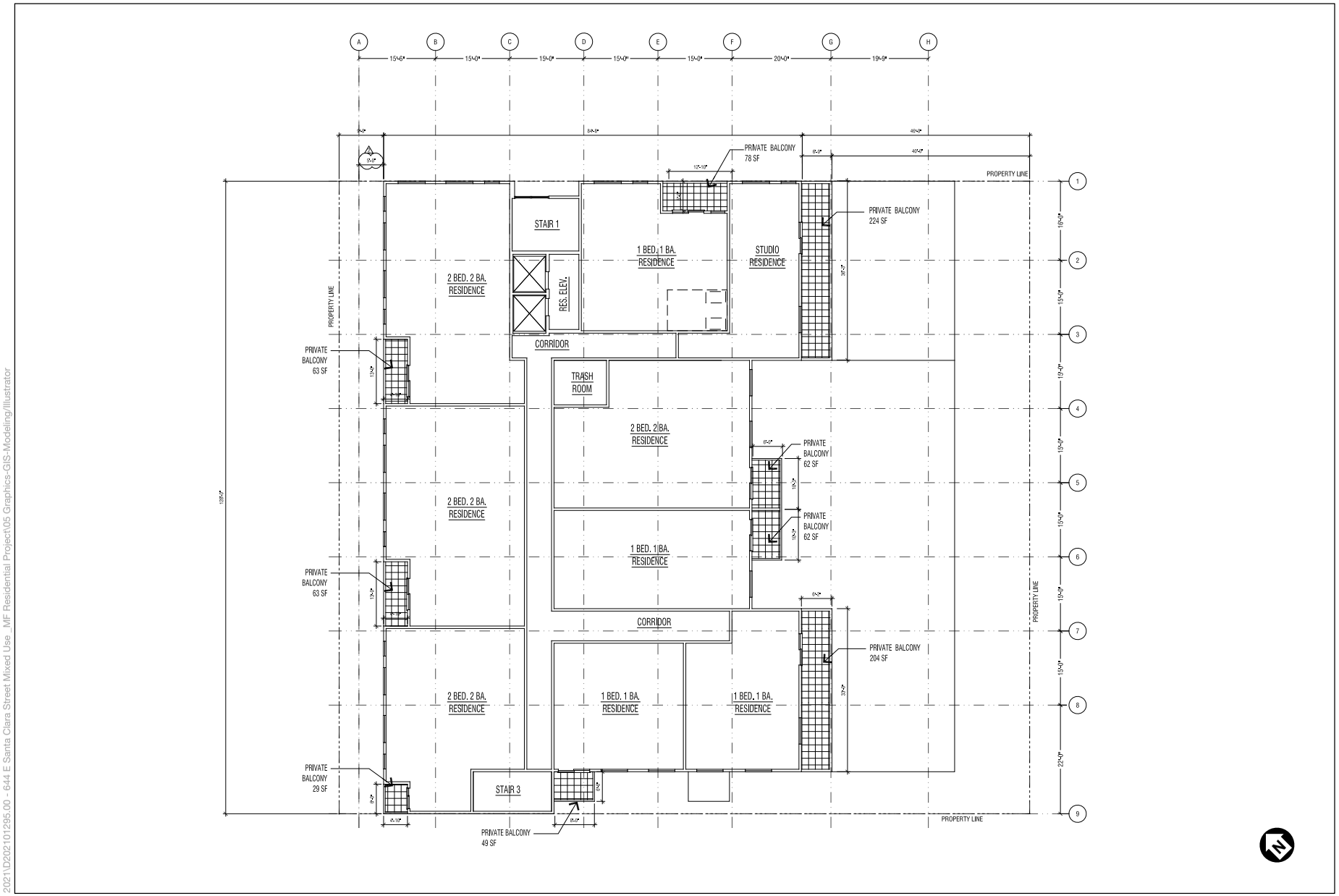
2021\D202101295.00 - 644 E Santa Clara Street Mixed Use _MF Residential Project\05 Graphics-GIS-Modeling/Illustrator

SOURCE: Fillon Solis, 2024

644 E Santa Clara Street

Figure 2-10
Fifth Floor Plan

ESA



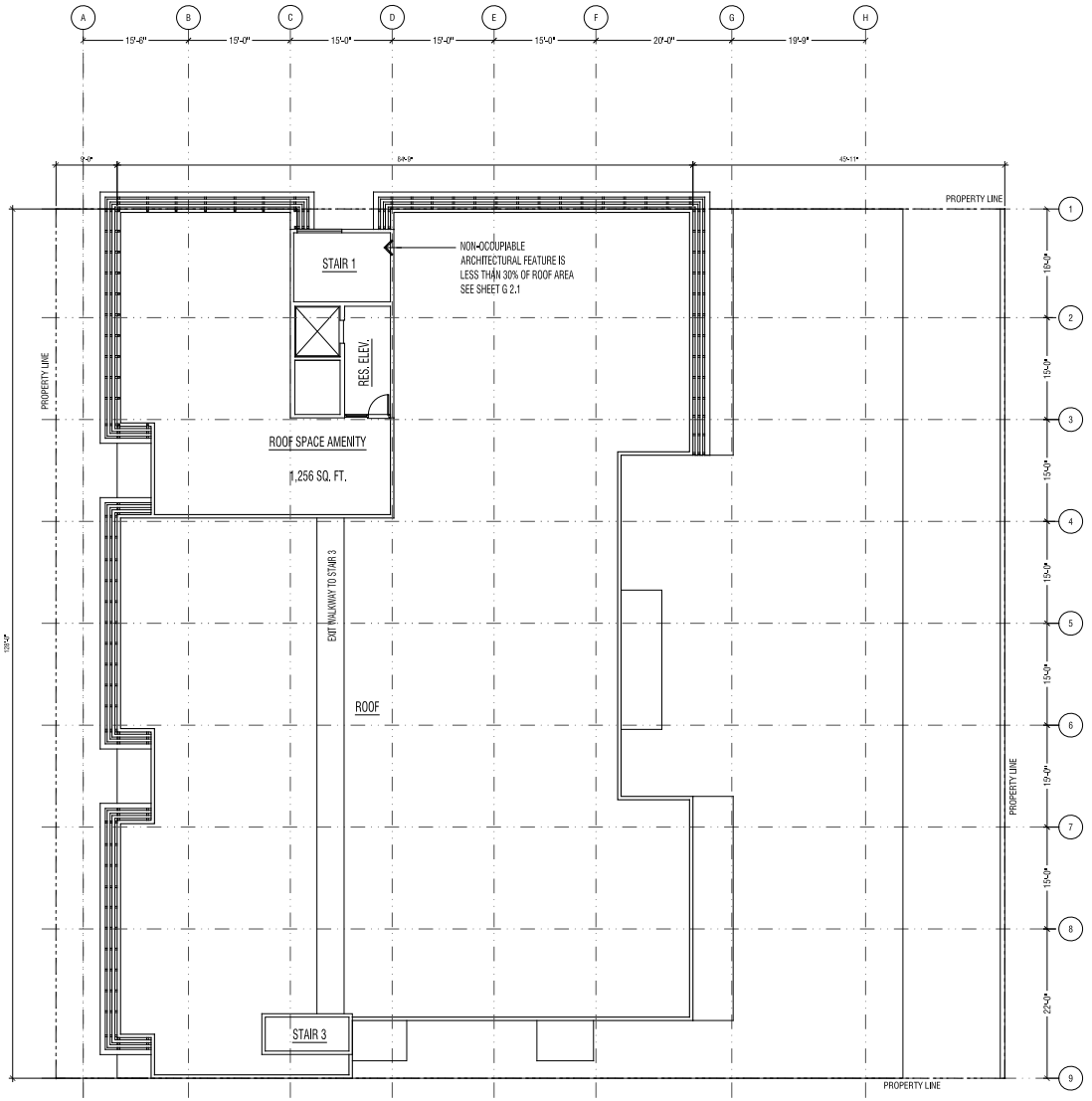
2021\D2021012950.00 - 644 E Santa Clara Street Mixed Use _MF Residential Project\05 Graphics-GIS-Modeling/Illustrator

SOURCE: Fillon Solis, 2024

644 E Santa Clara Street

Figure 2-11
Sixth Floor Plan

ESA

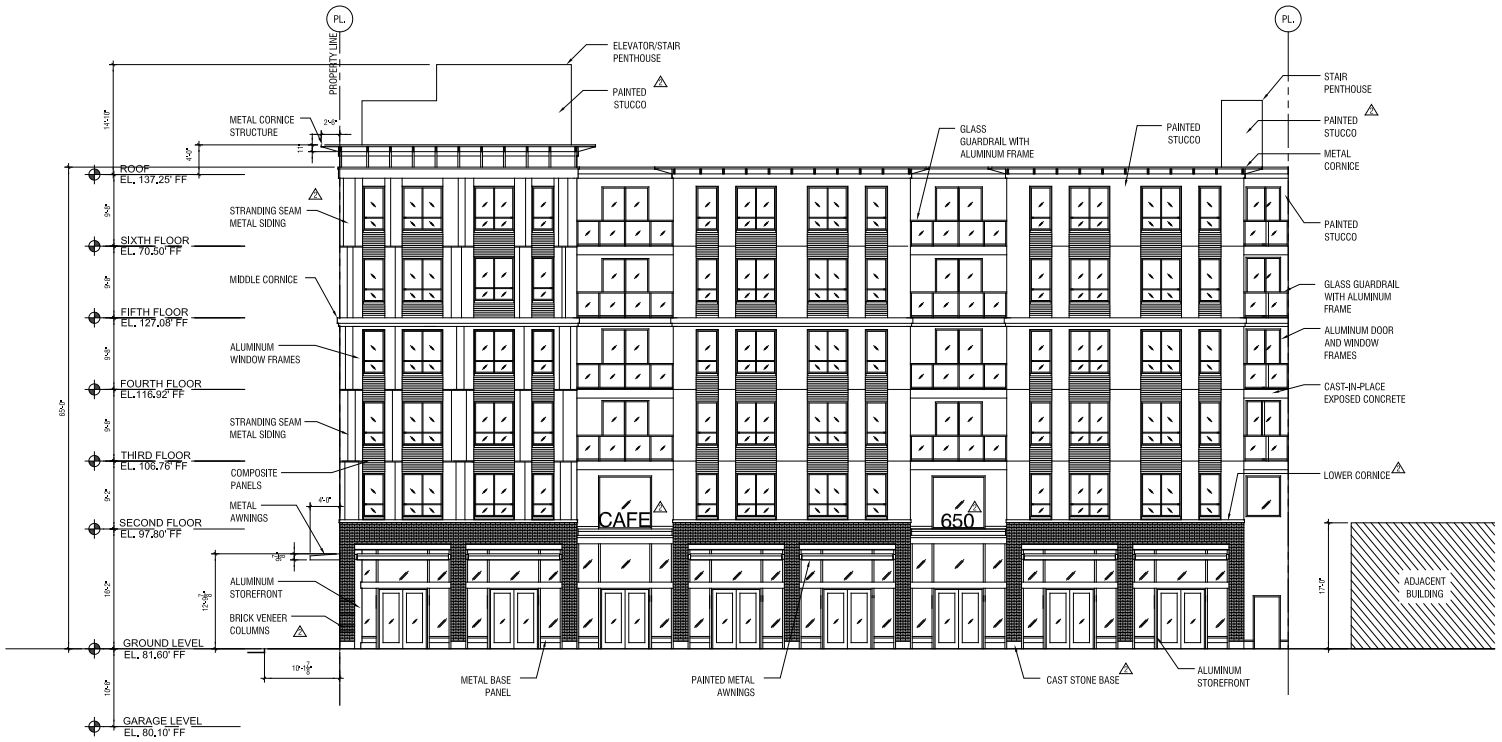


SOURCE: Fillon Solis, 2024

644 E Santa Clara Street

Figure 2-12
Roof Plan and Amenity Space

ESA



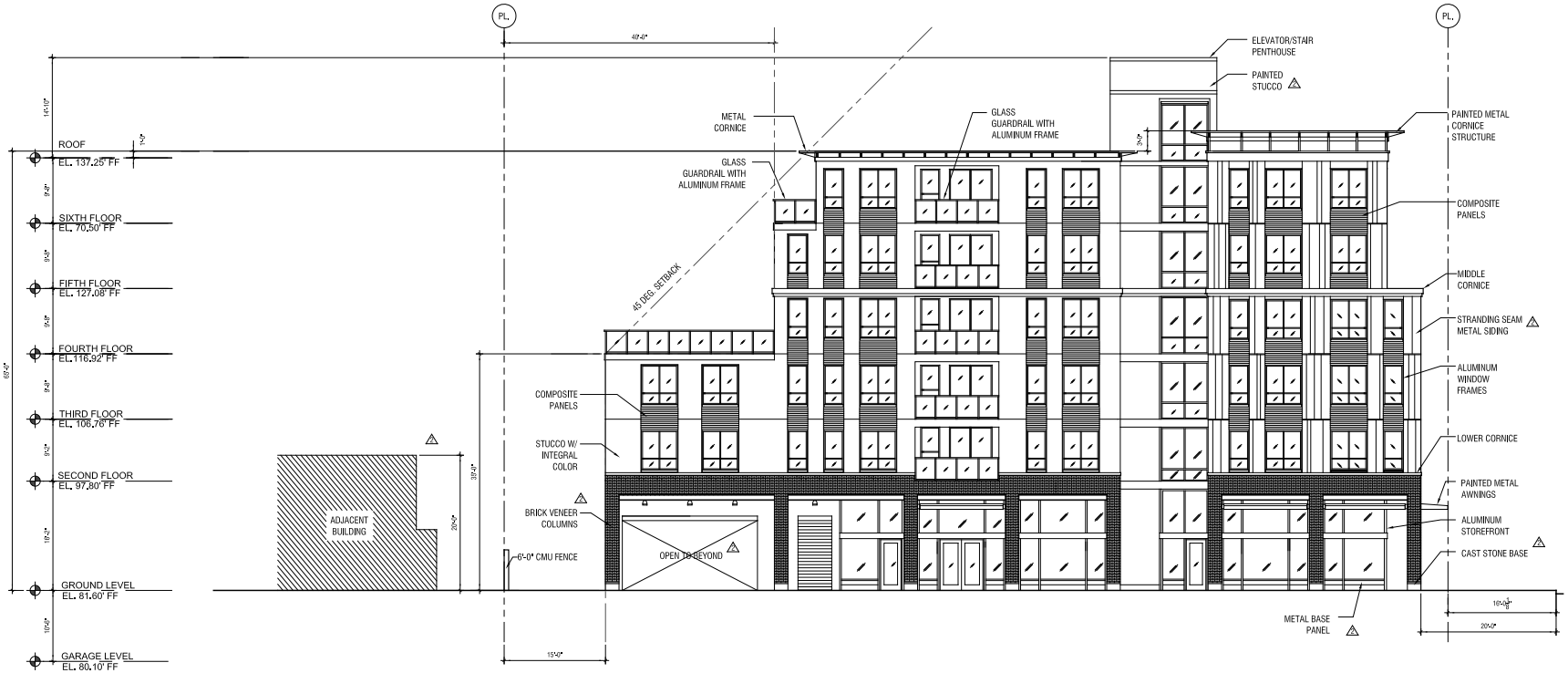
2021\D202101295.00 - 644 E Santa Clara Street Mixed Use _MF Residential Project\05 Graphics-GIS-Modeling/Illustrator

SOURCE: Fillon Solis, 2024

644 E Santa Clara Street

Figure 2-13
North Elevation along East Santa Clara Street

ESA



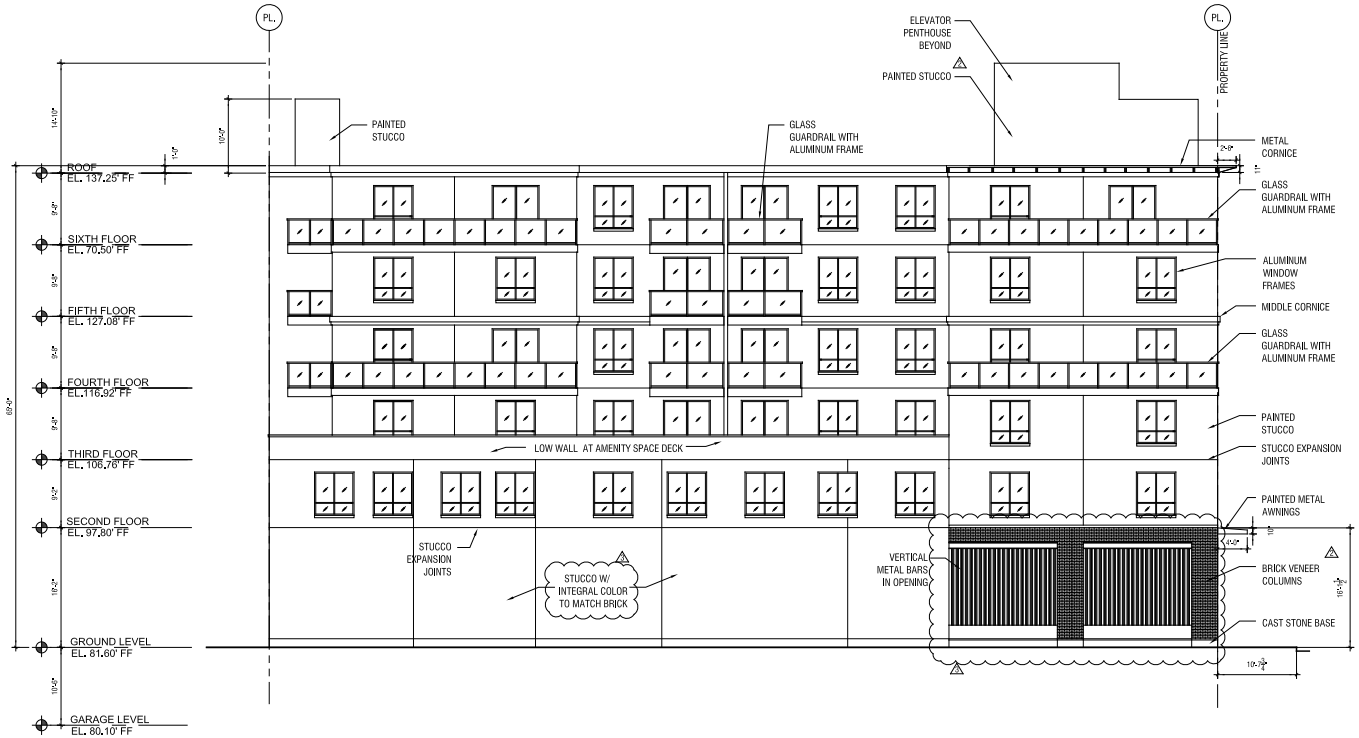
2021\D202101295.00 - 644 E Santa Clara Street Mixed Use _MF Residential Project\05 Graphics-GIS-Modeling/Illustrator

SOURCE: Fillon Solis, 2024

644 E Santa Clara Street

Figure 2-14
East Elevation along South 14th Street

ESA

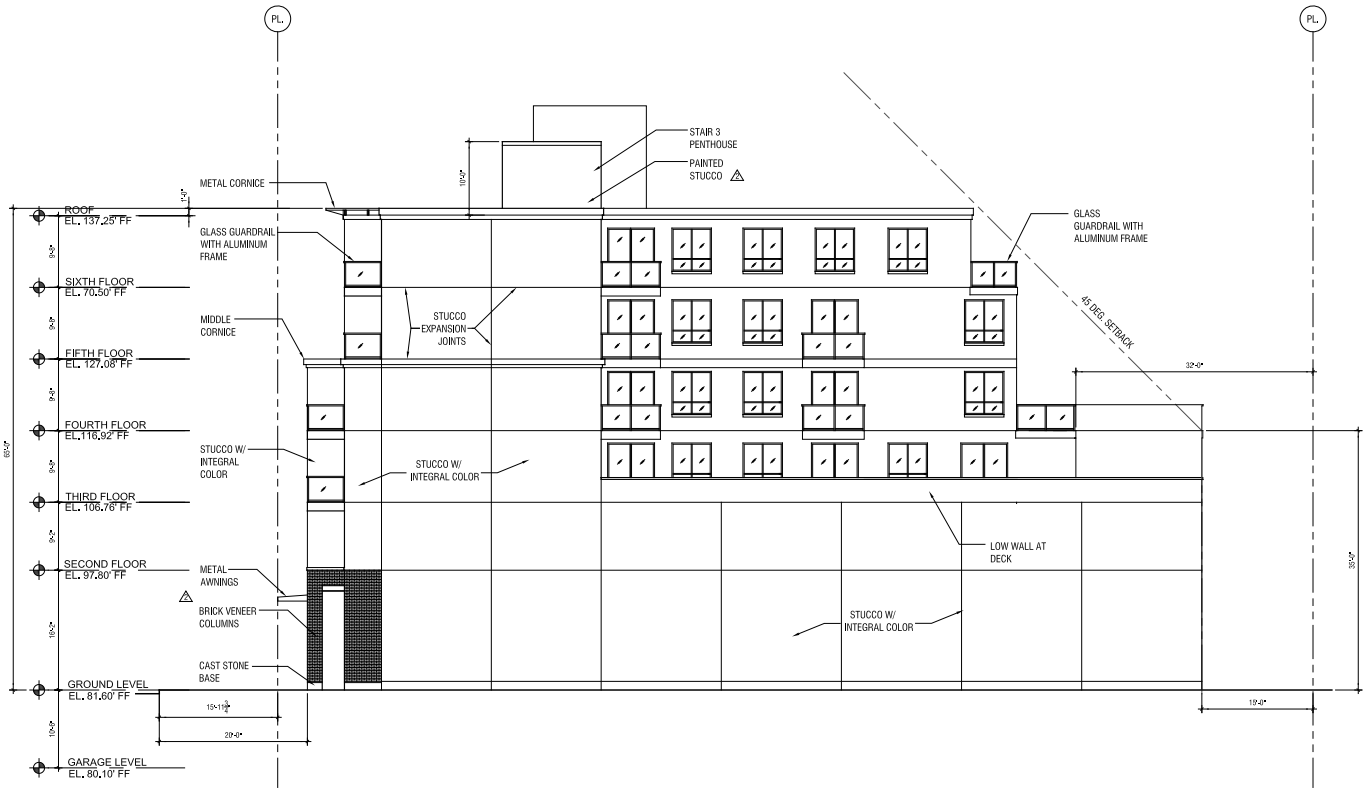


SOURCE: Fillon Solis, 2024

644 E Santa Clara Street

Figure 2-15
South Elevation - Rear Yard

ESA



2021\D202101295.00 - 644 E Santa Clara Street Mixed Use _MF Residential Project\05 Graphics-GIS-Modeling/Illustrator

SOURCE: Fillon Solis, 2024

644 E Santa Clara Street

Figure 2-16
West Elevation - Interior Sideyard

ESA

2021\D202101295.00 - 644 E Santa Clara Street Mixed Use MF Residential Project\05 Graphics-GIS-Modeling/Illustrator

SOURCE: Fillon Solis, 2024

644 E Santa Clara Street

Figure 2-17
View toward Northeast Corner of Project

ESA

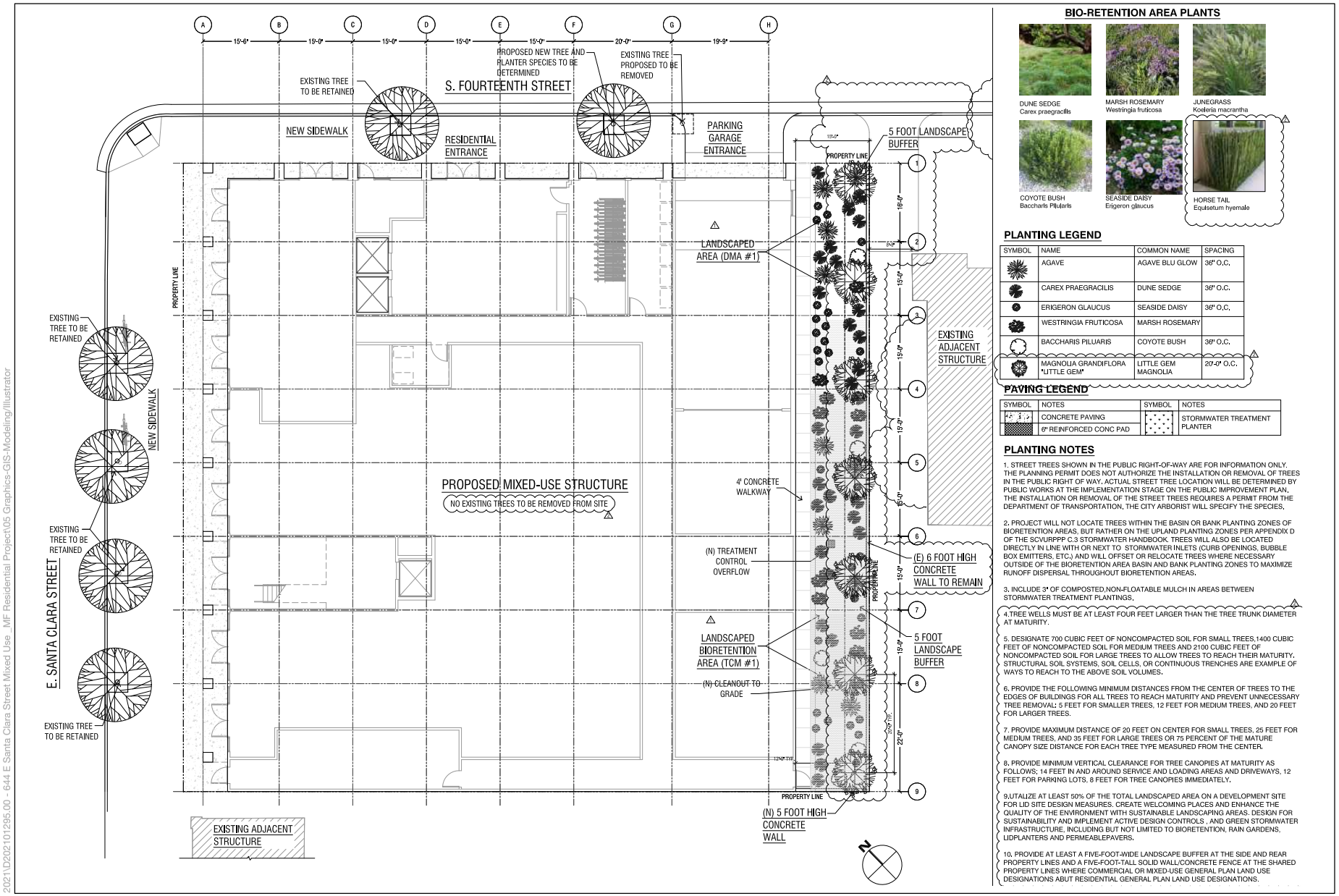
2021\D2021012950.00 - 644 E Santa Clara Street Mixed Use _MF Residential Project\05 Graphics-GIS-Modeling/Illustrator

SOURCE: Fillon Solis, 2024

644 E Santa Clara Street

Figure 2-18
View toward Southeast Corner of Project

ESA



SOURCE: Fillon Solis, 2024

644 E Santa Clara Street

Figure 2-19
Landscape and Retention Plan

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3. Environmental Factors Potentially Affected

The environmental factors checked below would be potentially affected by this Project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following section.

☐ Aesthetics	☐ Agriculture and Forestry Resources	☐ Air Quality
☒ Biological Resources	☒ Cultural Resources	☐ Energy
☐ Geology/Soils	☐ Greenhouse Gas Emissions	☐ Hazards & Hazardous Materials
☐ Hydrology/Water Quality	☐ Land Use/Planning	☐ Mineral Resources
☒ Noise	☐ Population/Housing	☐ Public Services
☐ Recreation	☐ Transportation	☒ Tribal Cultural Resources
☐ Utilities/Service Systems	☐ Wildfire	☒ Mandatory Findings of Significance

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial study:

☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☒ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

The Lead Agency has prepared a MITIGATED NEGATIVE DECLARATION under separate cover.

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4. Environmental Checklist

4.1 Aesthetics

Issues (and Supporting Information Sources):	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
I. AESTHETICS — Except as provided in Public Resources Code Section 21099, would the project:				
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☒	☐
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒
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?	☐	☐	☒	☐
d) Create a new source of substantial light or glare which would adversely affect daytime or nighttime views in the area?	☐	☐	☒	☐

Environmental Setting

The Project is proposed on two contiguous parcels within an urbanized area of San José. The property is currently occupied by one, two-story building constructed in 1946 and a surface parking lot immediately behind (south) of the building. The abutting and surrounding area is comprised generally of one- and two-story commercial office uses along the East Santa Clara Street corridor and medium density residences in the surrounding neighborhood. Also, the broader area surrounding the Project site has no noticeable change in topography. Potential view corridors in the area exist along existing streets and are limited by existing buildings and mature trees.

North: A nine-story mixed use office building and a vacant lot are located north of the Project site (directly across East Santa Clara Street), and a large, currently undeveloped parcel sits diagonally from the Project site, comprising the northeast corner of East Santa Clara Street and North 14th Street and for which the City is currently evaluating a proposed high-density residential development.

East and West: Adjacent properties along the major east-west thoroughfare, East Santa Clara Street, are one- and two-story commercial buildings with associated rear surface parking lots and accessed from South 14th Street, directly east of the Project site.

South: The area south of the Project site along South 14th Street is a residential neighborhood of one- and two-story homes, and the street is lined on both sides with mature trees that create a canopy along the length of the residential neighborhood street. A two-story multi-family

residence exists approximately 15 feet beyond the south property line of the Project site and is the first of similarly scaled residences that line the block of South 14th Street.

Regulatory Framework

State

State Scenic Highways Program

The State Scenic Highways Program is designed to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. The Project site is not located near any scenic highways.

Local

Council Policy 4-3 Outdoor Lighting Policy

The City of San José's Outdoor Lighting Policy on Private Developments (City Council Policy 4-3) promotes energy efficient outdoor lighting on private development to provide adequate light for nighttime activities.

General Plan Policies

The Envision 2040 San José General Plan (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 site is not located along any scenic corridors per the City's Scenic Corridors Diagram.

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 Project.

Envision San José 2040 Policies Relevant to Aesthetics	
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-1.7	Require developers to provide pedestrian amenities, such as trees, lighting, recycling and refuse containers, seating, awnings, art, or other amenities, in pedestrian areas along project frontages. When funding is available, install pedestrian amenities in public rights-of-ways.
Policy CD-1.8	Create an attractive street presence with pedestrian-scaled building and landscaping elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity throughout the City.
Policy CD-1.11	To create a more pleasing pedestrian-oriented environment, for new building frontages, include design elements with a human scale, varied and articulated facades using a variety of materials, and entries oriented to public sidewalks or pedestrian pathways. Provide windows or entries along sidewalks and pathways; avoid blank walls that do not enhance the pedestrian experience. Encourage inviting, transparent façades for ground-floor commercial spaces that attract customers by revealing active uses and merchandise displays.

Envision San José 2040 Policies Relevant to Aesthetics	
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-1.18	Encourage the placement of loading docks and other utility uses within parking structures or at other locations that minimize their visibility and reduce their potential to detract from pedestrian activity.
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-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 designationfor properties throughout the City. Land use designations in the Land Use/ Transportation Diagram provide an indication of the typical number of stories.

Discussion

a) **Less Than Significant Impact**. Based on the City's General Plan, views of hillside areas, including the foothills of the Diablo Range, Silver Creek Hills, Santa Teresa Hills, and foothills of the Santa Cruz Mountains are scenic features in the San José area. The Project site is located in an urbanized part of the City and, as described in the *Environmental Setting* above, is surrounded by one- and two-story commercial buildings and residences. The site and surrounding area are relatively flat and contain mature trees that often extend taller than area structures, therefore no prominent views or vistas exist beyond the immediate area, specifically from publicly accessible locations. Therefore, development of the proposed six-story building would not impact scenic vistas since none are visible in the Project vicinity. The impact would be less than significant.

b) **No Impact**. The Project site is not located within any City or state- designated scenic routes. The nearest Caltrans designated scenic route is SR 9, located more than 10 miles from the Project site. The Project would have no impact.

c) **Less Than Significant Impact.** As discussed above under criterion "a", the proposed Project would not affect any public views of the site or its surroundings, given the lack of view corridors. The Project site is within an urbanized area, characterized by the major commercial street corridor, East Santa Clara Street, and abutting medium-density

residential neighborhoods that sit beyond the corridor. The visual character of the area varies, as it includes a nine-story commercial building located near small, one-story commercial buildings. The Project would develop a six-story building on a relatively small corner lot, would maintain the mature street trees along its street frontage (except one along South 14th Street and that would be replaced), and would be characterized by similar materials (neutral-colored stucco with aluminum and dark metals) as other larger-scaled buildings in the area. The new six-story building would be taller than the existing building on-site and nearby two-story buildings and would be constructed across from the existing nine-story building.

The Project would be required to conform to the City's Residential Design Guidelines and undergo design review during the development review process to ensure the building's scale and mass are compatible with surrounding development through the development review process. The Project's potential creation of substantial new shadow on public light-sensitive uses, such as parks/open spaces is also considered. As depicted in Figures AES-1 through AES-4 at the end of this section, the Project would not create new shadow, compared to existing, that would reach or adversely shade any adjacent uses. Throughout all times of year and times of day (as measured at the winter and summer solstices and the spring and fall equinox), shadow from the new building would not cast to adjacent properties for substantial durations.

