Tully 76 Service Project

Initial Study Mitigated Negative Declaration

March 20, 2026

Prepared for:
City of San José
Planning Building and Code Enforcement
200 E. Santa Clara Street
San José, CA 95113

Prepared by:
Stantec Consulting Services Inc.
2999 Oak Road, Suite 800
Walnut Creek, CA 94597

Mitigated Negative Declaration

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

Project Name: Tully 76 Service Project

Project File Nos.: C22-112, CP22-026, and ER22-214

Project Description: The project comprises the redevelopment of an existing "76" gas station located at 1152 Tully Road in the City of San José. The 0.66-acre project site currently consists of two fuel canopies totaling approximately 1,864 square feet and a convenience store with a service bay of approximately 1,631 square feet. The project consists of the demolition of the existing structures on site and develop a new gas station that consists of a 3,007 square foot fuel canopy and a 2,626 square foot convenience store with a 1,224 square foot service bay, a 1,176 square foot drive-through car wash tunnel, and a 221 square foot car wash equipment room. The proposed project would remove the existing onsite fuel system consisting of two 10,000-gallon USTs, one 500-gallon oil UST, and associated underground piping. The fuel canopy would be served by a new fuel system with two 20,000-gallon USTs and associated underground piping.

Location: 1152 Tully Road, San José, CA 95122

Assesor's Parcel No.: 499-19-035

Council District: 7

Applicant Contact Information: Tully 76 SVC COPR (Attn: Charles Nguyen); 1152 Tully Road, San José, CA 95130; tully76service@gmail.com

Finding

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

Environmental Resource Areas and Mitigation Measures included in the Project to reduce potentially significant effects to a less than significant level

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

B. Agriculture And Forestry Resources – The project would not have a significant impact on this resource, therefore no mitigation is required.

C. Air Quality

Impact AIR-1: Diesel particulate matter from construction activities could expose residential receptors to a cancer risk level of 14.45 per million, which would exceed the Air District threshold of significance of 10.0 per million.

MM AIR-1.1: Minimize Exhaust Emissions. Prior to the issuance of demolition, grading, or building permits (whichever occurs the earliest), the Applicant shall submit an air quality construction equipment plan to the Director of Planning, Building and Code Enforcement, or the Director's designee, that demonstrates all off-road equipment with an engine exceeding 50 horsepower used for project construction, including leased equipment, shall meet or exceed California Air Resources Board's (CARB's) Tier 4 engine emissions standards. At a minimum, all construction equipment shall be certified as compliant with the Tier 4 engine emissions standards as provided in CCR, Title 13, section 2423(b)(1)(B). Engines can achieve these standards through the use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, or other options as they become available.

D. Biological Resources

Impact BIO-1: If project activities occur during the nesting bird season (generally considered from February 1st to August 31st), construction may cause direct effects (e.g., tree removal and vegetation clearing) and indirect effects to nesting birds (e.g., noise and vibration) by causing adults to abandon active nests, resulting in nest failure and reduced reproductive success.

MM BIO-1.1: Avoid Disturbance of Nesting Birds. The Applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay Area, extends from February 1st through August 31st (inclusive).

If demolition and construction cannot be scheduled to occur between September 1st and January 31st (inclusive and as amended), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist or biologist to ensure that no nests shall be disturbed during project implementation. This survey shall be completed no more than 14 days prior to

the initiation of construction activities during the nesting bird season (February 1st to August 31st). During this survey, the qualified ornithologist/biologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.

If an active nest is found sufficiently close to work areas to be disturbed by construction, the qualified ornithologist/biologist, in consultation with California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction. Prior to any tree removal, or approval of any grading or demolition permits (whichever occurs first), the qualified 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 Planning, Building and Code Enforcement or the Director's designee.

E. Cultural Resources

Impact CUL-1: Ground-disturbing activities during construction of the proposed project would have the potential to uncover, damage, or destroy archaeological deposits that qualify as historical resources.

MM CUL-1: Cultural Awareness Training. Prior to the issuance of any demolition, grading, or building permits, the 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.

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

G. Geology And Soils – The project would not have a significant impact on this resource, therefore no mitigation is required.

H. Greenhouse Gas Emissions – The project would not have a significant impact on this resource, therefore no mitigation is required.

I. Hazards and Hazardous Materials

Impact HAZ-1: The property is a former leaking underground storage tank site due to contamination found after an underground tank was removed in 1990. The project was remediated to regulatory closure with residual contamination remaining in the soil and groundwater that may need mitigation when the project site is redeveloped.

MM HAZ-1: Notification to Santa Clara County Department of Environmental Health

(SCCDEH). Prior to the issuance of any demolition or grading permits (whichever occurs earliest), the Applicant shall notify the SCCDEH and Director of Planning, Building and Code Enforcement Department or the Director's designee of the redevelopment plans and retain an environmental professional to assess the residual contamination and determine if additional investigation, health risk assessment, and mitigation are necessary to protect public health and the environment. The Applicant shall provide proof of SCCDEH notification to the Director of Planning, Building and Code Enforcement or the Director's designee and City's Environmental Compliance Officer.

The proposed project would also remove the existing USTs at the project site prior to commencement of the demolition and construction activities. As required by Mitigation Measure HAZ-2, the Applicant would be required to obtain a UST removal permit from SCCDEH. The tank removal activities would be completed in accordance with the requirements of the UST removal permit and under the oversight of SCCDEH. The UST removal activities would include removal of the existing canopy to provide access to the existing USTs; draining the USTs; removal of the three USTs, two fuel dispenser islands and associated piping; sampling of excavated areas; and removal of soil with evidence of petroleum products and backfilling excavations with clean fill. As part of the UST removal permit, the proposed project would be subject to the SCCDEH's UST System and Sump Closure Requirements, including any additional requirements related to dewatering of contaminated groundwater, soil and groundwater sampling, and reporting to ensure the health and safety of construction workers and the public.

Impact HAZ-2: The proposed project would remove the existing underground storage tanks (USTs), requiring the Applicant to obtain a UST removal permit from the Santa Clara County Department of Environmental Health (SCCDEH).

MM HAZ-2: Underground Storage Tank Removal. Prior to removal of the existing Underground Storage Tanks (USTs) at the project site, the Applicant shall complete and submit a UST System Closure Permit Application to the Santa Clara County Department of Environmental Health (SCCDEH) Hazardous Materials Compliance Division. Closure of the USTs shall consist of removing the tanks and ancillary equipment such as piping from the ground and performing soil sampling to evaluate if there is residual contamination from the operation of the tank system. Tank and sump removal and soil sampling activities must be witnessed by a representative from SCCDEH Hazardous Materials Compliance Division. The tanks and primary pipe are to be managed as hazardous waste once removed, unless they are cleaned onsite and certified as non-hazardous in accordance with California hazardous waste regulations (CCR, Title 22, Division 4.5, Chapter 32). Based upon the findings of the soil sampling, the SCCDEH Hazardous Materials Compliance Division will determine if the USTs have leaked and require enrollment in the County's LUST program, or if there are other further requirements.

Impact HAZ-3: Operation of the proposed project would include handling of individual hazardous materials or mixture in excess of the following quantities: 55 gallons (liquid); 500 pounds (solid); or 2,000 cubic feet (gases).

MM HAZ-3: Hazardous Materials Business Plan (HMBP). The Applicant shall prepare a HMBP in accordance with CFR Title 40. The HMBP shall include inventory of any individual hazardous material or mixture in excess of any of the following quantities: 55 gallons (liquid); 500 pounds (solid); or 2,000 cubic feet (gases). The HMBP would include measures for safe storage, transportation, use, and handling of hazardous materials. The HMBP shall also include a contingency plan that describes the facility's response procedures in the event of a hazardous materials release. The HMBP shall be submitted to SCCDEH prior to start of operation. The Applicant shall provide proof of SCCDEH's approval of the HMBP to the Director of Planning, Building and Code Enforcement or the Director's designee and City's Environmental Compliance Officer.

J. Hydrology and Water Quality

Impact HYD-1: The proposed project could encounter groundwater during removal of the underground storage tanks (USTs) and therefore require dewatering activities that could result in the withdrawal of groundwater. This impact would be mitigated to a less-than-significant level by **MM HAZ-2** above.

Impact HYD-2: The proposed project could encounter groundwater during removal of the underground storage tanks (USTs) and therefore require dewatering activities that could conflict with the Santa Clara Valley Subbasin Groundwater Management Plan. This impact would be mitigated to a less-than-significant level by **MM HAZ-2** above.

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: The proposed project would result in a temporary significant noise impact to nearby residential land uses, as construction activities will continue for a period longer than 12 months.

MM NOI-1: Construction Noise Logistics Plan. Prior to the issuance of any grading or demolition permits, the Applicant shall submit a Construction Noise Logistics Plan prepared by a qualified acoustical consultant to the Director of Planning, Building and Code Enforcement, or the Director's designee, that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and implemented during construction to reduce noise impacts on

neighboring residents and other uses. As a part of the Construction Noise Logistics Plan, project construction activities for the proposed project shall include, but is not limited to, the following best management practices:

- Construction activities shall be limited to the hours between 7:00 a.m. and 7:00 p.m., Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence (San José Municipal Code Section 20.100.450).
- Construct temporary noise barriers, where feasible, to screen mobile and stationary construction equipment. The temporary noise barrier fences would provide noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receiver and if the barrier is constructed in a manner that eliminates any cracks or gaps.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Pile driving is prohibited.
- Unnecessary idling of internal combustion engines should be strictly prohibited.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Construction staging areas shall be established at locations that would create the greatest distance between the construction-related noise source and noise-sensitive receptors nearest the project site during all project construction.
- A temporary noise control blanket barrier could be erected, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected.
- Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from residential receptors.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.
- Designate a "disturbance coordinator" who would 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 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 in it the notice sent to neighbors regarding the construction schedule.

Impact NOI-2: Construction activities of the proposed project, including drilling, the use of jackhammers (approximately 0.035 in/sec PPV at 25 feet), rock drills and other high-power or

vibration tools (approximately 0.09 in/sec PPV at 25 feet), and rolling stock equipment such as tracked vehicles and compactors (approximately 0.89 in/sec PPV at 25 feet) could exceed the City's General Plan Policy EC-2.3 vibration limit of 0.2 in/sec PPV at adjacent development. Mitigation Measures

MM NOI-2: Review of Final Construction Equipment. Prior to the issuance of any demolition, grading, tree removal, or building permits (whichever occurs first), a qualified noise consultant shall review the final construction equipment list for the proposed project to ensure the construction equipment would not exceed the 0.2 in/sec PPV thresholds for conventional construction buildings at the nearby properties. A project-specific vibration plan shall be prepared and include the project's planned vibration-generating construction activities (e.g., demolition, vibratory compaction), the potential project-specific vibration levels (given project-specific equipment and soil conditions, if known) at specific building locations that may be impacted by the vibration-generating work activities (generally buildings within 50 feet of the work area), and identify any necessary vibration control measures to reduce levels to 0.2 in/sec PPV or below. The Applicant shall submit a copy of the project-specific vibration plan to the Director of Planning, Building and Code Enforcement or Director's designee for review and approval.

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

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

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

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

R. **Tribal Cultural Resources**

Impact TCR-1: Ground-disturbing activities during construction of the proposed project would have the potential to uncover, damage, or destroy tribal cultural resources. This impact would be mitigated to a less-than-significant level by **MM CUL-1** above.

S. **Utilities and Service Systems** – The project would not have a significant impact on this resource, therefore no mitigation is required.

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

U. **Mandatory Findings of Significance**

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

Public Review Period

Before 5:00 p.m. on **April 9, 2026, at 5:00 p.m.** any person may:

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

2. Submit written comments regarding the information and analysis in the Draft MND and supporting Initial Study. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND and supporting Initial Study, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND. Please submit comments to: Nhu Nguyen, Environmental Project Manager; 200 E. Santa Clara Street – Tower 3; San Jose, CA 95113 or via e-mail at **Nhu.Nguyen@sanjoseca.gov**.

CHRISTOPHER BURTON, Director
Planning, Building and Code Enforcement

Tina Gray

March 13, 2026

Deputy

Date

Nhu Nguyen
Environmental Project Manager

Circulation period: March 20, 2026, to April 9, 2026 at 5:00 p.m.

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Acronyms and Abbreviations

AB	Assembly Bill
Air District	Bay Area Air Quality Management District
APN	Assessor's Parcel Number
Applicant	Tully 76 Corporation
bgs	below ground surface
BMP	best management practice
CAAQS	California Ambient Air Quality Standards
CAFÉ	Corporate Average Fuel Economy
CAL FIRE	California Department of Forestry and Fire Protection
CALGreen	California Green Building Standards
Caltrans	California Department of Transportation
CARB	California Air Resources Board
CBC	California Building Standards Code
CCR	California Code of Regulations
CEC	California Energy Commission
CEQA	California Environmental Quality Act
CF_4	perfluoromethane
CH_4	methane
City	City of San José
CMP	Congestion Management Program
CO	carbon monoxide
CO_2e	carbon dioxide equivalents
CPUC	California Public Utilities Commission
CRHR	California Register of Historical Resources
CUP	Conditional Use Permit
CY	cubic yards
C_2F_6	perfluoroethane
C_3F_8	perfluoropropane
C_4F_8	perfluorocyclobutane
C_4F_{10}	perfluorobutane
C_5F_{12}	perfluoropentane
C_6F_{14}	perfluorohexane
DOC	California Department of Conservation

DPM	diesel particulate matter
DTSC	Department of Toxic Substances Control
EIR	Environmental Impact Report
EISA	Energy Independence and Security Act
EOP	Emergency Operations Plan
ESA	Environmental Site Assessment
FEMA	Federal Emergency Management Agency
GDF	gasoline dispensing facilities
General Plan	Envision San José 2040 General Plan
GHG	greenhouse gas
GHGRS	Greenhouse Gas Reduction Strategy
gpd	gallons per day
GWh	gigawatt-hours
HFC	hydrofluorocarbon
HMBP	Hazardous Materials Business Plan
HWCL	California Hazardous Waste Control Law
H_2S	Hydrogen sulfide
I-280	Interstate 280
ISMND	Initial Study Mitigated Negative Declaration
kBTU	1,000 British thermal units
kWh	kilowatt-hour
LCFS	Low Carbon Fuel Standard
LED	light emitting diode
LEV	Low-Emission Vehicle
MBTA	Migratory Bird Treaty Act
mgd	million gallons per day
mg/m^3	milligrams per cubic meter
mph	miles per hour
MRP	Municipal Regional Stormwater NPDES Permit
$MTCO_2e$	metric tons of carbon dioxide equivalents
$MMTCO_2e$	million metric tons of carbon dioxide equivalents
NAAQS	National Ambient Air Quality Standard
NAHC	Native American Heritage Commission
NESHAP	National Emission Standards for Hazardous Air Pollutants
NF_3	nitrogen trifluoride
NHTSA	National Highway Traffic Safety Administration
NOA	naturally occurring asbestos

NO_X	nitrogen oxides
NO_2	nitrogen dioxide
NPDES	National Pollutant Discharge Elimination Service
NRHP	National Register of Historic Places
NWIC	Northwest Information Center
N_2O	nitrous oxide
OEHHA	Office of Environmental Health Hazard Assessment
O_3	ozone
Pb	lead
PFC	perfluorocarbons
PG&E	Pacific Gas & Electric Company
$PM_{2.5}$	2.5 microns particulate matter
PM_{10}	10 microns particulate matter
ppb	parts per billion
ppm	parts per million
PRC	Public Resources Code
proposed project	Tully 76 Service Project
RFS	renewable fuel standards
RPS	Renewable Portfolio Standard
ROG	reactive organic gases
RWQCB	Regional Water Quality Control Board
SB	Senate Bill
SCCDEH	Santa Clara County Department of Environmental Health
SCVHP	Santa Clara Valley Habitat Plan/Natural Community Conservation Plan
SCVWD	Santa Clara Valley Water District
SFBAAB	San Francisco Bay Area Air Basin
SF_6	sulfur hexafluoride
SIP	State Implementation Plan
SJC	San José Mineta International Airport
SJFD	San José Fire Department
SJPD	San José Police Department
SJWC	San José Water Company
SMARA	Surface Mining and Reclamation Act
SO_2	sulfur dioxide
SPCP	San José-Santa Clara Water Pollution Control Plan
SRA	State Responsibility Area
Stantec	Stantec Consulting Services Inc.

SWPPP	Stormwater Pollution Prevention Plan
SUV	sport utility vehicle
SWRCB	State Water Resources Control Board
TAC	Toxic Air Contaminant
TCM	Treatment Control Measure
TCP	Traffic Control Plan
U.S. 101	U.S. Highway 101
USEPA	United States Environmental Protection Agency
UST	underground storage tank
UWMP	Urban Water Management Plan
VMT	vehicle miles traveled
VTA	Santa Clara Valley Transportation Authority
WPCP	San José/Santa Clara Water Pollution Control Plant
ZEV	Zero-Emission Vehicle
$\mu g/m^3$	micrograms per liter

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1.0 INTRODUCTION

Tully 76 Corporation (Applicant) is proposing the Tully 76 Service Project (proposed project) at 1152 Tully Road in San José, California. The 0.66-acre site consists of a 76 gas station with two fuel canopies totaling approximately 1,864 square feet and a convenience store and service bay of approximately 1,631 square feet. The proposed project would result in the demolition of existing structures and the redevelopment of the site with a new gas station that consists of a 3,007 square foot fuel canopy and a 2,626 square foot convenience store with a 1,224 square foot service bay, a 1,176 square foot drive-through car wash tunnel, and a 221 square foot car wash equipment room. Existing onsite fuel systems would be removed as part of the proposed project, consisting of two 10,000-gallon underground storage tanks (USTs), one 500-gallon oil UST, and associated underground piping. The fuel canopy would be served by a new fuel system with two 20,000-gallon USTs and associated underground piping. Tank removal would be conducted in accordance with the requirements of and under the oversight of Santa Clara County Department of Environmental Health (SCCDEH).

Additionally, the proposed project would include new surface parking; site lighting; landscaping; self-service air, water, and vacuum equipment; on and offsite utility connections; driveway improvements; and a new bus shelter and concrete pad on Tully Road. The existing gas station and service bay is considered a non-conforming use in the Commercial Pedestrian (CP) Zoning District. The proposed project would be required to rezone the site to the Commercial Neighborhood (CN) Zoning District, which conditionally allows the operation of a fuel station with service repair uses and car wash facilities. The proposed project would also require approval of a Conditional Use Permit (CUP) to sell alcohol for offsite consumption.

1.1 PROJECT TITLE

Tully 76 Service Project

1.2 LEAD AGENCY

City of San José
Department of Planning, Building, and Code Enforcement
200 East Santa Clara Street, Third Floor
San José, CA 95113

1.3 LEAD AGENCY CONTACT

Nhu Nguyen, Planner II
Phone: (408) 535-6894
Email: nhu.nguyen@sanjoseca.gov

1.4 PURPOSE

The purpose of the proposed project is to redevelop an existing 76 gas station, with a new fuel canopy and convenience store with a service bay, a drive-through car wash tunnel, and an equipment room in the City of San José (City). This Initial Study supporting a Mitigated Negative Declaration (ISMND) has been prepared to evaluate the proposed project for potential environmental effects in compliance with the California Environmental Quality Act (CEQA). The City is the Lead Agency under CEQA and has the principal responsibility for carrying out or approving a project that may have a significant effect on the environment. This ISMND has been prepared in anticipation of determining that all potentially significant impacts from implementing the proposed project can be mitigated to less than significant levels. This document has been prepared in accordance with CEQA, Public Resources Code (PRC) Section 21000 et seq., and the State CEQA Guidelines, California Code of Regulations (CCR), Title 14, Section 15000 et seq.

1.5 PROJECT LOCATION

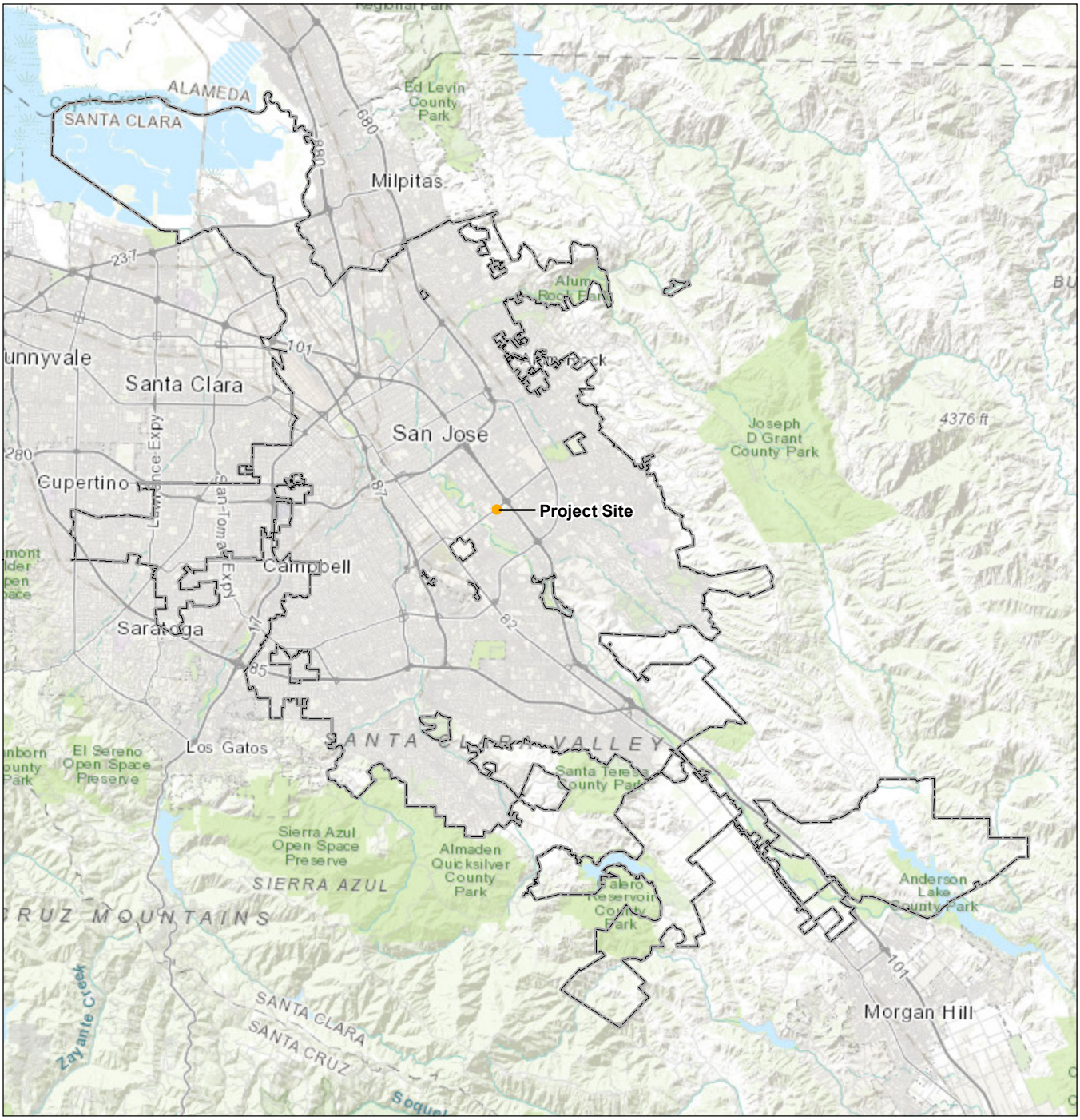
The project site is located at 1152 Tully Road in San José, California (Figure 1-1). The 0.66-acre project site consists of a single parcel identified as Assessor Parcel Number (APN) 499-019-035 (Figure 1-2). The project site is approximately 0.30-mile west of U.S. Highway 101 (U.S. 101).

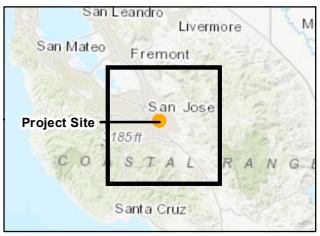
1.6 EXISTING SETTING AND SURROUNDING LAND USES

The project site is developed and operates as a 76 gas station. The gas station consists of two fuel canopies totaling approximately 1,864 square feet and a convenience store with service bay totaling approximately 1,631 square feet. The fuel canopies provide six dispensers that are served by two 10,000-gallon USTs, one 500-gallon oil UST, and associated underground piping. The six fuel dispensers provide 12 fueling positions, allowing simultaneous fueling of sport utility vehicles (SUVs), full sized pick-up trucks, and passenger vehicles at the site.

The gas station and convenience store currently operate with three employees, and the service bay operates with two mechanics. The gas station and convenience store are open daily and operate 24 hours a day. The service bay operates daily from 8:30 a.m. to 6:00 p.m. and provides basic automobile repair and smog check services.

The existing gas station is one of four gas stations located at the intersection of Tully Road and McLaughlin Avenue. Other land uses surrounding the project site include the San José Christian Alliance Church and residential development to the north, commercial development to the east and west, and residential development and the Đức Viên Buddhist Temple to the south and southeast (Figure 1-1).





Legend

- Project Site
- City Boundary

0 1 2 Miles
(At original document size of 8.5x11)
1:3,000,000

N

Stantec

Project Location
San Jose, California

Client/Project
City of San Jose
Tully 76 Service Project
ISMND

Figure No.
1-1

Title
Regional Location

Notes

1. Coordinate System: NAD 1983 StatePlane California III FIPS 0403 Feet
2. Data Sources:
3. Background: Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and

Z:\76 Tully Road\fig 1-1 regional location.mxd Revised: 2024-09-10 By: KAEJOHNSON

Disclaimer: This document has been prepared based on information provided by others as cited in the Notes section. Stantec has not verified the accuracy and/or completeness of this information and shall not be responsible for any errors or omissions which may be incorporated herein as a result. Stantec assumes no responsibility for data supplied in electronic format, and the recipient accepts full responsibility for verifying the accuracy and completeness of the data.

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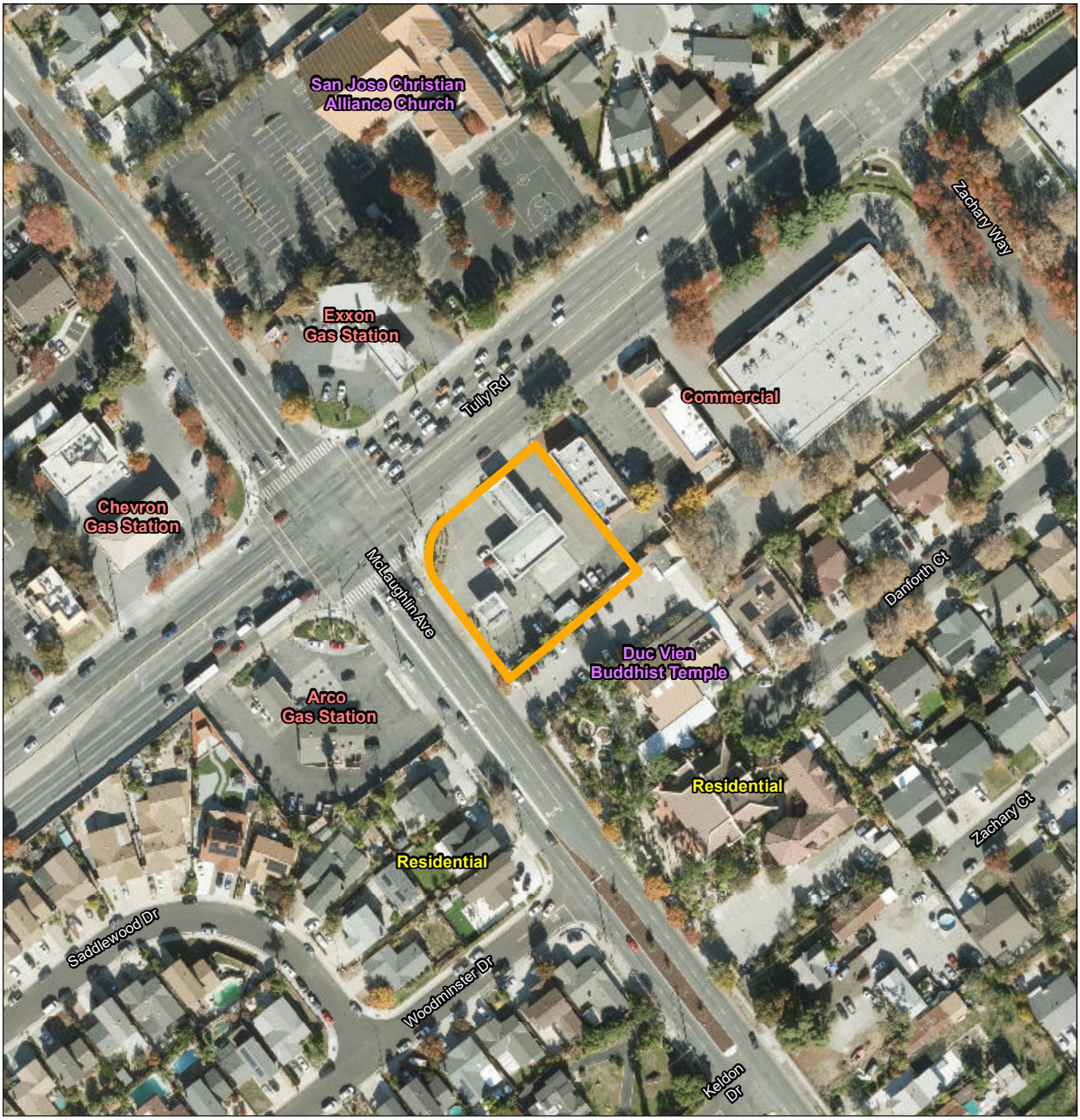

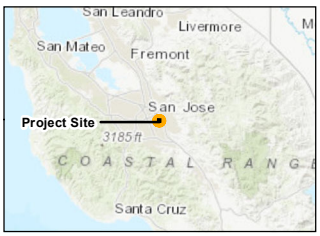

Legend

- Project Site
- City Boundary

0 50 100 Feet
(At original document size of 8.5x11)
1:1,900

N

Notes

1. Coordinate System: NAD 1983 StatePlane California III FIPS 0403 Feet
2. Data Sources:
3. Background: Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and

Stantec

Project Location
San Jose, California

Client/Project
City of San Jose
Tully 76 Service Project
ISMND

Figure No.
1-2

Title
Project Site Location

Z:\76 Tully Road\fig 1-2 project site location.mxd Revised: 2024-09-10 By: KAEJOHNSON

Disclaimer: This document has been prepared based on information provided by others as cited in the Notes section. Stantec has not verified the accuracy and/or completeness of this information and shall not be responsible for any errors or omissions which may be incorporated herein as a result. Stantec assumes no responsibility for data supplied in electronic format, and the recipient accepts full responsibility for verifying the accuracy and completeness of the data.

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1.7 GENERAL PLAN LAND USE DESIGNATION AND ZONING

1.7.1 General Plan Land Use Designation

The project site is designated Neighborhood/Community Commercial in the Envision San José 2040 General Plan (General Plan) land use and transportation diagram. The purpose of the Neighborhood/Community Commercial land use designation is to support a broad range of commercial uses that serve the communities in neighboring areas, such as neighborhood serving retail services and commercial/professional office development.

1.7.2 Zoning

The project site is located in the CP Zoning District. The CP Zoning District is intended to support pedestrian-oriented retail activity at a scale compatible with surrounding residential neighborhoods. The type of development supported by this district includes neighborhood centers, multi-tenant commercial development along city connector and main streets, and small corner commercial establishments that provide an enhanced pedestrian environment. Fuel service stations with no incidental service or repair are conditionally allowed in the CP Zoning District. However, the CP Zoning District does not permit fuel service stations with incidental service or repair uses or car wash facilities.

While the project site currently operates as a fuel station with incidental service and repair uses, this is considered a non-conforming use in the CP Zoning District. The proposed project would be required to rezone the project site to the CN Zoning District. The CN Zoning District conditionally allows the operation of fuel stations with incidental service or repair uses and car wash facilities. Additionally, the proposed convenience store would include the sale of alcohol, which would require approval of a CUP.

1.8 CEQA AND PUBLIC AGENCY REVIEW

CEQA requires that project proponents disclose the significant impacts to the environment from proposed development projects. The intent of CEQA is to foster good planning and to consider environmental issues during the planning process. The City is the Lead Agency under CEQA for the preparation of this ISMND. The CEQA Guidelines (Section 21067) define the Lead Agency as: “the public agency which has the principal responsibility for carrying out or approving a project which may have a significant effect upon the environment.” Approval of the proposed project is considered a public agency discretionary action, and therefore the proposed project is subject to compliance with CEQA. The City has directed the preparation of an analysis to comply with CEQA.

Stantec Consulting Services Inc. (Stantec) has prepared this document at the direction of the City. The purpose of this document is to disclose the environmental consequences of implementing the proposed project to decision-makers and the public. The public, City residents, and other local and State resource agencies will be given the opportunity to review and comment on this document during a 30-day public-review period. Comments received during the review period will be considered by the City prior to certification of this ISMND and project approval.

The ISMND and supporting documents are available at the City of San José, Department of Planning, Building, and Code Enforcement, located at 200 East Santa Clara Street, Third Floor, San José, California 95113.

1.9 REQUIRED PERMITS AND APPROVALS

The City, as the Lead Agency, would use this ISMND to evaluate the potential environmental impacts of the proposed project. Anticipated approvals and actions may include but are not limited to the following:

- Adoption of ISMND: City of San José
- CUP approval: City of San José
- Rezone project site: City of San José
- Design Review: City of San José
- UST Removal Permit: SCCDEH

Other ministerial approvals such as building-related permits and encroachment permits are also anticipated. Additionally, all work would be subject to the City of San José Municipal Code including the zoning code, building code, and fire code.

1.10 SCOPE OF THIS INITIAL STUDY

As the Lead Agency under CEQA, the City is responsible for compliance with the environmental review process prescribed by the CEQA Guidelines. This ISMND focuses on the environmental issues identified as potentially significant in the CEQA checklist and by the CEQA Guidelines. This ISMND evaluates the potentially significant effects on the environment and identifies measures to mitigate the effects to a point where clearly no significant effect on the environment would occur.

1.11 DOCUMENT ORGANIZATION

This ISMND is organized as follows:

Section 1.0: Introduction. This section introduces the proposed project and describes the purpose and organization of this document.

Section 2.0: Project Description. This section provides a detailed description of the proposed project components.

Section 3.0: Environmental Checklist and Environmental Evaluation. This section presents an analysis of the range of environmental issues identified in the CEQA Environmental Checklist and determines for each topic whether the proposed project would result in no impact, a less than significant impact, a less than significant impact with mitigation incorporated, or a potentially significant impact. If impacts are determined to be potentially significant after incorporation of applicable mitigation measures, an Environmental Impact Report (EIR) would be required. For this project, however, mitigation measures and City Standard Permit Conditions have been incorporated, where needed, that would reduce all potentially significant impacts to a less than significant level.



Section 4.0: References. This section lists the references used in preparing this ISMND.

Section 5.0: List of Preparers. This section identifies the report preparers.

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2.0 PROJECT DESCRIPTION

2.1 PROJECT OVERVIEW

The Applicant would redevelop an existing 76 gas station located at 1152 Tully Road in the City of San José. The 0.66-acre project site currently consists of two fuel canopies totaling approximately 1,864 square feet and a convenience store with a service bay of approximately 1,631 square feet. The project is proposing to demolish the existing structures and develop a new gas station that consists of a 3,007 square foot fuel canopy and a 2,626 square foot convenience store with a 1,224 square foot service bay, a 1,176 square foot drive-through car wash tunnel, and a 221 square foot car wash equipment room (Figure 2-1). The proposed project would remove the existing onsite fuel system consisting of two 10,000-gallon USTs, one 500-gallon oil UST, and associated underground piping. The fuel canopy would be served by a new fuel system with two 20,000-gallon USTs and associated underground piping. Tank removal would be conducted in accordance with the requirements of and under the oversight of SCCDEH.

Additionally, the proposed project would include new surface parking; site lighting; landscaping; self-service air, water, and vacuum equipment; on and offsite utility connections; driveway improvements; and a new bus shelter and concrete pad on Tully Road. The proposed project would be required to rezone the site to the CN Zoning District, which conditionally allows the operation of a gas station with a service bay and car wash. The proposed project would also require approval of a CUP to sell alcohol for offsite consumption. The proposed components are further detailed in the following sections.