The Project would also be consistent with General Plan policies relating to scenic quality focused on creating a well-designed development, specifically including policies listed in the Table AES-1 above. Moreover, the Project would be consistent with several goals and policies set by the *East Santa Clara Urban Village Plan*. For example, the Project maintains one accessing the Project site. As discussed in Section 4.11, *Land Use and Planning*, the proposed Project is consistent with the density and intensity limits established by the "Urban Village" land use designation.

In conclusion, given the location of this infill Project on a corner lot within a developed mixed-use neighborhood and its consistency with the site's zoning and other regulations related to scenic quality, the Project would not substantially degrade the existing visual character or quality of the site and its surroundings within this urbanized area. Moreover, the Project would not affect the character by introducing new shadow effects on light-sensitive receptors. The impact would be less than significant.

d) **Less Than Significant Impact.** Exterior lighting would be introduced to support security and access for the residential units, commercial areas, parking garage, walkways, and other outdoor areas. As previously discussed, all exterior lighting would conform to the City Council's Outdoor Lighting on Private Development Policy (City Council Policy 4-3) and Zoning Ordinance lighting requirements under Municipal Code Section 20.40.530 and 20.40.540. All exterior lighting properties would be arranged and shielded to cast light away from nearby residential uses, which are located immediately south of the Project site. Lighting and other exterior building materials would also be selected to avoid substantial glare. In compliance with the aforementioned policies and code

requirements, the Project would have a less than significant impact related to light and glare.

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

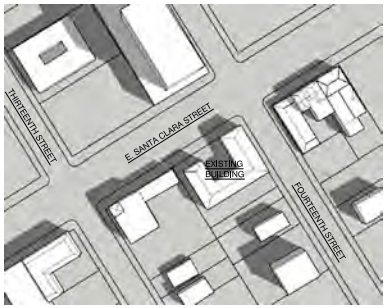
References

City of San José, 2021. East Santa Clara Street Urban Village Plan, Adopted October 23, 2018. As Amended on November 7, 2021. Available at: https://www.sanjoseca.gov/home/showpublisheddocument/38449/637782053655170000. Accessed July 18, 2022.

City of San José, 2022. Envision San José 2040 General Plan, Adopted November 1, 2011. As Amended on September 30, 2021. Available at: https://www.sanjoseca.gov/home/showpublisheddocument/22359/637926308860970000. Accessed July 18, 2022.

City of San José, 2022. Envision San José 2040 General Plan Map. Available at: https://csj.maps.arcgis.com/apps/instant/lookup/index.html?appid=ef685f767b484eb6bcfc70f8fb651ef6&findSource=1&find=644%2520east%2520santa%2520clara%2520st. Accessed July 18, 2022.

City of San José, 2022. Zoning Map. Available at: https://www.arcgis.com/apps/webappviewer/index.html?id=6f379e130e9a43ab9dee28806ed2c885&extent=-13574341.156%2C4480904.8205%2C-13559818.1207%2C4490039.0454%2C102100. Accessed July 18, 2022.



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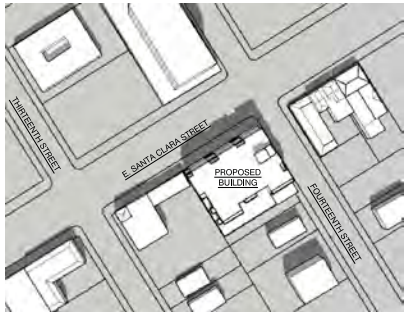
1D 9AM MARCH PLAN PROPOSED

2B 12PM MARCH PLAN EXISTING



2D 12PM MARCH PLAN PROPOSED

3B 3PM MARCH PLAN EXISTING

3D 3PM MARCH PLAN PROPOSED

SOURCE: Fillon Solis, 2024

644 E Santa Clara Street

Figure AES-1
Shadow Study - March

ESA

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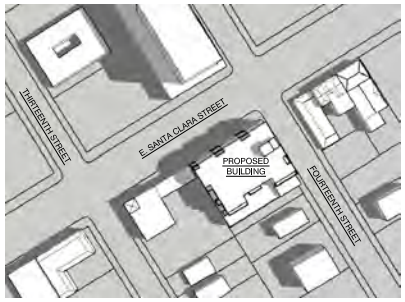

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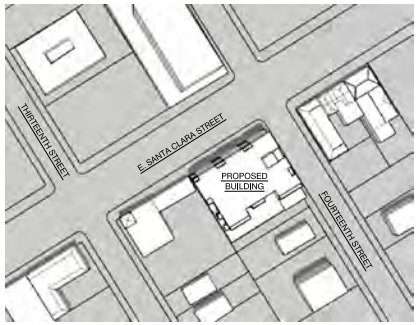

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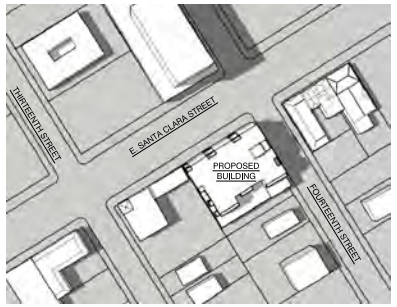


3D 3PM JUNE PLAN PROPOSED

2021\D202101295.00 - 644 E Santa Clara Street Mixed Use _MF Residential Project\05 Graphics-GIS-Modeling/Illustrator

SOURCE: Fillon Solis, 2024

644 E Santa Clara Street

Figure AES-2
Shadow Study - June

ESA

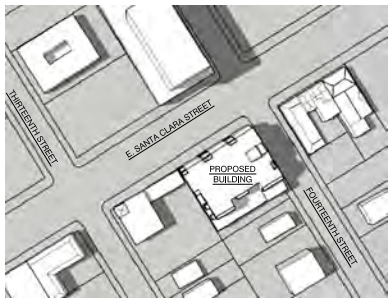
1B 9AM SEPTEMBER PLAN EXISTING

1D 9AM SEPTEMBER PLAN PROPOSED

2B 12PM SEPTEMBER PLAN EXISTING

2D 12PM SEPTEMBER PLAN PROPOSED

3B 3PM SEPTEMBER PLAN EXISTING



3D 3PM SEPTEMBER PLAN PROPOSED

SOURCE: Fillon Solis, 2024

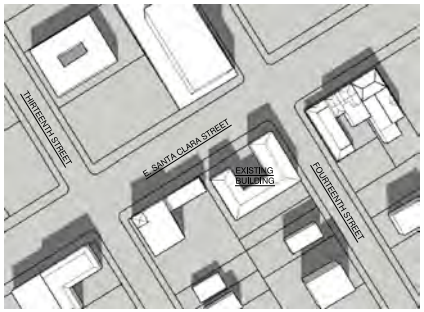
644 E Santa Clara Street

Figure AES-3
Shadow Study - September

ESA

1B 9AM DECEMBER PLAN EXISTING

1D 9AM DECEMBER PLAN PROPOSED



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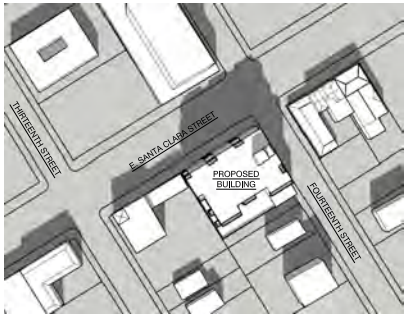

2D 12PM DECEMBER PLAN PROPOSED

3B 3PM DECEMBER PLAN EXISTING

3D 3PM DECEMBER PLAN PROPOSED

SOURCE: Fillon Solis, 2024

644 E Santa Clara Street

Figure AES-4
Shadow Study - December

ESA

4.2 Agriculture and Forestry Resources

Issues (and Supporting Information Sources):	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
II. AGRICULTURE 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 Dept. 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?	☐	☐	☐	☒
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒
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))?	☐	☐	☐	☒
d) Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒
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?	☐	☐	☐	☒

Environmental 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.

Regulatory Framework

State

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" by the California Department of Conservation, Division of Land Resource Protection.

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).

Local

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 relevant to agricultural resources are applicable to the Project (City of San José, 2011).

> ***Policy LU-12.3:*** 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:
>
> - 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:*** Preserve agricultural lands and prime soils in non-urban areas in order to retain the aquifer recharge capacity of these lands.

Discussion

a) **No Impact.** The Project site is an infill property and is designated as Urban and Built-Up Land on the Important Farmlands Map for Santa Clara County and does not contain any prime farmland, unique farmland, or farmland of statewide importance (California Department of Conservation, 2018). The Project would not affect agricultural land.

b) **No Impact.** The Project is proposed on a developed infill property, is not zoned for agricultural use, and does not contain lands under a Williamson Act contract; therefore, no conflicts with agricultural uses would occur as a result of the Project.

c) **No Impact.** The Project 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).

d) **No Impact.** See criterion 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.

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 are present on this infill property.

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

References

California Department of Conservation, 2018. *Santa Clara County Important Farmland 2018.* Accessed August 15, 2022.

City of San José, 2011. *Envision San José 2040 General Plan.* November, 2011. Available at https://www.sanjoseca.gov/home/showpublisheddocument/22359/637928744399330000. Accessed August 15, 2022.

4.3 Air Quality

Issues (and Supporting Information Sources):	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
III. 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?	☐	☐	☒	☐
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?	☐	☐	☒	☐
c) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☒	☐
d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	☐	☐	☒	☐

Environmental Setting

Air Pollutants of Concern

The Federal Clean Air Act (CAA) and the California Clean Air Act (CCAA) mandate the control and reduction of specific air pollutants. Under these Acts, the U.S. Environmental Protection Agency (U.S. EPA) and the California Air Resources Board (CARB) have established ambient air quality standards for specific "criteria" pollutants, designed to protect public health and welfare. The six criteria pollutants identified by the U.S. EPA include ozone, carbon monoxide (CO), nitrogen dioxide (NO_2), particulate matter (PM), sulfur dioxide (SO_2), and lead (Pb); California recognizes these as well as visibility reducing particles, hydrogen sulfide (H_2S), and vinyl chloride. National Ambient Air Quality Standards (NAAQS) and California Ambient Air Quality Standards (CAAQS) have been established for each of these pollutants. PM standards have been established for PM_{10} (particulate matter 10 microns and less in diameter) and $PM_{2.5}$ (particulate matter 2.5 microns and less in diameter). Criteria air pollutants of concern in the SFBAAB include ozone, PM_{10}, and $PM_{2.5.}$

Ground-level ozone is not directly emitted into the atmosphere; it is formed by series of photochemical reactions involving ozone precursors –reactive organic gases (ROG) and nitrogen oxides (NO_x). Controlling the emissions of these precursor pollutants is the focus of the BAAQMD's efforts to reduce ozone levels. The highest ozone levels in the SFBAAB occur in the eastern and southern inland valleys that are downwind of air pollutant sources and have topographical and climate conditions that promote ground-level ozone formation. High ozone levels can lead to health affects including aggravated respiratory and cardiovascular diseases, reduced lung function, and increased coughing and chest discomfort.

Particulate matter is another air pollutant of concern within the SFBAAB. Elevated concentrations of respirable particulate matter (PM_{10}) and fine particulate matter ($PM_{2.5)}$ are the result of both region- wide (or cumulative) emissions and localized emissions. High particulate

matter levels can aggravate respiratory and cardiovascular diseases, reduce lung function, and increase mortality (e.g., lung cancer).

Toxic Air Contaminants

Toxic air contaminants (TACs) are a broad class of compounds known to cause morbidity or mortality (usually because they cause cancer). TACs are found in ambient air, especially in urban areas, and are caused by industrial operations, agriculture, fuel combustion, and commercial operations (e.g., dry cleaners). TACs are regulated at the regional, state, and federal level because chronic exposure can result in adverse health effects.

Diesel exhaust from trucks, buses, trains, ships, and other equipment with diesel engines contains a mixture of gases, vapors and solid 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 CARB, and are also listed as carcinogens under California Proposition 65, the Federal Hazardous Air Pollutants or both programs. The solid particles emitted in diesel exhaust are known as diesel particulate matter (DPM), which is the predominant TAC of concern in urban air and is estimated to represent about 70 percent of the cancer risk from TACs (CARB, 2023).

Sensitive Receptors

Certain community members are more susceptive to poor air quality. The BAAQMD defines these individuals as sensitive receptors. Sensitive receptors include children, the elderly, off-site workers, students, and those with preexisting medical conditions. Land uses where sensitive receptors are most likely to spend time include schools and schoolyards, parks and playgrounds, daycare centers and preschools, hospices, dormitories, prisons, nursing homes, hospitals, and residential communities. These types of land uses, where sensitive population groups are located, are referred to as sensitive land uses (BAAQMD, 2023a).

Sensitive residential receptors surround the Project site, with the nearest residential receptor located at 33 South 14th Street, 15 feet from the southern boundary of the Project site. Other sensitive land uses in the vicinity of the Project site include the San José Healthcare and Wellness Center, a nursing home located approximately 550 feet northwest of the Project site, and the Legacy Academy Middle School, located approximately 1,100 feet southeast of the Project site. This Project would also introduce new sensitive residential receptors to the area.

Regulatory Framework

Federal

Federal Clean Air Act and United States Environmental Protection Agency

The federal CAA authorized the establishment of federal air quality standards and set deadlines for their attainment. The federal CAA identifies specific emission reduction goals, requires both a demonstration of reasonable further progress towards attainment, and incorporates more stringent sanctions for failure to meet interim milestones.

The U.S. EPA is the federal agency charged with administering the federal CAA and other air quality-related legislation. The U.S. EPA sets and enforces the NAAQS under the federal CAA. Violations of NAAQS are determined 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 area as a nonattainment area for the 8-hour ozone standard and the 24-hour $PM_{2.5}$ standard. The Project 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 area as attainment/unclassified for all other air pollutants (BAAQMD, 2017a).

State

California Clean Air Act

California has established its own ambient air quality standards (CAAQS) that are at least as protective as NAAQS and are often more stringent. In 1988, California passed the California CAA (California Health and Safety Code Sections 39600 et seq.), which, like its federal counterpart, called for the designation of areas as attainment or non-attainment, but based on state ambient air quality standards rather than the federal standards. Similar to the federal requirements, the California CAA requires each air district in which state air quality standards are exceeded to prepare a plan that documents reasonable progress towards attainment. If an air basin (or portion thereof) exceeds the CAAQS for a particular criteria air pollutant, it is considered to be non-attainment with respect to that criteria air pollutant until the area can demonstrate compliance. At the State level, the Project area is considered nonattainment for ozone, PM_{10} and $PM_{2.5}$ (BAAQMD, 2017a).

Regional and Local

Bay Area Air Quality Management District California Environmental Quality Act Air Quality Guidelines

The City of San José is located within the San Francisco Bay Area Air Basin (SFBAAB) which is under the jurisdiction of the Bay Area Air Quality Management District (BAAQMD). The BAAQMD is primarily responsible for assuring that the federal and state ambient air quality standards for criteria pollutants are attained and maintained within the SFBAAB.

The BAAQMD uses their thresholds of significance, specified in the BAAQMD California Environmental Quality Act Air Quality Guidelines (CEQA Guidelines), to assess air quality impacts of proposed development projects. In an effort to attain and maintain federal and state ambient air quality standards, the BAAQMD's 2023 CEQA Guidelines include thresholds of significance for construction and operational emissions of criteria pollutants and their precursors, which are summarized in **Table AQ-1**, below.

TABLE AQ-1
BAAQMD AIR QUALITY SIGNIFICANCE THRESHOLDS

Pollutant	Construction Thresholds	Operational Thresholds	
	Average Daily Emissions (lbs./day)	Average Daily Emissions (lbs./day)	Annual Average Emissions (tons/year)
Criteria Air Pollutants			
ROG, NO_x, $PM_{2.5}$ (exhaust)	54	54	10
PM_{10} (exhaust)	82	82	15
CO	None	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	
Health Risks and Hazards for Sources within 1,000 Feet of Project			
Excess Cancer Risk	10 per one million		
Chronic or Acute Hazard Index	1.0		
Incremental annual average $PM_{2.5}$	0.3 µg/m^3		
Health Risks and Hazards for Sensitive Receptors (Cumulative from All Sources within 1,000-Foot Zone of Influence) and Cumulative Thresholds for New Sources			
Excess Cancer Risk	100 per 1 million		
Chronic Hazard Index	10.0		
Annual Average $PM_{2.5}$	0.8 µg/m^3		

NOTES:

ROG = reactive organic gases; NO_x = nitrogen oxides; PM_{10} = course particulate matter or particulates with an aerodynamic diameter of 10 micrometers (µm) or less; $PM_{2.5}$ = fine particulate matter or particulates with an aerodynamic diameter of 2.5µm or less; ppm = parts per million; µg/m^3 = micrograms per cubic meter

SOURCE: BAAQMD, 2023a.

As discussed in the BAAQMD CEQA Guidelines, "in developing thresholds of significance for air pollutants, BAAQMD considered the emission levels for which a project's individual emissions would be cumulatively considerable. If a project exceeds the identified significance thresholds, its emissions would be cumulatively considerable, resulting in significant adverse air quality impacts to the regions existing air quality conditions. Therefore, additional analysis to assess cumulative impacts is unnecessary" (BAAQMD, 2023a).

Bay Area Air Quality Management District 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 air quality attainment plan for the SFBAAB is the *Spare the Air, Cool the Climate: Final 2017 Clean Air Plan* (2017 Clean Air Plan). The 2017 Clean Air Plan identifies a broad range of control measures that specify 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 (BAAQMD, 2017b):

- 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); and
- Decarbonize the energy system.

Envision San José 2040 General Plan

Policies included in the *Envision San José 2040 General Plan* (General Plan) have been adopted for the purpose of avoiding or mitigating air quality impacts from development projects. The following policies relevant to air quality are applicable to the Project (City of San José, 2011).

> ***Policy MS-1.7:*** Encourage retrofits for existing buildings throughout San José to use green building principles in order to mitigate the environmental, economic, and social impact of those buildings, to achieve greenhouse gas reductions, and to improve air and water quality.
>
> ***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 MS-4.1:*** Promote the use of building materials that maintain healthful indoor air quality in an effort to reduce irritation and exposure to toxins and allergens for building occupants.
>
> ***Policy MS-4.2:*** Encourage construction and pre-occupancy practices to improve indoor air quality upon occupancy of the structure.
>
> ***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-10.7:*** Encourage regional and statewide air pollutant emission reduction through energy conservation to improve air quality.
>
> ***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-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 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.

Discussion

a) **Less Than Significant Impact.** Consistent with BAAQMD's methodology, a determination of consistency with the 2017 Clean Air Plan 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 the air quality plan control measures. The consistency of the Project with the applicable control measures is presented below in **Table AQ-2.** Based on this analysis, the Project would support the goals of the 2017 Clean Air Plan by including applicable control measures and would not disrupt or impede the implementation of the 2017 Clean Air Plan control measures. Therefore, the Project would comply with the 2017 Clean Air Plan and the impact would be less than significant.

TABLE AQ-2
2017 CLEAN AIR PLAN APPLICABLE CONTROL MEASURES

Control Measures	Description	Project Consistency
Stationary Source Measures		
SS 36: PM from Trackout	Develop new Air District rule to prevent mud/dirt and other solid trackout from construction, landfills, quarries, and other bulk material sites.	The Project would be required to comply with all adopted BAAQMD rules and regulations for the purpose of controlling fugitive dust emissions. In addition, as discussed under criterion b), below, the Project would implement the BAAQMD Best Management Practices (BMPs) for reducing fugitive dust emissions, including those from trackout, during construction.
SS 38: Fugitive Dust	Consider applying the Air District's proposed fugitive dust visible emissions limits to a wider array of sources.	The Project would be required to comply with all adopted BAAQMD rules and regulations for the purpose of controlling fugitive dust emissions. In addition, as discussed under criterion b), below, the Project would implement the BAAQMD Best Management Practices (BMPs) for reducing fugitive dust emissions during construction.

Control Measures	Description	Project Consistency
Transportation Measures		
TR 9: Bicycle and Pedestrian Access and Facilities	Encourage planning for bicycle and pedestrian facilities in local plans, e.g., general and specific plans, fund bike lanes, routes, paths and bicycle parking facilities.	The Project would include 24 bicycle parking spaces consistent with City's Zoning Ordinance standards. Therefore, the Project is consistent with this measure.
TR 10: Land Use Strategies	Support implementation of *Plan Bay Area,* maintain and disseminate information on current climate action plans and other local best practices, and collaborate with regional partners to identify innovative funding mechanisms to help local governments address air quality and climate change in their general plans.	The Project is an infill residential development that would locate residents in proximity to a variety of uses including commercial and recreational uses. This infill development supports the land use strategies included in *Plan Bay Area;* therefore, the Project would be consistent with this measure.
TR 13: Parking Policies	Encourage parking policies and programs in local plans, e.g., reduce minimum parking requirements; limit the supply of off-street parking in transit-oriented areas; un-bundle the price of parking spaces; support implementation of demand-based pricing (such as "SF Park") in high-traffic areas.	The Project is located in a high-quality transit / low VMT area and meets the City's transit-supporting project parking requirements. As part of the Project's residential TDM program, the Project will meet the required TDM Point Target by meeting measures for Right-Size Parking (62 spaces all onsite only; 1.25 spaces per unit) and provides 100% of the parking as shared parking. Also, per the City's bicycle parking requirement per City code the Project will provide notably more bicycle spaces than required (24 of 18).(See Appendix D to this document.)
Energy Control Measures		
EN1: Decarbonize Electricity Production	Engage with PG&E, municipal electric utilities and CCEs to maximize the amount of renewable energy contributing to the production of electricity within the Bay Area as well as electricity imported into the region. Work with local governments to implement local renewable energy programs. Engage with stakeholders including dairy farms, forest managers, water treatment facilities, food processors, public works agencies and waste management to increase use of biomass in electricity production.	The residents of the Project would be automatically enrolled in San José Clean Energy's GreenSource program, which consists of 60% renewable energy and up to 95% carbon-free power.

Control Measures	Description	Project Consistency
EN 2: Decrease Electricity Demand	Work with local governments to adopt additional energy efficiency policies and programs. Support local government energy efficiency program via best practices, model ordinances, and technical support. Work with partners to develop messaging to decrease electricity demand during peak times.	The Project would be required to comply with 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), which would increase building efficiency over standard construction. Although not required, the Project proposes to be natural-gas free; the building will all electric and energy efficient, including electrical vehicle (EV)-ready. Therefore, the Project is consistent with this control measure.
Building Control Measures		
BL 1: Green Buildings	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 targetreducing 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), and the most recent California Building Code, which would increase building efficiency over standard construction. Therefore, the Project is consistent with this control measure.
BL 2: Decarbonize Buildings	Explore potential Air District rulemaking options regarding the sale of fossil fuel-based space and water heating systems for both residential and commercial use. Explore incentives for property owners to replace their furnace, water heater or natural-gas powered appliances with zero-carbon alternatives. Update Air District guidance documents to recommend that commercial and multi-family developments install ground source heat pumps and solar hot water heaters.	The Project would comply with the City's Reach Code which prohibits natural gas infrastructure. Therefore, the Project would be consistent with this control measure,
Waste Control Measures		
WA 3: Green Waste Diversion	Develop model policies to facilitate local adoptions of ordinances and programs to reduce the amount of green waste going to landfills.	Senate Bill 1383 requires that all California jurisdictions, including the City of San José, provide organic waste collection services to all residents and businesses. In addition, the Project would be required to comply with AB 1826 which requires all multi-family dwellings with five or more units that generate two or more cubic yards of garbage per week to recycle their organic waste Therefore, the Project would be consistent with this control measure.

Control Measures	Description	Project Consistency
WA 4: Recycling and Waste Reduction	Develop or identify and promote model ordinances on community-wide zero waste goals and recycling of construction and demolition materials in commercial and public construction projects.	The Project would be required to comply with the CALGreen code, which includes requirements for construction waste diversion. Therefore, the Project would be consistent with this control measure.
Water Control Measures		
WR 2: Support Water Conservation	Develop a list of best practices that reduce water consumption and increase on-site water recycling in new and existing buildings; incorporate into local planning guidance.	The Project would be required to adhere to State and local policies, including the CALGreen Code, to conserve water. Therefore, the Project is consistent with this control measure.

SOURCE: BAAQMD, 2017b.

b) **Less Than Significant.** The SFBAAB is considered a nonattainment area for the state and federal ground-level ozone and $PM_{2.5}$ standards. The area is also considered nonattainment for the state PM_{10} standard. The area has attained both State and federal ambient air quality standards for carbon monoxide. As part of an effort to attain and maintain ambient air quality standards for ozone, $PM_{2.5}$, and PM_{10}, the BAAQMD has established thresholds of significance for these air pollutants and their precursors, presented in **Table AQ-1**, above. The BAAQMD has chosen to take a qualitative approach to assessing construction-related emissions of fugitive dust. According to the CEQA Guidelines, a project would be considered to have a less-than-significant impact with respect to fugitive dust emissions if the project implements the BAAQMD-recommended Best Management Practices during construction.

Construction

The BAAQMD CEQA Guidelines include screening levels for evaluating the air quality impacts of land use projects within the SFBAAB. However, the screening thresholds can only be used if construction activities do not include demolition, simultaneous occurrence of more than two construction phases, simultaneous construction of more than one land use type, extensive site preparation, or extensive material transport. Since the Project would include demolition of the existing commercial building and would require export of demolished and excavated materials, the construction screening criteria would not be applicable to the Project. Therefore, construction-related emissions were quantified and compared to the BAAQMD thresholds of significance to determine whether the Project would result in a significant impact to air quality.

Construction-related emissions are considered short-term in duration; nevertheless, construction emissions can represent a significant adverse impact on air quality. During construction, the Project would generate emissions of criteria air pollutants from operation of heavy-duty construction equipment, operation of worker vehicles and haul trucks, excavation of materials, paving activities, and application of architectural coatings. Construction emissions were estimated using the California Emissions

Estimator Model (CalEEMod), version 2022.1.1 and then compared to the BAAQMD's applicable regional significance thresholds. Project-specific information was provided by the Project applicant including project size and anticipated construction start date and duration, while operational trip data was provided by the traffic consultant. Where Project-specific data was not available, CalEEMod defaults were used. Detailed modeling assumptions are included in the *CalEEMod Runs* subsection of **Appendix A** to this document**.**[3]

Construction of the Project is anticipated to begin in August 2024, and the Project is anticipated to become operational in 2026. As mentioned above, the Project would include demolition of all existing structures and would require excavation of approximately 1,380 cubic yards of material, 1,375 cubic yards of which would be exported from the site. The unmitigated average daily construction emissions are compared to the BAAQMD thresholds of significance and presented in **Table AQ-3.**

TABLE AQ-3
UNMITIGATED PROJECT CONSTRUCTION EMISSIONS1

Construction Year	ROG (ppd)	NO_x (ppd)	PM_{10} Exhaust (ppd)	$PM_{2.5}$ Exhaust (ppd)
2024	0.75	6.36	0.19	0.19
2025	52.5	5.0	0.61	0.61
BAAQMD Thresholds	**54**	**54**	**82**	**54**
Exceeds Threshold?	**No**	**No**	**No**	**No**

NOTES:
ppd = pounds per day
1 Project construction emissions estimates were made using CalEEMod version 2022.1.1. See Appendix A for model outputs and more detailed assumptions.

SOURCE: Appendix A.

As shown in Table AQ-3, above, construction of the Project would not result in emissions that would exceed the BAAQMD thresholds of significance; therefore, the Project would result in a less than significant impact.

The Project would implement the BAAQMD Best Management Practices, which are required as Standard Permit Conditions and address the BAAQMD's qualitative threshold for fugitive dust emissions during construction.

Operation

During operation, the Project would generate emissions from mobile sources (e.g. vehicle trips) and area sources (e.g. use of landscaping equipment, reapplication of architectural coatings, use of consumer products). Consistent with the City of San José Reach Codes,

[3] Construction modeling assumptions include the proposed building characteristics of 50 units and slightly conservative (larger) use areas of 7,427 square feet office, 7,263 square feet retail area, and 20,304 square feet of enclosed parking area (Appendix A, Section 1.3).

the Project would be "all electric"; therefore, there would be no direct criteria air pollutant emissions from building energy use. CalEEMod version 2022.1.1, was used to estimate existing emissions of ROG, NO_x, PM_{10}, and $PM_{2.5}$ that are generated from the Project area, as well as operational emissions of ROG, NOx, PM10, and PM2.5 that would result from of the Project. Project-specific inputs to the model included operational trip rates, as reported in the *Draft Local Transportation Analysis* (LTA) prepared for the Project by Fehr & Peers (see Appendix D). Where Project-specific data was not available, CalEEMod defaults were used. Estimated existing operational emissions from the Project area were subtracted from operational emissions that would be generated by the Project to determine the difference in emissions of ROG, NOx, PM10, and PM2.5 that would be generated from the Project area following implementation of the Project. These new emissions were then compared to the BAAQMD operational thresholds of significance and are presented in **Table AQ-1.**

TABLE AQ-4
OPERATIONAL EMISSIONS1

Construction Year	ROG (ppd/tpy)	NO_x (ppd/tpy)	PM_{10} (ppd/tpy)	$PM_{2.5}$ (ppd/tpy)
Area	1.5/0.3	0.0/0.0	0.0/0.0	0.0/0.0
Energy	0.0/0.0	0.1/0.0	0.0/0.0	0.0/0.0
Mobile	1.6/0.3	1.0/0.2	2.4/0.4	0.6/0.1
Total	**3.2/0.6**	**1.2/0.2**	**2.5/0.4**	**0.6/0.1**
BAAQMD Thresholds	**54/10**	**54/10**	**82/15**	**54/10**
Exceeds Threshold?	**No**	**No**	**No**	**No**

NOTES:
ppd = pounds per day; tpy = tons per year
1 Project construction emissions estimates were made using CalEEMod version 2022.1.1. See Appendix A for model outputs and more detailed assumptions.
2 Negative emissions indicate that implementation of the Project would result in reduced emissions compared to existing emissions from the Project area.

SOURCE: Appendix A.

As shown in Table AQ-4, operational emissions from the Project area following implementation of the Project would not exceed the applicable BAAQMD thresholds of significance and no mitigation would be required.

Summary

With implementation of the BAAQMD Best Management Practices as a standard permit condition, the Project would not result in either construction or operational emissions that would exceed the applicable BAAQMD thresholds of significance. As discussed above, the BAAQMD thresholds of significance were developed based on emission levels that would be cumulatively considerable and emissions below the thresholds would not be considered to have a significant cumulative impact. Therefore, the Project would not result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is in non-attainment. This impact would be less than significant.

Standard Permit Conditions

a) Water all exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) two times per day.

b) Cover all haul trucks transporting soil, sand, or other loose material off-site.

c) Remove all visible mud or dirt trackout onto adjacent public roads at least once per day using wet power vacuum street sweepers. The use of dry power sweeping is prohibited.

d) Limit all vehicle speeds on unpaved roads to 15 mph.

e) Pave all new roadways, driveways, and sidewalks as soon as possible.

f) Lay building pads as soon as possible after grading unless seeding or soil binders are used.

g) Suspend all excavation, grading, and/or demolition activities when average wind speeds exceed 20 mph.

h) Wash off all trucks and equipment, including their tires, prior to leaving the site.

i) Treat unpaved roads providing access to sites located 100 feet or further from a paved road with a 6- to 12-inch layer of compacted layer of wood chips, mulch, or gravel.

j) Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to no more than 2 minutes (A 5-minute limit is required by the state airborne toxics control measure [Title 13, Sections 2449(d)(3) and 2485 of the California Code of Regulations]). Provide clear signage that posts this requirement for workers at all access points to the site.

k) Maintain and properly tune all construction equipment in accordance with the manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.

l) Post a publicly visible sign with the name and phone number of an on-site construction coordinator to contact regarding dust complaints. The on-site construction coordinator shall respond and take corrective action within 48 hours. The sign shall also provide the City's Code Enforcement Complaints email and number and the Air District's General Air Pollution Complaints number to ensure compliance with applicable regulations.

c) **Less Than Significant Impact.** Project impacts related to increased community health risk can occur by introducing a new source of TACs with the potential to adversely affect existing sensitive receptors in the Project vicinity. Sensitive residential receptors are

located adjacent to and south of the Project site boundary, the nearest of which is located approximately 15 feet south of the Project site. There are no schools or daycares located within 1,000 feet of the Project site boundaries. The BAAQMD considers 1,000 feet from sources as the "zone of influence," within which sensitive receptors would experience health impacts, hence requiring an evaluation.

The Project would include construction activities, which would be a temporary source of TAC and $PM_{2.5}$ emissions. The operation of the Project would generate some traffic, consisting of light-duty vehicles, which are not a source of substantial TACs or $PM_{2.5}$ emissions.

Project construction activities would generate DPM from the combustion of diesel in heavy-duty construction equipment used onsite as well as heavy-duty trucks transporting materials and equipment to the site. DPM is a complex mixture of gases and particulate matter that includes over 40 substances listed by the U.S. EPA as hazardous air pollutants and by the CARB as TACs. DPM generated by Project construction activities could affect existing sensitive receptors in the vicinity. In addition, exposure to both exhaust and fugitive $PM_{2.5}$ emissions from the Project's construction activities could lead to additional health impacts.

Community health risk impacts are addressed by predicting increase in lifetime cancer risk and annual $PM_{2.5}$ concentrations and computing the Hazard Index (HI) for non-cancer health risks (see **Table AQ-5** below). A community health risk assessment was completed for the Project; the results are included in Appendix A and are summarized below.

Community Risk Impacts Associated with Project Construction

The health risk assessment prepared for the Project evaluated the potential health effects to nearby sensitive receptors from construction emissions of DPM and $PM_{2.5}$. This assessment included dispersion modeling to predict the off-site concentrations resulting from Project construction, so that lifetime cancer risks and non-cancer health effects could be evaluated.

The modeled maximum annual DPM and $PM_{2.5}$ concentrations at offsite receptors were identified to identify the maximally exposed individuals (MEI). Using the maximum annual modeled DPM concentrations, the maximum increase in cancer risks were calculated using methods and exposure parameters recommended by the BAAQMD and Office of Environmental Health and Hazard Assessment (OEHHA). Non-cancer health hazards and maximum $PM_{2.5}$ concentrations were also calculated.

Results of this assessment indicate that the construction MEI is located at the residential address immediately to the south of the Project site. To calculate the resident infant cancer risk, the 95th percentile daily breathing rate is recommended by the BAAQMD for children under the age of two. This breathing rate was used along with the modeled annual DPM concentrations assuming the exposure would occur for 350 days per year at

the residence, as recommended by BAAQMD. Table AQ-5 below summarizes the maximum cancer risks, $PM_{2.5}$ concentrations, and health hazard indexes for project-related unmitigated construction activities affecting the residential MEI. As shown in the table, the maximum excess residential cancer risks at this location would not exceed the BAAQMD significance threshold of 10 in one million. The maximum annual $PM_{2.5}$ concentration and Hazard Index would also be below the respective BAAQMD thresholds of 0.3 μg/m^3 and 1.0. Therefore, this would be a less than significant impact.

TABLE AQ-5
CONSTRUCTION RISK IMPACTS AT THE NEARBY SENSITIVE RECEPTORS

Receptor Type	Maximum Cancer Risk (per million)	Annual Average $PM_{2.5}$ Concentration (μg/m^3)	Hazard Index
Unmitigated			
Resident Child Receptor	5.4	0.04	<0.1
BAAQMD Threshold of Significance	**10**	**0.3**	**1.0**
Exceeds Significance Threshold?	**No**	**No**	**No**

SOURCE: Appendix A.

Cumulative Impact on Construction MEI

Cumulative community risk impacts were addressed through an evaluation of TAC sources located within 1,000 feet of the construction MEI. These sources include freeways or highways, busy surface streets, and stationary sources permitted by the BAAQMD. The BAAQMD provides GIS data to estimate background risk from mobile sources including highways, major streets and rail as well as screening map to identify permitted sources near projects. A review of BAAQMD's stationary source GIS map tool identified two stationary sources with the potential to affect the construction MEI – a gas dispensing facility located to the southwest and an emergency generator to the northeast.

Table AQ-6 presents the cumulative community risk impacts to the construction MEI including the Project's impacts. As shown in the table, the cumulative incremental cancer risk, non-cancer hazard index and annual $PM_{2.5}$ concentration at the construction MEI would be less than the respective BAAQMD cumulative health risk thresholds of 100 in a million, 10.0 and 0.8 μg/$m^{3.}$ Therefore, the Project would result in a less than significant cumulative impact with respect to community risk caused by Project construction activities.

TABLE AQ-6
CUMULATIVE HEALTH RISKS TO OFF-SITE CONSTRUCTION MEI

Receptor Type/Source	Cancer Risk (per million)	Hazard Index (Unitless)	Annual Average $PM_{2.5}$ Concentration ($\mu g/m^3$)
Resident Infant MEI			
Project Construction	5.4	<0.1	0.04
Mobile - Highways	13.9	--	0.3
Mobile - Major Streets	1.5	--	<0.1
Mobile - Rail	2.7	--	<0.1
Permitted Stationary – City Gas (FID 100402_1)	0.2	<0.1	0.0
Permitted Stationary – Valley Health Clinic (FID 23495)	0.1	<0.1	<0.1
Total	**23.7**	**<0.1**	**0.4**
BAAQMD Cumulative Threshold of Significance	**100**	**10.0**	**0.8**
Exceeds Cumulative Significance Threshold?	**No**	**No**	**No**

SOURCE: Appendix A.

d) **Less Than Significant Impact**. During construction, use of diesel- powered vehicles and equipment could temporarily generate localized odors, which would cease upon Project completion and would not result in a significant odor impact.

The BAAQMD identifies land uses that have potential to generate considerable odorous impacts and odor complaints during operation as wastewater treatment plants, landfills, confined animal facilities, composting stations, food manufacturing plants, refineries, and chemical plants. The Project is a residential development and does not include land uses that are identified by the BAAQMD as common odor sources. Therefore, operation of the Project would not generate substantial odorous emissions and would not result in significant odor impacts.

Non-CEQA Effects

The Project would introduce new residents onto the site 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. The Project would include new sensitive receptors (residences) in the proximity of nearby potential TAC sources. Though not

necessarily a CEQA issue, the effect of existing TAC sources on future Project receptors was conducted to comply with the 2017 Clean Air Plan goal of reducing TAC exposure and protecting public health as well as the City's General Plan Policy MS-11.1.

Table AQ-7 presents the cumulative community risk impacts to the Project receptors from stationary and mobile sources in the vicinity. As shown in the table, the cumulative incremental cancer risk, non-cancer hazard index and annual $PM_{2.5}$ concentration at the Project receptors would be less than the respective BAAQMD cumulative health risk thresholds of 100 in a million, 10.0 and 0.8 $\mu g/m^{3.}$

TABLE AQ-7
IMPACTS FROM COMBINED SOURCES AT PROJECT RECEPTORS

Receptor Type/Source	Cancer Risk (per million)	Hazard Index (Unitless)	Annual $PM_{2.5}$ ($\mu g/m^3$)
Resident Child MEI			
Mobile - Highways	13.9	--	0.3
Mobile - Major Streets	1.5	--	<0.1
Mobile - Rail	2.7	--	<0.1
Permitted Stationary – City Gas (FID 100402_1)	0.2	<0.1	0.00
Permitted Stationary – Valley Health Clinic (FID 23495)	0.1	<0.1	<0.1
Total	**18.3**	**<0.1**	**0.4**
BAAQMD Cumulative Threshold of Significance	**100**	**10.0**	**0.8**
Exceeds Cumulative Significance Threshold?	**No**	**No**	**No**

SOURCE: Appendix A.

Therefore, the Project would result in a less than significant cumulative impact with respect to community risk to new sensitive receptors introduced by the Project.

Conclusion: The Project would have a less than significant impact on air quality.

References

Bay Area Air Quality Management District (BAAQMD), 2017a. *Air Quality Standards and Attainment Status.* Last updated January 15, 2017. Available at https://www.baaqmd.gov/about-air-quality/research-and-data/air-quality-standards-and-attainment-status. Accessed May 16, 2023.

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City of San José, 2011. *Envision San José 2040 General Plan.* Adopted November 1, 2011. Amended November 3, 2022. Available at https://www.sanjoseca.gov/home/showpublisheddocument/22359/637928744399330000. Accessed May 9, 2023.

4.4 Biological Resources

Issues (and Supporting Information Sources):	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
IV. 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?	☐	☒	☐	☐
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 U.S. Fish and Wildlife Service?	☐	☐	☐	☒
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?	☐	☐	☐	☒
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?	☐	☐	☒	☐
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☒	☐
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?	☐	☐	☒	☐

Environmental Setting

The Project site is currently occupied by one two-story commercial building that surrounds a lawn on three sides. There are six existing street trees along the Project site, two along South 14th Street and four along East Santa Clara Street. The nearest waterway to the Project site is Coyote Creek, located approximately 0.3 miles northeast of the Project site. Due to the developed urbanized nature of the area, the special-status wildlife and plant habitat value of the Project site is considered low. However, existing trees on and surrounding the site provide potential habitat for nesting birds.

Critical Habitat

The U.S. Fish and Wildlife Service (USFWS) can designate critical habitat for species that have been listed as threatened or endangered. *Critical habitat* is defined in Federal Endangered Species Act (FESA) Section 3(5)(A) as those lands (or waters) within a listed species' current range that contain physical or biological features that are considered essential to its conservation.

Sensitive Natural Communities

Sensitive natural communities are designated by various resource agencies such as California Department of Fish and Wildlife (CDFW), or by local policies and regulations, and are generally considered to have important functions or values for wildlife and/or are recognized as declining in extent or distribution and are considered threatened enough to warrant some level of protection. CDFW tracks communities of conservation concern through its *California Sensitive Natural Community List.* Natural communities with ranks of S1 to S3 are considered sensitive natural communities, to be addressed in the environmental review processes of CEQA and its equivalents.

Regulatory Framework

Federal

The FESA and Migratory Bird Treaty Act (MBTA) are the primary federal planning, treatment, and review mechanisms for biological resources in the study areas. Each is summarized below.

Endangered Species Act

The USFWS and the National Marine Fisheries Service (NMFS) are the designated federal agencies responsible for administering the FESA. The FESA defines species as "endangered" and "threatened" and provides regulatory protection for any species thus designated. FESA Section 9 prohibits the "take" of species listed by USFWS as threatened or endangered. As defined in the FESA, *taking* means "… to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or attempt to engage in such conduct." Recognizing that take cannot always be avoided, FESA Section 10(a) includes provisions for takings that are incidental to, but not the purpose of, otherwise lawful activities.

FESA Section 7(a)(2) requires all federal agencies, including the USFWS, to evaluate projects authorized, funded, or carried out by federal agencies with respect to any species proposed for listing or already listed as endangered or threatened and the species' critical habitat, if any is proposed or designated. Federal agencies must undertake programs for the conservation of endangered and threatened species and are prohibited from authorizing, funding, or carrying out any action that would jeopardize a listed species or destroy or modify its "critical habitat."

As defined in the FESA, "individuals, organizations, states, local governments, and other non-federal entities are affected by the designation of critical habitat only if their actions occur on federal lands, require a federal permit, license, or other authorization, or involve federal funding."

Migratory Bird Treaty Act

The MBTA is the domestic law that affirms and implements a commitment by the United States to four international conventions (with Canada, Mexico, Japan, and Russia) for the protection of a shared migratory bird resource. Unless and except as permitted by regulations, the MBTA makes it unlawful at any time, by any means, or in any manner to intentionally pursue, hunt, take, capture, or kill migratory birds anywhere in the United States. The law also applies to the

intentional disturbance and removal of nests occupied by migratory birds or their eggs during the breeding season.

State

In addition to CEQA, the primary state planning, treatment, and review mechanisms for biological resources in the study areas are the California Endangered Species Act (CESA) and California Fish and Game Code Sections 1600–1603, 3503, 3503.5, and 3511. Each is summarized below.

California Endangered Species Act

The CESA closely parallels the conditions of the FESA; however, it is administered by CDFW. CESA prohibits the take of plant and animal species that the California Fish and Game Commission has designated as either threatened or endangered in California. "Take" in the context of this regulation means to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill a listed species (CFGC section 86). The take prohibitions also apply to candidates for listing under CESA. However, section 2081 of the act allows the department to issue permits for the minor and incidental take of species by an individual or permitted activity listed under the act. Unlike FESA, species that are candidates for state listing are granted the same protections as listed species under CESA.

In accordance with the requirements of CESA, an agency reviewing a project within its jurisdiction must determine whether any state-listed endangered or threatened species could be present in the study areas. The agency also must determine whether the project could have a potentially significant impact on such species. In addition, the department encourages informal consultation on any project that could affect a candidate species.

California Fish and Game Code Sections 1600-1603

All diversions, obstructions, or changes to the natural flow or bed, channel, or bank of any river, stream, or lake in California that supports fish or wildlife resources are subject to the regulatory authority of CDFW under CFGC Sections 1600–1603. Under the CFGC, a *stream* is defined as a body of water that flows at least periodically, or intermittently, through a bed or channel having banks and supporting fish or other aquatic life. Included are watercourses with surface or subsurface flows that support or have supported riparian vegetation. Specifically, CFGC Section 1603 governs private-party individuals, and CFGC Section 1601 governs public projects.

CDFW jurisdiction in altered or artificial waterways is based on the value of those waterways to fish and wildlife. CDFW must be contacted by the public or private party for a streambed alteration agreement for any project that might substantially affect a streambed or wetland. CDFW has maintained a "no net loss" policy regarding potential impacts and has required replacement of lost habitats.

California Fish and Game Code Sections 3503, 3503.5, and 3513

Under CFGC section 3503, it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by the code or any regulation made pursuant thereto.

CFGC section 3503.5 prohibits take, possession, or destruction of any birds in the orders Falconiformes (hawks) or Strigiformes (owls), or of their nests and eggs. Migratory non-game birds are protected under section 3800, whereas other specified birds are protected under section 3505. CFGC section 3513 adopts the federal definition of migratory bird take, which is defined by the U.S. Department of the Interior under provisions of the MBTA. Section 3513 does not prohibit the incidental take of birds if the underlying purpose of the activity is not to take birds. In addition, CDFW has issued an advisory that affirms that California law prohibits incidental take of migratory birds.[4]

Regional

Santa Clara Valley Habitat Plan/Natural Communities Conservation Plan

The Santa Clara Valley Habitat Plan/Natural Communities Conservation Plan (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. The HCP 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 (Santa Clara County, 2012):

- Private Development Subject to the Plan: 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 HCP indicates that nitrogen deposition has damaging effects on many of the serpentine plants in the HCP 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 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 butterfly and its larval host plants, has been documented on Coyote Ridge in central Santa Clara County (Santa Clara County, 2012).

[4] CDFW, CDFW and California Attorney General Xavier Becerra Advisory Affirming California's Protections for Migratory Birds, November 29, 2018, https://nrm.dfg.ca.gov/.

Local

City of San José Tree Ordinance

The San José 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. The locations of all heritage trees within the City of San José are mapped and available online (City of San José, 2022). 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 Project (City of San José, 2011).

> ***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 ER-6.5:*** Prohibit use of invasive species, citywide, in required landscaping as part of the discretionary review of proposed development.
>
> ***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:

- Avoid conflicts with nearby power lines.
- Avoid potential conflicts between tree roots and developed areas.
- Avoid use of invasive, non-native trees.
- Remove existing invasive, non-native trees.
- Incorporate native trees into urban plantings in order to provide food and cover for native wildlife species.
- Plant native oak trees and native sycamores on sites which have adequately sized landscape areas and which historically supported these species.

Discussion

a) **Less than Significant Impact with Mitigation Incorporated.** The Project site and surrounding area are located within an urban environment consisting of residences and city streets with high levels of human activity. Vegetation on the Project site consists of landscape plants and trees and is not considered a natural vegetation community. No USFWS-designated critical habitat for threatened and endangered species is present in or around the Project site (USFWS, 2022a). Queries of the California Natural Plant Society Rare Plant Inventory for the San José West U.S. Geological Survey 7.5-minute topographic quadrangle and the San José East U.S. Geological Survey 7.5-minute topographic quadrangle indicated that there are 22 special-status plant species that currently or once had potential to occur in and around the Project site. However, no special-status plant species are expected to occur in the Project site because it is completely developed with buildings and landscaping; therefore, there is no suitable habitat for special-status plants. Queries of the CDFW California Natural Diversity Database for the same two quadrangles discussed above, combined with a query of the USFWS Information for Planning and Consultation official species list for the Project site and vicinity resulted in a list of special-status wildlife species that currently or once had potential to occur in and around the Project site, see **Appendix B** (CDFW, 2022; CNPS, 2022; USFWS, 2022b). Most of the special-status wildlife species resulting from the database queries have little to no potential to occur in the vicinity of the Project site due to the absence of suitable habitat, or because they are extirpated or likely extirpated from

the area. However, two special-status species have a moderate to high potential to occur in the vicinity of the Project site: Cooper's hawk (*Accipiter cooperii)* and peregrine falcon (*Falco peregrinus anatum*)*,* discussed below.

Although landscape plants and trees provide only limited habitat to support wildlife species, they can provide cover, foraging, and nesting habitat for a variety of common bird species that tolerate human activity, such as dark-eyed junco (*Junco hyemalis*), California towhee (*Melozone crissalis*), American bushtit (*Psaltriparus minimus*), house finch (*Haemorhous mexicanus*), Anna's hummingbird (*Calypte anna*), and American crow (*Corvus brachyrhynchos*). These species, and many other common bird species, are protected by the Migratory Bird Treaty Act and California Fish and Game Code sections 3503, 3503.5, and 3513, and could nest in the landscape trees and shrubs on and around the Project site. In addition, Cooper's hawk, a special-status bird species on the CDFW Watch List, commonly nests in urban trees in the San Francisco Bay Area. Peregrine falcon also thrives in the Bay Area's urban environment, nesting and perching on tall buildings, including San José City Hall, approximately 0.6 miles away, and hunting pigeons and other bird species. Peregrine falcon would only be expected to be present on or in the vicinity of the project site on a transitory basis while hunting; this species is not expected to nest in the study area).

The Project would remove one existing tree, therefore nesting birds could be indirectly impacted by noise, vibration, and other disturbances associated with construction activities adjacent to their nesting sites. Indirect impacts could result from adults spending less time at the nest or even nest abandonment, causing nest failure due to inadequate incubation of eggs or brooding of chicks. The CDFW defines "taking" as causing abandonment and/or loss of reproductive efforts through disturbance. Any loss of fertile eggs, nesting raptors, or any activities resulting in nest abandonment would constitute a significant impact. **Mitigation Measure BIO-1**, **Nesting Birds**, would reduce the impact to less than significant, as discussed below.

Mitigation Measure BIO-1: Nesting Birds.

Implementation of the proposed Project could result in the disturbance of active bird nests containing eggs or chicks.

- **Avoidance:** Prior to any site disturbance or issuance of any grading, building or demolition permits (whichever occurs first), the Project applicant shall schedule all 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). Construction activities include any site disturbance such as, but not limited to, tree trimming or removal, demolition, grading, and trenching.

- **Nesting Bird Surveys:** If construction activities 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 active nests shall be disturbed during construction activities. 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 area for nests.

- **Buffer Zone:** If an active nest is found sufficiently close to work areas to be disturbedby 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 for raptors and 100 feet for other birds) to ensure that raptor or migratory bird nests shall not be disturbed during Project construction. The no-disturbance buffer shall remain in place until the biologist determines the nest is no longer active or if the nesting season ends. If construction ceases for 14 days or more during the early part of the breeding season (February 1st through April 30th, inclusive) or for 30 days or more during the late part of the breeding season (May 1st through August 31st, inclusive), then resumes again during the nesting season, an additional survey shall be necessary to avoid impacts on active bird nests that may have been established during the pause in construction.

- **Reporting:** Prior to any site disturbance or the issuance of any grading, building 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 the Department of Planning, Building and Code Enforcement or the Director's designee.

The impact will be less than significant with incorporation of Mitigation Measure BIO-1 to address direct or indirect impacts to active bird nests containing eggs or chicks. As a result, the impact would be reduced to less than significant with respect to special status and other common bird species' nests.

b) **No Impact.** No riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife were identified within the boundaries of the Project site. Therefore, the Project would not impact any such habitat types.

c) **No Impact.** The Project would not have a substantial adverse effect on state or federally protected wetlands, since none are located on or near the site.

d) **Less than Significant Impact.** The Project is proposed on an urban infill site surrounded by development and is not expected to impact existing wildlife corridors, nor support any communal native wildlife nursery sites, such as heron rookeries or shorebird colonies. Tree removal or other construction activities could potentially disrupt individual nesting birds, as described under a), above. However, with the implementation of Mitigation Measure BIO-1, the Project would reduce this potential impact to a less than significant level. Therefore, the 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, nor would it impede the use of native wildlife nursery sites.

e) **Less Than Significant Impact.** The Project would remove one street tree on South 14th Street adjacent to the Project site, therefore, the City's Tree Ordinance would apply. The Project would be consistent with local policies and ordinances protecting biological resources, specifically, the City's Tree Ordinance which regulates the removal of trees. Street tree replacement would be determined in coordination with the City's Department of Transportation as part of adjacent street improvements and in accordance with Municipal Code Section 13.28. The Project would also be consistent with the City's General Plan policies related to biological resources, which are listed in the *Regulatory Setting* discussion, above, as it would preserve existing trees and would include measures to reduce impacts to birds. Furthermore, the Project would be consistent with the Santa Clara Valley Habitat Plan/Natural Communities Conservation Plan, as discussed under criterion f), below.

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 cover type designated by the SCVHP as an urban-suburban development. The nitrogen deposition fee applies to all projects that create new vehicle trips. A nitrogen deposition fee would 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

Habitat Conservation Plan: 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 would be required to submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of Planning, Building Code Enforcement (PBCE) or the Director's designee for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit.[5]

Conclusion. The Project would have a less than significant impact on biological resources with implementation of identified Mitigation Measure BIO-1 and Standard Permit Conditions.

References

California Department of Fish and Wildlife, 2022. California Natural Diversity Database printout for U.S. Geological Survey 7.5-minute topographic quadrangles: San José East and San José West. Accessed August 8, 2022.California Native Plant Society (CNPS). 2022. CNPS Rare Plant Program, Online Inventory of Rare and Endangered Plants of California (online editions, v9-01 1.0). Available online: https://www.rareplants.cnps.org/. Accessed August 15, 2022.

[5] The habitat plan and supporting materials can be viewed at www.scv-habitatplan.org.

City of San José, 2022. *Heritage Trees.* Available at https://www.sanjoseca.gov/your-government/departments/transportation/roads/landscaping/trees/heritage-trees. Accessed August 15, 2022.

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United States Fish and Wildlife Service, 2022b. *IPaC Resource List.* Available at https://ipac.ecosphere.fws.gov/location/3K2IDT22AJFULOXK45VD6KFYNA/resources. Accessed August 15, 2022.

4.5 Cultural Resources

Issues (and Supporting Information Sources):	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
V. CULTURAL RESOURCES — Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5?	☐	☐	☒	☐
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	☐	☒	☐	☐
c) Disturb any human remains, including those interred outside of dedicated cemeteries?	☐	☐	☒	☐

Setting

Historic Architectural Resources

Project Site

The Project site includes two parcels (APNs 467-27-039 and 467-27-093). APN 467-27-039 is a paved surface parking lot that is accessed by South 14th Street. APN 467-27-093 includes a two-story commercial building addressed as 644 East Santa Clara Street that was constructed in 1946.[6] Because the property is more than 45 years old and is also listed on the San José Historic Resources Inventory (HRI) as an Identified Structure and is located in the Naglee Park Conservation Area, a historic resource evaluation was conducted by a qualified historic resources consultant in March 2021 and resulting documents were revised in April 2023. The historic resource evaluation concluded that the property is ineligible for individual listing on the California Register of Historical Resources (California Register) and ineligible for individual listing on the San José HRI as a Candidate City Landmark.[7] See **Appendix C** which includes the Department of Parks and Recreation (DPR) 523 forms which document and evaluate the significance of the property.

As previously stated, the Project site is located within the Naglee Park Conservation Area bounded by East Santa Clara Street on the north, S. 11th Street on the West, Coyote Creek on the east, and East William Street on the south. The Naglee Park Conservation Area covers the 140-acre former estate of General Henry M. Naglee. At the turn of the 20th century, Naglee's heirs worked with real estate developer, T.S. Montgomery to subdivide the estate. By 1902, over 1,500 residences, many architect designed, had been constructed. The area is notable for its concentration of early 20th century residences in a variety of eclectic architectural designs popular at the time. It includes bungalows, Spanish Colonial Revival, and other period revival styles.

[6] The existing building address is 644 East Santa Clara Street. The proposed Project title and proposed address is 650 East Santa Clara Street, as referenced for City Planning Project Number H22-005. The Project is consistently referenced in this CEQA document as 650 East Santa Clara Street, except where specifically referencing the existing structure on the site.

[7] Urban Programmers, Department of Parks and Recreation 523 form for 644 East Santa Clara Street. Prepared by Bonnie Banburg. March 2021, revised April 2023.

San José Conservation Areas (and their collective contributing sites/structures) are considered in the San José's Envision 2040 General Plan to be resources of lesser significance and are not considered historical resources for the purposes of CEQA. Because the Naglee Park Conservation Area is not considered a historical resource under CEQA, the subject property was documented and evaluated for potential significance as an individual resource.

Surrounding Area

Within 200 feet of the Project site, there are five buildings that are 50-years of age or older and one building that did not meet this age threshold (see **Table CR-1)**. Five of the historic-age buildings are located in the Naglee Park Conservation Area. Four are classified in the San José Historic Resources Inventory as Identified Structures, properties that are individual potential historic resources. The properties that are directly adjacent to the Project site are 652-670 East Santa Clara Street and 25 North 14th Street.

652-670 East Santa Clara Street is a two-story, Spanish Colonial Revival Style medical office building constructed in 1936. A major single-story addition at the South 14 Street/East Santa Clara Street corner was completed in the same architectural style in 1938. It is known as the Tuggle Medical Clinic and Pharmacy building. In 2002, as part of the project planning for the extension of Bay Area Rapid Transit (BART) service through downtown San Jose, the building was determined eligible for listing in the National and California registers under Criterion C/3 "as an exceptional office design by San Jose architect Charles McKenzie and as an example of a Spanish Colonial Revival office building in San Jose. McKenzie designed both the original building and the 1938 addition. By its varying roof forms, levels, window and shapes, etc., the building appears to resemble a collection of buildings in a Spanish village."[8] The building is also a contributor to the Naglee Park Conservation Area.

25 North 14th Street is located across East Santa Clara Street from the Project site (outside the Naglee Park Conservation Area). The mid-rise commercial building was constructed in 1965 and is an Identified Structure Known as the Medical Science building. The structure was designed by Yuzuru Kawahara for the Carl N. Swenson Company. Kawahara was a student of Frank Lloyd Wright and designed more than 200 buildings in and around the Santa Clara Valley and Midcentury Modern homes throughout the country.

[8] Basin Research Associates, Inc. *652 East Santa Clara Street DPR523 Form*, June 2002. This finding received SHPO concurrence in 2006.

TABLE CR-1
KNOWN OR POTENTIAL HISTORIC RESOURCES WITHIN 200-FEET OF THE PROJECT

Address	APN	Year Built	Historic Resource Status
25 North 14th Street	46727039	1965	PR, IS
33-35 South 14th Street	46727041	1919	PR, IS
43 South 14th Street	46727042	1903	PR, IS
28 S. 13th Street	46727035	1903	PR, IS
32 S. 13th Street	46727034	1901	PR, IS
652-670 East Santa Clara Street [a]	46727010/11	1936/1938	Candidate City Landmark, NR/CR eligible
602 East Santa Clara Street	46727094	1990	---

NOTES:

a = Resource identified through a Section 106 survey, not currently recorded on the City HRI
PR = Potential Resource: Based on date of construction.
IS = Identified Structure: Listed on the HRI as a potential historic resource pending further research and evaluation.

Archaeological Resources

Background Research

ESA completed a records search of the Project site and the surrounding 0.5-mile area at the Northwest Information Center (NWIC) of the California Historical Resources Information System on August 3, 2022 (File No.:22-0199). The purpose of the background research was to (1) determine whether known cultural resources have been recorded within the vicinity of the Project; (2) assess the likelihood for unrecorded cultural resources to be present based on historical references and the distribution of nearby sites; and (3) develop a context for the identification and preliminary evaluation of cultural resources. The records search consisted of an examination of the following documents:

- NWIC base maps (USGS San José West and San José East 7.5-minute topographic maps), to identify recorded archaeological sites and studies within a ¼-mile radius of the Project site.
- NCIC base maps (USGS San José West and San José East 7.5-minute topographic maps), to identify recorded resources of the built environment (building, structures, and objects) within and adjacent to the Project site.
- Resource Inventories: California Inventory of Historical Resources, California Historical Landmarks, Office of Historic Preservation's Built Environment Resources Directory (BERD)

Records at the NWIC indicate that two cultural resources investigations have been completed in immediate vicinity of the Project. No pre-contact or historic-era archaeological resources have been previously recorded within the Project site or within a 0.5-mile radius of the Project site. However, as discussed below, the Project site has a generally high sensitivity for buried pre-contact archaeological resources.

Pre-Contact Native American Resources

The San Francisco Bay Area, including the Santa Clara Valley, has undergone dramatic landscape changes since humans began to inhabit the region more than 13,000 years ago. Sea levels began rising about 15,000 years ago, at which time the coastline was located west of the Farallon Islands and reached the present level of the Bay about 5,000 years ago.[9] This dramatic change in stream base-level resulted in increased sediment deposition over alluvial fans along the lower reaches of Bay Area streams and within the Bay itself. Active alluvial fan deposits are generally less than 5,000 years old and overlie older land surfaces (including stabilized/abandoned Pleistocene-age alluvial fans).

In certain places, the interface between older land surfaces and more recent geologic deposits is marked by a well-developed buried soil profile known as a paleosol. Paleosols represent terrestrial landforms that were stable in the past and thus suitable for human use and occupation prior to subsequent sediment deposition. Paleosols have the potential to preserve archaeological resources if humans occupied or settled the area during or after the formation of the paleosols.[10] Because human populations have grown since the arrival of the area's first inhabitants, such that the number of settlements and other evidence of human activity increased over time, younger (late Holocene) paleosols generally are considered more likely to yield archaeological resources than older (early Holocene or Pleistocene) paleosols. Numerous deeply buried archaeological sites have been uncovered in the Santa Clara Valley, at depths varying between 1 foot and more than 10 feet below ground surface. In fact, more than 60 percent of recorded archaeological sites in this region have been found in a buried context.[11]

The Project site is within Holocene-age alluvium, which, as discussed above, has the potential to contain buried paleosols that may harbor archaeological deposits. Recent work conducted by Far Western Anthropological Group in the vicinity of the Project site identified an extensive Middle Holocene buried soil and a buried Pleistocene canyon at varying depths between the Guadalupe River and Coyote Creek.[12] The Middle Holocene buried soil is approximately 13 feet below the existing ground surface and the buried Pleistocene canyon surface is approximately 50 feet below the existing ground surface at the Project site. Accordingly, these surfaces have the potential to harbor archaeological deposits if the area was used or occupied by human populations, as long as there is a well-developed paleosol that was not eroded by geological processes prior to subsequent sediment deposition during the Holocene.

In summary, there is sensitivity for pre-contact resources in the Project site. The area has been subject to development, suggesting that surficial (very shallowly-buried) pre-contact resources are unlikely to be encountered. However, there is no evidence of substantial previous ground disturbance, such as construction of subsurface basements or mass excavation activities, that

[9] Helley E.J., and Graymer R.W., Quaternary Geology of Alameda County, and Parts of Contra Costa, Santa Clara, San Mateo, San Francisco, Stanislaus, and San Joaquin Counties, California: a Digital Database. U.S. Geological Survey Open File Report 97-97. 1997.

[10] Meyer, Jack, and Jeffrey Rosenthal, Geoarchaeological Overview of the Nine Bay Area Counties in Caltrans District 4. Prepared for California Department of Transportation, District 4, Oakland, CA, 2007.

[11] Ibid., 2007

[12] Kaijankoski, Phil. Far Western Anthropological Research Group, Inc. Personal communication with ESA, 2022.

could lessen the potential for encountering more deeply buried pre-contact resources should they exist.

Historic-era Archaeological Resources

The existing building on the Project site was constructed in 1946. Sanborn Fire Insurance Company maps from 1915 show three one-story residential dwellings with outbuildings. **B**ased on the types of historic-era resources that could be present (e.g., hollow-filled pit features and sheet deposits) and the presence of historic-era archaeological resources in other areas of San José, there is sensitivity for subsurface features associated with late nineteenth and early twentieth century occupation to be preserved below the existing development, especially in the paved parking area. The presence of modern construction and surface parking lots does not lessen the likelihood that potentially eligible archaeological features may be present.

Regulatory Framework

National Register of Historic Places

The National Historic Preservation Act of 1966, as amended (U.S. Code Title 54, Section 306108), and its implementing regulations established the National Register as a comprehensive inventory of known historic properties throughout the United States. The National Register is administered by the National Park Service under the direction of the Secretary of the Interior. It includes buildings, structures, sites, objects, and districts that possess historic, architectural, archaeological, engineering, or cultural significance. A property is considered significant if it meets the criteria for listing in the National Register at Code of Federal Regulations Title 36, Section 60.4 (36 CFR 60.4).

California Environmental Quality Act 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 historical 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 [see Public Resources Code, Section 21084.1 and CEQA Guidelines Section 15064.5 (a) and (b)].

The California Register is "an authoritative listing and guide to be used by state and local agencies, private groups, and citizens in identifying the existing historical resources of the state and to indicate which resources deserve to be protected, to the extent prudent and feasible, from substantial adverse change" (PRC Section 5024.1(a)). Certain resources are determined by law to be automatically included in the California Register, including properties formally determined eligible for, or listed in, the National Register.

California Public Resources Code Sections 5097.98 and 5097.99

PRC Section 5097.98 (reiterated in CEQA Guidelines Section 15064.5(e)) identifies steps to follow in the event of the accidental discovery or recognition of any human remains in any location other than a dedicated cemetery. PRC Section 5097.99 prohibits obtaining or possessing

any Native American artifacts or human remains that are taken from a Native American grave or cairn (stone burial mound).

California Health and Safety Code Section 7050.5

California Health and Safety Code Section 7050.5 protects human remains by prohibiting the disinterment, disturbance, or removal of human remains from any location other than a dedicated cemetery.