2.2 PROJECT CHARACTERISTICS

2.2.1 Fuel Canopy

The existing gas station currently operates with two fuel canopies totaling approximately 1,864 square feet, six fuel dispensers, two 10,000-gallon USTs, one 500-gallon oil UST, and associated underground piping. The Applicant would remove the existing structures and fuel systems to construct a new fuel canopy at the northern end of the site. The fuel canopy would be approximately 3,007 square feet with a maximum height of 16 feet 6 inches. The fuel canopy would contain four fuel dispensers, providing eight spaces for the simultaneous fueling of SUVs, full sized pick-up trucks, and passenger vehicles at the site. The fuel canopy would be served by a new underground fueling system that contains two 20,000-gallon USTs. The proposed gas pumps are required to include vapor-recovery systems. Additionally, the gas station would provide a self-service air and water station, a self-service vacuum station, and a 500-gallon propane tank with dispenser. Trucks would deliver fuel to the project site up to seven times per week.

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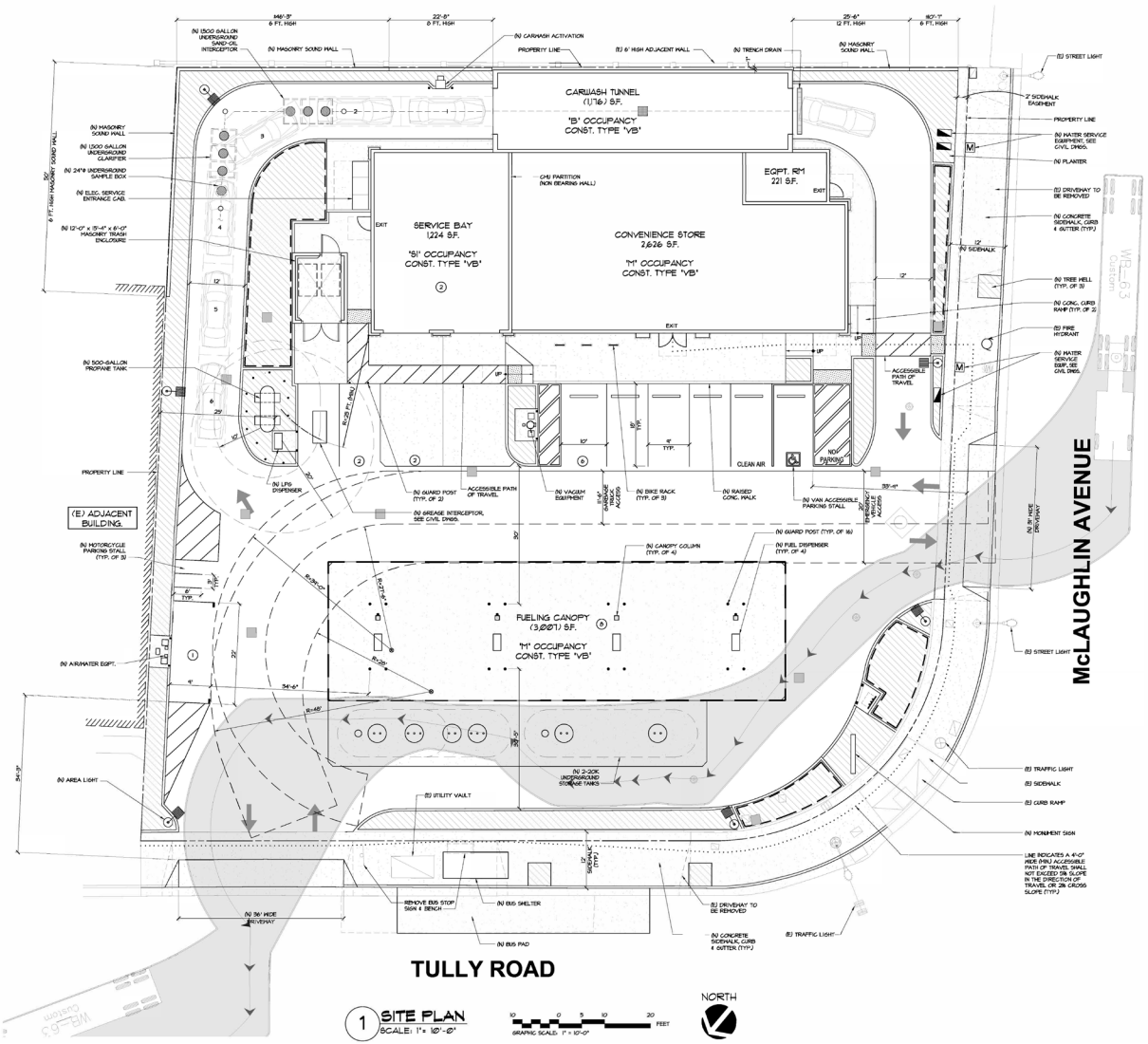

Source: MI Architects, February 2021

Project Location
San José, California

Client/Project
City of San José
Tully 76 Service Project
ISMND

Figure No.
2-1

Title
Project Site Plan

Stantec

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2.2.2 Convenience Store

The project site is currently developed with a convenience store and service bay building totaling approximately 1,631 square feet. The proposed project would demolish the existing building and construct a new convenience store in the center of the site that connects to the service bay, drive-through car wash tunnel, and car wash equipment room.

The convenience store building would be approximately 2,626 square feet with a maximum height of 23 feet 6 inches. The convenience store would include a register area for the cashier, public restrooms, and space for general merchandise such as pre-packaged food and beverage items and automobile accessories (e.g., air fresheners, cell phone accessories, anti-freeze, motor oil, etc.). There would be no cooking or preparing of food or beverages onsite. The convenience store would sell alcohol for offsite consumption, which requires approval of a CUP.

It is anticipated the gas station and convenience store would require up to three full-time employees and up to three part-time employees. It is anticipated the employees would already reside in or near San José. The gas station and convenience store would have three shifts daily, with each shift having one employee. The gas station and convenience store would be open daily and operate 24 hours a day. Alcohol would be available to purchase at the convenience store daily from 6:00 a.m. to 2:00 a.m. Trucks would deliver food and beverage items to the convenience store once per week.

2.2.3 Service Bay

The proposed project would construct an open service bay of approximately 1,224 square feet. The service bay would have a maximum height of 20 feet and connect to the eastern side of the convenience store. The service bay would include two spaces for parking vehicles. As with current operations, the service bay would provide basic vehicle repair and maintenance services and smog checks.

It is anticipated the service bay would require up to two mechanics. The service bay would operate daily from 8:00 a.m. to 6:00 p.m.

2.2.4 Car Wash

The proposed project would construct a self-service, drive-through car wash tunnel of approximately 1,176 square feet with an equipment room of approximately 221 square feet. The car wash tunnel and equipment room would have a maximum height of 16 feet and connect to the southern side of the convenience store.

The car wash would operate as an automatic drive-through with washing and drying. There would not be an area for any detailing; however, the project site would include a parking space equipped with a self-service vacuum station. The car wash would utilize a recycled water system consisting of a 1,500-gallon underground clarifier tank and a 1,500-gallon underground sand/oil interceptor. The car wash would operate daily from 7:00 a.m. to 10:00 p.m.

2.2.5 Access, Circulation, and Parking

The project site is currently accessed via two driveways on Tully Road and via two driveways on McLaughlin Avenue. The Applicant would remove all existing driveways and construct one 36-foot-wide driveway on Tully Road and one 32-foot-wide driveway on McLaughlin Avenue. The driveways would connect to a two-way, 20-foot-wide drive aisle to provide access to the fuel canopy, car wash, convenience store, and surface parking spaces. Vehicles would enter and/or exit the site from either Tully Road or McLaughlin Avenue. Fuel delivery trucks and emergency vehicles would enter the site from McLaughlin Avenue and exit the site on Tully Road.

The proposed project would provide 21 surface parking spaces consisting of six standard parking spaces, eight fuel canopy parking spaces, one van accessible parking space, one parking space for the self-service air and water station, one parking space for the self-service vacuum station, two service bay parking spaces, and two service bay driveway spaces. In addition, there would be three motorcycle parking spaces.

2.2.6 Landscaping

The Applicant would plant approximately 3,577 square feet of landscaping along the site perimeter (Figure 2-2). The landscape plantings would consist of drought tolerant plants and include 23 trees. No trees are proposed for removal or would be directly impacted by the proposed project.

2.2.7 Lighting and Signage

Exterior lighting for the convenience store, fuel canopy, and site perimeter would be provided. The site perimeter lighting would consist of steel light poles up to 20 feet in height. The exterior lighting for the convenience store and fuel canopy would be mounted to the structures. All exterior lighting would be equipped with light emitting diode (LED) fixtures, directed downward, and fully shielded to avoid potential glare toward the street or adjacent properties. Additionally, the proposed project would include a lighted monument sign, which would adhere to the maximum height regulations set under the City's Sign Ordinance in Chapter 23.04 of the San José Municipal Code.

2.2.8 Offsite Frontage Improvements

The proposed project would include approximately 3,920 square feet (0.1-acre) of offsite improvements. The offsite improvements would include the new driveways, sidewalks, curb and gutters, and street tree wells. The Applicant would also construct a new bus shelter and concrete bus pad on Tully Road. The new bus shelter would serve the existing Santa Clara Valley Transportation Authority (VTA) bus stop on Tully Road. Additionally, the proposed project would enhance the existing crosswalk at the east leg of the Tully Road and McLaughlin Avenue intersection with high visibility striping and green pavement enhancements.

2.2.9 Utilities

The proposed project would include utility connections in accordance with the requirements of the applicable utility providers for water, wastewater, and stormwater drainage. These utilities would connect to existing infrastructure in the vicinity of the site (Figure 2-3).

Water Supply

The Applicant would construct a new 2-inch water meter and 2-inch water line to convey fresh water to the car wash facility and convenience store. The new 2-inch water meter and 2-inch water line would connect to the existing 17-inch water line within McLaughlin Avenue.

It is anticipated the convenience store would use an average of 500 gallons of fresh water per day (gpd). The car wash facility would use an average of 950 gpd of fresh water and an average of 3,950 gpd of recycled water.

Wastewater

The proposed project would utilize a water reclamation system consisting of one underground 1,500-gallon wastewater clarifier tank and one underground 1,500-gallon sand/oil separator. The water reclamation system would be designed to minimize the amount of fresh water used for each wash and to treat all wastewater before disposal to the existing sanitary sewer system.

The proposed project would construct 4-inch and 6-inch sewer lines to convey wastewater from the car wash tunnel and convenience store. The proposed sewer lines would direct wastewater to the existing 15-inch sewer main along McLaughlin Avenue. It is estimated the proposed project would discharge an average of 950 gpd of wastewater into the sanitary sewer system.

Stormwater

The proposed project would be served by the City's stormwater system. The proposed project would result in 25,739 square feet of onsite impervious area and 3,879 square feet of offsite impervious area. Additionally, the proposed project would result in 2,880 square feet of onsite pervious area and 75 square feet of offsite pervious area.

Stormwater runoff from the impervious areas would be directed to four bioretention areas totaling approximately 1,026 square feet. The bioretention basins would be designed with an underdrain and overflow to convey stormwater from the impervious areas after being treated. From the overflow structure, the stormwater would be conveyed via a new 15-inch storm drain line that connects to an existing 54-inch storm drain within Tully Road (Figure 2-4).

Electricity and Gas

Pacific Gas and Electric Company (PG&E) provides electricity to the project site. The proposed project would be served by the existing electrical facilities. The proposed fuel canopy would be solar ready.

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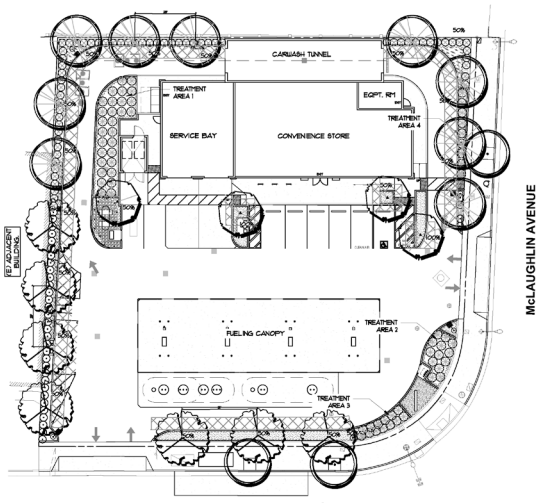


1 LANDSCAPE PLAN
1" = 20'-0"

GRAPHIC SCALE: 1" = 10'-0"

Maximum Applied Water Allowance

ETo	x .45 x	Eff'g Irr	Gal./SF	MAWA
43	0.45	1.000	0.62	36,125

Estimated Total Water Use

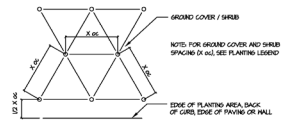
Plant Water Use	(ETo)(.062)	x	(PF x HA) / IE	ETWU
Low	28.086		1,087	30,541
Medium	28.086		95	2,668
High	28.086		0	0
			Total	33,209

Proposed Landscape Water Use

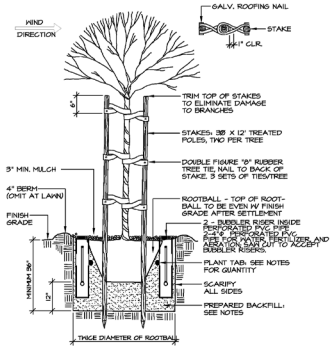
Plant Type	H2o Use	Eff'g SF	Gallons
Low	0.30	2,486	95.8%
Medium	0.60	126	4.2%
High	0.90	0	0.0%
Totals		3,064	100%

Shade Calculations

Botanical Name	Quantity @ Full Shade / Sq. Ft.	Quantity @ 1/2 Shade / Sq. Ft.	Total (Sq. Ft.)
Lagerstroemia	2 @ 314	2 @ 157	942
Tilia		9 @ 354	3,186
Pistacia		7 @ 354	2,478
		Total Surface Area=	12,932
		50% SHADE AREA REQUIRED=	6,466
		SHADE BY TREES=	6,606
		TOTAL SHADE AREA PROVIDED=	6,606
		PERCENT SHADE=	51.1%



PLANTING INSTALATION AND LAYOUT



TREE PLANTING AND STAKING

Structural Soil

Area designated for Structural Soil.

LICENSED LANDSCAPE ARCHITECT
JAMES CIARDELLA
No. 5196
7-29-23
STATE OF CALIFORNIA

Ciardella Associates
Landscape Architecture
Urban Design
200 Clock Tower Place
Suite D100-A
Carmel, CA 93923
Tel: 831 624 6100
Fax: 800 326 6100
ca@ciardella-assoc.com

PLANTING LEGEND

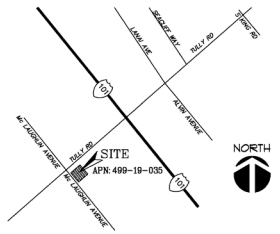
Symbol	BOTANICAL NAME	COMMON NAME	H2O	SIZE
	Tree			
	Lagerstroemia indica 'Muskogee' Muskogee Grape Myrtle		L	15 Gallon
	Tilia tomentosa	Silver Linden	L	15 Gallon
	Pistacia chinensis	Chinese Pistache	L	15 Gallon
	Street Tree selection per City requirement			24" Box
	Shrubs and Vines			
①	Myrica californica	Pacific Wax Myrtle	L	5 Gallon
②	Dodonea viscosa 'Purpurea'	Purple Hopseed Bush	L	5 Gallon
③	Chondropetalum elephantinum	Large Cape Rush	L	5 Gallon
	Ground Cover			
ROS	Rosmarinus officinalis 'Huntingt Carpet'	Rosemary	L	1 Gallon @ 30" oc
MYO	Hypoporum parvifolium	Hypoporum	L	1 Gallon @ 30" oc
FLR	Tagetes erecta 'Moonstruck'	Moonstruck Marigold	M	4" Pots @ 14" oc
GRA	Natural Grey Gravel depth 3" with weed barrier			

FLR | ROS | MYO | GRA

PLANTING NOTES

1. All trees are to be staked as shown in the staking diagram per city requirement.
2. Plant locations are to be adjusted as necessary to screen utilities but not block windows or impede access.
3. All ground cover and shrub areas shall be top-dressed with a 3" layer of bark mulch. Provide non-floatable mulch in the bioretention areas.
4. All ground cover planting will be placed no farther than 6" from edge of pavement, edge of header or back of curb. Spacing shall ensure full coverage in one year.
5. There shall be no storing of material or equipment, permitting of any burning or operating or parking of equipment under branches of any existing plants to remain. If existing plants to remain are damaged during construction, the plants shall be replaced with the same species an size as those damaged.
6. All plant material shall be nursery grown stock. All plant materials shall be tagged at the nursery at least 1 month prior to planting for the Landscape Architects review.
7. Review layout of all landscape elements with the Landscape Architect prior to installation. Field modifications may be necessary. Final layout to be reviewed by the Landscape Architect.
8. Written dimensions supersede scaled dimension. Measurements are from the wall face, back of curb, edge of walk, building wall, property line or center line as graphically indicated.
9. All layout corners are at 90 degrees right angles unless otherwise indicated. All curves shown are segments of circles with noted radii or diameter if noted. Circles can be scaled and be connected by freeform curves.
10. HERBICIDE APPLICATION. Herbicide shall not be used until all plant material has been planted a minimum of 20-days. All planting areas shall be kept weed-free by non-herbicide methods during this time period. Herbicide shall not be applied to any areas which are or have been seeded. Contractor must be licensed by the State and County for fertilizer application, and must have current registration on file with the County.
11. Landscaping shall be maintained in a manner to prevent landscaping from growing above 3' in height in the areas indicated in the plans as being located within a safety visibility triangle area.
12. CERTIFICATION. Prior to occupancy, the Landscape Architect shall certify in writing in a manner acceptable to the Building Inspection Division, that the landscaping has been installed in accordance with all aspects of the approved landscape plans.
13. A minimum of 6" of non-mechanically compacted soil shall be available for water absorption and root growth in planted areas.
14. Incorporate compost or natural fertilizer into the soil to a minimum depth of 6" at a minimum rate of 6 cubic yards per 1000 square feet.
15. All Plantings shall be automatically irrigated utilizing state of the art system, components and installation techniques.
16. All planting and irrigation shall comply with the city of San Jose Water Efficient Landscape Requirements for larger landscapes.
17. All details shall comply with city standard details.

VICINITY MAP



Source: MI Architects, February 2021

Project Location
San José, California

Client/Project
City of San José
Tully 76 Service Project
ISMND

Figure No.
2-2

Title
Landscaping Plan

Stantec

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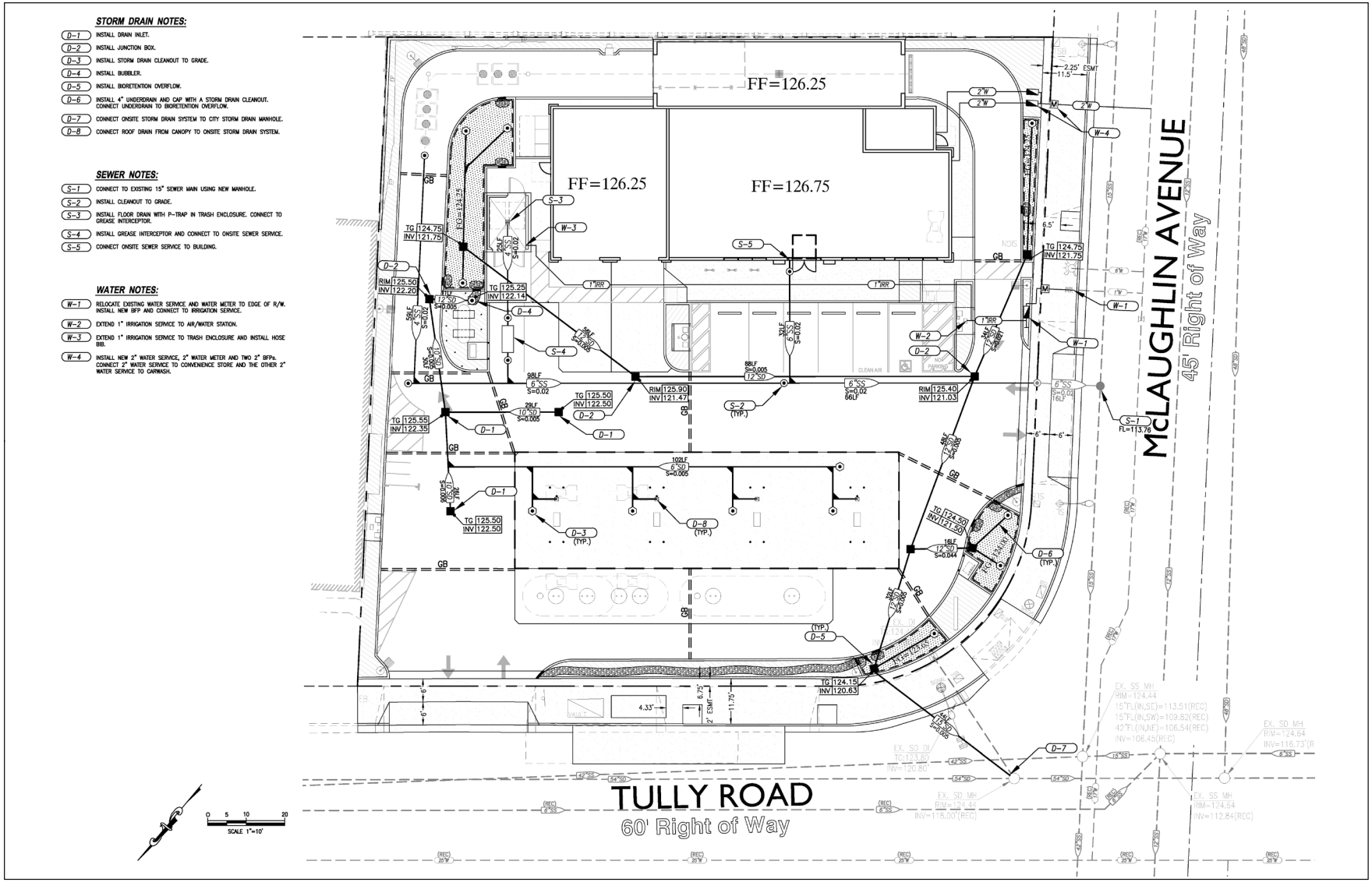

Source: Stukam Consulting Engineers, Inc., Janaury 2024

Project Location
San José, California

Client/Project
City of San José
Tully 76 Service Project
ISMND

Figure No.
2-3

Title
Utility Plan

Stantec

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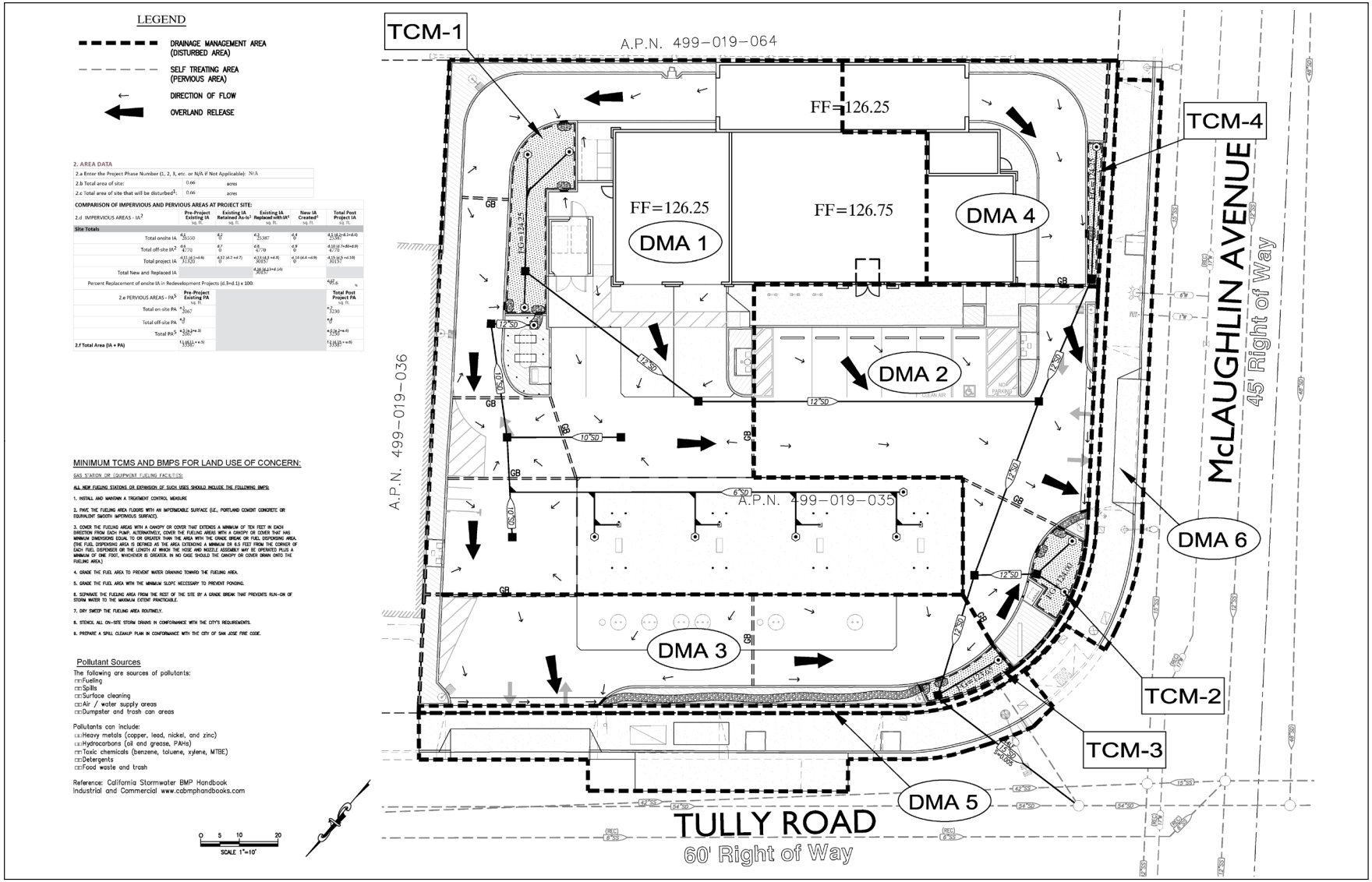

2. AREA DATA

2.a Enter the Project Phase Number (1, 2, 3, etc. or N/A if Not Applicable):	N/A	
2.b Total area of site:	0.66	acres
2.c Total area of site that will be disturbed[1]:	0.66	acres

COMPARISON OF IMPERVIOUS AND PERVIOUS AREAS AT PROJECT SITE:

2.d IMPERVIOUS AREAS - IA[2]	Pre-Project Existing IA sq. ft.	Existing IA Retained As-Is[3] sq. ft.	Existing IA Replaced-with-IA[4] sq. ft.	New IA Created[5] sq. ft.	Total Post Project IA sq. ft.
Site Totals					
Total onsite IA	4,8 28550	4,7 57	4,8 25,987	4,8 0	4,8 (28,550-3+0+0) 25,987
Total off-site IA[2]	4,8 4,770	4,7 0	4,8 0 4,770	4,8 0	4,8 (0+0+4,770+0+0) 4,770
Total project IA	4,8 (28,550+4,770) 33,320	4,7 (57+0+0) 0	4,8 (25,987+4,770) 30,757	4,8 (0+0+0+0) 0	4,8 (25,987+4,770) 30,757
Total New and Replaced IA			4,8 (30,757+0+0+0) 30,757		
Percent Replacement of onsite IA in Redevelopment Projects ((2.3+d.1) x 100:					4,8 92.6 %

2.e PERVIOUS AREAS - PA[2]	Pre-Project Existing PA sq. ft.	Total Post Project PA sq. ft.
Total on-site PA	4,7 23057	4,7 3230
Total off-site PA	4,7 0	4,7 0
Total PA[2]	4,7 (23057+0+0) 23057	4,7 (3230+0+0+0) 3230
2.f Total Area (IA + PA)	1,4 (33,320+23,057+0+0) 33320	1,4 (30,757+3230+0+0) 33987

MINIMUM TCMS AND BMPS FOR LAND USE OF CONCERN:

GAS STATION OR EQUIPMENT FUELING FACILITIES:

ALL NEW FUELING STATIONS OR EXPANSION OF SUCH USES SHOULD INCLUDE THE FOLLOWING BMPS:

1. INSTALL AND MAINTAIN A TREATMENT CONTROL MEASURE
2. PAVE THE FUELING AREA FLOORS WITH AN IMPERMEABLE SURFACE (I.E., PORTLAND CEMENT CONCRETE OR EQUIVALENT SMOOTH IMPERVIOUS SURFACE).
3. COVER THE FUELING AREAS WITH A CANOPY OR COVER THAT EXTENDS A MINIMUM OF TEN FEET IN EACH DIRECTION FROM EACH PUMP. ALTERNATIVELY, COVER THE FUELING AREAS WITH A CANOPY OR COVER THAT HAS MINIMUM DIMENSIONS EQUAL TO OR GREATER THAN THE AREA WITH THE GRADE BREAK OR FUEL DISPENSING AREA. (THE FUEL DISPENSING AREA IS DEFINED AS THE AREA EXTENDING A MINIMUM OF 6.5 FEET FROM THE CORNER OF EACH FUEL DISPENSER OR THE LENGTH AT WHICH THE HOSE AND NOZZLE ASSEMBLY MAY BE OPERATED PLUS A MINIMUM OF ONE FOOT, WHICHEVER IS GREATER. IN NO CASE SHOULD THE CANOPY OR COVER DRAIN ONTO THE FUELING AREA.)
4. GRADE THE FUEL AREA TO PREVENT WATER DRAINING TOWARD THE FUELING AREA.
5. GRADE THE FUEL AREA WITH THE MINIMUM SLOPE NECESSARY TO PREVENT PONDING.
6. SEPARATE THE FUELING AREA FROM THE REST OF THE SITE BY A GRADE BREAK THAT PREVENTS RUN-ON OF STORM WATER TO THE MAXIMUM EXTENT PRACTICABLE.
7. DRY SWEEP THE FUELING AREA ROUTINELY.
8. STENCIL ALL ON-SITE STORM DRAINS IN CONFORMANCE WITH THE CITY'S REQUIREMENTS.
9. PREPARE A SPILL CLEANUP PLAN IN CONFORMANCE WITH THE CITY OF SAN JOSE FIRE CODE.

Pollutant Sources

The following are sources of pollutants:
- ☐ Fueling
- ☐ Spills
- ☐ Surface cleaning
- ☐ Air / water supply areas
- ☐ Dumpster and trash can areas

Pollutants can include:
- ☐ Heavy metals (copper, lead, nickel, and zinc)
- ☐ Hydrocarbons (oil and grease, PAHs)
- ☐ Toxic chemicals (benzene, toluene, xylene, MTBE)
- ☐ Detergents
- ☐ Food waste and trash

Reference: California Stormwater BMP Handbook Industrial and Commercial www.cabmphandbooks.com

Source: Stukam Consulting Engineers, Inc., Janaury 2024

Project Location
San José, California

Client/Project
City of San José
Tully 76 Service Project
ISMND

Figure No.
2-4

Title
Stormwater Management Plan

Stantec

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2.3 PROJECT CONSTRUCTION

2.3.1 Construction Schedule

Project construction is anticipated to occur over an 18-month period. It is anticipated that up to 15 workers would be required during peak construction activities. The project construction activities would comply with the requirements of the San José Municipal Code and would occur Monday through Friday, between 7:00 a.m. and 7:00 p.m.

2.3.2 Construction Access, Staging Areas, and Equipment

Construction crews would access the project site from Tully Road and McLaughlin Avenue. All construction equipment and materials would be stored onsite, and the property would be temporarily fenced. The construction equipment would be typical for the development of a gas station including, but not be limited to, dump trucks, loaders, excavators, backhoes, forklifts, asphalt hauling trucks, and pavers.

The project construction activities would primarily occur within the 0.66-acre project site. However, construction activities may temporarily extend to the centerlines of Tully Road and McLaughlin Avenue to connect utilities and to construct the concrete bus pad. Any construction traffic, lane closures, or street staging would require an approved traffic control plan (TCP) and an encroachment permit from the City.

2.3.3 Construction Activities

Construction activities would include demolition, site preparation, excavation, building construction, utility connections, paving, and landscaping. The proposed project would disturb the entire 0.66-acre site and include approximately 3,920 square feet (0.1-acre) for offsite improvements (e.g., bus shelter and concrete pad, new driveways, sidewalk, curb and gutter, and street tree wells).

It is estimated the total amount of earth movement for the proposed project would require approximately 650 cubic yards (CY) of cut and approximately 115 CY of fill. The maximum depth of excavation is anticipated to be approximately 19 feet below ground surface (bgs) to remove and install the USTs.

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3.0 ENVIRONMENTAL CHECKLIST AND ENVIRONMENTAL EVALUATION

The environmental factors checked below would be potentially affected by this proposed project, involving at least one impact that would require mitigation to reduce the impact from "Potentially Significant" to "Less than Significant" as indicated by the checklist on the following pages.

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

Evaluation of Environmental Impacts

This section presents the environmental checklist form found in Appendix G of the CEQA Guidelines. The checklist form is used to describe the impacts of the proposed project. A discussion follows each environmental issue identified in the checklist. Included in each discussion are project-specific mitigation measures, if needed.

For the checklist, the following designations are used:

Potentially Significant Impact: An impact that could be significant and for which mitigation has not been identified. If any potentially significant impacts are identified, an EIR must be prepared. An ISMND cannot be used if there are potentially significant impacts that cannot be mitigated.

Less Than Significant with Mitigation Incorporated: This designation applies when the incorporation of project-specific mitigation measures has reduced an effect from a "Potentially Significant Impact" to a "Less Than Significant Impact."

Less Than Significant Impact: Any impact that would not be considered significant under CEQA, relative to existing standards.

No Impact: The proposed project would not have any impact.

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3.1 AESTHETICS

AESTHETICS Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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 a 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 day or nighttime views in the area?	☐	☐	☒	☐

3.1.1 Environmental Setting

The project site is located in a highly urbanized area and is currently developed as an active 76 gas station. The gas station consists of two fuel canopies totaling approximately 1,864 square feet and a convenience store with service bay totaling approximately 1,631 square feet. The fuel canopies provide six dispensers that are served by two 10,000-gallon USTs, one 500-gallon oil UST, and associated underground piping.

The existing gas station is one of four gas stations located at the intersection of Tully Road and McLaughlin Avenue. Other land uses surrounding the project site include the San José Christian Alliance Church and residential development to the north, commercial development to the east and west, and residential development and the Đức Viên Buddhist Temple to the south and southeast.

3.1.2 Regulatory Setting

Federal

There are no federal regulations related to aesthetics that are relevant to the proposed project.

State

Scenic Highways Program

The 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. The nearest eligible state scenic highway is Interstate 280 (I-280), which is located more than 5 miles west of the project site (Caltrans 2024).

Local

Envision San José 2040 General Plan

The City's General Plan includes the following goals and policies related to aesthetics that are applicable to the proposed project:

- **Goal CD-1: Attractive City.** Create a well-designed, unique, and vibrant public realm with appropriate uses and facilities to maximize pedestrian activity; support community interaction; and attract residents, business, and visitors to San José.
    - **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-1.23:** 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.
- **Goal CD-4: Compatibility.** Provide aesthetically pleasing streetscapes and new development that preserves and builds on the unique characteristics of the local area and contributes to a distinctive neighborhood or community identity.
    - **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).
- **Goal CD-8: Building Height.** Regulate the height of new development to avoid adverse land use incompatibility while providing maximum opportunity for the achievement of the Envision General Plan goals for economic development and the provision of new housing within the identified Growth Areas.
    - **Policy CD-8.1:** Ensure new development is consistent with specific height limits established within the City's Zoning Ordinance and applied through the zoning designation for properties throughout the City. Land use designations in the Land Use/ Transportation Diagram provide an indication of the typical number of stories.