City of San José Policies and Historic Preservation Ordinance

The City of San José Historic Preservation Ordinance (Municipal Code Chapter 13.48) is designed to identify, protect, and encourage the preservation of significant resources as a means to stabilize neighborhoods, enhance property values, carry out the goals of the General Plan, foster civic pride in the city's cultural resources, and celebrate the unique historical identity of San José. The Historic Preservation Ordinance requires the City to do all the following:

- Establish a Historic Landmarks Commission and retain a City historic preservation officer.
- Maintain a Historic Resources Inventory.
- Preserve historic properties using a landmark designation process.
- Protect the community character of historic neighborhoods by regulating Conservation Areas.
- Require a Historic Preservation (HP) permit for alterations of any designated City Landmark (excluding candidate landmarks) or property within a City Landmark historic district.
- Provide financial incentives through a Mills Act Historical Property Contract.

The City of San José HRI identifies known and potential historic resources of varying significance, including individual properties and districts listed in or eligible for listing in the California and National Registers, City Landmarks, Candidate City Landmarks, City Landmark Historic Districts (and their contributing sites/structures), and Candidate City Landmark Historic Districts (and their contributing sites/structures). Buildings and properties meeting the significance thresholds for these listings are considered to be historic resources for purposes of CEQA.

In addition, the City of San José HRI includes Structures of Merit, Identified Sites/Structures, Conservation Areas, and Conservation Area Contributing Sites/Structures. HRI properties are classified into one of 16 categories, depending on how they were identified and evaluated at the time they were added. The HRI serves as a resource for conducting environmental and project review related to demolition permits, as well as for land use and development approvals. It is not a definitive list of all historic resources in the city of San José, and it is continually updated as new information, project-related evaluations, and neighborhood surveys are completed. The purpose of the HRI is to promote awareness of community resources and to further preservation of historic resources and community character. Conservation Areas (and their contributing sites/structures), Structures of Merit, and Identified Structures are generally properties that do not qualify as City Landmarks, or as part of a City Landmark District, California Register listing, or

National Register listing. However, many individual properties with these classifications have not been documented and evaluated or have not been evaluated in the last five years, and some may have the potential to be eligible historic architectural resources for the purposes of CEQA.

Envision San José 2040 General Plan

General Plan Policies

The General Plan includes numerous policies to promote reduction or avoidance of impacts on historic and cultural resources at a range of significance levels ranging from the National and California Registers, and local Landmark-level resource through those of lesser significance such as Structures of Merit and Conservation Areas. The policies listed below are relevant to the proposed Project.

Envision San José 2040 Policies Relevant to Cultural Resources	
Landmarks and Districts	
Policy LU-13.1	Preserve the integrity and fabric of candidate or designated Historic Districts.
Policy LU-13.2	Preserve candidate or designated landmark buildings, structures and historic objects, with first priority given to preserving and rehabilitating them for their historic use, second to preserving and rehabilitating them for a new use, or third to rehabilitation and relocation on-site. If the City concurs that no other option is feasible, candidate or designated landmark structures should be rehabilitated and relocated to a new site in an appropriate setting.
Policy LU-13.3	For landmark structures located within new development areas, incorporate the landmark structures within the new development as a means to create a sense of place, contribute to a vibrant economy, provide a connection to the past, and make more attractive employment, shopping, and residential areas.
Policy LU-13.4	Require public and private development projects to conform to the adopted City Council Policy on the Preservation of Historic Landmarks.
Policy LU-13.6	Ensure modifications to candidate or designated landmark buildings or structures conform to the Secretary of the Interior's Standards for Treatment of Historic Properties and/or appropriate State of California requirements regarding historic buildings and/or structures, including the California Historical Building Code.
Policy LU-13.7	Design new development, alterations, and rehabilitation/remodels within a designated or candidate Historic District to be compatible with the character of the Historic District and conform to the Secretary of the Interior's Standards for the Treatment of Historic Properties, appropriate State of California requirements regarding historic buildings and/or structures (including the California Historic Building Code) and to applicable historic design guidelines adopted by the City Council.
Policy LU-13.8	Require that new development, alterations, and rehabilitation/remodels adjacent to a designated or candidate landmark or Historic District be designed to be sensitive to the character of the nearby Historic District or landmark.
Policy LU-13.15	Implement City, State, and Federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.
Historic Structures of Lesser Significance	
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-14.2	Give high priority to the preservation of historic structures that contribute to an informal cluster or a Conservation Area; have a special value in the community; are a good fit for preservation within a new project; have a compelling design and/or an important designer; etc.

Policy LU-14.3	Design new development, alterations, and rehabilitation/remodels in Conservation Areas to be compatible with the character of the Conservation Area. In particular, projects should respect character defining elements of the area that give the area its identity. These defining characteristics could vary from area to area and could include density, scale, architectural consistency, architectural variety, landscape, etc.
Policy LU-14.4	Discourage demolition of any building or structure listed on or eligible for the HRI as a Structure of Merit by pursuing the alternative of rehabilitation, re-use on the subject site, and/or relocation of the resource.
Policy LU-14.6	Consider preservation of Structures of Merit and Contributing Structures in Conservation Areas as a key consideration in the development review process. As development proposals are submitted, evaluate the significance of structures, complete non-Historic American Building Survey level of documentation, list qualifying structures on the Historic Resources Inventory, and consider the feasibility of incorporating structures into the development proposal, particularly those structures that contribute to the fabric of Conservation Areas.
Site Development	
Policy IP-10.3	In addition to a Site Development permit, require an Historic Preservation permit for modifications to a designated Historic Landmark structure. This permit process fosters the implementation of the Historic Preservation goals and policies of this General Plan.
Archaeology and Paleontology	
Policy ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
Policy ER-10.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon their discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.
Policy ER-10.3	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

SOURCE: City of San José, *Envision San José 2040 General Plan*, adopted November 1, 2011 (amended March 16, 2020). Available at https://www.sanjoseca.gov/home/showdocument?id=22359. Accessed January 16, 2020.

Discussion

a) **Less than significant impact.** CEQA Guidelines Section 15064.5 requires the lead agency to consider the effects of a project on historical resources. A historical resource is defined as any building, structure, site, or object listed in or determined to be eligible for listing in the California Register or determined by a lead agency to be significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, or cultural annals of California. The following discussion focuses on architectural and structural resources. Archaeological resources, including those that are potentially historical resources according to CEQA Guidelines Section 15064.5, are addressed under criterion b, below.

The property listed on the San José HRI as an Identified Structure had not been previously documented and evaluated for individual local or state significance. The historic resource evaluation for the Project concluded that the building on the Project site is not eligible for listing in either the California Register or the San José HRI as a Candidate City Landmark; therefore there are no historical resources as defined by

CEQA present on the Project site. In conclusion, the demolition of the existing building would not result in direct, onsite impacts to a historical resource.

The Tuggle Medical Clinic and Pharmacy, located across South 14th Street from the Project site, is eligible for listing in the National and California registers and is considered a Candidate City Landmark for its architectural merits. The building is an excellent example of master architect Charles McKinzie's application of the Spanish Colonia Revival style to a medical office complex. The building is both compatible in scale and in design with the Naglee Park Conservation Area to which it contributes. The building at 644 East Santa Clara Street was constructed twenty years after the Tuggle Medical Clinic and Pharmacy and does not share a historical association with the Project site. Demolition of 644 East Santa Clara Street would not result in an adverse change in the significance of a historical resource because the Tuggle Medical Clinic and Pharmacy does not share a historical association with the Project site. Additionally, construction of a new six-story building would alter the setting of the historic resource at 652-670 East Santa Clara Street, but the building's setting is not a character-defining feature of the resource, nor is the significance of the resource dependent on changes in its immediate setting. The building at 644 East Santa Clara Street was constructed nearly ten years before the mid-rise commercial building located at 25 North 14th Street, across East Santa Clara Street from the Project site (and outside the Naglee Park Conservation Area). Neither the demolition of the building on the Project site nor the construction of the Project would alter the setting of 25 North 14th Street. As such, the Project would have **less than significant** impacts on a historic resource located within 200-feet of the Project site.

The General Plan includes policies that address resources of lesser significance like Conservation Areas, including LU-14.2, LU-14.3 and LU-14.6 (included in the preceding table) that call for compatibility with the character of the Conservation Area. Also, San José Municipal Code Section 13.48.650 addresses the requirements for changes to the exterior of any structure located on property within a Conservation Area. The Project is located along East Santa Clara Street, at the northern boundary of the conservation district. Along East Santa Clara Street, on both sides of the street, are a number of medical offices and facilities, many of which were developed between 1945 and 1965. As such, the project site is in a transition zone; its current use (medical offices) fits within the context along East Santa Clara Street, but its scale and design (two-story and Monterey Colonial Revival) fit with the character of the Naglee Park Conservation District.

Policy LU-14.2 establishes a priority to preserve buildings that contribute to a Conservation Area, recognizing that these buildings often have particular value in the community, are candidates for reuse, and/or have architectural merit that warrants retention; they are consistent and compatible with the character of the neighborhood. The Naglee Park Conservation Area is significant for its early 20th century residences designed in an eclectic variety of architectural styles. Prior to the construction of the medical offices on site there were two dwellings on the property that faced South 14th

Street. The history of the medical office building is related to San Jose Hospital and its supporting medical needs rather than the residential development of the Naglee Park Conservation. Therefore, the Project would not retain a building that is marginally in keeping with the Naglee Park Conservation Area.

Policy LU-14.3 encourages new development, alterations, and rehabilitation/remodels to be compatible in design to the character of the Naglee Park Conservation Area. This policy specifically notes that "projects should respect character defining elements of the area that give the area its identity." The features could be broad and include density and scale, or they could be more specific such as using consistent architectural styles, variety of materials, use of landscaping, etc. The Project would construct a six-story residential building in a contemporary style. Along East Santa Clara Street the building mass is rectangular in form, with commercial storefronts at ground level and residential units above. Fenestration is arranged into five bays: three bays that are flush with the property line and two intervening bays that are slightly recessed. All five bays step back at the fifth story but maintain the pattern of articulation. When compared to 25 North 14th Street, a 10-story building constructed in 1965 and located across East Santa Clara Street, the project is compatible in size and design as a multi-story, contemporary designed building with a facade at the property line along East Santa Clara Street. However, within the Naglee Park Conservation Area, the Project varies significantly from the low-rise, single-family residential character that defines the neighborhood. In the majority of the Naglee Park Conservation Area, buildings are of the single-family residential property type, one- or two-stories in height, set back from all property lines and surrounded by open, landscaped areas. With regard to Policy LU-14.3, the Project is not compatible with the small-scale residential development in the Naglee Park Conservation Area but is compatible with the architectural context of East Santa Clara Street.

Policy LU-14.6 encourages documentation and evaluation of contributing structures within Conservation Areas. It also supports completion of photographic and written documentation on the history of the building in a format that is consistent with the Historic American Building Survey (HABS). When developing a project, incorporating buildings that contribute to the Conservation Area into the project, as opposed to demolishing them, is also encouraged. The Naglee Park Conservation Area is significant for its early 20th century residences designed in an eclectic variety of architectural styles. Prior to the construction of the medical offices on site there were two dwellings on the property that faced South 14th Street. The history of the medical office building is related to San Jose Hospital and its supporting medical needs rather than the residential development of the Naglee Park Conservation. The documentation and evaluation of the building at 644 East Santa Clara Street concluded that the building at 644 East Santa Clara Street (Appendix C) is not individually eligible as a historical resource for CEQA. Therefore, no HABS documentation or incorporation of the existing building into the Project design is proposed at this time.

San Jose Municipal Code Section 13.48.650 requires that changes to the exterior of structures located a Conservation Area shall be performed in a manner consistent with City-adopted or -accepted design guidelines for the preservation of historic structures and for the particular type of structure proposed for change, which in this case, a two-story commercial building. For single-family dwellings the City utilizes the Your Old House: Guide for Preserving San Jose Homes. These guidelines are not applicable to commercial buildings. The project has been evaluated for conformance with the Citywide Design Standards and Guidelines and the East Santa Clara Street Urban Village Plan. .

The Project will not alter the commercial and medium-density residential character of the properties abutting East Santa Clara Street and South 14th Street, respectively. The new six-story building would be developed on 0.45-acre corner lot fronting East Santa Clara Street. Along East Santa Clara Street are a mix of one- to ten-story commercial and mixed-use buildings, most sited on lots larger than the Project site. The Project is designed for compatibility in scale and massing with the commercial corridor, would maintain frontage of mature street trees, and would be finished in a neutral color scheme that is consistent with the range of colors already found both along East Santa Clara Street and within the Naglee Park Conservation Area.

The historic resource evaluation completed for the existing building at 644 East Santa Clara Street concluded that the property is ineligible for listing on the California Register and the San José HRI as a Candidate City Landmark. The building is located within the Naglee Park Conservation Area, conservation areas are not considered historical resources for the purposes of CEQA. While they are not considered historic resources for CEQA, the Project does not generally follow General Plan Policies LU-4.2, LU-14.3 or LU-14.6..

Therefore, implementation of the Project would result in a less than significant indirect impact to historical resources located within 200-feet of the Project site. No mitigation is required.

b) **Less than Significant Impact with Mitigation.** This section discusses archaeological resources, both as historical resources according to CEQA Guidelines Section 15064.5, as well as unique archaeological resources, as defined in California Public Resources (PRC) (CEQA) Section 21083.2(g). A significant impact would occur if the Project would cause a substantial adverse change to an archaeological resource through physical demolition, destruction, relocation, or alteration of the resource.

Based on the results of the background research and geoarchaeological assessment there is the potential for buried soil surfaces to be in the Project site related to a Middle Holocene buried soil (at approximately 13 feet below the existing surface) and an in-filled Late Pleistocene canyon (at approximately 50 feet below the existing surface). These surfaces have the potential to harbor pre-contact archaeological resources if the

locations were used or occupied by human populations in the past. The Project includes excavation to a depth of approximately 10.5 feet below grade.

In addition, based on the results of historic map research there is the potential for historic-era archaeological deposits to be present, especially in the locations of former outbuildings that may include artifact-filled hollow deposits such as privies.

Given the potential to uncover pre-contact and historic-era archaeological materials and features on the Project site, the discovery of these types of resources, if not appropriately evaluated and treated following discovery, would be a potentially significant impact.

Implementation of **Mitigation Measure CR-1, Cultural Resources Awareness Training, Mitigation Measure CR-1.2, Archaeological Testing, Mitigation Measure CR-1.3 Archaeological Evaluation,** and **Mitigation Measure CR-1.4 Archaeological Treatment,** would reduce impacts on archaeological resources by requiring that all construction personnel attend a mandatory pre-project cultural resources awareness training, and that an Archaeological Testing, Evaluation, and Treatment Plan be developed to determine the extent of cultural resources on the Project site so that resources could be evaluated for significance and treated appropriately, as warranted. In addition, Standard Permit Conditions regarding Subsurface Cultural Resources would ensure that work would halt in the vicinity of a find until it is evaluated by a Secretary of the Interior-qualified archaeologist and a Native American representative registered with the Native American Heritage Commission for the City of San José that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3. With implementation of these mitigation measures, potential impacts would be less than significant with mitigation incorporated.

Mitigation Measure CR-1: Cultural Resources Awareness Training.

Prior to the issuance of any demolition, grading, or building permits, the project applicant shall conduct a Cultural Resources Awareness Training for construction personnel. The training shall be facilitated by a Secretary of the Interior-qualified archaeologist in collaboration with a Native American representative registered with the Native American Heritage Commission for the City of San José that is traditionally and culturally affiliated with the geographic area. Documentation verifying that a Cultural Resources Awareness Training has been conducted shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee.

Mitigation Measure CR-1.2: Archaeological Testing.

Prior to the issuance of any demolition, grading, or building permits, the project applicant shall complete subsurface testing to determine the extent of possible cultural resources in the Project site. All testing shall be completed by a Secretary of the Interior-qualified archaeologist in collaboration with a Native American

representative registered with the Native American Heritage Commission for the City of San José that is traditionally and culturally affiliated with the geographic area.

Testing shall be completed according to an established ***Archaeological Testing Plan***, which will be prepared and submitted to the Director of the City of San José Department of Planning, Building and Code Enforcement, or the Director's designee, for review and approval. The ***Archaeological Testing Plan*** shall include, at a minimum, the identification of the property types of the expected archaeological resource(s) that could be affected by construction; testing methods to be used (hand excavation, coring, and/or mechanical trenching); and the locations recommended for testing. The purpose of testing shall be to determine the presence or absence of archaeological resources to the extent feasible.

Mitigation Measure CR-1.3: Archaeological Monitoring.

Following testing, the qualified archaeologist may recommend monitoring during construction, if deemed necessary. Monitoring shall be conducted according to an established ***Archaeological Monitoring Plan***, which will be prepared and submitted to the Director of the City of San José Department of Planning, Building and Code Enforcement, or the Director's designee, for review and approval. The ***Archaeological Monitoring Plan*** shall include, at a minimum, where monitoring will be completed and under what circumstances based on soil types, geology, distance to known sites, and other factors; person(s) responsible for conducting monitoring activities, including an archaeological monitor and a tribal monitor; schedule for submittal of monitoring logs/reports; and protocol for notifications in case of encountering cultural resources, as well as methods of dealing with the encountered resources. During the course of the monitoring, the archaeological monitor and tribal monitor may adjust the frequency—from continuous to intermittent—of the monitoring based on the conditions and professional judgment regarding the potential to impact resources.

If any archaeological resources are encountered during testing and/or monitoring, the project applicant shall ensure that all resources are evaluated by a Secretary of the Interior-qualified archaeologist based on California Register of Historical Resources criteria and consistent with the approved plans. If the resource is determined to be significant, the project applicant, in consultation with the Director of the City of San José Department of Planning, Building and Code Enforcement, or the Director's designee shall determine whether preservation in place is feasible. Consistent with CEQA Guidelines Section 15126.4(b)(3), this may be accomplished through planning construction to avoid the resource; incorporating the resource within open space; or capping and covering the resource.

Mitigation Measure CR-1.4: Archaeological Treatment.

If a significant archaeological resource(s) is in the Project site and cannot be avoided, the project applicant, a Secretary of the Interior-qualified archaeologist, the Director

of the City of San José Department of Planning, Building and Code Enforcement, or the Director's designee, and a Native American representative registered with the Native American Heritage Commission for the City of San José that is traditionally and culturally affiliated with the geographic area, shall determine treatment measures to minimize or mitigate any potential impacts to the resource pursuant to PRC Section 21083.2 and CEQA Guidelines Section 15126.4. This shall include documentation of the resource and may include data recovery, if deemed appropriate, or other actions such as treating the resource with culturally appropriate dignity and protecting the cultural character and integrity of the resource.

If deemed appropriate, data recovery shall be completed according to an established ***Archaeological Resources Treatment Plan***, which will be prepared and submitted to the Director of the City of San José Department of Planning, Building and Code Enforcement, or the Director's designee, for review and approval. The ***Archaeological Resources Treatment Plan*** shall include, at a minimum, the scope of work; the environmental setting; research questions and goals; a detailed field strategy to address research goals; analytical methods; disposition of artifacts; security approaches and protocols; and reporting requirements. Data recovery may include, but is not limited to, backhoe trenching, shovel test units, hand auguring, and hand excavation.

Components of the ***Archaeological Testing Plan***, ***Archaeological Monitoring Plan***, and ***Archaeological Resources Treatment Plan*** may be combined, as deemed appropriate. All documentation shall be submitted to the Northwest Information Center, the Native American Heritage Commission Sacred Land Files and the Director of Planning, Building, and Code Enforcement or the Director's designee.

Standard Permit Condition

Subsurface Cultural Resources: If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement 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 representative registered with the Native American Heritage Commission for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3 shall 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. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to Director of Planning, Building and Code Enforcement 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.

c) **Less than Significant Impact.** Based on the background research and previous research, no human remains are known to exist within the Project site. While unlikely, it is possible that human remains would be encountered during construction of the Project.

While unlikely, the discovery of human remains on the Project site, if not appropriately evaluated and treated following discovery, would be a potentially significant impact. In the event of the discovery of human remains during Project construction activities, mandatory implementation of the Standard Permit Condition regarding Human Remains, would reduce potential impacts.

Standard Permit Condition

Human Remains: If any human remains are found during any field investigations, grading, or other construction activities, all activities within a 50-foot radius of the find shall be stopped, and all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Project applicant shall immediately notify the Director of Planning, Building and Code Enforcement or the Director's designee and a Secretary of the Interior-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 within 48 hours 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:

a) The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.

b) The MLD identified fails to make a recommendation; or

c) The landowner or his authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.

Conclusion. The Project would have a less than significant impact on cultural resources with implementation of identified Mitigation Measures CR-1, CR-1.2, CR-1.3, and CR-1.4 and Standard Permit Conditions.

References

Helley E.J. and R.W. Graymer. "Quaternary Geology of Alameda County, and Parts of Contra Costa, Santa Clara, San Mateo, San Francisco, Stanislaus, and San Joaquin Counties, California: A Digital Database." *U.S. Geological Survey Open File Report 97-97*. 1997.

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San José, City of. "Historic Areas & Districts." *Planning, Building & Code Enforcement*. www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/historic-resources/historic-areas-districts.

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4.6 Energy

Issues (and Supporting Information Sources):	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
VI. 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?	☐	☐	☒	☐
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	☐	☐	☒	☐

Environmental 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.

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; and renewable energy facilities including solar, geothermal, and biomass provided 39 percent (PG&E, 2020).

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 (U.S. EPA) apply to numerous consumer and commercial products (e.g., the EnergyStar™ program). The U.S. 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. SB 100 updates this goal to 50 percent renewable resources target by 2026 and 60 percent target by 2030, with the ultimate goal of 100 percent renewable, carbon-free electricity by 2045.

California Building Efficiency Standards – Title 24, Part 6

California's Energy Efficiency Standards for Residential and Nonresidential Buildings (Title 24 Building Standards) were established by the California Energy Commission in Title 24, Part 6 of the CCR. These standards mandate a reduction in California's energy consumption and are updated on a three-year cycle to allow for innovation and incorporation of new energy efficient technologies and methods. Applications for building permits after January 1, 2023 have to be compliant with the 2022 standards. Energy efficient buildings require less electricity; therefore, increased energy efficiency reduces fossil fuel consumption and decreases GHG emissions (CEC, 2022).

California Green Building Standards Code – CALGreen

In January 2010, the State of California adopted the California Green Building Standards Code (CALGreen) that established new sustainable 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. These standards include a mandatory set of minimum guidelines, as well as more rigorous voluntary measures, for new construction projects to achieve specific green building performance levels. This Code went into effect as part of local jurisdictions' building codes on January 1, 2011, and was most recently updated as the 2022 California Green Building Standards Code, which became effective January 1, 2023. The 2022 CALGreen update simplifies the code and its application in several ways. It offers new voluntary prerequisites for builders to choose from, such as battery storage system controls and heat pump space, and water heating, to encourage building electrification. While the 2019 CALGreen Code only requires provision of EV Capable spaces with no requirement for chargers to be installed at multifamily dwellings, the 2022 CALGreen code mandates chargers (CBSC, 2022).

Local

San José Reach Code

In September 2019, San José City Council approved a building reach code ordinance that encourages building electrification and energy efficiency, requires solar-readiness on nonresidential buildings, and requires electric vehicle (EV)-readiness and EV equipment installation. In October 2019, Council approved an ordinance prohibiting natural gas infrastructure in new detached accessory dwelling units, single-family, and low-rise multi-family buildings that would supplement the reach code ordinance. Both of these ordinances apply to new construction starting January 1, 2020. In December 2020, Council approved an updated ordinance prohibiting natural gas infrastructure in all new construction started on or after August 1, 2021.

Council Policy 6-32 Private Sector Green Building Policy

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 would 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 the table below.

TABLE ENE-1
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 6-3. https://www.sanjoseca.gov/your-government/departments-offices/environmental-services/energy/green-building/private-sector-green-building

Climate Smart San José

Climate Smart San José, adopted in 2018, is a comprehensive plan to reduce greenhouse gas (GHG) emissions while creating jobs, preserving the environment, and improving the quality of life for the San José community. The plan includes several strategies to reduce GHG emissions related to transportation, including creating local jobs to reduce Vehicle Miles Traveled (VMT), developing integrated, accessible public transport infrastructure, and creating clean and personalized mobility choices.

General Plan Policies

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

> ***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-2.4:*** Promote energy efficient construction industry practices.
>
> ***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-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-1.4: Through the entitlement process for new development, fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.

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.

Discussion

a) **Less Than Significant Impact**. Energy use consumed by the Project is expected to be low due to the few number of proposed residential units, the proximity of the proposed residential project to retail and other commercial services (restaurants, shops, dry cleaners, etc.) that would reduce trip lengths and associated transportation energy usage, and because the proposed construction of the Project would conform to state and local standards for energy efficiency, as described below.

Construction Impacts

The anticipated construction schedule assumes that the Project would be built over a period of approximately six months. The Project would require demolition activities, site preparation, grading, site construction, paving, and architectural coating. The construction phase would require energy for the transportation of building materials, preparation of the site (e.g., excavation, and grading), and the actual construction of the building. Petroleum- based fuels such as diesel fuel and gasoline would be the primary sources of energy for these tasks. The Project would implement Standard Permit

Conditions, which require implementation of the BAAQMD Best Management Practices during construction. The BAAQMD Best Management Practices include requirements that would reduce energy consumption and improve energy efficiency of construction equipment. The BAAQMD Best Management Practices, as detailed in the impact discussion of *Air Quality* in this Initial Study, 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. In addition, the Project would reduce indirect energy use as it would be required to recycle or salvage at least 30 percent of construction waste as part of its LEED certification.

With implementation of the BAAQMD BMPs and through recycling of construction waste, construction of the Project would not result in wasteful, inefficient, or unnecessary consumption of energy resources.

Operational Impacts

The Project would be fully electric and consume energy in the form of electricity for building heating and cooling, lighting, cooking, and water heating, as required by the City's Reach Code. The Project would also be built to comply with the most recent California Building Code standards and Title 24 energy efficiency standards (or subsequently adopted standards during the one-year construction term); the San José Reach Code, which prohibits natural gas infrastructure for single-family, detached accessory dwelling units, low rise multi-family development, high rise multi-family development, and any other nonresidential development; and the CALGreen code, which includes insulation and design provisions to minimize wasteful energy consumption. In addition, the Project would be required to be built to LEED Checklist standards consistent with Council Policy 6-32, further reducing the amount of energy consumed. The Project proponent anticipates that LEED certification would be achieved in part by conforming to the City's Green Building Measures and incorporation of solar panels. Based on the measures required for LEED Certification, the Project would comply with existing California energy standards. As a result, implementation of the Project would not result in substantial operational energy impacts related to building design. Compliance with these regulations would improve building efficiency of the Project.

The Project would result in an increase in traffic to the Project site of approximately 550 total daily traffic trips (see Appendix D to this document). Based on these trips, the Project would result in the consumption of approximately 40,180 gallons of gasoline per year associated with passenger automobile trips to and from the Project site (U.S. EPA, 2021). This estimate of gasoline usage is likely overstated as the Project would also incorporate electric vehicle (EV) charging infrastructure, as required by the provisions of the City's Reach Code, enabling residents and visitors the opportunity to purchase EVs and easily fuel them, reducing gasoline consumption.

The location of the Project close to transit facilities would also support use of alternative modes of transportation that would minimize gasoline consumption and transportation energy use associated with the Project. The Project area is served by VTA bus routes 22,

23, and 66 and Rapid Routes 500 and 522, and bus stops are within a typical walking distance (one-quarter mile or 5 minutes) of the Project site including the closest bus stop on East Santa Clara Street at North 14th Street, approximately 13 feet north of the Project site. The Project is located as close as 1,000 feet from retail and other commercial services along East Santa Clara Street, which would allow for Project residents to walk or bike to these destinations. To support bicycling, the Project would provide bicycle parking consistent with the requirements of the City of San José Municipal Code. The nature of the project as an infill development and the inclusion of bicycle parking and proximity to transit would encourage the use of alternative methods of transportation to and from the site. As a result, implementation of the Project would not result in a substantial increase on transportation-related energy use.

Based on the discussion above, the Project's construction and operation would have less than significant impacts due to wasteful, inefficient, or unnecessary consumption of energy resources during Project construction or operation.

b) **Less Than Significant Impact**. Project construction would require the use of off-road construction equipment and on-road trucks. Construction activities would comply with state and local requirements designed to minimize idling and associated emissions pursuant to 13 CCR Sections 2485, which would also minimize the use of fuel. As stated above the Project would be required to be built to LEED Certification pursuant to Council Policy 6-32. By reducing single-occupancy traffic trips and including green design measures to achieve LEED certification, the Project would comply with existing State energy standards. The Project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency.

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

References

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4.7 Geology and Soils

Issues (and Supporting Information Sources):	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
VII. 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.	☐	☐	☒	☐
ii) Strong seismic ground shaking?	☐	☐	☒	☐
iii) Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐
iv) Landslides?	☐	☐	☐	☒
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐
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?	☐	☐	☒	☐
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?	☐	☐	☒	☐
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?	☐	☐	☐	☒
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☒	☐

Environmental Setting

Topographically, the site is essentially flat. The site is located within the Santa Clara Valley, an alluvial basin that lies between the Santa Cruz Mountains to the southwest and the Diablo Range to the northeast.

The Project site is located within the seismically active San Francisco Bay Area. Santa Clara Valley is located between the active San Andreas Fault to the west, and the active Hayward and Calaveras faults to the east. 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 (California Department of Conservation, 2022). In addition, the Santa Clara County Geologic Hazard Zones Map does not identify any Fault Rupture Hazard Zones in the Project area. However, the Geologic Hazard

Zones Map shows that the Project site and the surrounding areas are located within liquefaction hazard zones (Santa Clara County, 2012).

Regulatory Framework

State

California Building Code

The California Building Code (CBC), which is codified in Title 24 of the California Code of Regulations, Part 2, was promulgated to safeguard the public health, safety, and general welfare by establishing minimum standards related to structural strength, means of egress to facilities (entering and exiting), and general stability of buildings. The purpose of the CBC is to regulate and control the design, construction, quality of materials, use/occupancy, location, and maintenance of all buildings and structures within its jurisdiction. The 2019 edition of the CBC was published on July 1, 2019 and took effect on January 1, 2020. The 2019 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.

Changes in the 2019 CBC provide enhanced clarity and consistency in application. The basis for the majority of these changes resulted from California amendments to the 2018 model building codes. Some of the most significant changes include the following:

- Aligns engineering requirements in the building code with major revisions to national standards for structural steel and masonry construction, minor revisions to standards for wood construction, and support and anchorage requirements of solar panels in accordance with industry standards;
- Clarifies requirements for testing and special inspection of selected building materials during construction; and
- Recognizes and clarifies design requirements for buildings within tsunami inundation zones.

The CBC is required to be updated every three years. The next iteration of the standards is the 2022 CBC, which will become effective on January 1, 2023.

Paleontological Resources – 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 paleontological resource is a misdemeanor. Under the CEQA Guidelines, a project would have significant impact on paleontological resources if it would disturb or destroy a unique paleontological resource or site or unique geological feature.

Local

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. General Plan policies relevant to geology and soils and applicable to the Project are presented below (City of San José, 2011b).

> ***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 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.

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.

Discussion

a.i) **Less Than Significant Impact.** The Project is not mapped within an Alquist-Priolo Earthquake Fault Zone (California Department of Conservation, 2022). In addition, the Santa Clara County Geologic Hazard Zones map does not identify any fault hazard zones in the Project area (Santa Clara County, 2012). Therefore, the potential for fault rupture on the site is low.

a.ii) **Less Than Significant Impact.** Due to its location in a seismically active region, the Project and related infrastructure would likely 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.

The significant earthquakes in this area are generally associated with crustal movement along well-defined, active fault zones which regionally trend in a northwesterly direction. This could pose a risk to proposed structures and infrastructure. Seismic impacts would be minimized by implementation of standard engineering and construction techniques in compliance with the requirements of the CBC. In addition, the Project would be constructed in accordance with a geotechnical investigation, as outlined in the Standard Permit Condition below.

Standard Permit Conditions

Seismic Risk:

- 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 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 CBC, 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.

With implementation of the above Standard Permit Condition, the Project would not expose people or structures to substantial adverse effects due to ground shaking; nor would the Project exacerbate existing geological hazards on the Project site such that it would impact (or worsen) offsite geological and soil conditions.

a.iii) **Less Than Significant Impact.** As described above, the Project site may be subject to strong ground shaking in the event of a major earthquake. The Project site is located within the State of California Seismic Hazard Zone of Required Investigation for Liquefaction and is located in a mapped liquefaction zone (California Department of Conservation, 2022). However, potential impacts associated with ground failure 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 outlined under criterion aii) above. With implementation of the above Standard Permit Condition, the Project would not expose people or structures to substantial adverse effects due to ground failure.

a.iv) **No Impact.** The Project site has no appreciable vertical relief and would not be subject to landslides.

b) **Less Than Significant Impact.** Development of the Project would require the excavation of approximately 1,380 cubic yards of cut, which could result in a temporary increase in erosion. The City's National Pollutant Discharge Elimination System (NPDES) General Permit, urban runoff policies, and the Municipal Code (discussed in *Section I. Hydrology and Water Quality* below) are the primary means of enforcing erosion control measures. Construction activities would be subject to the requirements of those policies and regulations including relevant Standard Permit Conditions to minimize erosion. Therefore, the Project would not result in substantial soil erosion or loss of topsoil.