Lighting: Public Streetlights (City Council Policy 4-2)

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

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

City Council Policy 4-3 promotes energy efficient outdoor lighting on private development to provide adequate light for nighttime activities while benefiting the continued enjoyment of the night sky and continuing operation of the Lick Observatory by reducing light pollution and sky glow. The policy calls for private development to use energy-efficient outdoor lighting that is fully shielded and not directed skyward. Low-pressure sodium lighting is required unless a photometric study is done, and the proposed lighting is referred to Lick Observatory for review and comment.

3.1.3 Environmental Impact Analysis

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

The City's General Plan states that San José contains many scenic resources which include the broad sweep of the Santa Clara Valley, the hills and mountains which frame the Valley floor, the baylands, and the urban skyline itself, particularly high-rise development (City of San José 2011). The project site is located in an urbanized area and developed as an active 76 gas station. No scenic vistas are visible from the project site due to obstruction by the surrounding urban development.

The proposed project would demolish the existing structures and construct a new gas station with a fuel canopy of approximately 3,007 square feet with a maximum height of 16 feet 6 inches, a convenience store building of approximately 2,626 square feet with a maximum height of 23 feet 6 inches, and a car wash tunnel and equipment room with a maximum height of 16 feet. The proposed structures would be consistent with the site's existing visual character, as well as the maximum height requirement of 50 feet for the CN Zoning District. The height of the proposed structures would also appear similar to the other three gas stations located at the corner of Tully Road and McLaughlin Avenue, and lower than the height of the two-story residential buildings located south and southeast of the site. Therefore, the proposed project would not have a substantial adverse effect on a scenic vista and there would be no impact. ***(No Impact)***

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

The project site is developed as an active 76 gas station and does not contain vegetation, rock outcroppings, or historic buildings that are identified as scenic resources by the General Plan. The nearest eligible state scenic highway is I-280, which is located more than 5 miles west of the project

site (Caltrans 2024). Therefore, the proposed project would not substantially damage scenic resources within a state scenic highway and there would be no impact. ***(No Impact)***

c) In non-urbanized areas, would the project substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from a 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?

The existing gas station is one of four gas stations located at the intersection of Tully Road and McLaughlin Avenue in a highly urbanized area. Other land uses surrounding the project site include the San José Christian Alliance Church and residential development to the north, commercial development to the east and west, and residential development and the Đức Viên Buddhist Temple to the south and southeast.

The project site is currently zoned CP and would need to be rezoned to CN as the current zoning district does not permit fuel service stations with incidental service or repair uses or car wash facilities. The CN Zoning District conditionally allows the operation of a gas station with a service bay and car wash. Additionally, the proposed convenience store would include the sale of alcohol, which would require approval of a CUP.

The proposed project would demolish the existing structures and construct a new fuel canopy of approximately 3,007 square feet with a maximum height of 16 feet 6 inches, a convenience store building of approximately 2,626 square feet with a maximum height of 23 feet 6 inches, and a car wash tunnel and equipment room with a maximum height of 16 feet. The proposed structures would be consistent with the site's existing visual character, as well as the maximum height requirement of 50 feet for the CN Zoning District. Additionally, the design would be subject to the City's design review process and reviewed for consistency with the City's Commercial Design Guidelines and implementation of General Plan policies CD-1.1 and CD-1.23, which ensure the design is compatible with surrounding development. As such, the proposed project would not conflict with applicable zoning or other regulations governing scenic quality, and impacts would be less than significant. ***(Less Than Significant Impact)***

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

Existing onsite sources of light and glare include exterior lighting for the fuel canopies and convenience store, and lighting along the site perimeter. Due to the use of the site as a gas station, lighting is used 24 hours a day. Other existing sources of light and glare are generated by building windows, streetlighting, traffic lights, exterior building lighting, vehicular headlights, and parking lot lights.

The Applicant would redevelop the site with a new fuel canopy, convenience store, service bay, and car wash. As with the existing conditions, the proposed project would operate 24 hours a day. Lighting would include exterior lighting for the convenience store, fuel canopy, and along the site

perimeter. The site perimeter lighting would consist of steel light poles up to 20 feet in height. The exterior lighting for the convenience store and fuel canopy would be mounted to the structures. The car wash facility would not include any oscillating or flashing lights.

All exterior lighting would be equipped with LED fixtures, directed downward, and fully shielded to avoid potential glare toward the streets or adjacent properties in accordance with Chapter 20.40.530 of the San José Municipal Code. Additionally, all lighting would be designed to provide even light distribution for vehicle safety and to meet energy conservation needs as required by the City's green building standards and policies, as well as San José City Council Policies 4-2 and 4-3 which calls for private development to use energy-efficient outdoor lighting that is fully shielded and not directed skyward. The proposed project would also construct a new lighted monument sign, which would appear similar to the site's existing lighted monument sign and would adhere to the regulations set under the City's Sign Ordinance in Chapter 23.04 of the San José Municipal Code, including the maximum height requirements.

The proposed convenience store windows could generate glare from reflected sunlight during certain times of the day. However, the level of glare would be similar to that already experienced at the project site and from the surrounding urban development. The project design would also be subject to the City's design review process and would utilize exterior materials that do not result in daytime glare. Therefore, the proposed project would have a less than significant impact on day and nighttime views in the area. ***(Less Than Significant Impact)***

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3.2 AGRICULTURE AND FORESTRY RESOURCES

AGRICULTURE AND FORESTRY RESOURCES Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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?	☐	☐	☐	☒

3.2.1 Environmental Setting

The project site is located in a highly urbanized area and developed as an active 76 gas station with convenience store and service bay. The project site and surrounding area do not contain any lands designated as farmland, forest land, timberland, or Williamson Act contracted lands. According to the California Department of Conservation (DOC) Important Farmland Finder Map, the project site and surrounding area are classified as Urban and Built-Up Land (DOC 2024a).

3.2.2 Regulatory Setting

Federal

There are no federal regulations related to agriculture and forestry resources that are relevant to the proposed project.

State

There are no state regulations related to agriculture and forestry resources that are relevant to the proposed project.

Local

There are no local regulations or policies related to agriculture and forestry resources that are relevant to the proposed project.

3.2.3 Environmental Impact Analysis

a) Would the project 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?

According to the DOC Important Farmland Finder Map, the project site and surrounding area are classified as Urban and Built-Up Land (DOC 2024a). Due to the urbanized nature of the project site and the surrounding area, there are no lands that contain prime farmland, unique farmland, or farmland of statewide importance. Therefore, the proposed project would not convert any farmland to a non-agricultural use, and no impact would occur. ***(No Impact)***

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

The project site is developed as an active 76 gas station and does not contain any land zoned for agriculture or lands subject to a Williamson Act contract. The project site is currently zoned CP and would be rezoned to CN, which conditionally allows the operation of fuel stations with incidental service or repair uses and car wash facilities. The existing and proposed zoning do not allow agriculture uses. Therefore, the proposed project would not conflict with the zoning for agriculture use or with a Williamson Act contract and no impact would occur. ***(No Impact)***

c) Would the project 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))?

Under PRC Section 12220(g), “forest land” is land that can support 10 percent native tree cover of any species, including hardwoods, under natural conditions and that allows for management of one or more forest resources, including timber, aesthetics, fish and wildlife, biodiversity, water quality, recreation, and other public benefits. The project site is currently developed as an active 76 gas station and classified as Urban and Built-Up Land by the DOC Important Farmland Finder Map (DOC 2023). The site does not contain any forestry resources, timberland production zones, or active timberland uses, and does not meet the definition of “forest land” as defined by PRC Section 12220(g). Therefore, the proposed project would have no impact on forestland, timberland, or timberland zoned Timberland Production. ***(No Impact)***

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

The project site is developed as an active 76 gas station and does not contain any forest land resources. Therefore, the proposed project would not result in the loss of forest land or the conversion of forest land to non-forest uses and there would be no impact. ***(No Impact)***

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

The project site is located in a highly urbanized area and developed as an active 76 gas station. The project site does not contain prime farmland, unique farmland, or farmland of statewide importance, or lands subject to a Williamson Act contract. Furthermore, the project site is not zoned for forestland or timberland production and would not be rezoned for agricultural use. The project site would be redeveloped with similar commercial uses, and therefore would not involve changes in the existing environment that could result in the conversion of farmland to a non-agricultural uses or conversion of forest land to non-forest uses. No impact would occur. ***(No impact)***

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3.3 AIR QUALITY

AIR QUALITY Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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?	☐	☐	☒	☐

An Air Quality, Greenhouse Gas, and Energy Impact Assessment was completed for the proposed project in August 2024 by Stantec (Appendix A). The information contained in the Air Quality, Greenhouse Gas, and Energy Impact Assessment formed the basis of the information and analysis in this section.

3.3.1 Environmental Setting

The project site lies within the San Francisco Bay Area Air Basin (SFBAAB) which is under the jurisdiction of the Bay Area Air Quality Management District (Air District). The SFBAAB encompasses all of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, and Santa Clara counties, the southern portion of Sonoma, and the southwestern portion of Solano County. Air quality in this area is determined by natural factors including topography, meteorology, and climate, in addition to the presence of existing air pollution sources and ambient conditions.

Climate and Meteorology

Climate and meteorology are important considerations for air quality. Local dispersion and regional transport of air pollutants directly relate to prevailing meteorological factors. Wind directions and speeds, and vertical temperature structure (inversions) are the primary determinants of transport and dispersion effects.

The SFBAAB is characterized by complex terrain, consisting of coastal mountain ranges, inland valleys, and bays, which distort normal wind flow patterns. The Coast Range splits resulting in a western coast gap (Golden Gate) and an eastern coast gap (Carquinez Strait), which allows air to flow in and out of the SFBAAB and the Central Valley.

The climate is dominated by the strength and location of a semi-permanent, subtropical high-pressure cell. During the summer, the Pacific high-pressure cell is centered over the northeastern Pacific Ocean resulting in stable meteorological conditions and a steady northwesterly wind flow. This high-pressure cell keeps storms from affecting the California coast. Hence, the SFBAAB experiences little precipitation in

the summer months. Winds tend to blow on shore out of the north/northwest. Upwelling of cold ocean water from below to the surface because of the northwesterly flow produces a band of cold water off the California coast. The cool and moisture-laden air approaching the coast from the Pacific Ocean is further cooled by the presence of the cold water band resulting in condensation and the presence of fog and stratus clouds along the Northern California coast.

In the winter, the Pacific high-pressure cell weakens and shifts southward resulting in wind flow offshore, the absence of upwelling, and the occurrence of storms. Weak inversions coupled with moderate winds result in a low air pollution potential.

Criteria Air Pollutants

Criteria air pollutants include ozone (O_3), carbon monoxide (CO), nitrogen dioxide (NO_2), sulfur dioxide (SO_2), particulate matter (measured both in units of smaller than 2.5 microns in diameter [$PM_{2.5}$] and in units of particulate matter smaller than 10 microns in diameter [PM_{10}]), and lead (Pb).

Ozone. Most ground-level ozone is formed as a result of complex photochemical reactions in the atmosphere between reactive organic gases (ROG), nitrogen oxides (NOx), and oxygen. ROG and NOx are considered precursors to the formation of ozone, a highly reactive gas that can damage lung tissue and affect respiratory function. While ozone in the lower atmosphere is considered a damaging air pollutant, ozone in the upper atmosphere is beneficial, as it protects the Earth from harmful ultraviolet radiation. However, atmospheric processes preclude ground-level O_3 from reaching the upper atmosphere (USEPA 2024a).

Carbon Monoxide. CO is a colorless, odorless, poisonous gas produced by the incomplete combustion of fossil fuels. Elevated levels of CO can result in harmful health effects, especially for the young and elderly, and can also contribute to global climate change (USEPA 2024a).

Nitrogen Dioxide. NO_2 is a brownish, highly reactive gas primarily produced as a result of the burning of fossil fuels. NO_2 can also lead to the formation of O_3 in the lower atmosphere. NO_2 can cause respiratory ailments, especially in the young and elderly, and can lead to degradations in the health of aquatic and terrestrial ecosystems (USEPA 2024a).

Sulfur Dioxide. SO_2 is primarily emitted from the combustion of coal and oil by steel mills, pulp and paper mills, and non-ferrous smelters. High concentrations of SO_2 can aggravate existing respiratory and cardiovascular diseases in asthmatics and others who suffer from emphysema or bronchitis. SO_2 also contributes to acid rain, which in turn, can lead to the acidification of lakes and streams (USEPA 2024a).

Particulate Matter. Airborne PM is not a single pollutant, but rather is a mixture of many chemical species. PM is a complex mixture of solids and aerosols composed of small droplets of liquid, dry solid fragments, and solid cores with liquid coatings. Particles vary widely in size, shape, and chemical composition; and they may contain inorganic ions, metallic compounds, elemental carbon, organic compounds, and compounds from Earth's crust. Particles are defined by their diameter for air quality regulatory purposes. PM_{10} are inhalable into the lungs and can induce adverse health effects. Fine particulate matter is defined as $PM_{2.5}$ and is a portion of PM_{10}. Emissions from combustion of gasoline, oil,

diesel fuel, or wood produce much of the $PM_{2.5}$ pollution found in outdoor air and a significant proportion of PM_{10}. PM_{10} also includes dust from construction sites, landfills and agriculture, wildfires and brush or waste burning, industrial sources, wind-blown dust from open lands, pollen, and fragments of bacteria.

PM may be either directly emitted from sources (primarily particles) or formed in the atmosphere through chemical reactions of gases (secondary particles) such as SO_2, NOx, and certain organic compounds (USEPA 2024a).

Lead. Sources of Pb include pipes, fuel, and paint, although the use of Pb in these materials has declined dramatically over the years. Historically, the main source of Pb was automobile emissions. Pb can be inhaled directly or ingested by consuming Pb-contaminated food, water, or dust. Fetuses and children are most susceptible to Pb poisoning, which can result in heart disease and nervous system damage. Through regulations, the United States Environmental Protection Agency (USEPA) has gradually reduced the Pb content of gasoline. This program has essentially eliminated violations of the Pb standard in urban areas except those areas with Pb point sources (USEPA 2024b).

Ambient Air Quality Standards and Attainment Status

The United States Environmental Protection Agency (USEPA) and California Air Resources Board (CARB) designate air basins where ambient air quality standards are exceeded as “non-attainment” areas. If standards are met, the area is designated as an “attainment” area. If there is inadequate or inconclusive data to make a definitive attainment designation, they are considered “unclassified.” National non-attainment areas are further designated as marginal, moderate, serious, severe, or extreme as a function of deviation from standards. Attainment status is based on the National Ambient Air Quality Standards (NAAQS) and the California Ambient Air Quality Standards (CAAQS). Each standard has a different definition, or “form” of what constitutes attainment, based on specific air quality statistics. For example, the federal 8-hour CO standard is not to be exceeded more than once per year; therefore, an area is in attainment of the CO standard if no more than one 8-hour ambient air monitoring value exceeds the threshold per year. In contrast, the federal annual standard for $PM_{2.5}$ is met if the 3-year average of the annual average $PM_{2.5}$ concentration is less than or equal to the standard.

The Federal Clean Air Act identifies two types of NAAQS. Primary standards provide public health protection, including protecting the health of sensitive populations such as asthmatics, children, and the elderly. Secondary standards provide public welfare protection, including protection against decreased visibility and damage to animals, crops, vegetation, and buildings (USEPA 2024a). The CAAQS are equal to or more stringent than the NAAQS and include pollutants for which national standards do not exist. Table 3.3-1 presents the applicable NAAQS and CAAQS. The Air District is designated as nonattainment for federal and state ozone and $PM_{2.5,}$ as well as state PM_{10} (Air District 2017). The Air District is in attainment or unclassified for all other NAAQS and CAAQS.

Table 3.3-1: California and National Ambient Air Quality Standards

Pollutant	Averaging Time	California Standards[1]	National Standards[2]	
			Primary	Secondary
Ozone (O_3)	8-hour	0.070 ppm (137 µg/m^3)	0.070 ppm (137 µg/m^3)	Same as Primary Standards
	1-hour	0.09 ppm (180 µg/m^3)	--	
Carbon monoxide (CO)	8-hour	9.0 ppm (10 mg/m^3)	9 ppm (10 mg/m^3)	--
	1-hour	20 ppm (23 mg/m^3)	35 ppm (40 mg/m^3)	
Nitrogen dioxide (NO_2)	Annual arithmetic mean	0.030 ppm (57 µg/m^3)	0.053 ppm (100 µg/m^3)	Same as Primary Standard
	1-hour	0.18 ppm (339 µg/m^3)	100 ppb (188 µg/m^3)	
Sulfur dioxide (SO_2)	Annual arithmetic mean	--	0.030 ppm (80 µg/m^3)	--
	24-hour	0.04 ppm (105 µg/m^3)	0.14 ppm (80 µg/m^3)	--
	3-hour	--	--	0.5 ppm (1300 µg/m^3)
	1-hour	0.25 ppm (655 µg/m^3)	--	--
Respirable Particulate Matter Smaller than 10 Microns in Diameter (PM_{10})	Annual arithmetic mean	20 µg/m^3	--	Same as Primary Standards
	24-hour	50 µg/m^3	150 µg/m^3	
Respirable Particulate Matter Smaller than 2.5 Microns in Diameter ($PM_{2.5}$)[3]	Annual arithmetic mean	12 µg/m^3	9.0 µg/m^3	15 µg/m^3
	24-hour	No separate standard	35 µg/m^3	Same as Primary Standards
Sulfates	24-hour	25 µg/m^3	--	--
Lead (Pb)	30-day average	1.5 µg/m^3	--	--
	Calendar quarter	--	1.5 µg/m^3	Same as Primary Standard
	Rolling 3-month average	--	0.15 µg/m^3	
Hydrogen sulfide (H_2S)	1-hour	0.03 ppm (42 µg/m^3)	--	--
Vinyl chloride (chloroethene)	24-hour	0.01 ppm (26 µg/m^3)	--	--
Visibility reducing particles	8-hour	In 1989, the Air Resources Board converted the general statewide 10-mile visibility standard to instrumental equivalents, which are extinction of 0.23 per kilometer.	--	--

Notes:
1. CO, SO_2 (1- and 24-hour), NO_2, O_3, PM_{10}, and visibility reducing particles standards are not to be exceeded.
2. Not to be exceeded more than once a year except for annual standards.
3. On February 7, 2024, the USEPA issued a pre-publication version of the Final Rule to lower the primary annual NAAQS for $PM_{2.5}$ from 12.0 µg/m^3 to 9.0 µg/m^3 (USEPA 2024g).
-- = no standard established
µg/m^3 = micrograms per cubic meter

Pollutant	Averaging Time	California Standards[1]	National Standards[2]	
			Primary	Secondary

mg/m^3 = milligrams per cubic meter
ppm = parts per million
Sources: CARB 2016, USEPA 2024g.