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 (Santa Clara County, 2012). 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 the Standard Permit Condition outlined under criterion aii), above. Implementation of the above Standard

Permit Condition would reduce any potentially significant geotechnical impacts to a less than significant level.

d) **Less Than Significant Impact.** The Project site could 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 Conditions for criterion aii), above. Implementation of the above Standard Permit Conditions would reduce any potentially significant direct or indirect geotechnical impacts to a less than significant level.

e) **No Impact.** The Project site is within an urban area and existing sanitary main lines run along 14th Street and East Santa Clara Street adjacent to the Project site. The Project would connect to the City's existing sanitary sewer system.

f) **Less Than Significant Impact.** The Project site is located in an area mapped as "high sensitivity at depth" in the *Draft Program Environmental Impact Report (PEIR) for the Envision San José 2040 General Plan* (General Plan EIR) (City of San José, 2011a). The Project includes excavation for the basement garage to a depth of 10.5 feet. Consistent with General Plan Policy ER-10.3, the Project would implement the following Standard Permit Condition to avoid or minimize impacts to paleontological resources during construction. No other unique geological features are found on this infill site.

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 Planning or Director's designee of the PBCE.

Conclusion: The Project would have a less than significant impact on geology and soils with implementation of Standard Permit Conditions.

References

California Department of Conservation, 2022. *Earthquake Zones of Required Investigation.* Available at https://maps.conservation.ca.gov/cgs/eqzapp/app/. Accessed August 15, 2022.

City of San José, 2011a. *Draft Program Environmental Impact Report (PEIR) for the Envision San José 2040 General Plan.* Figure 3.11-1 "Paleontologic Sensitivity of City of San José Geologic Units." June 2011. Available at https://www.sanjoseca.gov/home/showpublisheddocument/22041/636688304350830000. Accessed July 26, 2022.

City of San José, 2011b. *Envision San José 2040 General Plan.* November, 2011. Available at https://www.sanjoseca.gov/home/showpublisheddocument/22359/637928744399330000. Accessed August 15, 2022.

Santa Clara County, 2012. *Santa Clara County Geologic Hazard Zones.* Available at https://stgenpln.blob.core.windows.net/document/GEO_GeohazardATLAS.pdf. Accessed July 25, 2022.

4.8 Greenhouse Gas Emissions

Issues (and Supporting Information Sources):	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
VIII. GREENHOUSE GAS EMISSIONS — Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☒	☐
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☒	☐

Environmental Setting

Gases that trap heat in the atmosphere are called greenhouse gases (GHGs). GHGs allow sunlight to enter the atmosphere, but trap a portion of the outward-bound infrared radiation, which results in a warming of the atmosphere. This phenomenon is known as the greenhouse effect. The natural accumulation of GHGs in the atmosphere regulates the Earth's temperature; however, emissions from human activities such as fossil fuel-based electricity production, the use of internal combustion engines and motor vehicles have elevated the concentration of GHGs in the atmosphere. This anthropogenic accumulation of GHGs has contributed to an increase in the temperature of the Earth's atmosphere and has contributed to global climate change. Global climate change is a change in the average weather on earth that can be measured by wind patterns, storms, precipitation, and temperature.

Among the prominent GHGs contributing to the greenhouse effect, or climate change, are carbon dioxide (CO_2), methane (CH_4), ozone (O_3), water vapor, nitrous oxide (N_2O), and chlorofluorocarbons (CFCs). CO_2 is the reference gas for climate change, as it is the GHG emitted in the highest volume. The effect that each of the GHGs have on global warming is the product of the mass of their emissions and their global warming potential (GWP). GWP indicates how much a gas is predicted to contribute to global warming relative to how much warming would be predicted to be caused by the same mass of CO_2. For example, CH_4 and N_2O are substantially more potent GHGs than CO_2, with GWPs of approximately 25 and approximately 298 times that of CO_2, which has a GWP of 1 (CARB, 2023). In emissions inventories, GHG emissions are typically reported as metric tons of CO_2 equivalents (CO_2e). CO_2e are calculated as the product of the mass emitted of a given GHG and its specific GWP. While CH_4 and N_2O have much higher GWPs than CO_2, CO_2 is emitted in higher quantities and it accounts for the majority of GHG emissions in CO_2e, both from developments and human activity in general.

Regulatory Framework

Federal

U.S. Environmental Protection Agency "Endangerment" and "Cause or Contribute" Findings

The U.S. Supreme Court held that the United States Environmental Protection Agency (U.S. EPA) must consider regulation of motor vehicle GHG emissions. In *Massachusetts v. Environmental Protection Agency* et al., twelve states and cities, including California, together with several environmental organizations sued to require the U.S. EPA to regulate GHGs as pollutants under the CAA (127 S. Ct. 1438 (2007)). The Supreme Court ruled that GHGs fit within the CAA's definition of a pollutant and the U.S. EPA had the authority to regulate GHGs.

On *December* 7, 2009, the U.S. EPA Administrator signed two distinct findings regarding GHGs under Section 202(a) of the CAA:

> **Endangerment Finding:** The current and projected concentrations of the six key GHGs—CO_2, CH_4, N_2O, HFCs, PFCs, and SF_6—in the atmosphere threaten the public health and welfare of current and future generations.
>
> **Cause or Contribute Finding:** The combined emissions of these GHGs from new motor vehicles and new motor vehicle engines contribute to the GHG pollution that threatens public health and welfare.

These findings did not, by themselves, impose any requirements on industry or other entities. However, these actions were a prerequisite for implementing GHG emissions standards for vehicles.

Vehicle Emissions Standards

In 1975, Congress enacted the Energy Policy and Conservation Act, which established the first fuel economy standards for on-road motor vehicles in the United States. Pursuant to the act, the U.S. EPA and National Highway Traffic Safety Administration (NHTSA) are responsible for establishing additional vehicle standards. In August 2012, standards were adopted for model year 2017 through 2025 for passenger cars and light-duty trucks. By 2025, vehicles are required to achieve both 54.5 miles per gallon (mpg) (if GHG reductions are achieved exclusively through fuel economy improvements) and 163 grams of CO_2 per mile (U.S. EPA, 2012). Notably, the state of California harmonized its vehicle efficiency standards through 2025 with the federal standards.

In August 2018, the U.S. EPA and the NHTSA proposed maintaining the 2020 corporate average fuel economy (CAFE) and CO_2 standards for model years 2021 through 2026. The estimated CAFE and CO_2 standards for model year 2020 are 43.7 miles per gallon (mpg) and 204 grams of CO_2 per mile for passenger cars and 31.3 mpg and 284 grams of CO_2 per mile for light trucks, projecting an overall industry average of 37 mpg, as compared to 46.7 mpg under the standards issued in 2012. In September 2019, the USEPA finalized the Safer Affordable Fuel-Efficient Vehicles Rule Part One: One National Program and announced its decision to withdraw the Clean Air Act preemption waiver granted to the state of California in 2013 (U.S. DOT & U.S. EPA,

2019). In March 2022, the USEPA reinstated California's waiver restoring the state's authority to set and enforce more stringent standards than the federal government, including California's GHG emission standards and zero emission vehicle mandate (U.S. EPA, 2022).

State

In California, the legal framework for GHG emissions reductions has come about through an incremental set of Governors' Executive Orders, legislation, and regulations put in place since 2002. The major components of California's climate change initiative are identified below.

Executive Order S-3-05

In 2005, in recognition of California's vulnerability to the effects of climate change, Governor Arnold Schwarzenegger established Executive Order (EO) S-3-05, which set forth the following target dates by which statewide GHG emissions would be progressively reduced: by 2010, reduce GHG emissions to 2000 levels; by 2020, reduce GHG emissions to 1990 levels; and by 2050, reduce GHG emissions to 80 percent below 1990 levels. As discussed below, the 2020 reduction target was codified in 2006 as Assembly Bill (AB) 32. However, the 2050 reduction target has not been codified and the California Supreme Court has ruled that CEQA lead agencies are not required to use it as a significance threshold. *Cleveland National Forest Foundation v. San Diego Association of Governments* (2017) 3 Cal.5th 497.

Assembly Bill 32 – California Global Warming Solutions Act

AB 32, also known as the Global Warming Solutions Act of 2006, codifies the State of California's GHG emissions target by directing CARB to design and implement feasible and cost-effective emissions limits, regulations, and other measures, such that statewide GHG emissions are reduced to 1990 levels by 2020 (representing a 25-percent reduction in emissions). CARB identified a GHG reduction target of 15 percent from current levels for local governments (municipal and community-wide) and noted that successful implementation of the plan relies on local governments' land use planning and urban growth decisions because local governments have primary authority to plan, zone, approve, and permit land development to accommodate population growth and the changing needs of their jurisdictions. The AB 32 emissions reduction limit was achieved in 2017, three years prior to the 2020 goal.

Executive Order B-30-15

In 2015, Governor Brown issued EO B-30-15, establishing a GHG reduction target of 40 percent below 1990 levels by 2030. This goal was set to make it possible to reach the ultimate goal of AB 32 to reduce GHG emissions 80 percent under 1990 levels by 2050. Specifically, the EO directed CARB to update the Scoping Plan to express this 2030 target in metric tons. On September 8, 2016, Governor Jerry Brown signed Senate Bill (SB) 32, which codified the 2030 reduction target called for in EO B-30-15 (see below).

Assembly Bill 1279 (California Climate Crisis Act) and the 2022 Scoping Plan

In August 2022, the California Legislature passed a package of significant climate legislation that includes a codification of the state's goal to reach net-zero by 2045. With the passage of AB

1279, California has locked in a pathway for it to reach net-zero by no later than 2045. This enables the legislature, communities and businesses to start long-term planning, with certainty, for a safer future today. Critically, this goal requires California to cut GHG emissions by 85 percent compared to 1990 levels, ensuring the state uses all available solutions to sharply cut pollution from industrial facilities, vehicles, power plants and more. The Governor signed AB 1279 into law on September 16, 2022.

Climate Change Scoping Plan

In December 2008, CARB adopted the *Climate Change Scoping Plan* (Scoping Plan) with the goal of achieving emissions reductions required by AB 32 (CARB, 2008). It contains the State of California's main strategies to reduce GHGs to 1990 levels by the year 2020. 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 relied on the requirements of SB 375, discussed below, to implement the carbon emission reductions anticipated from land use decisions.

AB 32 requires the Scoping Plan to be updated at least every 5 years. The *First Update to the Climate Change Scoping Plan* describes progress made to meet near-term emissions goals of AB 32, defines California's climate change priorities and activities for the next few years, and describes the issues facing the State as it establishes a framework for achieving air quality and climate goals beyond the year 2020. On December 14, 2017, CARB approved the *2017 Climate Change Scoping Plan* (2017 Scoping Plan Update), which outlines the proposed framework of action for achieving the 2030 GHG target of 40 percent reduction in GHG emissions relative to 1990 levels (CARB, 2017).

The 2022 Scoping Plan, adopted by CARB in December 2022, expands on prior Scoping Plans and responds to more recent legislation by outlining a technologically feasible, cost-effective, and equity-focused path to achieve the State's climate target of reducing anthropogenic emissions to 85 percent below 1990 levels by 2045 and achieving carbon neutrality[13] by 2045 or earlier (CARB 2022b). The 2022 Scoping Plan outlines the strategies the State will implement to achieve carbon neutrality by reducing GHGs to meet the anthropogenic target and by expanding actions to capture and store carbon through the State's natural and working lands and using a variety of mechanical approaches. The major element of the 2022 Scoping Plan is the decarbonization of every sector of the economy. This requires rapidly moving to zero-emission transportation for cars, buses, trains, and trucks; phasing out the use of fossil gas for heating; clamping down on chemicals and refrigerants; providing communities with sustainable options such as walking, biking, and public transit to reduce reliance on cars; continuing to build out solar arrays, wind turbine capacity, and other resources to provide clean, renewable energy to displace fossil-fuel fired electrical generation; scaling up new options such as renewable hydrogen for hard-to-electrify end uses and biomethane where needed. "Successfully achieving the outcomes

[13] *Carbon neutrality* means "net zero" emissions of GHGs. In other words, it means that GHG emissions generated by sources such as transportation, power plants, and industrial processes must be less than or equal to the amount of carbon dioxide that is stored, both in natural sinks and through mechanical sequestration. AB 1279 uses the terminology net zero and the 2022 Scoping Plan uses the terminology carbon neutrality or carbon neutral. These terms mean the same thing and are used interchangeably.

called for in the Scoping Plan would reduce demand for liquid petroleum by 94 percent and total fossil fuel by 86 percent by 2045 relative to 2022" (CARB 2022b). Despite these efforts, some amount of residual emissions will remain from hard-to-abate industries such as cement, internal combustion vehicles still on the road, and other sources of GHGs, including high global warming chemicals used as refrigerants. The 2022 Scoping Plan addresses the remaining emissions by re-envisioning natural and working lands (such as forests, shrublands/chaparral, croplands, wetlands, and other lands) to ensure they incorporate and store as much carbon as possible. Since working lands will not provide enough sequestration or carbon storage on their own to address the residual emissions, additional methods of capturing, removing, and storing carbon dioxide need to be explored, developed, and deployed.

The 2022 Scoping Plan shows that the State must take unprecedented and substantial action to achieve its climate goals, far beyond anything CARB has considered in prior scoping plans. In CARB's own words, the 2022 Scoping Plan "is the most comprehensive and far-reaching Scoping Plan developed to date" and "[m]odeling for this Scoping Plan shows that this decade must be one of transformation on a scale never seen before to set us up for success in 2045" (CARB 2022a). The 2022 Scoping Plan includes the Scoping Plan Scenario, which "builds on and integrates efforts already underway to reduce the State's GHG, criteria pollutant, and toxic air contaminant emissions by identifying the clean technologies and fuels that should be phased in as the State transitions away from combustion of fossil fuels" (CARB 2022b). The 2022 Scoping Plan approaches decarbonization from two perspectives: (1) managing a phasedown of existing energy sources and technology and (2) ramping up, developing, and deploying alternative clean energy sources and technology over time (CARB 2022).

The 2022 Scoping Plan also discusses the role of local governments in meeting the State's GHG reductions goals because local governments have jurisdiction and land use authority related to community-scale planning and permitting processes, local codes and actions, outreach and education programs, and municipal operations. Local governments' efforts to reduce GHG emissions within their jurisdictions are critical to achieving the State's long-term climate goals. Furthermore, local governments make critical decisions on how and when to deploy transportation infrastructure and can choose to support transit, walking, bicycling, and neighborhoods that allow people to transition away from cars; they can adopt building ordinances that exceed statewide building code requirements; and they play a critical role in facilitating the rollout of ZEV infrastructure (CARB 2022c). The 2022 Scoping Plan encourages local governments to take ambitious, coordinated climate action at the community scale; action that is consistent with and supportive of the State's climate goals (CARB 2022c). These could include:

- Developing local CAPS and strategies consistent with the State's GHG emission reduction goals.
- Incorporating State-level GHG priorities into their processes for approving land use and individual plans and individual projects.
- Implementing CEQA mitigation, as needed, to reduce GHG emissions associated with new land use development projects, and
- Leveraging opportunities for regional collaboration.

EO S-1-07 and Update to the Low Carbon Fuel Standard

EO S-1-07, signed by Governor Schwarzenegger in 2007 established a low carbon fuel standard (LCFS) with a goal to reduce the carbon intensity of transportation fuels sold in California by at least 10 percent by 2020. In September 2018, CARB extended the LCFS program to 2030, making significant changes to the design and implementation of the program, including a doubling of the carbon intensity reduction to 20 percent by 2030.

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

SB 375, signed into law in August 2008, provides for regional coordination in land use and transportation planning and funding to help meet the AB 32 GHG reduction goals. SB 375 aligns regional transportation planning efforts, regional GHG emissions reduction targets, land use and housing allocations. SB 375 requires sustainable community strategies (SCS) to be included in regional transportation plans (RTPs) developed by the state's 18 metropolitan planning organizations to reduce emissions of GHGs. In response to the requirements of SB 375, the Metropolitan Transportation Commission (MTC) and the Bay Area Association of Governments (ABAG) adopted the *Plan Bay Area* RTP/SCS, discussed further below.

EO B-16-12 and EO B-48-18

In March 2012, Governor Brown issued an executive order establishing a goal of 1.5 million zero-emission vehicles (ZEVs) on California roads by 2025. In addition to the ZEV goal, EO B-16-12 stipulated that by 2015 all major cities in California would have adequate infrastructure and be "zero-emission vehicle ready"; that by 2020 the state would have established adequate infrastructure to support one million ZEVs; that by 2050, virtually all personal transportation in the state will be based on ZEVs; and that GHG emissions from the transportation sector will be reduced by 80 percent below 1990 levels. On January 26, 2018, Governor Brown issued EO B-48-18 establishing a goal of 5 million ZEVs on California roads by 2030.

Executive Order B-55-18

On September 10, 2018, Governor Brown signed Executive Order B-55-18, committing California to total, economy-wide carbon neutrality by 2045. Executive Order B-55-18 directs CARB to work with relevant state agencies to develop a framework to implement and accounting to track progress toward this goal.

EO N-79-20

On September 23, 2020, Governor Newsom signed EO N-79-20, which sets new statewide goals for phasing out gasoline-powered cars and trucks in California. EO N-79-20 requires that 100 percent of in-state sales of new passenger cars and trucks are to be zero-emission by 2035; 100 percent of in-state sales of medium- and heavy-duty trucks and busses are to be zero-emission by 2045 where feasible; and 100 percent of off-road vehicles and equipment sales are to be zero-emission by 2035 where feasible.

Assembly Bill 117 and Senate Bill 790

In 2002, the state of California passed AB 117, enabling public agencies and joint power authorities to form a Community Choice Aggregation (CCA). SB 790 strengthened it by creating a "code of conduct" that the incumbent utilities must adhere to in their activities relative to CCAs. CCAs allow a city, county, or group of cities and counties to pool electricity demand and purchase/generate power on behalf of customers within their jurisdictions in order to provide local choice. CCAs work with PG&E to deliver power to its service area. The CCA is responsible for the electric generation (procure or develop power) while PG&E is responsible for electric delivery, power line maintenance, and monthly billing.

California Renewables Portfolio Standard (RPS)

Senate Bills 1078 and 107

SB 1078 (Chapter 516, Statutes of 2002) required retail sellers of electricity, including investor-owned utilities and community choice aggregators, to provide at least 20 percent of their supply from renewable sources by 2017. SB 107 (Chapter 464, Statutes of 2006) changed the target date to 2010.

Senate Bill X 1-2

SB X 1-2, signed by Governor Brown in April 2011, enacted the California Renewable Energy Resources Act. The law obligated all California electricity providers, including investor-owned and publicly owned utilities, to obtain at least 33 percent of their energy from renewable resources by the year 2020.

Senate Bill 350

SB 350, the Clean Energy and Pollution Reduction Act of 2015 (Chapter 547, Statutes of 2015), was approved by Governor Brown on October 7, 2015. SB 350 increased the standards of the California RPS program by requiring that the amount of electricity generated and sold to retail customers per year from eligible renewable energy resources be increased from 33 percent to 50 percent by December 31, 2030. The act requires the State Energy Resources Conservation and Development Commission to establish annual targets for statewide energy efficiency savings and demand reduction that will achieve a cumulative doubling of statewide energy efficiency savings in existing electricity and natural gas final end uses of retail customers by January 1, 2030.

Senate Bill 100

On September 10, 2018, Governor Brown signed SB 100, establishing that 100 percent of all electricity in California must be obtained from renewable and zero-carbon energy resources by December 31, 2045. SB 100 also creates new standards for the RPS goals that were established by SB 350 in 2015. Specifically, the law increases the percentage of energy that both investor-owned utilities and publicly owned utilities must obtain from renewable sources from 50 percent to 60 percent by 2030. Incrementally, these energy providers must also have a renewable energy supply of 33 percent by 2020, 44 percent by 2024, and 52 percent by 2027. The updated RPS goals are considered achievable, because many California energy providers are already meeting or exceeding the RPS goals established by SB 350.

Senate Bill 1020

On September 16, 2022, Governor Newsom signed SB 1020, which establishes interim targets to the policy framework originally established in SB 100 to require renewable energy and zero-carbon resources to supply 90 percent of all retail electricity sales by 2035 and 95 percent of all retail electricity sales by 2040. This will help ensure that the state makes steady and accountable progress towards decarbonizing the entire statewide electricity grid. The bill also requires all state agencies to rely on 100 percent renewable energy and zero-carbon resources to serve their own facilities by 2035.

Senate Bill 1383 (Short-Lived Climate Pollutants)

SB 1383, enacted in 2016, requires statewide reductions in short-lived climate pollutants across various industry sectors. The climate pollutants covered under SB 1383 include methane, fluorinated gases, and black carbon—all GHGs with a much higher warming impact than CO_2 and with the potential to have detrimental effects on human health. SB 1383 requires CARB to adopt a strategy to reduce methane by 40 percent, hydrofluorocarbon gases by 40 percent, and anthropogenic black carbon by 50 percent below 2013 levels by 2030. The methane emissions reduction goals include a 75 percent reduction in the level of statewide disposal of organic waste from 2014 levels by 2025.

California Building Efficiency Standards – Title 24, Part 6

California's Energy Efficiency Standards for Residential and Nonresidential Buildings (Title 24 Building Standards) were established by the California Energy Commission in Title 24, Part 6 of the CCR. These standards mandate a reduction in California's energy consumption and are updated on a three-year cycle to allow for innovation and incorporation of new energy efficient technologies and methods. Applications for building permits after January 1, 2023 have to be compliant with the 2022 standards. Energy efficient buildings require less electricity; therefore, increased energy efficiency reduces fossil fuel consumption and decreases GHG emissions (CEC, 2022).

California Green Building Standards Code – CALGreen

In January 2010, the State of California adopted the California Green Building Standards Code (CALGreen) that established new sustainable 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. These standards include a mandatory set of minimum guidelines, as well as more rigorous voluntary measures, for new construction projects to achieve specific green building performance levels. This Code went into effect as part of local jurisdictions' building codes on January 1, 2011, and was most recently updated as the 2022 California Green Building Standards Code, which became effective January 1, 2023. The 2022 CALGreen update simplifies the code and its application in several ways. It offers new voluntary prerequisites for builders to choose from, such as battery storage system controls and heat pump space, and water heating, to encourage building electrification. While the 2019 CALGreen Code only requires provision of EV Capable spaces with no requirement for chargers to be installed at multifamily dwellings, the 2022 CALGreen code mandates chargers (CBSC, 2022).

Regional

The Project is located in Santa Clara County, within the San Francisco Bay Area Air Basin (SFBAAB), and falls under the jurisdiction of the Bay Area Air Quality Management District (BAAQMD). 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 SFBAAB.

Bay Area Air Quality Management District California Environmental Quality Act Air Quality Guidelines

The BAAQMD established its California Environmental Quality Act Air Quality Guidelines (CEQA Guidelines) to assist in the evaluation of air quality and climate change impacts of projects and plans proposed in the SFBAAB.

Under the current BAAQMD Air Quality Guidelines most recently adopted in 2023, for land use development projects, the BAAQMD identifies four design elements as thresholds for projects to do their "fair share" of implementing the goal of carbon neutrality by 2045. The recommended project-level GHG thresholds adopted by BAAQMD are as follows.

Projects must include, at a minimum, the following project design elements:

1. Buildings
    a. The project will not include natural gas appliances or natural gas plumbing (in both residential and non-residential development).
    b. The project will not result in any wasteful, inefficient, or unnecessary electrical usage as determined by the analysis required under CEQA Section 21100(b)(3) and Section 15126.2(b) of the State CEQA Guidelines.
2. Transportation
    a. Achieve compliance with electric vehicle requirements in the most recently adopted version of CALGreen [California Green Building Standards Code] Tier 2.
    b. Achieve a reduction in project-generated VMT below the regional average consistent with the current version of the California Climate Change Scoping Plan (currently 15 percent).

        OR

        Meet a locally adopted Senate Bill 743 VMT target, reflecting the recommendations provided in the Governor's Office of Planning and Research's Technical Advisory on Evaluating Transportation Impacts in CEQA:

        i. *Residential projects*: 15 percent below the existing VMT per capita.
        ii. *Office projects*: 15 percent below the existing VMT per employee.
        iii. *Retail projects*: no net increase in existing VMT.

Alternately, a local government may prepare a qualified GHG reduction strategy that is consistent with State GHG reduction goals that meets the criteria under CEQA Guidelines section 15183.5(b). If a project is consistent with an adopted qualified GHG reduction strategy and

general plan that addresses the project's GHG emissions, it can be presumed that the project will not have significant GHG emissions under CEQA (BAAQMD, 2023.

Bay Area Air Quality Management District 2017 Bay Area Clean Air Plan

The BAAQMD and other air districts develop plans to reduce emissions of pollutants for which regions are designated as non-attainment areas. The most recent clean air plan for the SFBAAB is *Spare the Air, Cool the Climate: Final 2017 Clean Air Plan* (2017 Clean Air Plan). This is an update to the 2010 Clean Air Plan, and centers on protecting public health and climate. Consistent with the state's GHG reduction targets, the plan lays the groundwork for a long-term effort to reduce Bay Area GHG emissions 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050. The 2017 Clean Air Plan describes control measures and specific actions to reduce emissions of air and climate pollutants from the full range of emission sources; it is based on the following four key priorities (BAAQMD, 2017b):

- 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 the energy system.

Metropolitan Transportation Commission/Association of Bay Area Governments Sustainable Communities Strategy – Plan Bay Area 2050

MTC is the federally recognized Metropolitan Planning Organization for the nine-county Bay Area which has adopted Plan Bay Area which includes the region's Sustainable Communities Strategy, as required under SB 375, and the 2040 Regional Transportation Plan. A central GHG reduction strategy of Plan Bay Area is the concentration of future growth in Priority Development Areas (PDAs) and Transit Priority Areas (TPAs). To be eligible for PDA designation, an area must be within an existing community, near existing or planned fixed transit or served by comparable bus service and planned for more housing. A TPA is an area within 0.5 miles of an existing or planned major transit stop such as a rail transit station, a ferry terminal served by transit, or the intersection of two or more major bus routes (MTC & ABAG, 2013).

On July 26, 2017, MTC adopted *Plan Bay Area 2040*, a focused update that builds upon the growth pattern and strategies developed in the original Plan Bay Area but with updated planning assumptions that incorporate key economic, demographic, and financial trends since the original plan was adopted (MTC & ABAG, 2017).

On October 21, 2021, the MTC and the Executive Board of the ABAG jointly adopted Plan Bay Area 2050 and its related supplemental reports. Plan Bay Area 2050 connects the elements of housing, the economy, transportation and the environment through 35 strategies that will make the Bay Area more equitable for all residents and more resilient in the face of unexpected challenges. In the short-term, the plan's Implementation Plan identifies more than 80 specific actions for MTC, ABAG and partner organizations to take over the next five years to make headway on each of the 35 strategies (MTC & ABAG, 2021). It will be several years before the

regional transportation model (and therefore county and local transportation models) are updated to reflect Plan Bay Area 2050; the models currently incorporate data from Plan Bay Area 2040.

Local

General Plan

The City of San José adopted the *Envision San José 2040 General Plan* (General Plan) for the purpose of avoiding or mitigating GHG emissions impacts from development projects. General Plan policies relevant to GHG emissions and applicable to the Project are presented below (City of San José, 2011).

> ***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-2.2:*** Encourage maximized use of on-site generation of renewable energy for all new and existing buildings.
>
> ***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-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 the use of green building technology or techniques that can help 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 or other regulations.
>
> ***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 MS-16.2:*** Promote neighborhood-based distributed clean/renewable energy generation to improve local energy security and to reduce the amount of energy wasted in transmitting electricity over long distances.
>
> ***Policy MS-19.4:*** Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.

Policy MS-21.3: Ensure that San José's Community Forest is comprised of species that have low water requirements and are well adapted to its Mediterranean climate. Select and plant diverse species to prevent monocultures that are vulnerable to pest invasions. Furthermore, consider the appropriate placement of tree species and their lifespan to ensure the perpetuation of the Community Forest.

Policy MS-21.6: As a condition of new development, require 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 ER-8.7: Encourage stormwater reuse for beneficial uses in existing infrastructure and future development through the installation of rain barrels, cisterns, or other water storage and reuse facilities.

Policy CD-2.5: Integrate Green Building Goals and Policies of the Envision San José 2040 General 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-2.11: Within the Downtown and Urban Village Overlay areas, consistent with the minimum density requirements of the pertaining Land Use/Transportation Diagram designation, avoid the construction of surface parking lots except as an interim use, so that long-term development of the site will result in a cohesive urban form. In these areas, whenever possible, use structured parking, rather than surface parking, to fulfill parking requirements. Encourage the incorporation of alternative uses, such as parks, above parking structures.

Policy CD-3.2: Prioritize pedestrian and bicycle connections to transit, community facilities (including schools), commercial areas, and other areas serving daily needs. Ensure that the design of new facilities can accommodate significant anticipated future increases in bicycle and pedestrian activity.

Policy CD-3.5: Balance the need for parking to support a thriving Downtown with the need to minimize the impacts of parking upon a vibrant pedestrian and transit oriented urban environment. Provide for the needs of bicyclists and pedestrians, including adequate bicycle parking areas and design measures to promote bicyclist and pedestrian safety.

Policy TR-2.8: Require new development 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-2.18: Provide bicycle storage facilities as identified in the Bicycle Master Plan.

Policy TR-8.5: Promote participation in car share programs to minimize the need for parking spaces in new and existing development.

City of San José Greenhouse Gas Reduction Strategy

The City prepared their *Greenhouse Gas Reduction Strategy* (GHGRS) in conjunction with the General Plan and in accordance with the requirements of AB 32 and CEQA Guidelines Section 15183.5. The GHGRS 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 at the City's discretion as mitigation measures for proposed projects.

In response to the 2030 GHG reduction goals set forth by SB 32, the City updated the strategy in August 2020. The City's 2030 Greenhouse Gas Reduction Strategy (2030 GHGRS) builds on the City's *Envision San José 2040 General Plan* as well as Climate Smart San José (City of San José, 2020a). The 2030 GHGRS serves as a Qualified Climate Action Plan for the purposes of CEQA tiering. Pursuant to CEQA Guidelines Sections 15064(h)(3), 15130(d), and 15183(b), a Project's GHG emissions would be determined not cumulatively considerable if it demonstrates compliance with the requirements of the 2030 GHGRS through the Compliance Checklist (City of San José, 2020b).

Climate Smart San José

Climate Smart San José, adopted in 2018, is a plan to reduce air pollution, save water, and create a healthy community. The plan focuses on three pillars and nine key strategies to transform San José into a climate smart city that is substantially decarbonized and meeting requirements of Californian climate change laws (City of San José, 2023).

City of San José Municipal Code

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

- Green Building Ordinance (Chapter 17.84.220)
- Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.11)
- Construction and Demolition Diversion Deposit Program (Chapter 9.10)
- Wood Burning Appliances (Chapter 9.11)

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 (see Section 4.6, *Energy*, above).

City of San José Reach Code

The City has adopted a reach code, which is a building code that is more advanced than those required by the State of California. Reach codes that support energy efficiency, electrification, and

renewable energy can save energy and reduce GHG emissions. In September 2019, the San José City Council approved a building reach code ordinance that encourages building electrification and energy efficiency, requires solar readiness on nonresidential buildings, and requires electric vehicle (EV) readiness and installation of EV equipment (City of San José, 2019). In October 2019, Council approved an ordinance prohibiting natural gas infrastructure in new detached accessory dwelling units, single-family, and low-rise multi-family buildings that would supplement the reach code ordinance. On December 1, 2020, Council approved an updated ordinance prohibiting natural gas infrastructure in all new construction in San José, starting on August 1, 2021 (City of San José, 2020c).

Project-Related GHG Emissions

GHG emissions that would result from construction and operation of the proposed Project are discussed for the purposes of disclosure and are not meant to be used as a basis for determining significance. GHG emissions were estimated using the California Emissions Estimator Model (CalEEMod), version 2022.1.1. Inputs to the model included Project size and construction schedule; and where Project information was not available, CalEEMod defaults were used. GHG emissions that would result from construction and operation of the proposed Project are summarized in **Table GHG-1** and **Table GHG-2**, respectively.

TABLE GHG-1
PROJECT CONSTRUCTION GREENHOUSE GAS EMISSIONS – BY YEAR

Construction Year	CO_2e (MT/year)
2024	105
2025	10.5

NOTES:

Project construction emissions were estimated using CalEEMod version 2022.1.1. See Appendix A for model outputs and more detailed assumptions.
CO_2e = carbon dioxide equivalent, MT = metric tons

SOURCE: Appendix A.

TABLE GHG-2
PROJECT CONSTRUCTION GREENHOUSE GAS EMISSIONS – BY CATEGORY

Category	CO_2e (MT/year)
Area	0.0
Energy	10.7
Mobile	66.3
Waste	5.5
Water	2.9
Total Operational Emissions	**85.4**

NOTES:

Project operational emissions were estimated using CalEEMod version 2022.1.1. See Appendix A for model outputs and more detailed assumptions.
CO_2e = carbon dioxide equivalent, MT = metric tons

SOURCE: Appendix A.

Discussion

a) **Less Than Significant Impact.** As discussed above, Projects that demonstrate consistency with the City's 2030 GHGRS are considered to have a less than significant impact related to GHG emissions. Projects show consistency with the 2030 GHGRS through the completion of Section A (General Plan Policy Conformance) and Section B (Greenhouse Gas Reduction Strategies) of the Compliance Checklist.