Ambient Air Quality

Local air quality can be evaluated by reviewing relevant air pollution concentrations near the project site. Table 3.3-2 summarizes published monitoring data from the San José – Jackson Street Monitoring Station, located at 158B Jackson Street in San José, California, for the years 2020 to 2022 from CARB's Air Quality Data Statistics (CARB 2024a). The San José – Jackson Street Monitoring Station monitors ambient O_3, NO_2, PM_{10}, and $PM_{2.5}$.

Table 3.3-2: San José – Jackson Street Monitoring Station Data

Air Pollutant	Averaging Time	Item	2020	2021	2022
Ozone (ppm)	1 Hour	Maximum Measured Concentration	0.106	0.098	0.090
		Number of days over National Standard	0	0	0
		Number of days over State Standard	1	3	0
	8 Hour	Maximum Measured Concentration	0.085	0.084	0.074
		Number of days over National Standard	2	4	1
		Number of days over State Standard	2	4	1
Nitrogen Dioxide (ppb)	1-Hour	Maximum Measured Concentration	51.9	47.8	46.8
		Number of days over National Standard	0	0	0
		Number of days over State Standard	0	0	0
		Annual Average Concentration	9	8	9
PM_{10} ($\mu g/m^3$)	24-Hour	Maximum Measured Concentration	134.9	42.8	41.1
		Number of days over National Standard	0	0	0
		Number of days over State Standard	10	0	0
		Annual Average Concentration	24.6	19.6	20.5
$PM_{2.5}$ ($\mu g/m^3$)	24-Hour	Maximum Measured Concentration	120.5	38.1	36.2
		Number of days over National Standard	12	1	2
		Annual Average Concentration	11.5	8.8	10.1

Note: ppb = parts per billion; ppm = parts per million; $\mu g/m^3$ = micrograms per liter; * = insufficient data available to determine the value
Source: CARB 2024a.

Odors

Typically, odors are regarded as an annoyance rather than a health hazard. However, manifestations of a person's reaction to foul odors can range from the psychological (e.g., irritation, anger, or anxiety) to the physiological (e.g., circulatory and respiratory effects, nausea, vomiting, and headache).

The ability to detect odors varies considerably among the population and is subjective. Some individuals can smell very minute quantities of specific substances; others have varying sensitivities to odors; and people may have different reactions to the same odor (e.g., bakery, gasoline). It is important to note that an unfamiliar odor is more easily detected and is more likely to cause complaints than a familiar one. This is because of the phenomenon known as odor fatigue, in which a person can become desensitized to almost any odor and recognition only occurs with an alteration in the intensity.

Quality and intensity are two properties present in any odor. The quality of an odor indicates the nature of the smell experience (e.g., a description of flowery or sweet). Intensity refers to the strength of the odor and depends on the odorant concentration in the air. When an odorous sample is progressively diluted, the odorant concentration decreases, the odor intensity weakens, and it eventually becomes so low that the detection or recognition of the odor is quite difficult. At some point during dilution, the concentration of the odorant drops below a human's detection threshold.

Neither the state nor the federal governments have adopted rules or regulations for the control of odor sources. Potential odors would be subject to Air District Regulation 7, Odorous Substances (Air District 1982).

Toxic Air Contaminants

Toxic Air Contaminants (TACs) are air pollutants that may cause or contribute to an increase in mortality or serious illness, or which may pose a hazard to human health. TACs are usually present in minute quantities in the ambient air; but due to their high toxicity, they may pose a threat to public health even at very low concentrations. Because there is no threshold level below which adverse health impacts are not expected to occur, TACs differ from criteria pollutants for which acceptable levels of exposure can be determined and for which state and federal governments have set ambient air quality standards. TACs, therefore, are not considered "criteria pollutants" under either the Federal Clean Air Act or the California Clean Air Act and are not subject to NAAQS or CAAQS ambient air quality standards. Instead, USEPA and CARB regulate hazardous air pollutants and TACs, respectively, through statutes and regulations that generally require the use of the maximum or best available control technology to limit emissions. In conjunction with air district rules, these federal and state statutes and regulations establish the regulatory framework for TACs. At the national level, USEPA has established National Emission Standards for Hazardous Air Pollutants (NESHAP) in accordance with the requirements of the Federal Clean Air Act and subsequent amendments. These are technology-based, source-specific regulations that limit allowable emissions of hazardous air pollutants.

The following provides a summary of the primary TACs of concern within the State of California and related health effects.

Asbestos

Asbestos is the name given to a number of naturally occurring fibrous silicate minerals with useful properties such as thermal insulation, chemical and thermal stability, and high tensile strength. The three most common types of asbestos are chrysotile, amosite, and crocidolite. Chrysotile, also known as white asbestos, is the most common type of asbestos found in buildings. Chrysotile makes up approximately 90

to 95 percent of all asbestos contained in buildings in the United States. Exposure to asbestos fibers may result in health issues such as lung cancer, mesothelioma (a rare cancer of the thin membranes lining the lungs, chest, and abdominal cavity), and asbestosis (a non-cancerous lung disease that causes scarring of the lungs). Exposure to asbestos can occur during demolition or remodeling of buildings constructed prior to 1977 when it was banned for use in buildings. Exposure to naturally occurring asbestos (NOA) can occur during soil disturbing activities in areas with deposits present (USEPA 2024c).

Diesel Particulate Matter

Diesel particulate matter (DPM) was identified as a TAC by CARB in August 1998. DPM is emitted from both mobile and stationary sources. In California, DPM emissions are generated from mobile and stationary sources. Mobile sources include on-road vehicles (e.g., trucks, buses, etc.), off-road vehicles and equipment (e.g., locomotives, tractors, cargo handling equipment, construction equipment, etc.), marine vessels (e.g., recreational watercraft, commercial harbor craft, and ocean-going vessels), and transport refrigeration units. Stationary sources include stationary engines used in emergency-standby generators, prime generators, and agricultural irrigation pumps, as well as portable equipment such as portable generators and pumps (Office of Environmental Health Hazard Assessment [OEHHA] 2001).

DPM is typically composed of carbon particles (“soot”, also called black carbon) and numerous organic compounds, including over 40 known cancer-causing organic substances. Examples of these chemicals include polycyclic aromatic hydrocarbons, benzene, formaldehyde, acetaldehyde, acrolein, and 1,3-butadiene. Diesel exhaust also contains gaseous pollutants, including ROG and NOx. NOx emissions from diesel engines are important because they can undergo chemical reactions in the atmosphere leading to formation of $PM_{2.5}$ and O_3.

In California, diesel exhaust particles have been identified as a carcinogen accounting for an estimated 70 percent of the total known cancer risks in California. DPM is estimated to increase statewide cancer risk by 520 cancers per million residents exposed over an estimated 70-year lifetime. Non-cancer health effects associated with exposure to DPM include premature death, exacerbated chronic heart and lung disease, including asthma, and decreased lung function in children. Short-term exposure to diesel exhaust can also have immediate health effects. Diesel exhaust can irritate the eyes, nose, throat, and lungs, and it can cause coughs, headaches, lightheadedness, and nausea. In studies with human volunteers, diesel exhaust particles made people with allergies more susceptible to the materials to which they are allergic, such as dust and pollen. Exposure to diesel exhaust also causes inflammation in the lungs, which may aggravate chronic respiratory symptoms and increase the frequency or intensity of asthma attacks (CARB 2024b). Individuals most vulnerable to non-cancer health effects of DPM are children, whose lungs are still developing, the elderly, who often have chronic health problems, and people with emphysema, asthma, and chronic heart and lung disease (CARB 2024b). In addition to its health effects, DPM significantly contributes to haze and reduced visibility.

Gasoline Vapor

CARB has identified many TACs in gasoline. Operations at gas stations, also called gasoline dispensing facilities (GDFs), result in emissions of various TACs, including benzene, toluene, ethyl benzene, xylene, and others. According to CARB, of the TACs in gasoline, benzene is the most toxic component of GDF

emissions. Exposure to these TACs can lead to increased cancer risk, blood disorders, reproductive or development issues, kidney problems, and issues with the nervous, respiratory, or endocrine systems (CARB 2022c).

Gas station infrastructure, such as the USTs, and vehicles visiting gas stations to refuel are sources of emissions at GDFs. The primary sources of emissions include the following (CARB 2022c):

- **Loading**: Loading emissions occur when a fuel truck delivers fuel to the site, and gasoline vapors are emitted as liquid gasoline enters the UST.
- **Breathing:** Breathing emissions occur due to temperature changes within the UST, when excess pressure results in gasoline vapor emissions venting to the surface.
- **Fueling:** Fueling emissions occur at the gas pump, when motorists are filling their gas tank.
- **Spillage:** Spillage emissions result when drops of gasoline fall from the dispensing nozzle during vehicle fueling.

Air District staff has estimated incremental cancer risk due to measured TAC in the Bay Area. According to the most recent analysis, the average regional cancer risk was about 300 per million. That is, for every million residents exposed for 70 years to current levels of TAC, 300 residents would be expected to develop cancer as a result of the exposure. According to the analysis, more than 70 percent of the cancer risk related to air pollution in the Bay Area is due to DPM, and 90 percent of the total risk is due to three compounds: DPM; benzene; and 1,3-butadiene. All three of these compounds are emitted via fuel combustion (Air District 2014).

Sensitive Receptors

Those who are sensitive to air pollution include children, the elderly, and people with pre-existing respiratory or cardiovascular illness. For the purposes of CEQA, a sensitive receptor is considered to be a location that houses or attracts children, the elderly, people with illnesses, or others who are especially sensitive to the effects of air pollutants. Examples of sensitive receptors include hospitals, residences, convalescent facilities, and schools.

The nearest sensitive receptors to the project site include the residential units to the east of the site, along Danforth Court, and residential units to the south, across McLaughlin Avenue. In addition, the church located north of the site, across Tully Road, includes a children’s daycare facility. There are no schools within 1,000 feet of the project site.

3.3.2 Regulatory Setting

Federal

United States Environmental Protection Agency

At the federal level, the USEPA has been charged with implementing national air quality programs. The USEPA's air quality mandates are drawn primarily from the Federal Clean Air Act, which was signed into law in 1970. Congress substantially amended the Federal Clean Air Act in 1977 and again in 1990.

Federal Clean Air Act

The Federal Clean Air Act required USEPA to establish NAAQS and set deadlines for their attainment. Two types of NAAQS have been established: primary standards, which protect public health, and secondary standards, which protect public welfare from non-health-related adverse effects, such as visibility restrictions.

National Emission Standards for Hazardous Air Pollutants

Pursuant to the Federal Clean Air Act of 1970, USEPA established NESHAP. These are technology-based source-specific regulations that limit allowable emissions of hazardous air pollutants. These sources include asbestos-containing building materials. NESHAP includes requirements pertaining to the inspection, notification, handling, and disposal of asbestos-containing building materials associated with the demolition and renovation of structures.

Non-Road Diesel Rule

The USEPA has established a series of increasingly strict emissions standards for new off-road diesel vehicles and engines, including aircraft, heavy equipment, and locomotives. Any off-road construction equipment used for the proposed project would be required to comply with the applicable emissions standards.

State

California Air Resources Board

CARB is the agency responsible for coordination and oversight of state and local air pollution control programs in California and for implementing the California Clean Air Act of 1988. Other CARB duties include monitoring air quality in conjunction with air monitoring networks maintained by air pollution control districts and air quality management districts, establishing CAAQS, which in many cases are more stringent than the NAAQS, and setting emissions standards for new motor vehicles. The emission standards established for motor vehicles differ depending on various factors including the model year, and the type of vehicle, fuel, and engine used. The CAAQS are set to be protective of human health. These standards apply to the same criteria pollutants as the Federal Clean Air Act and also include sulfates, visibility reducing particulates, hydrogen sulfide, and vinyl chloride. There are currently no NAAQS for these latter pollutants.



California Clean Air Act

The California Clean Air Act requires that all air districts in the state endeavor to achieve and maintain CAAQS for O_3, CO, SO_2, and NO_2 by the earliest practical date. The California Clean Air Act specifies that districts focus attention on reducing the emissions from transportation and area wide emission sources, and the act provides districts with authority to regulate indirect sources. Each district plan is required to either (1) achieve a five percent annual reduction, averaged over consecutive 3-year periods, in district-wide emissions of each non-attainment pollutant or its precursors, or (2) to provide for implementation of all feasible measures to reduce emissions. Any planning effort for air quality attainment would thus need to consider both state and federal planning requirements.

Assembly Bills 1807 and 2588 – Toxic Air Contaminants

Within California, TACs are regulated primarily through Assembly Bill (AB) 1807 (Tanner Air Toxics Act) and AB 2588 (Air Toxics Hot Spots Information and Assessment Act of 1987). AB 1807 sets forth a formal procedure for CARB to designate substances as TACs. This includes research, public participation, and scientific peer review before CARB designates a substance as a TAC.

Existing sources of TACs that are subject to the Air Toxics Hot Spots Information and Assessment Act are required to: (1) prepare a toxic emissions inventory; (2) prepare a risk assessment if emissions are significant; (3) notify the public of significant risk levels; and (4) prepare and implement risk reduction measures.

Assembly Bill 617 – Community Air Protection Program

In response to AB 617 (C. Garcia, Chapter 136, Statutes of 2017), CARB established the Community Air Protection Program. The Community Air Protection Program includes community air monitoring, and the community emissions reduction program's focus is to reduce exposure in communities most impacted by air pollution. The California Legislature has appropriated funding to support early actions to address localized air pollution through targeted incentive funding to deploy cleaner technologies in these communities and grants to support community participation in the AB 617 process. AB 617 also includes new requirements for accelerated retrofit of pollution controls on industrial sources, increased penalty fees, and greater transparency and availability of air quality and emissions data, which will help advance air pollution control efforts throughout the state.

Regulatory Attainment Designations

Under the California Clean Air Act, CARB is required to designate areas of the state as attainment, non-attainment, or unclassified with respect to applicable standards. An "attainment" designation for an area signifies that pollutant concentrations did not violate the applicable standard in that area. A "non-attainment" designation indicates that a pollutant concentration violated the applicable standard at least once, excluding those occasions when a violation was caused by an exceptional event, as defined in the criteria. Depending on the frequency and severity of pollutants exceeding applicable standards, the non-attainment designation can be further classified as serious non-attainment, severe non-attainment, or extreme non-attainment, with extreme non-attainment being the most severe of the classifications. An "unclassified" designation signifies that the data does not support either an attainment or non-attainment



designation. The California Clean Air Act divides districts into moderate, serious, and severe air pollution categories, with increasingly stringent control requirements mandated for each category.

USEPA designates areas for O_3, CO, and NO_2 as "does not meet the primary standards," "cannot be classified," or "better than national standards." For SO_2, areas are designated as "does not meet the primary standards," "does not meet the secondary standards," "cannot be classified," or "better than national standards." However, CARB terminology of attainment, non-attainment, and unclassified is more frequently used. The USEPA uses the same sub-categories for non-attainment status: serious, severe, and extreme. In 1991, USEPA assigned new non-attainment designations to areas that had previously been classified as Group I, II, or III for PM_{10} based on the likelihood that they would violate national PM_{10} standards. All other areas are designated as unclassified.

Low-Emission Vehicle Program and Zero-Emission Vehicle Program

CARB first adopted Low-Emission Vehicle (LEV) program standards in 1990. The first LEV program standards ran from 1994 through 2003. LEV II regulations, running from 2004 through 2010, represented continuing progress in emission reductions. As the state's passenger vehicle fleet continued to grow and more SUVs and pickup trucks are used as passenger cars rather than work vehicles, the more stringent LEV II standards were adopted to provide reductions necessary for California to meet federally mandated clean air goals outlined in the 1994 State Implementation Plan (SIP). In 2012, CARB adopted the LEV III amendments to California's LEV regulations. These amendments include more stringent emission standards for both criteria pollutants and greenhouse gases (GHGs) for new passenger vehicles.

The Advanced Clean Cars II regulation builds on the Advanced Clean Cars rule adopted in 2012. Advanced Clean Cars II decreases emissions by increasing electric vehicle sales via two programs. First, the Zero-Emission Vehicle (ZEV) program requires ZEVs, defined as battery-electric vehicles or fuel-cell-electric vehicles to comprise an increasing portion of annual vehicle sales. Under the ZEV program, original equipment manufacturers must increase sales of ZEVs from 35 percent in 2026 to 100 percent in 2035. Second, Advanced Clean Cars II further strengthened the LEV program discussed above, with more stringent emission standards beginning with model year 2025.

On-Road Heavy-Duty Vehicle Program

CARB has adopted standards for emissions from various types of new on-road heavy-duty vehicles. CCR Section 1956.8, Title 13 contains California's emission standards for on-road heavy-duty engines and vehicles, and test procedures. CARB has also adopted programs to reduce emissions from in-use heavy-duty vehicles including the Heavy-Duty Diesel Vehicle Idling Reduction Program, the Heavy-Duty Diesel In-Use Compliance Program, the Public Bus Fleet Rule and Engine Standards, and the School Bus Program and others.

In addition, CARB's Truck and Bus regulation was established to meet federal attainment standards. This regulation requires heavy-duty diesel vehicles that operate in California to reduce TAC emissions from their exhaust. Diesel exhaust is responsible for 70 percent of the cancer risk from airborne toxics. Therefore, as of January 1, 2023, nearly all trucks and buses are required to have 2010 or newer model year engines to reduce PM and NOx emissions.



Advanced Clean Truck Act

To reduce emissions, the Advanced Clean Truck Act requires original equipment manufacturers of medium- and heavy-duty vehicles to sell ZEVs or near-zero-emissions vehicles, such as plug-in electric hybrids, at an increasing percentage of their annual sales from 2024 to 2035. A ZEV is a vehicle that produces zero tail-pipe emissions, including battery electric vehicles and hydrogen fuel cell vehicles. A near-zero-emissions vehicle is a vehicle with an internal combustion engine and an electric energy storage system, including plug-in hybrid vehicles and hydrogen internal combustion engine vehicles. The Advanced Clean Truck Act includes a cap-and-trade system, capping the number of fossil fuel vehicles sold by stipulating annual sales percentage requirements. Manufacturers can comply with the Advanced Clean Truck Act by generating compliance credits through the sale of ZEVs or near-ZEVs or through the trading of compliance credits.

California State Implementation Plan

The Federal Clean Air Act (and its subsequent amendments) requires each state to prepare an air quality control plan referred to as the SIP. The SIP is a living document that is periodically modified to reflect the latest emissions inventories, plans, and rules and regulations of air basins as reported by the agencies with jurisdiction over them. The Federal Clean Air Act Amendments dictate that states with areas violating the NAAQS revise their SIPs to include extra control measures to reduce air pollution. The SIP includes strategies and control measures to attain the NAAQS by deadlines established by the Clean Air Act. The USEPA has the responsibility to review all SIPs to determine if they conform to the requirements of the Clean Air Act. State law makes CARB the lead agency for all purposes related to the SIP. Local air districts and other agencies prepare SIP elements and submit them to CARB for review and approval. CARB then forwards SIP revisions to the USEPA for approval and publication in the Federal Register.

Regional

Bay Area Air District

The Air District is the public agency entrusted with regulating stationary sources of air pollution in the nine counties that surround San Francisco Bay: Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, southwestern Solano, and southern Sonoma counties. The Air District has prepared their own CEQA Air Quality Guidelines (April 2023), which is intended to be used for assistance with CEQA review. The Air District's CEQA Air Quality Guidelines include thresholds of significance and project screening levels for criteria air pollutants (ROG, NO_X, PM_{10}, and $PM_{2.5}$), GHGs, TACs, CO, and odors, as well as methods to assess and mitigate project-level and plan-level impacts.

Current Air Quality Plans

As noted previously, the Air District is designated as nonattainment for federal and state ozone and $PM_{2.5}$ as well as state PM_{10} (Air District 2017). The Air District adopted the 2017 Clean Air Plan in April 2017 that includes control strategies to reduce ozone precursors (ROG and NOx), particulate matter, TACs, and GHG emissions. The 2017 Clean Air Plan includes several measures for reducing particulate matter emissions from stationary sources and wood burning (Air District 2023).

Rules and Regulations

The Air District's regulations and rules include, but are not limited to, the following (Air District 2024a):

- *Regulation 2: Permits*
    - **Rule 1: General Permit Requirements.** This regulation includes criteria for issuance or denial of permits, exemptions, and appeals against decisions of the Air Pollution Control Officer and Air District actions on applications.
- *Regulation 6: Particulate Matter and Visible Emissions*
    - **Rule 1: General Requirements.** The purpose of this regulation is to limit the quantity of particulate matter in the atmosphere through the establishment of limitations on emission rates, emission concentrations, visible emissions, and opacity.
- *Regulation 7: Odorous Substances.* Regulation 7 places general limitations on odorous substances and specific emission limitations on certain odorous compounds. The limitations of this regulation shall not be applicable until the Air District receives odor complaints from 10 or more complainants within a 90-day period alleging that a person has caused odors perceived at or beyond the property line of such person and deemed to be objectionable by the complainants in the normal course of their work, travel, or residence. Air District staff shall investigate and track all odor complaints they receive and shall attempt to visit the site, identify the source of the objectionable odor, and assist the owner or facility in finding a way to reduce the odor.
- *Regulation 8: Organic Compounds*
    - **Rule 3: Architectural Coatings.** The purpose of this rule is to limit the quantity of volatile organic compounds in architectural coatings supplied, sold, offered for sale, applied, solicited for application, or manufactured for use within the Air District.
- *Regulation 11: Hazardous Pollutants*
    - **Rule 2: Asbestos Demolition, Renovation and Manufacturing.** The purpose of this rule is to control emissions of asbestos to the atmosphere during demolition, renovation, milling and manufacturing and establish appropriate waste disposal procedures.

In addition, all construction within the Air District's jurisdiction is required to implement the Air District's Basic Best Management Practices (BMPs) for Construction-Related Fugitive Dust Emissions, listed below:

1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
2. All haul trucks transporting soil, sand, or other loose material offsite shall be covered.

3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
4. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).
5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
6. All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.
7. All trucks and equipment, including their tires, shall be washed off prior to leaving the site.
8. Unpaved roads providing access to sites located 100 feet or further from a paved road shall be treated with a 6- to 12-inch layer of compacted layer of wood chips, mulch, or gravel.
9. Publicly visible signs shall be posted with the telephone number and name of the person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's General Air Pollution Complaints number shall also be visible to ensure compliance with applicable regulations.

Local

Envision San José 2040 General Plan

The City's General Plan includes the following goals and policies related to air quality that are applicable to the proposed project:

- **Goal MS-10: Air Pollutant Emission Reduction.** Minimize air pollutant emissions from new and existing development.
    - **Policy MS-10.1:** Assess air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement feasible air emission reduction measures.
    - **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-10.4:** Encourage effective regulation of mobile and stationary sources of air pollution, both inside and outside of San José. In particular, support federal and state regulations to improve automobile emission controls.
    - **Policy MS-10.7**: Encourage regional and statewide air pollutant emission reduction through energy conservation to improve air quality.

- **Goal MS-11: Toxic Air Contaminants.** Minimize exposure of people to air pollution and toxic air contaminants such as ozone, carbon monoxide, lead, and particulate matter.
    - **Policy MS-11.1:** Require completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution such as freeways and industrial uses. Require new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project designs or be located an adequate distance from sources of TACs to avoid significant risks to health and safety.
    - **Policy MS-11.2:** For projects that emit TACs, require project proponents to prepare health risk assessments (HRAs) in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.
    - **Policy MS-11.5:** Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.
- **Goal MS-13: Construction Air Emissions.** Minimize air pollutant emissions during demolition and construction activities.
    - **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 for Construction, Grading, Quarrying, and Surface Mining Operations.
    - **Policy MS-13.6:** Prevent silt loading on roadways that generates particulate matter air pollution by prohibiting unpaved or unprotected access to public roadways from construction sites.

San José Municipal Code

In addition to the goals and policies of the General Plan, the proposed project would also be subject to the City's Grading Ordinance, Chapter 17.04.280 of the Municipal Code, which requires that all earth moving activities control fugitive dust through steps such as regular watering of the ground surface, cleaning of nearby streets, and planting any areas left vacant for extensive periods of time.

3.3.3 Environmental Impact Analysis

While the final determination of whether a project is significant is within the purview of the lead agency pursuant to Section 15064(b) of the CEQA Guidelines, the Air District has adopted CEQA thresholds of significance for individual development projects, which establish maximum allowable emissions for ROG, NO_X, PM_{10}, and $PM_{2.5}$ (Air District 2022a). If the lead agency finds that the project has the potential to exceed these air pollution thresholds, the project should be considered to have significant air quality impacts. The Air District thresholds are presented in Table 3.3-3.

Table 3.3-3: Air District Criteria Pollutant Thresholds of Significance

Pollutant	Construction	Operational	
	Average Daily Emissions (lbs/day)	Maximum Annual Emissions (tons/year)	Average Daily Emissions (lbs/day)
ROG	54	10	54
NOx	54	10	54
PM_{10}	82	15	82
$PM_{2.5}$	54	10	54

Note: Construction particulate matter thresholds only account for exhaust particulate matter emissions
Source: Air District 2022a.

According to the Air District, a project would result in a significant impact if it would individually expose sensitive receptors to TACs resulting in an increased cancer risk greater than 10.0 in 1 million, an increased non-cancer risk of greater than 1.0 on the hazard index (chronic or acute), or an annual average ambient $PM_{2.5}$ increase greater than 0.3 µg/m^3.

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

Air districts are required to prepare air quality plans to identify strategies to bring regional emissions into compliance with federal and state air quality standards. The control measures included in the 2017 Clean Air Plan are intended for implementation at the air district level rather than the individual development project level and, as a result, are not applicable to the proposed project. For example, Control Measure SS3 directs the Air District to establish hydrocarbon limits for cooling towers, Control Measure TR2 requires implementation of a district-wide Commuter Benefits Program, and Control Measure BL2 directs the Air District to explore rulemaking options to incentivize zero-carbon appliances in new buildings (Air District 2017). However, implementation of the proposed project would not prevent implementation of any of the emissions control measures included in the 2017 Clean Air Plan.

Air districts establish emissions thresholds for individual projects to demonstrate the point at which a project would be considered to increase the air quality violations. A project would conflict with the applicable air quality plan if they exceeded any emissions thresholds for which the region is in nonattainment.

As noted previously, the Air District's region is designated as nonattainment for federal and state ozone and $PM_{2.5,}$ as well as state PM_{10}. Accordingly, the Air District has prepared air quality plans, including the 2017 Clean Air Plan, to achieve attainment of the applicable ozone and PM standards. The Air District's adopted thresholds of significance indicate the levels of emissions that projects may emit while the region still moves toward attainments of the CAAQS and NAAQS. Projects that exceed thresholds would be considered to conflict with the 2017 Clean Air Plan. As described under Impact (b) below, implementation of the proposed project would not result in net new emissions that exceed the thresholds established by the Air District.

As a result, the proposed project would not conflict with or obstruct implementation of the applicable air quality plan, and the impact would be less than significant. ***(Less Than Significant Impact)***

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

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

Construction Emissions

The proposed project's estimated construction emissions[1] are provided in Table 3.3-4 and show construction of the proposed project would not result in emissions that exceed the Air District's significance thresholds for construction.

Table 3.3-4: Construction Criteria Pollutant Emissions

Year	Average Daily Emissions (lbs/day)			
	ROG	NOx	PM_{10}	$PM_{2.5}$
2025	0.28	2.51	0.32	0.14
2026	0.61	2.94	0.25	0.14
Air District Thresholds	**54**	**54**	**82**	**54**
Exceed Air District Thresholds?	***No***	***No***	***No***	***No***

Note: The Air District's thresholds for PM_{10} and $PM_{2.5}$ are intended for exhaust emissions only. The emissions presented above include total particulate matter (exhaust emissions and fugitive emissions) and are therefore a conservative estimate.
Source: Stantec, Appendix A

[1] The modeled land uses include a Convenience Market with Gas Pumps and Parking Lot. Construction of the proposed project was modeled to occur over approximately 18 months. During demolition, 770 tons of debris would be removed from the site; during site preparation, approximately 115 CY of material would be imported to the site; and approximately 650 CY would be exported. The construction equipment used per phase was left as model default values. Refer to Appendix A for a comprehensive discussion of modeling inputs.

Operational Emissions

The proposed project would result in the redevelopment of the existing 76 gas station and convenience store with a new gas station and associated services. This analysis considers the net change in emissions that would occur from implementation of the proposed project as compared to the emissions that occur under existing conditions.

Table 3.3-5 presents the estimated criteria pollutant emissions that occur under existing conditions. Table 3.3-6 presents the estimated criteria pollutant emissions that would occur under the proposed project, as well as the net change in emissions from implementation of the proposed project.

Table 3.3-5: Operational Criteria Pollutant Emissions – Existing Conditions

Source	Emissions			
	ROG	NOx	PM_{10}	$PM_{2.5}$
Mobile	1.17	0.87	1.99	0.51
Area	0.1	<0.01	<0.01	<0.01
Energy	<0.01	0.03	<0.01	<0.01
Existing Total Average Daily (lbs/day)	*1.27*	*0.89*	*1.99*	*0.52*
Existing Total Annual (tons/year)	*0.23*	*0.16*	*0.36*	*0.09*

Source: Stantec, Appendix A

Table 3.3-6: Operational Criteria Pollutant Emissions – Proposed Project

Source	Emissions			
	ROG	NOx	PM_{10}	$PM_{2.5}$
Daily Emissions (lbs/day)				
Mobile	2.09	1.59	3.56	0.92
Area	0.23	<0.01	<0.01	<0.01
Energy	<0.01	0.06	<0.01	<0.01
Project Total Average Daily	*2.32*	*1.65*	*3.56*	*0.92*
Existing Total Average Daily	*(1.27)*	*(0.89)*	*(1.99)*	*(0.52)*
Net Change in Average Daily Emissions	*1.05*	*0.76*	*1.57*	*0.4*
Air District Average Daily Thresholds	**54**	**54**	**82**	**54**
Exceed Air District Thresholds?	***No***	***No***	***No***	***No***
Annual Emissions (tons/year)				
Project Total Annual	0.42	0.3	0.65	0.17
Existing Total Annual	0.23	0.16	0.36	0.09
Net Change in	0.19	0.14	0.29	0.08

Source	Emissions			
	ROG	NOx	PM_{10}	$PM_{2.5}$
Total Annual Emissions				
Air District Annual Thresholds	**10**	**10**	**15**	**10**
Exceed Air District Thresholds?	**No**	**No**	**No**	**No**

Source: Appendix A

As shown therein, the net increase in emissions associated with implementation of the proposed project would not exceed the Air District's thresholds of significance for operational average daily emissions nor total annual emissions.

Conclusion

Based on the analysis above, neither project construction nor operation would result in a cumulatively considerable net increase of any criteria pollutant for which the region is non-attainment under an applicable federal or state ambient air quality standard. Therefore, the impact would be less than significant. ***(Less Than Significant Impact)***

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

This discussion addresses whether the proposed project would expose sensitive receptors to TACs during construction or operations. According to CARB, some land uses are considered more sensitive to air pollution than others due to the types of population groups or activities involved. Heightened sensitivity may be caused by health problems, proximity to the emissions source, or duration of exposure to air pollutants. Children, pregnant women, the elderly, and those with existing health problems are especially vulnerable to the effects of air pollution. Accordingly, land uses that are typically considered to be sensitive receptors include residences, schools, childcare centers, playgrounds, retirement homes, convalescent homes, hospitals, and medical clinics.

The nearest sensitive receptors to the project site include the residential units to the southeast of the site, along Danforth Court, and residential units to the southwest of the site, across McLaughlin Avenue. In addition, the church located north of the site, across Tully Road, includes a children's daycare facility. There are no schools within 1,000 feet of the project site.

Construction Emissions

During project construction, the potential exists for emissions of fugitive dust, asbestos, and DPM to be released. Each TAC is discussed separately below.

Fugitive Dust

Fugitive dust would be generated from demolition, site grading, and other earth-moving activities. Most of this fugitive dust would remain localized and would be deposited near the project site. All construction projects within the jurisdiction of the Air District must implement the Air District's Basic BMPs for Construction-Related Fugitive Dust Emissions as a Standard Permit Condition, which

requires watering exposed surfaces twice per day and covering haul truck loads, among other requirements (Air District 2022a). The proposed project's required implementation of the City's Standard Permit Condition for construction-related air quality, as well as compliance with Regulation 6, Particulate Matter and Visible Emissions, would minimize construction-related fugitive dust emissions.

Standard Permit Condition – Construction-Related Air Quality

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

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

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

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

    iv. Limit all vehicle speeds on unpaved roads to 15 mph.

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

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

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

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

    ix. 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 wood chips, mulch, or gravel.

    x. 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 state Airborne Toxics Control Measures [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.

    xi. 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.

    xii. 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 Bay Area Air District's General Air Pollution Complaints number to ensure compliance with applicable regulations.

With implementation of the City's Standard Permit Conditions and compliance with Air District rules and regulations, fugitive dust related construction emissions would result in a less than significant impact. ***(Less Than Significant Impact)***

Asbestos

Construction in areas of rock formations that contain NOA could release asbestos to the air and pose a health hazard. The Air District enforces CARB's air toxic control measures at sites that contain ultramafic rock. The Air Toxic Control Measures for Construction, Grading, Quarrying and Surface Mining Operations were signed into state law on July 22, 2002, and became effective in November 2002. The purpose of this regulation is to reduce public exposure to NOA. A review of the map with areas more likely to have rock formations containing NOA in California indicates that there is no asbestos in the immediate project area (DOC 2024b). Therefore, construction of the proposed project would not expose sensitive receptors to NOA.

Exposure to asbestos can occur during demolition or remodeling of buildings constructed prior to 1977, when it was banned for use in buildings. According to the Phase I Environmental Site Assessment (ESA) completed for the project site, the existing gas station has occupied the site since 1966. Based on the age of the existing structures, asbestos containing materials may be present in the building materials onsite. The proposed project would be subject to Air District Regulation 11 Rule 2, Asbestos Demolition, Renovation and Manufacturing, which is intended to control the emissions of asbestos during demolition activities and establish appropriate waste disposal procedures. The proposed project would be subject to the measures listed in Section 11-2-303 of the rule, including conducting an asbestos survey and implementing asbestos reduction measures during demolition, if determined to be necessary (Air District 1998). Additionally, the proposed project would be subject to the City's Standard Permit Conditions related to the removal of asbestos containing materials (see Section 3.9, Hazards and Hazardous Materials). Compliance with Air District Regulation 11 Rule 2 and the City's Standard Permit Conditions would ensure that sensitive receptors are not exposed to asbestos, and the impact would be less than significant.

Diesel Particulate Matter

Exposure to DPM from diesel vehicles and off-road construction equipment can result in health risks to nearby sensitive receptors. A HRA was prepared for the proposed project to assess potential health impacts to the maximum exposed individual residential receptor, located approximately 150 feet east of the project site, and the maximum exposed individual worker receptor, located approximately 30 feet northeast of the project site boundary, from DPM generated onsite during project construction. Results of the analysis are presented in Table 3.3-7.



Table 3.3-7: Unmitigated Health Risk from Project Construction

Receptor	Cancer Risk Per Million	Chronic Inhalation Hazard Index	Average Annual Increase in $PM_{2.5}$ Concentration ($\mu g/m^3$)[1]
Residential	14.45	0.013	0.07
Worker	0.58	0.030	0.15
Air District Thresholds	**10.0**	**1.0**	**0.30**
Exceed Air District Thresholds?	***Yes***	***No***	***No***

Notes:

[1] PM_{10} concentration used as a proxy for $PM_{2.5}$.

Source: Stantec, Appendix A

As shown in the table, construction of the proposed project could expose residential receptors to an increase in cancer risk that would exceed the applicable threshold of significance. The proposed project would implement Mitigation Measure AIR-1 that would require the project to utilize Tier 4 construction equipment.