As discussed under the evaluation of impact question b), below, the Project would be consistent with the applicable GHG reduction strategies and General Plan strategies included in the 2030 GHGRS. Therefore, the Project's contribution to cumulative GHG emissions would not be cumulatively considerable. The Project would not generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment.

b) **Less Than Significant Impact**. The Project would comply with the applicable General Plan policies, strategies included in the 2030 GHGRS, applicable regulations of the City's Municipal Code, Council Policy 6-32 Private Sector Green Building Policy, the City's Reach Code, and the 2022 Scoping Plan Update.

To show compliance with Section A, General Plan Policy Compliance, Table A of the Compliance Checklist: General Plan Consistency, was completed. As shown in **Table GHG-3**, the Project would be consistent with applicable General Plan Policies listed in Table A. Therefore, the Project would be considered consistent with the General Plan.

TABLE GHG-3
PROJECT CONFORMANCE WITH THE 2030 GREENHOUSE GAS REDUCTION STRATEGY: GENERAL PLAN CONSISTENCY

Criteria	Consistent?	Response Documentation
Consistency with the Land Use/Transportation Diagram (Land Use and Density)		
Is the proposed Project consistent with the Land Use/Transportation Diagram?	Yes.	The Project Site is designated as *Urban Village* on the General Plan Land Use/Transportation Diagram. As discussed in the Land Use section of this Initial Study checklist, the proposed mixed-use Project would be consistent with the *Urban Village* General Plan land use designation.
Implementation of Green Building Measures		
MS-2.2: Encourage maximized use of on-site generation of renewable energy for all new and existing buildings.	Yes.	The Project would comply with the applicable Title 24 Building Energy Efficiency Standards which require that the Project implement a solar zone area for the future installation of a solar electric or solar thermal system. The Project would implement solar panels to augment the electrical power supply to the building as much as is feasible.
fMS-2.3: Encourage consideration of solar orientation, including building placement, landscaping, design and construction techniques for new construction to minimize energy consumption.	Yes.	The Project would include a rooftop outdoor amenity space and landscaping within the courtyard and along the Project site perimeter. In addition, the Project would be required to recycle or salvage at least 30 percent of construction waste as part of its LEED certification.

Criteria	Consistent?	Response Documentation
MS-2.7: Encourage the installation of solar panels or other clean energy power generation sources over parking areas.	Not applicable.	Parking at the Project Site would be located underground beneath the residential building.
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).	Yes.	The Project would incorporate green building practices required by the Green Building Ordinance. In addition, the Project would be required to comply with the Title 24 Building Energy Efficiency Standards to reduce energy consumption. The Project would also comply with the City's Green Building Policy (Council Policy 8-13), the City's Private Sector Green Building Policy (Council Policy 6-32), the Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Municipal Code Chapter 15.11), the Construction and Demolition Diversion Deposit Program (Municipal Code Chapter 9.10), and the City of San José Reach Code which are supportive of green building policies.
MS-16.2: Promote neighborhood-based distributed clean/renewable energy generation to improve local energy security and to reduce the amount of energy wasted in transmitting electricity over long distances.	Yes.	The Project would comply with the Title 24 Building Energy Efficiency Standards and would include a solar zone for future installation of a solar electric or solar thermal system. This would encourage future renewable energy generation and would improve local energy security.
Pedestrian, Bicycle, and Transit Site Design Measures		
CD-2.1: Promote the Circulation Goals and Policies in the Envision San José 2040 General Plan. Create streets that promote pedestrian and bicycle transportation by following applicable goals and policies in the Circulation section of the Envision San José 2040General Plan. a) Design the street network for its safe shared use by pedestrians, bicyclists, and vehicles. Include elements that increase driver awareness. b) Create a comfortable and safe pedestrian environment by implementing wider sidewalks, shade structures, attractive street furniture, street trees, reduced traffic speeds, pedestrian-oriented lighting, mid-block pedestrian crossings, pedestrian-activated crossing lights, bulb-outs and curb extensions at intersections, and on-street parking that buffers pedestrians from vehicles. c) Consider support for reduced parking requirements, alternative parking arrangements, and Transportation Demand Management strategies to reduce area dedicated to parking and increase area dedicated to employment, housing, parks, public art, or other amenities. Encourage de-coupled parking to ensure that the value and cost of parking are considered in real estate and business transactions.	Not applicable.	The Project would not include roadway improvements; however, the Project would include sidewalk improvements, while retaining existing street trees. The Project would also provide bicycle parking and is located near various transit lines that would encourage use of alternative modes of transportation. Furthermore, the Project would provide 60 parking spaces for the 50 dwelling units.

Criteria	Consistent?	Response Documentation
CD-2.5: Integrate Green Building Goals and Policies of the Envision San José 2040 General 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.	Yes.	The Project would incorporate green building practices required by the Green Building Ordinance. In addition, the Project would be required to comply with the Title 24 Building Energy Efficiency Standards to reduce energy consumption. The Project would also comply with the City's Green Building Policy (Council Policy 8-13), the City's Private Sector Green Building Policy (Council Policy 6-32), the Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Municipal Code Chapter 15.11), the Construction and Demolition Diversion Deposit Program (Municipal Code Chapter 9.10), and the City of San José Reach Code which are supportive of green building policies. Parking would be located below ground to avoid construction of surface parking and existing street trees along the Project frontages would be retained to shade pedestrian areas. Furthermore, the Project would include a rooftop amenity area for residents and a landscaped bioretention area.
CD-2.11: Within the Downtown and Urban Village Overlay areas, consistent with the minimum density requirements of the pertaining Land Use/Transportation Diagram designation, avoid the construction of surface parking lots except as an interim use, so that long-term development of the site will result in a cohesive urban form. In these areas, whenever possible, use structured parking, rather than surface parking, to fulfill parking requirements. Encourage the incorporation of alternative uses, such as parks, above parking structures.	Yes.	The Project would include a below-ground parking lot to fulfill parking requirements while avoiding the construction of surface parking.
CD-3.2: Prioritize pedestrian and bicycle connections to transit, community facilities (including schools), commercial areas, and other areas serving daily needs. Ensure that the design of new facilities can accommodate significant anticipated future increases in bicycle and pedestrian activity.	Yes.	The Project would include construction of 24 bicycle parking spaces consistent with the City's Zoning Ordinance. Therefore, the Project would accommodate anticipated future increases in bicycle activity. Moreover, there are bike lanes near the Project site, on 10th Street, 11th Street,13th Street and 17th Street near the Project (see Appendix D to this Initial Study). In addition, the Project is located in proximity to various transit lines that would support use of alternative modes of transportation.
CD-3.4: Encourage pedestrian cross-access connections between adjacent properties and require pedestrian and bicycle connections to streets and other public spaces, with particular attention and priority given to providing convenient access to transit facilities. Provide pedestrian and vehicular connections with cross-access easements within and between new and existing developments to encourage walking and minimize interruptions by parking areas and curb cuts.	Not applicable.	The Project site provides new sidewalks that will continue to facilitate pedestrian access to the nearest transit stop, located approximately 75 feet east of the site. Parking for the Project is proposed below ground on the Project site to allow convenient access for residents.
LU-3.5: Balance the need for parking to support a thriving Downtown with the need to minimize the impacts of parking upon a vibrant pedestrian and transit oriented urban environment. Provide for the needs of bicyclists and pedestrians, including adequate bicycle parking areas and design measures to promote bicyclist and pedestrian safety.	Yes.	The Project would include construction of 24 bicycle parking spaces consistent with the City's Zoning Ordinance. Therefore, the Project would accommodate bicycle parking needs for future residents of the Project.

Criteria	Consistent?	Response Documentation
TR-2.8: Require new development 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.	Yes.	The Project would include construction of 24 bicycle parking spaces consistent with the City's Zoning Ordinance. The Project would reconstruct sidewalks along East Santa Clara Street and 14th Street, thereby improving the pedestrian environment.
TR-7.1: Require large employers to develop TDM programs to reduce the vehicle trips and vehicle miles generated by their employees through the use of shuttles, provision for car-sharing, bicycle sharing, carpool, parking strategies, transit incentives and other measures.	Not applicable.	The Project would not employ a large number of people, therefore TDM programs would not be applicable to the Project.
TR-8.5: Promote participation in car share programs to minimize the need for parking spaces in new and existing development.	Not applicable.	The Project would not employ or house a large number of people, therefore car-share programs in a small residential project would not be applicable to the Project.
Water Conservation and Urban Forestry Measures		
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.	Yes.	The Project would comply with the State's Model Water Efficient Landscape Ordinance.
MS-3.2: Promote the use of green building technology or techniques that can help 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 or other regulations.	Yes	The Project would incorporate green building practices required by the Green Building Ordinance. In addition, the Project would be required to comply with the Title 24 Building Energy Efficiency Standards to reduce water consumption. The Project would also comply with the City's Green Building Policy (Council Policy 8-13). Furthermore, the Project would incorporate water efficient landscaping to reduce water use.
MS-19.4: Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.	Yes.	The Project would comply with the CalGreen Code, which requires that recycled water be used for landscaping, where feasible.
MS-21.3: Ensure that San José's Community Forest is comprised of species that have low water requirements and are well adapted to its Mediterranean climate. Select and plant diverse species to prevent monocultures that are vulnerable to pest invasions. Furthermore, consider the appropriate placement of tree species and their lifespan to ensure the perpetuation of the Community Forest.	Yes.	The Project would include landscaping comprised of a variety of plant species to prevent monocultures that are vulnerable to pest invasions. In addition, in compliance with the Standard Permit Conditions, any tree removed would be replaced in accordance with the Tree Replacement Rations, as discussed in Section D, Biological Resources.
MS-26.1: As a condition of new development, require 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.	Yes.	The Project would comply with the Standard Permit Conditions which require that any tree removed would be replaced in accordance with the Tree Replacement Rations, as discussed in Section D, Biological Resources.

Criteria	Consistent?	Response Documentation
ER-8.7: Encourage stormwater reuse for beneficial uses in existing infrastructure and future development through the installation of rain barrels, cisterns, or other water storage and reuse facilities.	Yes	As stated under strategy MS-19.4, the Project would comply with the CalGreen Code, which requires that recycled water be used for landscaping, where feasible, as well as with other ordinances and codes that encourage reduced water consumption. However, the Project does not involve, nor is it required to include water storage and reuse facilities.

SOURCE: City of San José, 2020b

Table B of the Compliance Checklist was completed to show consistency with applicable Greenhouse Gas Reduction Strategies. As shown in **Table GHG-4**, the Project would implement the applicable GHG reduction strategies identified by the 2030 GHGRS.

TABLE GHG-4
PROJECT CONFORMANCE WITH THE 2030 GREENHOUSE GAS REDUCTION STRATEGY

Criteria	Project Conformance	Response Documentation
Zero Net Carbon Residential Construction. 1. Achieve/exceed the City's Reach Code, and 2. Exclude natural gas infrastructure in new construction, or 3. Install on-site renewable energy systems or participate in a community solar program to offset 100% of the project's estimated energy demand, or 4. Participate in San José Clean Energy at Total Green level (I.e., 100% carbon-free electricity) for electricity accounts associated with the project until which time SJCE achieves 100% carbon-free electricity for all accounts.	Proposed.	The Project would exclude all natural gas infrastructure and would be all-electric.
Renewable Energy Development 1. Install solar panels, solar hot water, or other clean energy power generation sources on development sites, or 2. Participate in community solar programs to support development of renewable energy in the community, or 3. Participate in San José Clean Energy at the Total Green level (i.e., 100% carbon-free electricity) for electricity accounts associated with the project.	Proposed.	The Project would comply with the Title 24 Building Energy Efficiency Standards which require that high-rise residential projects implement a solar zone capable of supporting future solar electric or solar thermal infrastructure. The Project would implement solar panels to augment the electrical power supply to the building as much as is feasible. The Project is enrolled in SJCE which runs the Net Energy Metering Program, so that any future net energy generated at the Project site would be used within the community. Therefore, the Project would promote future clean energy generation in the community.
Building Retrofits – Natural Gas This strategy only applies to the project that include a retrofit of an existing building. 1. Replace an existing natural gas appliance with an electric alternative (e.g. space heater, water heater, clothes dryer), or 2. Replace an existing natural gas appliance with a high-efficiency model.	Not applicable.	The Project does not involve retrofit of an existing building.

Criteria	Project Conformance	Response Documentation
Zero Waste Goal 1. Provide space for organic waste (e.g., food scraps, yard waste) collection containers, and/or 2. Exceed the City's construction and demolition waste diversion requirement.	Proposed.	The Project would specify space onsite for organic waste collection containers in the proposed trash room and would meet the City's requirements for construction and demolition waste diversion.
Caltrain Modernization 1. For projects located within ½ mile of a Caltrain station, establish a program through which to provide project tenants and/or residents with free or reduced Caltrain passes or 2. Develop a program that provides project tenants and/or residents with options to reduce their vehicle miles traveled (e.g., a TDM program), which could include transit passes, bike lockers and showers, or other strategies to reduce project related VMT.	Proposed.	The Project would include construction of 24 bicycle parking spaces consistent with the City's Zoning Ordinance to encourage bicycling as an alternative mode of transportation.
Water Conservation 1. Install high-efficiency appliances/fixtures to reduce water use, and/or include water-sensitive landscape design, and/or 2. Provide access to reclaimed water for outdoor water use on the project site.	Proposed.	The Project will conform with CALGreen and Title 24 Building Code, and therefore include high-efficiency water fixtures and water-efficient irrigation systems.
Supports City Strategies/Sectors Evaluation of Project Conformance with the 2030 Greenhouse Gas Reduction Strategy	Proposed.	The project supports the following numbered GHGRS Strategies/ Sectors to be implemented by the City: • GHGRS #1 (*Clean Energy*): As previously stated in this table, the Project is enrolled in SJCE which runs the Net Energy Metering Program, so that any future net energy generated at the Project site would be used within the community. • GHGRS #2 (*Zero Net Carbon*) and #4 (*Decarbonization*): The Project would be required to adhere to the City's Reach Code ordinance and specifically would exclude all natural gas infrastructure. • GHGRS #3 (*Solar Energy*): The Project would comply with the Title 24 Building Energy Efficiency Standards which require that the Project implement a solar zone area for the future installation of a solar electric or solar thermal system. • GHGRS #5 (*Zero Waste*) The Project could specify space onsite for organic waste collection containers in the proposed trash room.

SOURCE: ESA; City of San José, 2020b

Furthermore, the Project would be required to comply with the applicable measures from the San José Municipal Code to reduce GHG emissions including compliance with the Green Building Ordinance, water efficient landscape standards, construction and demolition diversion, and the wood burning appliances requirements. The Project would also meet the green building standards set forth in the Council Policy 6-32 Private Sector Green Building Policy and the City's Reach Code.

The Project would not conflict or otherwise interfere with the statewide GHG reduction measures identified in CARB's 2017 Scoping Plan Update. For example, the proposed building would be constructed in conformance with CALGreen and the Title 24 Building Code, which require high-efficiency water fixtures and water-efficient irrigation systems.

The Project would comply with the General Plan, the 2030 GHGRP, applicable regulations of the City's Municipal Code, Council Policy 6-32 Private Sector Green Building Policy, the City's Reach Code, and the 2017 Scoping Plan Update. In addition, the Project would incorporate a Standard Permit Condition regarding Paleontological Resources, below. Therefore, the Project would not conflict with any applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs, and the impact would be less than significant.

Standard Permit Condition

Greenhouse Gas Emissions/Energy 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 the [San Jose Community Energy (SJCE) GreenSource program (approximately 95% carbon free power) or TotalGreen program (approximately 100% carbon free power)] 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.

Conclusion: The Project would have a less than significant impact related to GHG emissions with implementation of Standard Permit Conditions.

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4.9 Hazards and Hazardous Materials

Issues (and Supporting Information Sources):	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
IX. 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?	☐	☐	☒	☐
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?	☐	☐	☒	☐
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☒	☐
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?	☐	☐	☐	☒
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?	☐	☐	☐	☒
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?	☐	☐	☐	☒

Environmental Setting

The Project site consists of two parcels located on the southwest corner of East Santa Clara Street and South 14th Street in San José, California, in a mixed residential and commercial area (see Figure 2-3, Aerial of Project Site and Surrounding Area, in Section 2 of this document). The Project site consists of flat ground with one two-story commercial building with office spaces and a parking area.

The Phase I environmental site assessment conducted for the property indicated that the building housed nine tenant spaces, utilized as general dentist and physician offices (M3 Environmental Consulting 2018). Other than the relatively small quantities of chemicals typically associated with these types of businesses and typical office cleaning products, these businesses do not handle hazardous materials and/or generate hazardous wastes above de minimus quantities. The Phase I assessment indicated no dry cleaners, gasoline stations, military bases, industrial facilities, or major manufacturing operations have occupied the subject property.

The building was constructed around 1945, which predates the post-1970s nation-wide ban on the use of asbestos-containing materials (ACM; e.g., ceiling tiles, roofing shingles, mastic, grout),

lead-based paint (LBP), and polychlorinated biphenyls (PCBs, ballasts inside fluorescent light fixtures). No surveys for hazardous building materials are known to have been conducted on the existing structure. Therefore, the structure may contain hazardous building materials.

Home and building heating in San José currently use either natural gas or electricity (City of San José 2020). In the past, homes and businesses were commonly heated through the use of heating oil tanks. Heating oil was delivered by a small tanker truck that would drive up to the front of or the driveway to the house or business and refill the tank. Tanks were typically located in the basement, under the sidewalk, or along the side of the house. The tanker truck would fill the tank through a fill port. After natural gas was routed throughout San José, heating oil tanks were no longer used. However, the heating oil tanks were not always removed, and abandoned tanks have been encountered in various locations across the City. Although not observed during the site inspection for the Phase I assessment, given that the existing structure dates to about 1945 and the property was previously occupied by residential houses date to at least 1915, the potential exists for abandoned and undocumented heating oil tanks to be encountered during excavation activities for development of the Project site.

The Phase I assessment reviewed relevant federal, state, and local regulatory agency lists for listings of the property that would indicate chemical use (M3 Environmental Consulting 2018). The property appeared on a number of lists for routine use and disposal of small quantities of chemicals. However, none of the listings indicates spills or other environmental issues that would affect the development of the property. The review of agency lists did not identify any nearby properties whose activities might affect the property.

The Project site is located about 2.2 miles east southeast of the Noman Mineta San José International Airport.

With regard to proximity to schools, the Legacy Academy is located approximately 0.23 miles southwest of the Project site at 484 East San Fernando Street. No other schools are located within 0.25 mile of the Project site.

The Project site is not located in an area designated as a wildland fire hazard zone (Calfire, 2007, 2008).

Regulatory Framework

Federal

Community Right-to-Know Act of 1986 (also known as Title III of the Superfund Amendments and Reauthorization Act, SARA)

The Superfund Amendments and Reauthorization Act (SARA), commonly known as the Community Right-to-Know Act or SARA, was enacted by Congress in 1986 and is administered by the U.S. EPA. The Community Right-to-Know Act imposes requirements to ensure that hazardous materials are properly handled, used, stored, and disposed of and to prevent or mitigate injury to human health or the environment in the event that such materials are accidentally released.

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.

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.

California Hazardous Materials Release Response Plan and Inventory Law of 1985; CUPA

The California Hazardous Materials Release Response Plan and Inventory Law of 1985, or Business Plan Act, requires that businesses that store hazardous materials on site prepare a Hazardous Materials Business Plan (HMBP) and submit it to the local Certified Unified Program Agency (CUPA), which in this case is the County of Santa Clara Department of Environmental Health.

Regional and 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. All future development allowed by the proposed land use designation would be subject to the hazardous materials policies in the General Plan presented below.

> ***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-6.8:*** The City will use information on file with the County of Santa Clara Department of Environmental Health under the California Accidental Release Prevention (CalARP) Program as part of accepted Risk Management Plans to determine whether new residential, recreational, school, day care, church, hospital, seniors or medical facility developments could be exposed to substantial hazards from accidental release of airborne toxic materials from CalARP facilities.
>
> ***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 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.

Materials-Specific Regulations

The use and removal of hazardous building materials is subject to the following regulations specific to the demolition and renovation of structures.

Asbestos-Containing Materials (ACM) Regulations

State-level agencies, in conjunction with the USEPA and OSHA, regulate removal, abatement, and transport procedures for asbestos-containing materials. Releases of asbestos from industrial, demolition, or construction activities are prohibited by these regulations and medical evaluation and monitoring is required for employees performing activities that could expose them to asbestos. Additionally, the regulations include warnings that must be heeded and practices that must be followed to reduce the risk for asbestos emissions and exposure. Finally, the Bay Area Air Quality Management District (BAAQMD) must be notified prior to the onset of demolition or construction activities with the potential to release asbestos. The following regulations apply to the removal and disposal of ACM: Code of Federal Regulations (CFR) Title 40, Part 61, Subpart M (Asbestos National Emission Standards for Hazardous Air Pollutants [NESHAP]); California Code of Regulations (CCR) Title 8, Sections 1529 and 5208; and BAAQMD Regulation 11, Rule 2. BAAQMD Rule 2 provides detailed requirements for the definition of materials that

qualify as ACM, qualifications for ACM contractors, and procedures for testing, containment, removal, and disposal.

Lead-Based Paint (LBP)

Cal/OSHA's Lead in Construction Standard is contained in Title 8, Section 1532.1 of the CCRs. The regulations address all of the following areas: permissible exposure limits (PELs); exposure assessment; compliance methods; respiratory protection; protective clothing and equipment; housekeeping; medical surveillance; medical removal protection; employee information, training, and certification; signage; record keeping; monitoring; and agency notification. The following regulations apply to the removal and disposal of LBP: Title IV, Toxic Substances Control Act, Sections 402, 403, and 404; Title 8 CCR Section 1532.1; and BAAQMD Regulation 11, Rule 1. In addition, the California Department of Public Health (CDPH) requires that LBP removal actions prepare and submit CDPH Form 8551: Abatement of Lead Hazards Notification and CDPH Form 8552: Lead Hazard Evaluation Report to the CDPH.

Polychlorinated Biphenyls

PCBs are mixtures of 200-plus individual chlorinated compounds (known as congeners). PCBs were used in many applications like coolants and lubricants in transformers, capacitors, and other electrical equipment because they don't burn easily and are good insulators. The manufacture of PCBs ended in the U.S. in the late 1970s because they can cause harmful effects to human health and the environment. PCBs can be found in sources such as electrical transformers, fluorescent light ballasts and electrical devices with PCB capacitors, hydraulic oils, and building materials. PCBs are toxic, highly persistent in the environment, and bioaccumulate. There are no known natural sources of PCBs.

The US EPA prohibited the use of PCBs in the majority of new electrical equipment and fluorescent light ballasts starting in 1979 and initiated a phase-out for much of the existing PCB-containing equipment. The inclusion of PCBs in electrical equipment and the handling of those PCBs are regulated by the provisions of the Toxic Substances Control Act (TSCA), 15 U.S.C. Section 2601 et seq. Relevant regulations include labeling and periodic inspection requirements for certain types of PCB-containing equipment and outline highly specific safety procedures for their disposal. The State of California likewise regulates PCB-laden electrical equipment and materials contaminated above a certain threshold as hazardous waste; these regulations require that such materials be treated, transported, and disposed of accordingly. At lower concentrations for non-liquids, the RWQCB may exercise discretion over the classification of such wastes. The following regulations apply to the removal and disposal of PCBs: Resource Conservation and Recovery Act: 4 CFR 761; Toxic Substances Control Act: U.S. Code Title 15, Section 2695; and 22 CCR Section 66261.24.

Discussion

a) **Less Than Significant Impact**. During the construction phase, construction equipment and materials would include fuels, oils and lubricants, solvents and cleaners, cements and adhesives, paints and thinners, degreasers, cement and concrete, and asphalt mixtures, which are all commonly used in construction. Construction activities would be required

to comply with numerous hazardous materials regulations designed to ensure that hazardous materials are transported, used, stored, and disposed of in a safe manner to protect worker safety, and to reduce the potential for a release of construction-related fuels or other hazardous materials into the environment, including stormwater and downstream receiving water bodies. The required compliance with the numerous laws and regulations, such as those governed by the California Fire Code, U.S. Department of Transportation (USDOT), Caltrans, and the California Highway Patrol (CHP), require driver-training requirements, load labeling procedures, and container specifications designed to minimize the risk of an accidental release during the transportation, use, handling, and disposal of hazardous materials, would limit the potential for creation of hazardous conditions due to the routine use of hazardous materials. During construction, the Project's compliance with existing regulations would render this impact less than significant.

Project operation would not involve the routine transport, use, or disposal of hazardous materials. The Project residents would use small quantities of typical household cleaning supplies and other chemicals. These materials are likely to be stored and used in accordance with the manufacturer's specifications. The impact during operations would be less than significant.

b) **Less Than Significant Impact**. The Project includes the demolition and removal of the one existing commercial office building. Due to the age of the structure, the structural materials could contain or be coated with ACMs, LBP, or PCBs. Compliance with the existing hazardous building materials regulations summarized in the Materials-Specific Regulations section discussed above and incorporation of Standard Permit Conditions identified below will ensure that ACMs, LBP, and/or PCBs are not released during removal of the structures, resulting in an impact that is less than significant.

Standard Permit Conditions

ACMs/ LBP/ PCBs:

1. In conformance with state and local laws, a visual inspection/pre-renovation or demolition survey, and possible sampling, shall be conducted prior to the renovation of the on-site building(s) to determine the presence of ACMs, LBP, and/or PCBs.
2. During renovation and demolition activities, all building materials containing LBP shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, California Code Regulations 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings would be disposed of at landfills that meet acceptance criteria for the waste being disposed.
3. All potentially friable ACMs shall be removed in accordance with NESHAP guidelines prior to building renovation or demolition that may disturb the materials. All demolition activities will be undertaken in accordance with Cal/OSHA standards contained in Title 8 of CCR, Section 1529, to protect workers from asbestos exposure.

4. A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
5. Materials containing more than one percent asbestos are also subject to BAAQMD regulations. Removal of materials containing more than one percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.

c) **Less Than Significant Impact**. The Legacy Academy is located approximately 0.23 miles southwest of the Project site at 484 East San Fernando Street. As described in section a) and b) above, the Project would be required to comply with existing hazardous building materials regulations summarized in the Materials-Specific Regulations and incorporation of Standard Permit Conditions that will ensure that hazardous materials are not released during the demolition and removal of the structure and during the transportation of hazardous materials, if any, within 0.25 mile of schools. The impact relative to proximity to a school would be less than significant.

d) **No Impact**. The Project is not located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 (i.e., Cortese List) based on the database search conducted as part of the Phase I Environmental Site Assessment. Relative to being identified on the Cortese List, there would be no impact.

e) **No Impact**. The Project site is located a little over two miles east of the Norman Y. Mineta San José International Airport. The Project site is not located within an airport land use plan or within two miles of a public airport or public use airport and would not result in a safety hazard to airport operations. Relative to proximity to an airport, there would be no impact.

f) **No Impact**. The Project would not interfere with any adopted emergency or evacuation plans. The Project construction would not require the closure of any streets. The Project would not create any barriers to emergency or other vehicle movement in the area and would be designed to comply with all Fire Code and Building requirements. In the event that utility improvements require connection work in the street, the project would be required to acquire an Encroachment Permit from the City of San José Public Works Department. The Encroachment Permit requires the preparation and implementation of a Traffic Control Plan to ensure that traffic, including emergency vehicles, are able to pass by the Project site during construction. With compliance with the requirements of the Fire Code, building codes, and Encroachment Permit (if needed), the impact would be less than significant.

g) **No Impact**. The Project would not expose people or structures, either directly or indirectly, 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 4.20*, Wildfire,* of this Initial Study.

Conclusion: The Project would have a less than significant impact related to hazards and hazardous materials with compliance with existing regulations and Standard Permit Conditions.

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4.10 Hydrology and Water Quality

Issues (and Supporting Information Sources):	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
X. 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?	☐	☐	☒	☐
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	☐	☐	☒	☐
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;	☐	☐	☒	☐
ii) substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite;	☐	☐	☒	☐
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	☐	☐	☒	☐
iv) impede or redirect flood flows?	☐	☐	☐	☒
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	☐	☐	☒	☐
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	☐	☐	☒	☐

Environmental Setting

The 0.45-acre property is essentially flat and lies at an elevation of about 75 feet above the mean sea level (USGS West San José quadrangle, 2018). The site currently has 14,105 square feet of impervious area and 414 square feet of semipervious (wood, gravel) area and is occupied by one two-story 11,782 square-foot commercial building.

The Flood Insurance Rate Maps issued by the Federal Emergency Management Agency (FEMA) indicate that the Project site is located within Zone D (Panel 234 of 830 effective May 18, 2009) (FEMA, 2022). Zone D is defined as an area of undetermined but possible flood hazard outside the 100-year floodplain. The City does not have any floodplain restrictions for development in Zone D.

The Project site does not contain any waterways or features. The nearest waterway to the Project site is Coyote Creek, located approximately 0.3 miles to the east of the site.

Regulatory Framework

Federal and State

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 State Water Resources Control Board (SWRCB) to establish regional water quality control boards (RWQCBs). 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; and
- Long-term post-construction water quality.

Statewide Construction General Permit

The SWRCB has implemented a National Pollutant Discharge Elimination System (NPDES) Construction General 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. The Project would not require CGP coverage based on the area of land to be disturbed, which would be approximately 0.45 acres for the Project.

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

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 (RWQCB, 2019).

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; and
- 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.

The MRP requires regulated projects to include measures to control hydromodification impacts where a project would otherwise cause increased erosion, silt pollutant generation, or other adverse impacts to local rivers and creeks. Development projects that create and/or replace one acre or more of impervious surface, create an increase in total impervious surface from pre-project conditions, and are located in a subwatershed or catchment that is less than 65 percent impervious, must manage increases in runoff flow and volume so that post-project runoff shall not exceed estimated pre-project rates and durations (RWQCB, 2009).

Based on its size and subwatershed or catchment location, the Project will not be required to comply with the hydromodification requirements of Provision C.3 of the Municipal Regional Permit.

City of San José Management of Pollutants During Demolition (Policy 6-28)

The MRP includes requirements to prevent PCBs (polychlorinated biphenyls) from entering the waterways during building demolition, consistent with the San Francisco Bay NPDES Permit (or "Stormwater Permit"). A demolition project must complete the PCBs Screening Assessment during development review to determine if the project may need to conduct sampling of building materials and comply with additional requirements if sample results exceed a PCB concentration of 50 ppm.

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. 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.

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. General Plan policies relevant to hydrology and water quality and applicable to the Project are presented below (City of San José, 2011).

> ***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 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 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.

Discussion

a) **Less Than Significant Impact.** The Project is located in an urban environment and operation of the residential uses 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 as described further below, under criterion c).

b) **Less Than Significant Impact.** The depth of groundwater in the site vicinity is approximately 70 feet below ground surface (Santa Clara Valley Water District, 2022). The Project is located within the Santa Clara Plain Confined Area of the Santa Clara Subbasin, an area where a low permeability aquitard restricts groundwater recharge and flow of contaminants (Santa Clara Valley Water District, 2016). The Project includes excavation for a subsurface parking garage to a depth of approximately 10.5 feet below grade and does not propose the installation of new ground water wells or dewatering. It is not anticipated that the Project would decrease groundwater supplies or interfere substantially with groundwater recharge (such that the Project may impede sustainable groundwater management of the basin). Although the Project would increase impervious surface area by approximately 2,235 square feet, the Project is proposed on a developed site that is not effectively recharging groundwater.

c.i) **Less Than Significant Impact.** Construction of the Project would require excavation of the below-ground parking garage and grading activities that could result in a temporary increase in erosion affecting the quality of storm water runoff. However, this increase in erosion is expected to be minimal, due to the relatively small size of the site or open soil areas, and the Project is not subject to CGP coverage because the Project site is less than one acre in size. The City's implementation requirements to protect water quality are described below.

Construction Impacts

The Project applicant is required to comply with the City of San José Grading Ordinance, including 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. The following specific BMP would be implemented to prevent stormwater pollution and minimize potential sedimentation during construction.

1. Restrict grading to the dry season (April 30 through October 1) or meet City requirements for grading during the rainy season; grading will not be allowed without Erosion Control Plans and Measures approved by the Director of Public Works. Stormwater Pollution Prevention Measures in accordance with City specifications and with the document "Clean Bay Blueprint" shall be implemented through the year to the satisfaction of the Director of Public Works.

2. The Project would increase impervious surfaces on the site and modify the drainage pattern on the site. Consistent with the regulations and policies described above, the Project would follow the Standard Permit Conditions outlined below and based on RWQCB BMPs to reduce construction and development-related water quality impacts. These BMPs would be implemented prior to and during earthmoving activities on-site and would continue until the construction is complete and during the post-construction period as appropriate.

   Standard Permit Conditions

   RWQCB BMPs:

   a) Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.

   b) Earthmoving or other dust-producing activities shall be suspended during periods of high winds.

   c) All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.

   d) Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.

   e) All trucks hauling soil, sand, and other loose materials shall be required to cover all trucks or maintain at least two feet of freeboard.

   f) All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).

   g) Vegetation in disturbed areas shall be replanted as quickly as possible.

   h) 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 may be employed at the request of the City.

   i) The Project Applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

Construction of the Project, with the implementation of the above measures, would not result in significant construction-related water quality impacts.

Post-Construction Impacts

The Project is required to comply with Provision C.3 of the MRP and applicable requirements of the following City Council Policies: Council Policy 6-29 Post-Construction Urban Runoff Management for which the Project would be required to implement site design and source controls.

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. 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. Specific Provision C.3 measures of the Project include design measures to minimize impervious surface area on the Project site, including protection of existing trees; directing runoff into landscaped areas; planting of trees in impervious areas; clustering of structures; placing parking below-ground; use of water efficient irrigation systems; labeling of storm drains; and inclusion of a bioretention area for runoff.

c.ii) **Less Than Significant Impact.** Although the Project would increase the amount of impervious surface area by 2,235 square feet, the Project would comply with the City of San José's Post-Construction Urban Runoff Policy 6-29 and the MRP, as described above. Stormwater from the Project's impervious surfaces will drain into the bioretention area before entering the storm drainage system. Consistent with the NPDES requirements, the proposed basin will have sufficient capacity to treat the runoff generated by the proposed Project prior to entering the storm drainage system. Details of specific site design, pollutant source control, and stormwater treatment control measures demonstrating compliance with the MRP will be included in the Project design to the satisfaction of the Director of Planning, Building, and Code Enforcement prior to issuance of a development permit. Compliance with the City's Post-Construction Urban Runoff Policy 6-29 and the MRP would ensure that the Project would not contribute runoff water that would exceed the capacity of the City's existing and/or planned storm drainage systems or provide additional sources

c.iii) **Less Than Significant Impact.** The Project would connect to the City's existing storm drainage system. The infill 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 a) and cii) above. Therefore, the Project would not contribute runoff water that would exceed the capacity of the City's existing and/or planned storm drainage systems or provide additional sources of polluted runoff or impede/redirect flood flows.

c.iv) **No Impact.** The Project site is located in FEMA Flood Zone D, defined as an area of undetermined but possible flood hazard outside the 100-year floodplain and, therefore, would not impede or redirect flood flows.

d) **Less Than Significant Impact.** The Project site is not located in an area subject to significant seiche or tsunami. The Project site is in FEMA Flood Zone D, which is undetermined and outside of any flood hazard zones. However, the Project site is located within the Anderson Dam failure inundation hazard zone and is just outside of the Lexington Dam failure inundation hazard zone (Santa Clara Valley Water District, 2020a; Santa Clara Valley Water District, 2020b; California Department of Resources, 2022). All of the dams potentially affecting San José fall under the jurisdiction of the California Department of Water Resources Division of Safety of Dams (DSOD). DSOD is responsible for inspecting dams on an annual basis to ensure that the dams are safe, performing as intended, and not developing problems. As part of its comprehensive dam safety program, the Santa Clara Valley Water District (SCVWD) routinely monitors and

studies the condition of each of its 10 dams, including Anderson and Lexington. The General Plan FEIR (as amended) concluded that with the regulatory programs currently in place, the possible effects of dam failure would not expose people or structures to a significant risk of loss, injury, or death. As a result, future occupants of the site would not be exposed to flooding hazards or to the release of pollutants due to inundation.

e) **Less Than Significant Impact.** The Project consists of development on an approximately 0.45 gross-acre infill site. As described above, the Project would not result in significant water quality or groundwater quality impacts that would conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan because, as outlined above, the Project would be required to comply with the City of San José Grading Ordinance and the MRP, as well as standard BMPs during construction.

Conclusion: The Project would have a less than significant impact on hydrology and water quality with implementation of identified Standard Permit Conditions.

References

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4.11 Land Use and Planning

Issues (and Supporting Information Sources):	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XI. LAND USE AND PLANNING — Would the project:				
a) Physically divide an established community?	☐	☐	☒	☐
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?	☐	☐	☒	☐

Environmental Setting

The Project site is located within the Naglee Park neighborhood of San José, and the surrounding area is comprised generally of medium density residential, commercial, and open space uses. A nine-story mixed use office building is located to the northwest of the Project site (across East Santa Clara Street Santa Clara Street) and a vacant lot is located to the north (on the corner of East Santa Clara Street Santa Clara Street and North 14th Street). One- and two-story commercial buildings are located adjacent to the southwest of the Project site as well as to the east of the Project site directly across South 14th Street and. A parking lot is located to the south of the Project site on the backside of the building.

The Project site is designated Urban Village (UV) in the Envision 2040 San José General Plan and the *East Santa Clara Street Urban Village Plan* (City of San José, 2021). The Project site is located within the Commercial General (CG) Zoning District.

Regulatory Framework

Local

East Santa Clara Street Urban Village Plan

The Project site is located within the East Santa Clara Street Urban Village Plan, adopted by City Council on October 23, 2019. The 78-acre Urban Village is located on both sides of East Santa Clara Street and is bounded by 7th Street and Downtown to the west, and 17th Street and Coyote Creek to the east. The Urban Village Major Strategy in the *Envision San José 2040 General Plan* promotes the development of Urban Villages to provide active, walkable, bicycle-friendly, transit-oriented, mixed-use urban settings for new housing and job growth attractive to an innovative workforce and consistent with the Plan's environmental goals. The *East Santa Clara Street Urban Village Plan* is a policy document that establishes the framework to further the transition of the Urban Village into a more vibrant mixed-use and pedestrian-oriented place that supports and creates a safe environment for all modes of travel, a thriving commercial corridor, and public gathering places.

General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating land use impacts from development projects. General Plan policies relevant to land use and applicable to the proposed Project are presented below (City of San José, 2011).

> ***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.
>
> ***Policy CD-2.11:*** Within the Downtown and Urban Village Area Boundaries, consistent with the minimum density requirements of the applicable Land Use / Transportation Diagram designation, avoid the construction of surface parking lots except as an interim use, so that long-term development of the site will result in a cohesive urban form. In these areas, whenever possible, use structured parking, rather than surface parking, to fulfill parking requirements. Encourage the incorporation of alternative uses, such as parks above parking structures.
>
> ***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-7.3:*** Review development proposed within an Urban Village Area prior to approval of an Urban Village Plan for consistency with General Plan design policies and any other applicable design policies pertaining to the proposed use. Following adoption of an Urban Village Plan, review new development for consistency with design goals, policies, standards, and guidelines included within the Urban Village Plan.
>
> ***Policy CD-7.4:*** Identify a vision for urban design character consistent with development standards, including but not limited to building scale, relationship to the street, and setbacks, as part of the Urban Village planning process. Accommodate all planned employment and housing growth capacity within each Urban Village and consider how to accommodate projected employment growth demand by sector in each respective Urban Village Plan.
>
> ***Policy H-1.1:*** Through the development of new housing and the preservation and rehabilitation of existing housing, facilitate the creation of economically, culturally, and demographically diverse and integrated communities.
>
> ***Policy LU-9.4:*** Prohibit residential development in areas with identified hazards to human habitation unless these hazards are adequately mitigated.
>
> ***Policy LU-9.5:*** Require that new residential development be designed to protect residents from potential conflicts with adjacent land uses.
>
> ***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.

San José Zoning Ordinance

The Zoning Ordinance (Title 20 of the San José Municipal Code) is a set of regulations that promote and protect the public peace, health, and general welfare by:

- Guiding, controlling, and regulating future growth and development in the City in a sound and orderly manner, and promoting the achievement of the goals and purposes of the General Plan;
- Protecting the character and economic and social stability of agricultural, residential, commercial, industrial, and other areas in the City;
- Providing light, air, and privacy to property;
- Preserving and providing open space and preventing overcrowding of the land;
- Appropriately regulating the concentration of population;
- Providing access to property and preventing undue interference with and hazards to traffic on public rights-of-way; and
- Preventing unwarranted deterioration of the environment and promoting a balanced ecology.

AB 3194 under the Housing Accountability Act (HAA)

State Assembly Bill 3194 under the Housing Accountability Act (HAA) (which is part of the California Planning and Zoning Law), would prohibit a local agency from disapproving, or conditioning approval in a manner that renders infeasible, a certain affordable housing development or emergency shelter projects under certain conditions. In particular, the bill would specify that a proposed housing development project is not inconsistent with the applicable zoning standards and criteria and would prohibit a local government from requiring a rezoning if the project is consistent with the objective general plan standards and criteria but the zoning for the project site is inconsistent with the general plan.

Discussion

a) **Less Than Significant Impact.** The proposed Project is proposed on a developed site that contains one existing two-story commercial building with office spaces. The Project site is currently surrounded by commercial mixed-use and multi-family residential development. The proposed Project, which includes the construction of a new building with parking, retail commercial office uses, outdoor amenity space, and residential units, would not physically divide an established community.

b) **Less than Significant Impact.** The General Plan land use designation for the site is Urban Village (UV) in the *Envision 2040 San José General Plan* and in the *East Santa Clara Street Urban Village Plan*, which supports a wide variety of commercial, residential, institutional, or other land uses with an emphasis on establishing an attractive urban form in keeping with the Urban Village concept. This designation is applied within the Urban Village areas to accommodate higher density housing growth along with a significant amount of job growth. Furthermore, development within the Urban Village should conform to land use and design standards established with an adopted Urban

Village Plan. The *East Santa Clara Street Urban Village Plan*, which encompasses the Project site, calls for a thoughtfully-designed complete neighborhood which builds upon East Santa Clara Street, drawing upon the existing fabric and promoting community investment and growth. The Village Plan states that the UV designation allows for residential uses in a mixed-use format where residential and commercial mix-use projects can be vertical mixed-use with residential above retail, or, where a larger site allows, they can be mixed horizontally with commercial and residential uses built adjacent to each other. The Project would include retail commercial uses on the ground floor, a second level containing commercial office uses and residential units, and the remaining third through sixth floors containing residential units. Moreover, the Project would be in conformance with applicable General Plan land use policies as the Project maintains the commercial uses along East Santa Clara Street and introduces residential uses, consistent with the adjacent properties and neighborhood (*Policy VN-1.11*).

The UV designation allows for higher density housing growth (up to 250 dwelling units per acre) and a range of commercial uses, with a floor area ratio (FAR) up to 10.0. The Project's 50 units at a density of 111 dwelling units per acre (DU/AC) and 4.2 FAR and are consistent with the UV designation of the Village Plan. The General Plan states that Urban Village Plans provide more detailed information related to allowed uses, density, and FAR for particular sites within each Urban Village area. The Village Plan does not establish a maximum FAR for mixed-residential commercial development properties but does establish a minimum FAR of 0.2 for the commercial portion. The Village Plan calls for UV designations to have a density of 55 DU/AC to 175 DU/AC, thus the Project's 111 DU/AC would be consistent with the density range allowed under the UV designation.

The Project is located in the Commercial General (CG) Zoning District. However, the Project applicant intends to apply AB 3194 for the project. Per AB3194, the City is to evaluate the Project using the closest zoning district that is consistent with the General Plan land use designation of the site. For the proposed Project site, the closest zoning district is Urban Village Zoning District, since the General Plan land use designation for the site is Urban Village, as discussed above. Compliance with the applicable development standards and requirements is confirmed as part of the development review process. In summary, the Project would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the Project (including, but not limited to the General Plan, Urban Village, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.

Conclusion: The Project would have a less than significant impact on land use and plans with the implementation of the mitigation measures and Standard Permit Conditions identified in all sections of this Initial Study.

References

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4.12 Mineral Resources

Issues (and Supporting Information Sources):	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XII. 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?	☐	☐	☐	☒
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?	☐	☐	☐	☒

Environmental Setting

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) (Cornerstone Earth Group, 2009). 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 and 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.

Discussion

a, b) **No Impact.** The Project site is located about three miles north of the Communications Hill area, the only area in San José containing mineral deposits subject to SMARA; therefore, the Project would not result in a significant impact from the loss of availability of a known mineral resource.

Conclusion: The Project would have no impact on mineral resources.

References

Cornerstone Earth Group, 2009. *Current Conditions: Soils, Geology, and Geologic Hazards, Envision San José 2040 General Plan Update.* March 20, 2009. Available at https://www.sanjoseca.gov/Home/ShowDocument?id=22775. Accessed October 7, 2022.

4.13 Noise

Issues (and Supporting Information Sources):	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XIII. 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?	☐	☐	☒	☐
b) Generation of excessive groundborne vibration or groundborne noise levels?	☐	☒	☐	☐
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?	☐	☐	☐	☒

Environmental 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 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.

Sensitive Receptors

Noise-sensitive receptors are generally defined as locations where people reside or where the presence of unwanted sound may adversely affect people and activities at the location. Noise-sensitive receptors typically include residences, hospitals, schools, guest lodging, libraries, and certain types of passive recreational uses.

Single and multi-family residential uses exist southward of the Project site, with a multi-family residential complex immediately to the south, approximately eight feet, eight inches south of the shared property line. Based on Project plans, the nearest proposed residential receptors would be located approximately 30 feet north of the rear setback of the Project site.

Existing Noise Environment

ESA collected noise data across the street in March 2022. The noise measurement was conducted with a Larson Davis LxT noise meter calibrated prior to use. This long-term measurement was conducted on 601 East Santa Clara Street, approximately 75 feet north from the Project site.

Traffic noise, noise from cars parking along the curbside, and pedestrian movements are the most likely noise sources to have contributed to the long-term noise measurement. **Table NOI-1** summarizes the data collected at the long-term measurement location.

TABLE NOI-1
MONITORED NOISE ENVIRONMENT AT PROJECT AREA RECEPTORS

Long Term (LT) Noise Monitoring Location	Day-Night Noise Level (DNL)	Noise Levels in dBA	
		24-Hour Average L_{eq}	Nighttime Hourly Average (10 p.m.–7 a.m.) L_{eq}
LT-1: 601 East Santa Clara Street adjacent to apartments to north	66	63	59

SOURCE: Data compiled by Environmental Science Associates in 2022.

NOTES: dBA = A-weighted decibels; DNL_n = day/night average sound level; L_{eq} = equivalent continuous sound level

Regulatory Framework

State

California Building Code

The current 2019 version of the 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 2016 California Green Building Standards Code (Section 5.507.4.1 and 5.507.4.2). These sections identify the standards (e.g., STC rating) that building materials and assemblies need to be in compliance 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 includes the following criteria for land use compatibility and acceptable exterior noise levels in the City based on land use types.

TABLE NOI-2
LAND USE COMPATIBILITY GUIDELINES FOR COMMUNITY NOISE IN SAN JOSÉ
(EXTERIOR NOISE EXPOSURE [DNL IN DECIBELS DBA] FROM THE GENERAL PLAN)

Land Use Category	Exterior DNL Value In Decibels					
	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						

☐	**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 Policies Relevant to Noise and Vibration	
Policy EC-1.1	Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include: Interior Noise Levels The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected *Envision General Plan* traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan. Exterior Noise Levels The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (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	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: 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-1.7	Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would: Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months. For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.
Policy EC-2.3	Require new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, including ruins and ancient monuments or buildings that are documented to be structurally weakened, a continuous vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A continuous vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Avoid use of impact pile drivers within 125 feet of any buildings, and within 300 feet of a historical building, or building in poor condition. On a project-specific basis, this distance of 300 feet may be reduced where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction.

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 as provided in Chapter 20.100.

TABLE NOI-3
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.

Discussion

a) **Less Than Significant Impact**. The noise-related effects associated with the Project are described below.

Construction Noise

Construction activities associated with the Project would result in the generation of a substantial temporary increase in ambient noise levels in the vicinity of the Project and in excess of standards established in the local general plan, noise ordinance, or applicable standards of other agencies.

Temporary 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), when construction occurs in areas immediately adjoining noise-sensitive land uses, or when construction lasts over extended periods of time.

Construction activities generate considerable amounts of noise, especially during earth-moving activities and during construction of the building's foundation when heavy equipment is used. Construction of the Project would involve demolition, grading, foundation construction, building development, and paving. No pile driving is proposed. The hauling of excavated materials and construction materials would generate truck trips on local roadways, as well.

As Project-specific construction equipment data was not available, **Table NOI-4** presents noise levels associated with typical construction equipment that are expected to be used for the Project.

TABLE NOI-4
TYPICAL NOISE LEVELS FROM CONSTRUCTION EQUIPMENT AT 50 FEET

Type of Equipment	L_{max}, dBA
Backhoe	80
Dozer	85
Excavator	85
Grader	85
Concrete Mixer Truck	85
Loader	80
Pneumatic Tools	85
Generator	82
Air Compressor	80
Chain Saw	85

SOURCE: FHWA, 2006

The site is surrounded on all sides by residential development. The closest noise sensitive receptors are adjacent residential uses to the south and southwest.

Reasonable regulation of the hours of construction, as well as regulation of the arrival and operation of heavy equipment and the delivery of construction material, are necessary to protect the health and safety of persons, promote the general welfare of the community, and maintain the quality of life. Construction activities would be conducted in accordance with the provisions of the City's General Plan and the Municipal Code, which limits temporary construction work within 500 feet of residential land uses to between the hours of 7:00 AM and 7:00 PM, Monday through Friday, unless permission is granted with a development permit or other planning approval by the City. Construction is prohibited on weekends at sites located within 500 feet of residential units. Neither the City's General Plan nor the Municipal Code specify quantitative noise limits for construction activities. Per General Plan Policy EC-1.7, substantial noise-generating construction activities lasting for more than 12 months require the construction crew to adhere to noise logistics plan to reduce construction noise levels emanating from the site and minimize disruption and annoyance at existing noise-sensitive receptors in the Project vicinity. Given that the proposed Project is estimated to occur over a six-month construction period, a noise logistics plan is not required and construction noise impacts would be less than significant with adherence to the following Standard Permit Condition.

Standard Permit Condition

Construction Noise:

a) Pile Driving is prohibited.

b) Limit construction to the hours of 7:00 a.m. to 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 use.

c) Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.

d) Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.

e) Prohibit unnecessary idling of internal combustion engines.

f) 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.

g) Utilize "quiet" air compressors and other stationary noise sources where technology exists.

h) Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.

i) Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.

j) 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.

k) Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

Operational Noise

The Project is not expected to cause a substantial permanent noise level increase. The primary source of noise during Project operation would be from the vehicle traffic generated by the Project. These trips would be distributed on the roadway network leading to the Project site and would increase associated traffic noise levels along these roadway segments.

Policy EC-1.2 of the City's General Plan identifies a significant noise increase would occur if a project would increase the noise levels by 5 dBA DNL or more where ambient noise levels are below the "normally acceptable" noise level standard and by 3 dBA or more where ambient noise levels equal or exceed the "normally acceptable" noise level. The "normally acceptable" outdoor noise level for residential land uses is 60 dBA per the City's General Plan. Existing traffic noise levels along some segments are below this level while other segments experience traffic noise levels above this level. Based on traffic noise algorithms from the Federal Highway Administration's Traffic Noise Model, the increase in traffic noise level over existing noise levels along roadway segments affected by the Project would be less than 3 dBA. The Project's contribution to the noise level increase over background conditions was determined to be 2.5 dBA or less along all roadway segments affected by the Project, as shown in **Table NOI-5**. Other roadway segments would not experience increase in traffic volumes enough to lead to an increase in associated noise level.

TABLE NOI-5
TRAFFIC NOISE LEVELS ALONG ROADWAY SEGMENTS IMPACTED BY THE PROJECT

Roadway Segment	Existing (A)(dBA)	Background No Project (B) (dBA)	Background with Project (C) (dBA)	Noise Increase Due to Project (C-B) (dBA)
Morning Peak Hour				
13th Street				
Between E Santa Clara Street and E San Fernando Street	58.0	58.3	58.3	0
Between E St John Street and E Santa Clara Street	62.5	62.5	62.6	+0.1
14th Street				
Between E Santa Clara Street and E San Fernando Street	53.3	53.3	55.8	+2.5
Between E St John Street and E Santa Clara Street	53.5	53.5	53.5	0
E Santa Clara Street				
Between 12th Street and 13th Street	68.7	68.7	68.8	+0.1
Between 13th Street and 14th Street	68.7	68.7	68.8	+0.1
Between 14th Street and 15th Street	65.8	65.9	65.9	0

SOURCE: ESA, 2024

Though traffic would be the primary source of operational noise, the Project would also generate noise from the on-site use of stationary equipment, such as heating, ventilation, and air conditioning (HVAC) systems and from use of the Project's common outdoor areas (the rooftop and outdoor amenity space) by future residents. Because the mechanical equipment is commonly available with noise-attenuating enclosures designed to meet local noise ordinances, the noise generated by this equipment would not be expected to exceed the established standards in the City's Municipal Code or General Plan policies. Based on noise measurements conducted at the Project site, the current noise level is 66 dBA DNL, above the "normally acceptable" level of 60 dBA for residential uses. According to Policy EC-1.2 of the City's General Plan, a significant noise increase would occur if a project would increase the noise levels by 5 dBA DNL or more where ambient noise levels are below the "normally acceptable" noise level standard and by 3 dBA or more where ambient noise levels equal or exceed the "normally acceptable" noise level. The "normally acceptable" outdoor noise level for residential land uses is 60 dBA per the City's General Plan. Noise from use of the common outdoor areas of the Project from activities such as people talking and playing music would be minimal and intermittent and would not result in a 3 dBA increase in DNL. Therefore, the Project would not result in a permanent noise increase.

The Project would have a less than significant impact on permanent noise levels during operations or during temporary construction activities with the adherence to existing regulatory requirements in the City's Municipal Code and General Plan. No mitigation measure is required.

b) **Less Than Significant**. Operation of the proposed residential development would not generate substantial vibration impacts to surrounding areas. However, construction of the Project may generate perceptible vibration when heavy equipment or impact tools (e.g. jackhammers, dozers) are used. Construction activities would include demolition of all existing structures and site improvements, site preparation and grading, building construction, and paving.

Policy EC-2.3 of the City of San José General Plan establishes a vibration limit of 0.2 in/sec PPV to minimize damage at buildings of normal conventional construction. These thresholds are applicable for neighboring structures apart from the considered Project. 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. Cosmetic damage (also known as threshold damage) is defined as hairline cracking in plaster, the opening of old cracks, the loosening of paint, or the dislodging of loose objects. Minor damage is defined as hairline cracking in masonry or the loosening of plaster. Major structural damage is defined as wide cracking or the shifting of foundation or bearing walls.

The FTA provides typical vibration levels that could be expected from construction equipment at a distance of 25 feet (FTA, 2018). Construction equipment, such as jackhammers, rock drills and other vibratory tools, and rolling stock equipment (tracked vehicles, compactors, etc.) can generate vibration in the immediate vicinity. Vibration levels would vary depending on soilconditions, construction methods, and equipment used. Pile driving is not proposed as a method of construction.

Construction of the Project would generate excessive groundborne vibration or groundborne noise levels at adjacent residential structures. Heavy vibration-generating construction equipment, such as vibratory rollers or clam shovel drops, would have the potential to produce vibration levels of 0.2 in/sec PPV or more at a distance of 25 feet. However, such equipment would not be used for Project construction. Rollers would be used for soil compaction, but they are most likely to be cylindrical rollers or pneumatic rollers that do not generate significant vibration.

The highest vibration generating equipment likely to be used for Project construction are large bulldozers and loaded trucks which generate vibration levels of up to 0.089 in/sec PPV and 0.076 PPV (in/sec) at 25 feet, respectively. The nearest structure is a multi-family residential building (33-35 South 14th Street) located approximately 8 feet 8 inches south of the Project site property line and approximately 25 feet south from the proposed Project building and driveway ramp (see Figure 2-5, First Floor Plan [Street Level] in Section 2 of this document); this structure is considered an individual potential historic resource, as discussed in Section 4.5, *Cultural Resources*. Based on information shown in **Table NOI-6**, at a distance of 10 feet, vibration levels from the operation of large bulldozers, loaded trucks and jackhammers would exceed the 0.2 in/sec PPV threshold for buildings of normal conventional construction. As also shown in Table

NOI-6, vibration levels from the operation of these equipment at the nearest residential structure would be below the 0.08 in/sec PPV threshold.

TABLE NOI-6
VIBRATION LEVELS FOR CONSTRUCTION EQUIPMENT

Equipment	Reference PPV at 25 ft. (in/sec)	PPV at Nearest Structures at 10 ft. (in/sec) *(Threshold 0.2 in/sec PPV)*	Impact distance from construction equipment where vibration exceeds 0.2 PPV (feet)
Large Bulldozer	0.089	**0.351**	15
Loaded trucks	0.076	**0.3**	13
Jackhammer	0.035	**0.138**	8

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 ESA, July 2022.

Construction of the proposed Project would generate vibration levels exceeding the threshold of 0.2 in/sec PPV at the nearest residential structures to the Project site when construction takes place within 15 feet of these structures, and such vibration levels would be capable of cosmetically damaging these buildings. This is a potentially significant impact, which can be reduced to a less than significant impact with incorporation of the mitigation measure identified below.

Mitigation Measure NOI-1: Construction Vibration.

Prior to the issuance of any demolition, grading, or building permits, the Project applicant shall prepare and implement a construction vibration reduction and monitoring plan to be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review. The plan shall include, but not be limited to the following measures:

- Prohibit impact, sonic, or vibratory pile driving methods. Drilled piles cause lower vibration levels where geological conditions permit their use.
- A list of all heavy construction equipment to be used for this Project known to produce high vibration levels (large bulldozer, loaded trucks, jackhammers, etc.) shall be submitted to the City by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort for reducing vibration levels below the threshold of 0.2 in/sec PPV at the nearest residential structures to the Project site when construction takes place within 15 feet of adjacent residential structures.
- Place operating equipment on the construction site as far as possible from vibration-sensitive residential receptors to the east and south. The Project contractor shall avoid using large bulldozers, loaded trucks and other heavy vibration generating equipment within 15 feet of the Project site property line to the east and south, whenever possible.
- Use smaller equipment to minimize vibration levels below the limit, especially for construction activities adjacent to residences.

- Modify or identify alternative construction methods to reduce vibration below the limit.
- Avoid using vibratory rollers and tampers near sensitive areas.
- Avoid dropping heavy objects or materials near property lines shared with sensitive receptors.
- The contractor shall alert heavy equipment operators of the presence of adjacent structures sensitive to vibration (structures within 20 feet of construction activities), so they can exercise caution.
- Notify neighbors within 150 feet of the construction site of the construction schedule and that there could be noticeable vibration levels during Project construction activities.
- Designate a person responsible for registering and investigating claims of excessive vibration. The contact information for this person shall be clearly posted at the construction site.
- The contractor shall retain a qualified firm to conduct a pre- and post-construction cosmetic crack survey of the adjacent residential buildings to the eastern and southern boundaries, and shall repair or compensate if damage has occurred due to construction. The surveys shall be submitted to the Director of Planning, Building and Code Enforcement or the designee.

The implementation of these measures would reduce the impact to a less than significant level.

c) **Less Than Significant Impact**. The Project is not within two miles of a public airport or public use airport and is outside the 65-dB noise contour for the Mineta San José International Airport. Therefore, the Project would not expose people residing or working in the Project area to excessive noise levels (SCCALUC, 2016).

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 (*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 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 Environmental Leadership Chapter in the General Plan sets forth policies with the goal of minimizing the impact of noise on people through noise reduction and suppression techniques, and through appropriate land use policies in the City of San José. The applicable General Plan policies were presented in detail in the regulatory framework section and are summarized below for the Project:

- The City's acceptable exterior noise level objective is 60 dBA DNL or less for the proposed residential use (Table EC-1).
- The City's standard for interior noise levels in residences is 45 dBA DNL.
- The California Green Building Code limits interior noise levels within new non-residential land uses to an hourly equivalent noise level (L_{eq} (1-hr)) of 50 dBA in occupied areas during any hour of operation.

Future Exterior Noise Environment. Exterior use areas would include balconies for residential units and possibly a rooftop deck planned as a common use space on the new residential building. Based on results of the long-term noise measurement, the roof deck and exterior balconies would be exposed to a noise level of up to 57.6 dBA DNL. These noise levels would be consistent with the City's residential exterior noise level objective of 60 dBA DNL or less.

Future Interior Noise Environment. General Plan Policy EC-1.1 requires that interior noise levels be maintained at 45 dBA DNL or less for residences, consistent with the California Building Code. Based on noise monitoring conducted at the site, the proposed residences would experience exterior noise levels of 59 to 60 dBA DNL.

Interior noise levels would vary depending upon the design of the buildings (relative window area to wall area) and the selected construction materials and methods. Standard residential construction provides approximately 15 dBA of exterior-to-interior noise reduction, assuming the windows are partially open for ventilation (HUD, 2009). Assuming windows to be partially open for ventilation, the interior noise levels for the Project would be up to 44 to 45 dBA DNL. This is consistent with the 45 dBA DNL standard specified by the State of California and City of San José criteria for interior noise levels for residential land uses, assuming standard residential construction. Since this is not a CEQA consideration, the City would require the Project to comply with permit conditions of approval to ensure that the Project complies with State Building Codes and City standards for interior noise in residential development.

Conclusion: The Project would have a less than significant impact related to noise and vibration with incorporation of Mitigation Measure NOI-1 and Standard Permit Conditions.

References

City of San José, *Envision San José 2040 General Plan,* Adopted November 1, 2011. As Amended on March 16, 2020.

Santa Clara County Airport Land Use Commission (SCCALUC), 2016. Comprehensive Land Use Plan for the Santa Clara County Norman Y. Mineta San José International Airport. Available at: https://www.sccgov.org/sites/dpd/DocsForms/Documents/ALUC_SJC_CLUP.pdf. Amended November 16, 2016.

U.S. Department of Transportation, Federal Transit Administration (FTA), Transit Noise and Vibration Impact Assessment, April, 2018.

U.S. Department of Transportation, Federal Highway Administration (FHWA), *FHWA Highway Noise Construction Handbook*, August 2006.

U.S. Department of Housing and Urban Development (HUD), *HUD Noise Guidebook*, March 2009

4.14 Population and Housing

Issues (and Supporting Information Sources):	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XIV. 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)?	☐	☐	☒	☐
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒

Environmental Setting

Based on the Department of Finance, the City of San José 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 (California Department of Finance, 2022). ABAG projects that the City's population will reach 1,445,000 with 472,000 households by 2040.

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.

Regulatory Framework

ABAG allocates regional housing needs to each city and county within the nine-county San Francisco Bay Area, based on statewide goals. California's Housing Element Law requires all cities to: 1) zone adequate lands to accommodate its Regional Housing Needs Allocation (RHNA); 2) produce an inventory of sites that can accommodate its share of the regional housing need; 3) identify governmental and non-governmental constraints to residential development; 4) develop strategies and work plans to mitigate or eliminate those constraints; and 5) adopt a housing element that is to be updated on a regular recurring basis.

Local

San José Inclusionary Housing Ordinance

The City's Inclusionary Housing Ordinance (IHO) requires all residential developers who create new, additional, or modified residential units to provide 15 percent of housing on-site that is affordable to income qualified buyers/renters. Compliance options based on a 20 percent obligation are also available. Developers must submit an Affordable Housing Compliance Plan Application and Processing Fee for review and approval by the San José Housing Department.

General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating population and housing impacts. These policies are designed to guide the city in the plan development and General Plan review and are not directly applicable to the Project.

> ***Policy IP-2.1:*** Gradually implement the development of new Urban Village areas by dividing them into three Plan Horizons and allowing a specific portion of the Urban Village areas to be developed within each Horizon. Identify the locations of current Plan Horizon Urban Villages, presently available for residential development, on the Land Use / Transportation Diagram.

Discussion

a) **Less Than Significant Impact.** The development of 50 residential units could increase the number of residents in the Project area by approximately 146 residents based on the Department of Finance data of 2.91 average persons per household for San José. This represents a minor increase in the City's overall population and is consistent with growth planned in the 2040 General Plan. The proposed development is consistent with the Project site's General Plan land use designation and, therefore, would not add growth beyond that anticipated from buildout of the General Plan.

In addition, the land use designation and associated density is envisioned in the City's growth areas, and as infill development within areas that are generally developed with higher density and in proximity to transit, jobs, amenities, and other urban services. Although the General Plan EIR identified a significant unavoidable cumulative impact related to the jobs-housing imbalance in the City, this proposed Project, by itself, would not be considerable contribution to the cumulative effect, would have a less than significant population and housing impacts.

b) **No impact.** The Project would demolish one existing, two-story commercial building with office spaces and develop a new six story building containing retail commercial space, commercial office space, outdoor amenity space, and 50 residential units. Although the Project would include the demolition and removal of the existing site features, there is no existing residential structure, therefore, construction of the Project would not displace any existing housing units or substantial numbers of people necessitating the construction of replacement housing elsewhere, and no impact would occur.

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

References

City of San José, 2022. Envision San José 2040 General Plan, Adopted November 1, 2011. As Amended on September 30, 2021. Available at: https://www.sanjoseca.gov/home/showpublisheddocument/22359/637926308860970000. Accessed July 18, 2022.

California Department of Finance, 2022. E-5 Population and Housing Estimates for Cities, Counties, and the State, January 2021-2022, with 2020 Benchmark. Available at: https://dof.ca.gov/forecasting/demographics/estimates/e-5-population-and-housing-estimates-for-cities-counties-and-the-state-2020-2022/. Accessed July 19, 2022.

4.15 Public Services

Issues (and Supporting Information Sources):	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XV. PUBLIC SERVICES —				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the following public services:				
i) Fire protection?	☐	☐	☒	☐
ii) Police protection?	☐	☐	☒	☐
iii) Schools?	☐	☐	☒	☐
iv) Parks?	☐	☐	☒	☐
v) Other public facilities?	☐	☐	☒	☐

Environmental 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 the existing Fire Station No. 8, located at 802 East Santa Clara Street, approximately three and a half blocks east of the Project site, 0.2 miles.

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.

Parks: The San José Parks, Recreation, and Neighborhood Services Department (PRNS) operates the City's regional and neighborhood parks. PRNS also operates community and recreation centers and provides various recreation, community service, and other programs for children, youth, teens, adults, seniors, and people with disabilities. The nearest City of San José park facility is Roosevelt Community Center and Park located about 0.31 miles from the Project site at East Santa Clara Street and 19th Street. 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.

Schools: The Project site is within the San José Unified School District (SJUSD) which operates 41 schools serving over 30,000 students. For Kindergarten through 5th grade, the Project site is within the attendance boundary of Horace Mann Elementary School which is located at 55 North 7th Street, less than 0.5 miles from the Project site. For 6th through 8th grade, the Project site is within the attendance boundary of Muwekma Ohlone Middle School which is located at 850 North 2nd Street, approximately two miles from the Project site. For 9th through 12th grade, the

Project site is within the attendance boundary of San José High School which is located at 275 North 24th Street, approximately one mile from the Project site.

Community Centers: The San José Parks, Recreation, and Neighborhood Services Department (PRNS) operates the City's community and recreation centers and provides various recreation, community service, and other programs for children, youth, teens, adults, seniors, and people with disabilities. The nearest City of San José community centers are Roosevelt Community Center and Park located about 0.31 miles from the Project site and Grace Community Center located about 0.8 miles northwest from the Project site. Several non-profit organizations around the Project site operate independent multi-service centers. These include the John XXIII Multi-Services Center (0.7 miles southwest) and the African American Community Services Center (0.6 miles northwest).

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 22 branch libraries. The nearest public library is the Dr. Martin Luther King Jr. Library, approximately 0.6 miles southwest of the Project site.

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 on-site private recreational amenities. 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. Affordable housing including low, very-low, and extremely-low income units are subject to the PDO and PIO at a rate of 50 percent of the applicable parkland obligation. 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. General Plan policies relevant to public services and applicable to the Project are presented below.

> ***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 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:

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.

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.

> ***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 though 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.

Discussion

a.i) **Less Than Significant Impact.** The Project would develop a new mixed-use building on the Project 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 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 growth identified in the General Plan. The Project, by itself, 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 Project would be constructed in accordance with current building and Fire codes which 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.

a.ii) **Less Than Significant Impact.** The Project would develop a new mixed-use building on the Project 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 growth identified in the General Plan. The Project, by itself, 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 Project would be constructed in accordance with current building codes which 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 police protection services or require the construction of new or remodeled facilities.

a.iii) **Less Than Significant Impact.** The proposed Project would generate additional students, resulting in an incremental increase in the demand for school services. Students generated by the Project could attend schools in the SJUSD as mentioned above. Pursuant to Senate Bill 50, which became effective in 1998, payment of the School Facilities Mitigation Fee has been deemed by the State to be full and complete mitigation for the impacts of a development project on the provision of adequate school facilities. The Project applicant would be required to pay the applicable School Facilities Mitigation Fee, which is currently $3.48 per square foot for residential development and $0.56 per square foot for commercial/industrial development (SJUSD, 2021). With the payment of these fees, the Project would have a less than significant impact on schools.

a.iv) **Less Than Significant Impact.** 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. The

Project would be subject to developer fees to accommodate its incremental demand on park services, resulting in a less than significant impact on park facilities.

a.v) **Less Than Significant Impact.** The Project could have an incremental increase in the demand for other public services, including library services. The General Plan EIR concluded that development and redevelopment allowed under the General Plan would be adequately served by existing and planned library facilities.

Conclusion: The Project would have a less than significant impact related to public services.

References

City of San José, 2022. Envision San José 2040 General Plan, Adopted November 1, 2011. As Amended on September 30, 2021. Available at: https://www.sanjoseca.gov/home/showpublisheddocument/22359/637926308860970000. Accessed July 20, 2022.

San José Unified School District (SJUSD), 2021. Annual and Five-Year Developer Fee Report 2020-2021 Fiscal Year. Adopted on December 9, 2021. Available at: https://sjusd.app.box.com/s/7c1ikmzqy59fnrkdggi4e8thnj92macx. Accessed July 20, 2022.

SJUSD, 2022. School Site Locator. Available at: https://portal.schoolsitelocator.com/apps/ssl/?districtcode=25499. Accessed July 20, 2022

4.16 Recreation

Issues (and Supporting Information Sources):	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XVI. RECREATION —				
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?	☐	☐	☒	☐
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?	☐	☐	☒	☐

Environmental Setting

The City of San José owns and maintains approximately 3,617 acres of parkland including neighborhood parks, community parks, and regional parks. The City has 47 community centers and over 63 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 nearest City of San José park facility to the Project site is Roosevelt Community Center and Park, an 11-acre park featuring a basketball court, a lighted softball field allowing soccer use with a permit, two handball courts, a state park, restrooms, youth playground structures and BBQ pits, and a community center. Roosevelt Community Center and Park is located approximately 0.31 miles from the Project site at East Santa Clara Street and 19th Street.

Regulatory Setting

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.

General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating recreation impacts from development projects. General Plan policies relevant to recreation and applicable to the Project are presented below (City of San José, 2011).

> ***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 Joséresidents.
>
> ***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 SF per 1,000 population of community center space.

Discussion

a, b) **Less Than Significant Impact.** The development of the 50 residential units could increase the number of residents in the Project area by approximately 146 residents (California Department of Finance, 2022).[14] 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. 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.

References

California Department of Finance, 2022. *E-5 Population and Housing Estimates for Cities, Counties, and the State, 2020-2022.* Available at https://dof.ca.gov/forecasting/demographics/estimates/e-5-population-and-housing-estimates-for-cities-counties-and-the-state-2020-2022/. Accessed August 16, 2022.

City of San José, 2011. *Envision San José 2040 General Plan.* November, 2011. Available at https://www.sanjoseca.gov/home/showpublisheddocument/22359/637928744399330000. Accessed August 15, 2022.

[14] Population and housing estimates for the City of San José state that there are approximately 2.91 persons per household.

4.17 Transportation

Issues (and Supporting Information Sources):	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XVII. TRANSPORTATION — Would the project:				
a) Conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	☐	☐	☒	☐
b) Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?	☐	☐	☒	☐
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☒	☐
d) Result in inadequate emergency access?	☐	☐	☒	☐

Discussion

Environmental Setting

This section addresses potential impacts of the proposed Project on transportation. CEQA issues evaluated include the following: consistency with plans, ordinances, and policies governing the circulation system; vehicle miles traveled (VMT); hazards from geometric design features; and emergency access. The information in this section is based primarily on the Local Transportation Analysis (LTA) for the Project, conducted by Fehr & Peers (dated October 2024) and provided in **Appendix D** of this Initial Study, and Fehr & Peers' Transportation Demand Management (TDM) Plan (October 2024) provided in **Appendix E** to this Initial Study. Other than the CEQA issues identified above and discussed in this Initial Study, the LTA also analyzes non-CEQA transportation issues in accordance with San José Council Policy 5-1, which include local transportation operations; intersection level of service (LOS); site access and circulation; and neighborhood transportation issues such as pedestrian and bicycle access, construction period access/circulation, and recommended transportation improvements.

Existing Roadway Network

US Highway 101 (US 101), Interstate 280 (I-280), and State Route 87 (SR 87) provide regional access to the Project site. 13th Street, 14th Street, and E Santa Clara Street provide local site access. Each access facility is described below in more detail.

US 101 is a north-south freeway located east of the Project site with four travel lanes in each direction. One travel lane in each direction is designated as a high occupancy vehicle (HOV) lane. US 101 extends between Southern California to the south and Washington to the north. Access to the Project site from US 101 is via East Santa Clara Street.

I-280 is a primarily east-west freeway located south of the Project site with four travel lanes in each direction. I-280 extends between US 101 in San José and I-80 in San Francisco. Access to the Project site from I-280 is via 10th and 11th streets.

SR 87 is a primarily north-south freeway located west of the Project site with two general purpose lanes and one carpool lane in each direction. SR 87 extends between SR 85 to the south and US 101 to the north in the vicinity of the San José airport. Access to the Project site from SR 87 is via East Santa Clara Street.

East Santa Clara Street is a four- to six-lane Grand Boulevard which extends between US 101 to the east (where it becomes Alum Rock Avenue) and Market Street to the west where it continues as W. Santa Clara Street. As a Grand Boulevard, it serves as a major transportation corridor connecting City neighborhoods, with a priority for transit. East Santa Clara Street is directly adjacent to the Project site to the north and provides access to the Project site via 14th Street. The posted speed limit is 25 mph.

14th Street is a two-lane street that extends between Margaret Street to the south and Berryessa Road to the north. 14th Street is directly adjacent to the Project site to the east. 14th Street provides direct access to the Project site via the proposed driveway. The posted speed limit is 25 mph.

13th Street is a two-lane street that extends between Margaret Street to the south and East Hedding Street to the north. 14th Street is near the Project site to the west. The posted speed limit is 25 mph.

Existing Pedestrian, Bicycle, and Transit Facilities

Pedestrian facilities are comprised of sidewalks and crosswalks. The streets adjacent to the Project site, including East Santa Clara Street and 14th Street, have continuous sidewalks on both sides of the roadway. The East Santa Clara Street and 14th Street intersection has no painted crosswalks. The East Santa Clara Street and 13th Street intersection is signalized and has all four crosswalks painted with standard markings. The two major intersections nearest to the Project site, East Santa Clara Street and 13th Street, and East Santa Clara Street and 14th Street, have a mixture of directional and diagonal curb ramps on all approaches. Directional curb ramps are used on the southeast corner of the East Santa Clara Street and 14th Street intersection.

The bicycle facilities that exist within one mile of the Project site include bike lanes (Class II bikeway), bike routes (Class III bikeway), bicycle boulevards, and separated bike lanes (Class IV bike lane). Bike lanes are lanes designated for use by bicycles with special lane marking, pavement legends, and signage. Bike routes are streets shared by bikes and motor vehicles. A bike boulevard is similar to a bike route in that bikes share the road with motor vehicles, but it is a low-speed, low-volume street which has been optimized for bicycle traffic. There are existing Class II bike lanes on 10th Street, 11th Street, 13th Street and 17th Street near the Project site. 13th Street transitions from a Class II bike lane to a Class III bike route south of East Santa Clara Street until San Fernando Street. San Fernando Street, St. John Street, 16th Street, and 17th Street are all classified as Class III bike routes. San Fernando Street transitions from a Class III bike route to a Class II bike lane between 10th and 11th streets, then transitions again to a Class IV separated bikeway west of 10th Street. *The San José Better Bike Plan 2025* proposes to construct a Class IV bikeway on 10th and 11th Streets.

Bus and light rail service in San José are operated by the Santa Clara Valley Transportation Authority (VTA). VTA bus routes 22 and 23 stop in front of the Project site along East Santa Clara Street. For passengers heading westbound on East Santa Clara Street, the bus stop is about a 125-foot walk from the Project site, directly across the street. For travelers heading eastbound on East Santa Clara Street, the bus stop is about a 125-foot walk from the Project site near the corner of East Santa Clara Street and 13th Street. The nearest 522 rapid stop is located near East Santa Clara Street and 17th Street intersection. The BART to Silicon Valley Phase II extension will pass underneath East Santa Clara Street in front of the Project site with the closest BART station located in Downtown San José.

Regulatory Framework

Local

City of San José 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 policy establishes the thresholds for transportation impacts under CEQA based on vehicle miles traveled (VMT) rather than intersection level of service (LOS). VMT is a measure of 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.[15]

City of San José Transportation Analysis Handbook

The City's Transportation Analysis Handbook (April 2023) sets forth objectives and methodologies related to the preparation of project-related transportation analyses. The Transportation Analysis Handbook outlines significance criteria, screening criteria, and thresholds of significance for environmental clearance for development projects, transportation projects, and General Plan Amendments. The Transportation Analysis Handbook aligns with SB 743; City Council Policy 5-1, and the major strategies, goals, and policies of the City's General Plan. According to the Transportation Analysis Handbook, a detailed CEQA transportation analysis would not be required if a project meets certain screening criteria. Small infill projects and other projects of sufficiently small size (i.e., 30,000 square feet or less of industrial use) would meet the City's screening criteria, in which case the Project would not be required to prepare a detailed CEQA transportation analysis.

San José Better Bike Plan 2025

The San José Better Bike Plan 2025 (October 2020) sets the vision for a safe, direct, and connected citywide bike network that supports people's daily needs. The following three goals are listed within the plan in order to improve bike accessibility and connectivity: (1) improve safety, recommendations are centered around current best practices in bikeway design, which are

[15] The policy took effect on March 29, 2018.

proven to reduce bicycle crashes; (2) increase mode share, 15 percent by 2040, 20 percent by 2050; and (3) lead with equity, incorporate inclusive planning practices and provides a project list aimed at prioritizing investments in communities that have historically experienced a lack of investment.

Envision San José 2040 General Plan

Policies in the Envision San José 2040 General Plan have been adopted for the purpose of avoiding or mitigating transportation impacts from development projects. Policies applicable to the Project are listed below.

Envision San José 2040 Policies Relevant to Transportation

Land Use	
Policy LU-2.2	Include within the General Plan Land Use/Transportation Diagram significant job and housing growth capacity within the following identified Growth Areas: • Local Transit Urban Villages – The Plan supports the opportunity for creating new mixed-use villages in these areas. While the BART area job capacity is planned primarily for mid-rise and high-rise offices, Urban Villages located along Light Rail and BRT lines should provide more opportunity for retail and service jobs that benefit from close proximity to residential use.
Transportation	
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-2.3	Construct sidewalks that are universally accessible and designed for use by people of all abilities.
Policy TR-2.18	Provide bicycle storage facilities as identified in the *San José Bicycle Master Plan*.
Policy TR-6.4	Plan industrial and commercial development so that truck access through residential areas is avoided. Minimize truck travel on streets designated in the Envision General Plan as Residential Streets.
Policy TR-6.5	Design freight loading and unloading for new or rehabilitated industrial and commercial developments to occur off of public streets. In Downtown and urban areas, particularly on small commercial properties, more flexibility may be needed.
Policy TR-7.1	Require large developments and employers to develop and maintain Transportation Demand Management (TDM) programs with TDM services provided for their residents, full-time and subcontracted workers, and visitors to promote use of non-automobile modes and reduce the vehicle trips.

Discussion

a) **Less than Significant Impact.** According to the City's Transportation Analysis Handbook, projects must demonstrate consistency with the Envision San José 2040 General Plan. The determination of consistency with the General Plan includes a project's density, design, and conformance to the goals and policies set forth in the General Plan. The following discussion describes the land use and transportation goals in the General Plan and the Project's consistency with those goals.

The Project is consistent with the General Plan land use goals by developing in an identified Growth Area to preserve and protect the quality of existing neighborhoods. The transportation goals in the General Plan aim to complete and maintain a multimodal transportation system with an emphasis on improvements of walking and bicycling facilities, and to maximize efficiency of the existing street system. The General Plan lists the Transportation Demand Management (TDM) strategies that minimize vehicle trips and vehicle miles traveled by employees and residents.

Bicycles and Pedestrians

Existing pedestrian facilities along the Project frontage on East Santa Clara Street and 14th Street provide multimodal connectivity to other facilities in San José. 13th Street is a Class II bike lane north of East Santa Clara Street and then transitions to a Class III bike route south of East Santa Clara Street until San Fernando Street. San Fernando Street is also a Class II bike route in the vicinity of the Project site and provides bicycle access to Downtown San José. Overall, the existing facilities provide good bicycle and pedestrian connectivity between the Project site and surrounding areas. The East Santa Clara Urban Village Plan improvements, which are detailed in the LTA (see Appendix D of this Initial Study) would further enhance these facilities. Accessible pedestrian ramps are provided at all crossings at the two study intersections surrounding the Project site.

Transit

The Project site is close to several major transit routes/stops on East Santa Clara Street. These transit stops provide access to bus routes that connect the Project site to Downtown San José as well as Diridon Station, where transit riders can transfer to the following regional transit service providers: Caltrain, Altamont Commuter Express (ACE), and Amtrak. Project improvements would not interfere with these transit facilities. Rather, access to these transit facilities would support the Project's ability to meet the mode share targets as outlined in the General Plan.

In summary, the Project is consistent with the General Plan land use and transportation policies shown above in *Regulatory Framework*.

b) **Less than Significant Impact.** The City's Transportation Analysis Handbook provides guidance on project screening criteria, thresholds of significance for environmental clearance for development projects, a framework for transportation analyses based on the City's policies and Envision San José 2040 General Plan, and methodologies for VMT analysis. The first step is to determine whether the Project passes the VMT screening criteria. According to "Table 1 Screening Criteria for CEQA Transportation Analysis for Development Projects," the office and retail components of the Project would meet the VMT screening criteria as a small office infill of 10,000 square feet (s.f.) gross floor area or less and local-serving retail with 100,000 s.f. of total gross floor area or less without drive-through operations, respectively. The Project would include approximately 7,012 square feet of retail space and approximately 7,171 square feet of office space, which meets the City's VMT screening criteria. The residential component of the Project would

also meet the VMT screening criteria, as the Project is located in the East Santa Clara Street Urban Village planned growth area, which is near high-quality transit with the closest bus stop for Bus Routes 22 and 23 and meets the City's transit-supporting project density, and active transportation requirements. Therefore, the Project meets the VMT screening criteria and does not require further VMT analysis. Since the Project meets the screening criteria for all proposed land uses, it is expected to result in a less-than-significant VMT impact with respect to CEQA Guidelines section 15064.3, subdivision (b).

c) **Less than Significant Impact.** As shown in Figure 2-5 (First Floor Plan [Street Level]) and Figure 2-6 (Basement and Parking Plan), the Project site would have one driveway along 14th Street to the east, which connects to East Santa Clara Street to the north and San Fernando Street to the south. This driveway would provide one travel lane in each direction and includes a roll-up metal gate. A 50-feet inbound stacking space will be provided between the roll-up gate and the driveway. The Project driveway would have a curb-to-curb width of 20 feet and would provide access only for standard automobiles. To determine the visibility of vehicles exiting the Project driveway, the LTA conducted a sight-distance analysis. The LTA recommended that street parking be restricted along approximately 40 feet of 14th Street to the north of the Project driveway to ensure sufficient sight distance between vehicles traveling southbound on 14th Street and vehicles exiting from the Project garage. Additional detail on the sight-distance analysis is provided in the LTA (Appendix D to this Initial Study).

The Project would maintain the sidewalk on the south side of East Santa Clara Street and west side of 14th Street. The Project's proposed residential entrance is on 14th Street and would provide access for residents. Adjacent to this entrance is the entrance to a bike parking room, which would provide bicycle storage for residents. Employee and visitor access to the proposed retail and office space would be provided on the East Santa Clara Street frontage.

Based on the discussion above, the Project would not introduce any hazardous geometric design features or incompatible uses, and the impact would be less than significant.

d) **Less than Significant Impact.** The Project would not result in inadequate emergency access. The City of San José Fire Code requires driveways to provide at least 20 feet for fire access. As noted above, the Project driveway would be 20 feet wide and would, therefore, comply with the City's fire code. Furthermore, the LTA concluded that fire trucks would be able to safely access the Project site by making a right turn from East Santa Clara Street to 14th Street. Impacts to emergency access would be less than significant.

Conclusion: The Project would have a less than significant impact related to transportation.

References

City of San José, 2023. The City's Transportation Analysis Handbook 2023, Adopted April 2023. Available at: https://www.sanjoseca.gov/home/showpublisheddocument/28461/638168096438270000.

City of San José, 2020. San José Better Bike Plan 2025, Adopted October 2020. Available at; https://www.sanjoseca.gov/your-government/departments-offices/transportation/walking-biking/better-bike-plan-2025.

City of San José, 2021. East Santa Clara Street Urban Village Plan, Adopted October 23, 2018. As Amended on November 7, 2021. Available at: https://www.sanjoseca.gov/home/showpublisheddocument/38449/637782053655170000.

City of San José, 2022. Envision San José 2040 General Plan, Adopted November 1, 2011. As Amended on September 30, 2021. Available at: https://www.sanjoseca.gov/home/showpublisheddocument/22359/637926308860970000.

4.18 Tribal Cultural Resources

Issues (and Supporting Information Sources):	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XVIII. TRIBAL CULTURAL RESOURCES —				
a) Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
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 Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	☐	☒	☐	☐

Setting

A context for cultural, archaeological, and historical resources are discussed above in Section 4.5, *Cultural Resources*.

ESA contacted the California State Native American Heritage Commission (NAHC) on July 27, 2022, to request a search of the NAHC's Sacred Lands File and a list of Native American representatives who may have knowledge of tribal cultural resources in the Project vicinity or interest in the proposed Project. The NAHC replied to ESA by email on August 30, 2022, noting that the Sacred Lands File has record of sacred sites in the Project vicinity and to contact Muwekma Ohlone Indian Tribe of the SF Bay Area for additional information. The NAHC response also included a list of other Native American representatives who may have knowledge of tribal cultural resources in the vicinity of the Project site.

During preparation of this CEQA document, the City sent letters to the following Native American tribes who have requested consultation on projects in the City's Sphere of Influence: Muwekma Ohlone Indian Tribe of the SF Bay Area on August 8, 2022, and the Indian Canyon Band of Costanoan Ohlone People and the Tamien Nation on March 15, 2022. As of publication of this CEQA document, no tribes have responded with request for consultation on the proposed Project.

Regulatory Framework

Native American Heritage Commission

The 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 NAHC 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 Public Resources Code and Tribal Cultural Resources

In 2014, the California Legislature enacted Assembly Bill (AB) 52, which added provisions to the Public Resources Code regarding the evaluation of impacts on tribal cultural resources under CEQA, and requirements to consult with California Native American tribes. In particular, AB 52 requires lead agencies to analyze project impacts on tribal cultural resources separately from archaeological resources (PRC Sections 21074 and 21083.09). AB 52 defines "tribal cultural resources" in PRC Section 21074 and requires lead agencies to engage in additional consultation procedures with respect to California Native American tribes (PRC Sections 21080.3.1, 21080.3.2, and 21082.3).

A *tribal cultural resource* is defined in PRC Section 21074 as either a site, feature, place, or cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

1) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in PRC Section 5020.1(k); or
2) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in PRC Section 5024.1(c). In applying the criteria set forth in PRC Section 5024.1(c), the lead agency shall consider the significance of the resource to a California Native American tribe.

AB 52 requires lead agencies to complete formal consultations with California Native American tribes during the CEQA process to identify tribal cultural resources that may be 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. Consultation applies only if the tribes have sent written requests for notification of projects to the lead agency.

Discussion

a.i/ii) **Less than Significant Impact with Mitigation.** CEQA requires the lead agency to consider the effects of a project on tribal cultural resources. As defined in PRC Section 21074, tribal cultural resources are sites, features, places, cultural landscapes, sacred

places, and objects with cultural value to a California Native American tribe that are listed, or determined to be eligible for listing, on the national, state, or local register of historical resources.

Based on the NAHC's Sacred Lands File positive search results, there are potentially tribal cultural resources listed or determined eligible for listing in the California Register of Historical Resources or included in a local register of historical resources as defined in PRC Section 5020.1(k), pursuant to PRC Section 21074(a)(1), would be affected by the Project. Background research did not identify any archaeological resources in the Project site that could be considered tribal cultural resources. As indicated above, no tribes have responded to the City's correspondence inviting requests for consultation on the Project. In addition, the City did not determine any resource that could potentially be affected by the project to be a significant tribal cultural resource pursuant to criteria set forth in PRC Section 5024.1(c).

In the event that cultural materials are identified during project construction activities that are determined to be tribal cultural resources, implementation of **Mitigation Measure CR-1 (Cultural Resources Awareness Training)**, **Mitigation Measure CR-1.2 (Archaeological Testing), Mitigation Measure CR-1.3 (Archaeological Evaluation),** and **Mitigation Measure CR-1.4 (Archaeological Treatment)**, all identified in Section 4.5, *Cultural Resources*, would reduce potentially significant impacts to less than significant. These mitigation measures would ensure that all personnel complete a cultural resources awareness training prior to any ground-disturbing activity, that an Archaeological Testing, Evaluation, and Treatment Plan be developed to determine the extent of cultural resources on the Project site so that resources could be evaluated for significance and treated appropriately, and that work would halt in the vicinity of a find until it is evaluated by a Secretary of the Interior-qualified archaeologist and a Native American representative registered with the NAHC for the City of San José that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3.

In addition (as also discussed in Section 4.5, *Cultural Resources*), Standard Permit Condition regarding Subsurface Cultural Resources would ensure that work would halt in the vicinity of a find until it is evaluated by a Secretary of the Interior-qualified archaeologist and a Native American representative registered with the Native American Heritage Commission for the City of San José that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3. Also, Standard Permit Condition regarding Human Remains would, on the rare chance that human remains are discovered, ensure that work is immediately suspended around the remains and appropriate notifications and contacts, including to the City, a qualified archaeologist, and County Coroner to make the determination relevant to the NAHC and MLC if applicable.

Conclusion: The Project would have a less than significant impact related to tribal cultural resources with incorporation of **Mitigation Measure CR-1, Mitigation Measure CR-1.2, Mitigation Measure CR-1.3, Mitigation Measure CR-1.4**, and Standard Permit Conditions.

References

San José, City of. "Historic Areas & Districts." *Planning, Building & Code Enforcement*. www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/historic-resources/historic-areas-districts.

Urban Programmers. *Department of Parks and Recreation 523 form for 644 East Santa Clara Street*. March 2021, revised April 2023.

4.19 Utilities and Service Systems

Issues (and Supporting Information Sources):	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XIX. UTILITIES AND SERVICE SYSTEMS — Would the project:				
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	☐	☐	☒	☐
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☒	☐
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?	☐	☐	☒	☐
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?	☐	☐	☒	☐
e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	☐	☐	☒	☐

Environmental 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 Water Company (SJWC)
- Storm Drainage: City of San José
- Solid Waste: Green Team (Multifamily Dwelling hauler)
- Natural Gas & Electricity: PG&E

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)

AB 341 sets forth the requirements of the statewide mandatory commercial recycling program 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 are required to recycle. AB 341 sets a statewide goal for 75 percent disposal reduction 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.

Assembly Bill 1826 (2014)

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

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

In January 2023, the State of California adopted the most recent version of the California Green Building Standards Code, which establishes mandatory green building standards for buildings in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resources efficiency, and indoor environmental quality. These standards include the following mandatory set of measures for new construction projects, as well as more rigorous voluntary guidelines, for new construction projects to achieve specific green building performance levels as follows:

- Reduce indoor water use by 20 percent;
- Reduce wastewater by 20 percent;
- Recycle and/or salvage 65 percent of nonhazardous construction and demolition ("C&D") debris, or meeting the local construction and demolition waste management ordinance, whichever is more stringent (see San José-specific CALGreen building code requirements in the local regulatory framework section below); and
- Provide readily accessible areas for recycling by occupant.

Local

San José Zero Waste Strategic Plan/Smart San José Climate Smart

San José provides a comprehensive approach to achieving sustainability through new technology and innovation. The Zero Waste Strategic Plan outlines policies to help the City of San José foster a healthier community and achieve its Climate Smart San José goals, including 75 percent

diversion of waste from the landfill by 2013 and zero waste by 2022. The City's goal of 75 percent diversion of nonhazardous construction and demolition debris for projects that qualify under CALGreen is more stringent than the state's Green Building Standards Code requirement of 65 percent discussed under the state regulatory framework above (San José Municipal Code Section 9.10.2480). 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 C&D materials were reused, donated, or recycled at a City-certified processing facility. Reuse and donation require acceptable documentation, such as photos, estimated weight quantities, and receipts from donations centers stating materials and quantities.

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

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 Council Policy 8-13 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. General Plan policies relevant to utilities and service systems and applicable to the Project are presented below.

> ***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.
>
> ***Policy MS-3.3:*** Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.

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 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-3.7: 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.

Discussion

a) **Less Than Significant Impact**. Water service to the site would be supplied by the San José Water Company (SJWC), a private entity that obtains water from a variety of groundwater and surface water sources. The Project applicant would be required to acquire a "will serve" letter from SJWC to assure adequate water is available to serve the proposed residential uses. The City of San José owns and maintains the sanitary sewer drain system in the Project area.

As described in the Section 4.6, *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 the Project.

As described in Section 4.10, *Hydrology and Water Quality*, the Project would not significantly impact storm drainage facilities. 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 Provision C.3 of the MRP and City Council policies, which includes implementation of a Stormwater Control Plan.

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**. The required consultation with SJWC is to ensure adequate water is available to serve the proposed residential uses during normal, dry, and multiple dry year conditions. Additionally, as the Project's growth is consistent with the

City's General Plan and associated water use was analyzed in the General Plan EIR. Therefore, the proposed Project would have a less than significant impact with regard to water supply and availability.

c) **Less Than Significant Impact**. Wastewater from the City of San José is treated at the RWF. The RWF is permitted to provide tertiary-level treatment to up to 167 million gallons per day (mgd) in the dry season and has a permitted wet weather peak capacity of 261 mgd (City of San José, 2018). 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. Development allowed under the General Plan (which includes the Project) would not 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 City's General Plan EIR concluded that growth identified in the General Plan would not exceed the capacity of existing landfills serving the City of San José. 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 (City of San José, 2008). The Zero Waste Strategic Plan in combination with existing regulations and programs, would ensure that full buildout of the General Plan 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 related to utilities and service systems.

References

City of San José, San José-Santa Clara Regional Wastewater Facility Annual Pollution Prevention Report, 2018.

City of San José, Integrated Waste Management Zero Waste Strategic Plan, 2008.

4.20 Wildfire

Issues (and Supporting Information Sources):	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XX. 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?	☐	☐	☒	☐
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?	☐	☐	☒	☐
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?	☐	☐	☒	☐
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?	☐	☐	☒	☐

Environmental Setting

The Project site is surrounded by residential 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, 2022).

Regulatory Setting

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 2016 California Fire Code Chapter 49 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. The Project site is not within a VHFSZ or in the wildland-urban interface area. Therefore, these policies are not directly applicable to the Project.

Discussion

a) **Less Than Significant Impact.** The Project would not substantially impair an adopted emergency response plan or emergency evacuation plan. As described above under criterion f) in Section 4.9, *Hazards and Hazardous Materials* in this document, the Project would not create any barriers to emergency or other vehicle movement in the area and final design would comply with all Fire and Building 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.

References

CalFire, 2022. *Fire Hazard Severity Zone Maps, FHSZ Viewer.* Available at https://egis.fire.ca.gov/FHSZ/. Accessed August 16, 2022.

4.21 Mandatory Findings of Significance

Issues (and Supporting Information Sources):	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XXI. 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?	☐	☒	☐	☐
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)?	☐	☐	☒	☐
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☒	☐	☐

Discussion

a) **Less Than Significant Impact with Mitigation Incorporated.** Based on the analysis provided in this Initial Study, the proposed Project would not 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 or 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. Implementation of **Mitigation Measure BIO-1 (Nesting Birds)** is identified to address the potentially significant impact of the Project on special status species (nesting birds). Also, **Mitigation Measure NOI-1 (Construction Vibration)** will also address potentially significant impacts of the Project on special status species or habitats. Standard Permit Conditions are also identified to reduce potential impacts of the proposed Project to tree resources under the City's Tree Ordinance, as well as disturbance to buried archaeological resources during construction, and impacts to tribal cultural resources would be reduced to less than significant.

b) **Less Than Significant Impact.** Based on the analysis provided in this Initial Study, the proposed Project would not have considerable contributions to cumulative impacts, including those identified in other environmental documents and considering other cumulative development (past, present, and reasonably foreseeable future projects). This is largely because the proposed Project specifically occurs on a property and at the scale, land use and density/intensity envisioned in the *East Santa Clara Street Urban Village Plan*.

The following mitigation measures are identified in the Initial Study to address the Project's potential impacts: **Mitigation Measure AQ-1 (Use Low-VOC Paint During Construction)**; **Mitigation Measure BIO-1 (Nesting Birds)**; **Mitigation Measure CR-1 (Cultural Resources Awareness Training)**; **Mitigation Measure CR-1.2 (Archaeological Testing), Mitigation Measure CR-1.3 (Archaeological Evaluation), Mitigation Measure CR-1.4 (Archaeological Treatment)**; and **Mitigation Measure NOI-1 (Construction Vibration)**. Also, by their very nature, GHG emissions are largely a cumulative impact. As discussed in Section 4.3, *Air Quality,* and Section 4.8, *Greenhouse Gas Emissions,* the Project would emit criteria air pollutants and GHG emissions and would contribute to the overall regional and global emissions of such pollutants; however, impacts to air quality criteria air pollutants and GHG emissions would be less than significant, and would therefore not be cumulatively considerable contributions.

In addition, Standard Permit Conditions are identified throughout this Initial Study to reduce the following potential impacts of the Project to less than significant: air quality (BAAQMD BMPs), biological resources (tree resources, habitat conservation plan), cultural resources (subsurface cultural resources, human remains), geology and soils (seismic risk, paleontological resources), hazardous materials/hazards (ACMs/ LBP/ PCBs), hydrology and water quality (RWQCB BMPs), noise (operational/residential interior). For the reasons described above, the Project would not significantly contribute to cumulative impacts.

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 (listed under criterion b, above).

Conclusion: The Project would have a less than significant impact on the CEQA mandatory findings of significance with the incorporation of the mitigation measures, Standard Permit Conditions, and Conditions of Approval identified in this document.

5. Report Preparers

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