Impact AIR-1: Diesel particulate matter from construction activities could expose residential receptors to a cancer risk level of 14.45 per million, which would exceed the Air District threshold of significance of 10.0 per million.

Mitigation Measures

MM AIR-1: Minimize Exhaust Emissions. Prior to the issuance of demolition, grading, or building permits (whichever occurs the earliest), the Applicant shall submit an air quality construction equipment plan to the Director of Planning, Building and Code Enforcement, or the Director's designee, that demonstrates all off-road equipment with an engine exceeding 50 horsepower used for project construction, including leased equipment, shall meet or exceed California Air Resources Board's (CARB's) Tier 4 engine emissions standards. At a minimum, all construction equipment shall be certified as compliant with the Tier 4 engine emissions standards as provided in CCR, Title 13, section 2423(b)(1)(B). Engines can achieve these standards through the use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, or other options as they become available.

Implementation of Mitigation Measure AIR-1 would reduce the cancer risk posed to nearby sensitive receptors to less than significant levels as summarized in Table 3.3-8.

Table 3.3-8: Mitigated Health Risk from Project Construction

Receptor	Cancer Risk Per Million	Chronic Inhalation Hazard Index	Average Annual Increase in $PM_{2.5}$ Concentration ($\mu g/m^3$)[1]
Residential	4.47	0.004	0.02
Worker	0.18	0.009	0.05
Air District Thresholds	**10.0**	**1.0**	**0.30**
Exceed Air District Thresholds?	***No***	***No***	***No***

Notes:

[1] PM_{10} concentration used as a proxy for $PM_{2.5}$.

Source: Stantec, Appendix A

Operational Emissions

Potential TACs that may be emitted during project operations, including carbon monoxide, DPM from heavy trucks, and TAC emissions from GDF operations, are discussed below.

Carbon Monoxide

With regard to localized CO emissions, according to the Air District, a project would have to increase traffic volumes at a single intersection to more than 44,000 vehicles per hour, or to more than 24,000 vehicles per hour in areas where vertical or horizontal mixing is limited, in order to generate a significant CO impact. Areas where vertical or horizontal mixing is limited, such as tunnels or canyons, are not present in the project area. Based on the Local Transportation Analysis Report prepared for the proposed project by TJKM in January 2024 (Appendix G), the existing peak hour traffic volumes at intersections in the project vicinity reach a maximum of 7,016 vehicles per hour. The anticipated net increase of 329 daily trips associated with implementation of the proposed project would not be sufficient to increase traffic volumes at any nearby intersection to more than 44,000 vehicles per hour. As a result, vehicle trips associated with project operations would not exceed the screening criteria of the Air District and the proposed project would not be expected to result in substantial levels of localized CO at surrounding intersections or generate localized concentrations of CO that would exceed standards or cause health hazards.

DPM and Gasoline Vapor

Operations of the proposed project would result in TAC emissions associated with heavy-duty diesel truck trips and with operations of the GDF. Heavy-duty diesel trucks would regularly visit the site for material and fuel deliveries. In addition, GDF operations result in emissions of various TACs, including benzene, toluene, ethyl benzene, and xylene. As noted, the project site is currently developed with a gas station. Therefore, this operational HRA only considers impacts from the net increase in gas throughput that would occur as a result of the proposed project. The results of the operational HRA, which includes risks from exposure to DPM from trucks and GDF operations, are presented in Table 3.3-9.

Table 3.3-9: Unmitigated Health Risk from Project Operations

Receptor	Cancer Risk Per Million	Chronic Inhalation Hazard Index	Average Annual Increase in $PM_{2.5}$ Concentration ($\mu g/m^3$)[1]
Residential	1.99	0.034	0.00008
Worker	0.534	0.099	0.00028
Air District Thresholds	**10.0**	**1.0**	**0.30**
Exceed Air District Thresholds?	***No***	***No***	***No***

Source: Appendix A

As shown above, the unmitigated health risk from project operations would not exceed any of the Air District's thresholds of significance for the maximum exposed residential receptor or the maximally exposed worker receptor.

Cumulative Health Risks

The Air District maintains a database of information for all permitted stationary sources within their jurisdiction through their Stationary Source Screening Map (Air District 2024b). Three other gas stations are located within 1,000 feet of the project site. This cumulative analysis sums all sources of emissions within 1,000 feet of the project site. The cumulative cancer risk, chronic hazard index, and $PM_{2.5}$ concentrations at the maximally exposed residential receptor location are shown in Table 3.3-10.

Table 3.3-10: Cumulative Health Risk Summary

Source	Cancer Risk Per Million	Chronic Inhalation Hazard Index	Average Annual Increase in $PM_{2.5}$ Concentration ($\mu g/m^3$)[1]
Chevron #9-2780	3.51	0.015	0
Tully ARCO	8.54	0.037	0
Tully Exxon	9.57	0.042	0
Project (Mitigated Construction and Operation, Residential)	6.46	0.034	0.02
Total	*28.08*	*0.128*	*0.02*
Air District Thresholds	**100.0**	**10.0**	**0.80**
Exceed Air District Thresholds?	***No***	***No***	***No***

Note: The chronic inhalation hazard index and $PM_{2.5}$ concentration pulled from more conservative estimates in Tables 3.3-8 and 3.3-9.

The cancer risks from each gas station account for distance multipliers provided by the Air District.

Source: Stantec, Appendix A

As shown in the table, the total carcinogenic risk and hazard index would be below the Air District's cumulative threshold for each metric.

Conclusion

During operation, the proposed project would not expose sensitive receptors to substantial pollutant concentrations. With implementation of Mitigation Measure AIR-1, construction of the proposed project would not expose sensitive receptors to substantial pollutant concentrations. The impact would be less than significant with mitigation. ***(Less Than Significant with Mitigation Incorporated)***

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

While offensive odors rarely cause any physical harm, they can still be unpleasant, leading to distress among the public and often generating citizen complaints to local governments and the Air District. The occurrence and severity of odor impacts depend on numerous factors, including nature, frequency, and intensity of the source, the wind speed and direction, and the sensitivity of the receptor. The nearest receptors to the project site include the residences located south of the project site.

Construction activities associated with the proposed project could result in short-term odorous emissions from diesel exhaust associated with diesel-fueled equipment. However, these emissions would be intermittent and would dissipate rapidly from the source. Project construction would also be required to comply with all applicable CARB and Air District rules and regulations, particularly associated with permitting of air pollutant sources. Compliance with the aforementioned regulations would help to minimize emissions, including emissions leading to odors.

Land uses typically considered as associated with the production of odors during operations include wastewater treatment facilities, waste disposal facilities, and agricultural operations. The proposed project does not include any of the foregoing land uses that are typically associated with emitting objectionable odors. The proposed project would include a GDF, which could generate odorous emissions. However, the project site operates as a GDF under existing conditions. The increase in fuel throughput anticipated with implementation of the proposed project would not result in a notable increase in odor emissions compared to the environmental baseline. Additionally, the proposed gas pumps are required to include vapor-recovery systems, which limit the release of gasoline vapors during vehicle refueling. All wash water generated by the car wash would be collected within the car wash tunnel and treated by the sand/oil separator prior to discharging to the existing sanitary sewer system. Therefore, installation of the new gas pumps and car wash would not result in emissions of odors that would adversely affect the nearest receptors.

Finally, the Air District regulates objectionable odors through Regulation 7, Odorous Substances, which does not become applicable until the Air Pollution Control Officer receives odor complaints from ten or more complainants within a 90-day period. Once effective, Regulation 7 places general limitation on odorous substances and specific emission limitations on certain odorous compounds, which remain effective until such time that citizen complaints have not been received by the APCO for one year. The limits of Regulation 7 become applicable again when the Air Pollution Control Officer receives odor complaints from five or more complainants within a 90-day period (Air District 1982). Thus, although not anticipated, if odor complaints are made after the proposed project is developed,



the Air District would ensure that such odors are addressed, and any potential odor effects are minimized or eliminated.

The proposed project would not result in other emissions, such as those leading to odors, affecting a substantial number of people. Therefore, the impact would be less than significant. ***(Less Than Significant Impact)***

3.4 BIOLOGICAL RESOURCES

BIOLOGICAL RESOURCES Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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 regulated by the California Department of Fish and Wildlife 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 Wildlife 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?	☐	☐	☒	☐

3.4.1 Environmental Setting

The project site is located in a highly urbanized area and developed as an active 76 gas station with a convenience store and a service bay. The site is surrounded by residential and commercial development, as well as the San José Christian Alliance Church to the north and the Đức Viên Buddhist Temple to the southeast. As the project site and surrounding area are mostly developed, vegetation is limited to small sections of landscaping and ornamental trees. There are no wetlands or other waters of the United States/state on or adjacent to the project site.

According to the General Plan EIR, developed or landscaped habitats typically support a suite of relatively common wildlife species that are tolerant of periodic human disturbance. Some of the most abundant species in developed habitats, such as the European starling, rock pigeon, house sparrow, Virginia opossum, house mouse, eastern gray squirrel, fox squirrel, Norway rat, and black rat are non-

native species that are well adapted to the cover, nesting/denning, and foraging conditions provided by developed areas. In addition, a number of native species have adapted to these conditions. Native bird species commonly found in developed habitats in San José include the house finch, northern mockingbird, Anna's hummingbird, and California towhee. Native mammals such as the deer mouse, raccoon, and striped skunk utilize these developed areas as well. Bridges, unoccupied buildings and/or large trees in developed areas also provide important nesting and roosting sites for some species of birds and bats, such as black phoebe, swallows, white-throated swift, Yuma myotis, Brazilian free-tailed bat and big brown bat (City of San José 2011).

Most of the City of San José is located with the plan area for the Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (SCVHP). The SCVHP identifies the project site as Urban-Suburban, which consists of areas where native vegetation has been cleared for residential, commercial, industrial, transportation, or recreational structures, and is defined as areas with one or more structures per 2.5 acres (City of San José 2011).

3.4.2 Regulatory Setting

Federal and State

Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA) of 1918 enacts the provisions of treaties between the United States, Great Britain, Mexico, Japan, and the Soviet Union and authorizes the United States Secretary of the Interior to protect and regulate the taking of migratory birds. This treaty prohibits "take," which has been variously defined to include harming any migratory bird listed under the MBTA, including nests, eggs, and/or young.

California Fish and Game Code

The California Fish and Game Code has several provisions for the protection of waters of the state, and common as well as special-status plant, fish, and wildlife resources, including their habitat. The applicable California Fish and Game Codes are as follows:

- **Sections 3500-3516 (Game Birds and Birds of Prey):** The California Department of Fish and Wildlife protects game birds, birds of prey, migratory birds, and fully protected birds and their nests, eggs, and young from take or possession, except as otherwise provided by the code (e.g., incidental take under California Endangered Species Act).
- **Sections 3511, 4700, 5050, and 5515 (Fully Protected Species):** California statutes accord a "fully protected" status to specific birds, mammals, reptiles, amphibians, and fish. These species cannot be "taken," and no process exists for issuance of incidental take permits for fully protected species.

Regional

Santa Clara Valley Habitat Plan

The SCVHP covers an area of 519,506 acres, or approximately 62 percent of Santa Clara County. It was developed and adopted through a partnership between Santa Clara County; the cities of San José, Morgan Hill, and Gilroy; Santa Clara Valley Water District (SCVWD); VTA; United States Fish and Wildlife Service; and California Department of Fish and Wildlife. The SCVHP is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County. The Santa Clara Valley Habitat Agency is responsible for implementing the plan.

Local

Envision San José 2040 General Plan

The City's General Plan includes the following goals and policies related to biological resources that are applicable to the proposed project:

- **Goal ER-5: Migratory Birds.** Protect migratory birds from injury or mortality.
    - **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.
- **Goal MS-21: Community Forest.** Preserve and protect existing trees and increase planting of new trees within San José to create and maintain a thriving Community Forest that contributes to the City's quality of life, its sense of community, and its economic and environment well-being.
    - **Policy MS-21.5:** As part of the development review process, preserve protected trees (as defined by the San José 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 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.

3.4.3 Environmental Impact Analysis

a) Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive or special status species in local or regional plans, policies, or regulations, or regulated by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

Due to the infill, urbanized, and developed nature of the project site and the surrounding area, there is no suitable habitat for special-status plant and wildlife species to occur. Onsite vegetation is limited to small sections of landscaping and one ornamental tree. Additionally, the southern end of the project site is bordered by mature ornamental trees located on the adjacent property. No trees are proposed for removal or would be directly impacted by the proposed project; however, they could provide suitable nesting habitat for migratory birds protected under the MBTA or the California Fish and Game Code.

If project activities occur during the nesting bird season (generally considered from February 1st to August 31st), construction may cause direct effects (e.g., tree removal and vegetation clearing) and indirect effects to nesting birds (e.g., noise and vibration) by causing adults to abandon active nests, resulting in nest failure and reduced reproductive success. The proposed project would implement Mitigation Measure BIO-1, which involves conducting pre-construction nesting bird surveys to document all nests on and adjacent to the project site. Protective buffers would be implemented around all documented nests during construction to minimize disturbance to nesting birds.

Impact BIO-1: If project activities occur during the nesting bird season (generally considered from February 1st to August 31st), construction may cause direct effects (e.g., tree removal and vegetation clearing) and indirect effects to nesting birds (e.g., noise and vibration) by causing adults to abandon active nests, resulting in nest failure and reduced reproductive success.

Mitigation Measures

MM BIO-1: Avoid Disturbance of Nesting Birds. The Applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay Area, extends from February 1st through August 31st (inclusive).

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

If an active nest is found sufficiently close to work areas to be disturbed by construction, the qualified ornithologist/biologist, in consultation with California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction. Prior to any tree removal, or approval of any grading or demolition permits (whichever occurs first), the qualified 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 Planning, Building and Code Enforcement or the Director's designee.

Therefore, impacts on nesting migratory birds would be less than significant with implementation of Mitigation Measure BIO-1. ***(Less Than Significant with Mitigation Incorporated)***

b) Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

The project site is developed as an active 76 gas station and does not contain any sensitive natural communities. The nearest waterway to the site is Coyote Creek, which is approximately 0.5-mile west of the project site and would not be affected by development of the proposed project. The proposed project would have no impact on riparian habitat or other sensitive natural communities. ***(No Impact)***

c) Would the project 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?

As discussed, the project site is developed as an active 76 gas station and surrounded by urban development. The project site does not contain any state or federally protected wetlands or other aquatic habitats, and therefore no impact would occur. ***(No Impact)***

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

The project site is located in a highly urbanized area and developed as an active 76 gas station with convenience store and service bay. According to the General Plan EIR, the closest identified wildlife movement area is Coyote Creek, located approximately 0.5-mile southwest of the project site. Based on this distance and the developed nature of the project site and surrounding area, the site does not act as a corridor for species dispersal or provide migration habitat connectivity to adjacent habitat and is not part of any defined essential connectivity areas. Therefore, the proposed project would not

interfere with the movement of wildlife species or impede the use of wildlife nursery sites and there would be no impact. ***(No Impact)***

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

The proposed project would not conflict with any local policies or ordinances protecting biological resources, including tree preservation policies or ordinances. Onsite vegetation is limited to small sections of landscaping and one ornamental tree. Additionally, the southern end of the project site is bordered by mature ornamental trees located on the adjacent property. No trees are proposed for removal or would be directly impacted by the proposed project. The proposed project would plant approximately 3,577 square feet of landscaping along the site perimeter consisting of drought tolerant plants and 23 trees. Therefore, the proposed project would not conflict with any local policies or ordinances protecting biological resources and no impact would occur. ***(No Impact)***

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

The project site is located within the SCVHP plan area and is considered a Covered Activity. The project is located on land designated by the SCVHP as Urban-Suburban. The nitrogen deposition fee applies to all projects that create new vehicle trips. A nitrogen deposition fee would be required for each new vehicle trip generated by the proposed project, at the time of development, as required by the following Standard Permit Condition.

Standard Permit Condition – Santa Clara Valley Habitat Plan/Natural Community 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 Applicant would be required to submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of Planning, Building and Code Enforcement or the Director's designee for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit.

With implementation of the City's Standard Permit Conditions, the proposed project would comply with the SCVHP, resulting in a less than significant impact. ***(Less Than Significant Impact)***

3.5 CULTURAL RESOURCES

CULTURAL RESOURCES Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5?	☐	☐	☐	☒
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	☐	☒	☐	☐
c) Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☒	☐

Stantec conducted an Archaeological Resources Assessment[2] (Appendix B) and a Historic Resources Assessment (Appendix C) in April 2025 to inform the baseline conditions for cultural resources at the project site. The term "cultural resources" refers to built environment resources (e.g., buildings, structures, objects, districts) and archaeological sites.

To identify cultural resources at the project site, the following tasks were completed: (1) inventory and evaluation of built environment resources for listing in the California Register of Historical Resources (CRHR), the National Register of Historic Places (NRHP), and the City of San José Historical Resources Inventory as a Candidate City Landmark; (2) a records search at the Northwest Information Center (NWIC) of the California Historical Resources Information System; and (3) a review of historical maps aerial photographs to assess the potential for buried pre-European contact and historic-period archaeological deposits

3.5.1 Environmental Setting

Built Environment Resources

As discussed in the Historic Resources Assessment, the project site neither contains nor is adjacent to any built environment resource that qualifies as a historical resource for the purposes of CEQA. Research revealed limited information about the construction of the gas station. Based on the information available, it was found that the gas station had no association with important events in history at the local, state, or national level. The gas station did not have any associations with any historically significant individuals. The buildings associated with the convenience store and gas station are streamlined designs used by oil corporations across the United States and do not rise to any level of significance for their design and are not the work of a master architect or engineer. It is also unlikely that the buildings and structures at the site would be a source of information regarding history, building materials, or construction techniques. As

[2] This report contains confidential information regarding the location of archaeological resources. Such resources are nonrenewable, and their scientific, cultural, and aesthetic values can be significantly impaired by disturbance. The legal authority to restrict cultural resources information is in Section 304 of the National Historic Preservation Act of 1966, as amended. Furthermore, California Government Section Code 6254.10 exempts archaeological sites from the California Public Records Act, which requires that public records be open to public inspection.

such, the buildings and structures at the project site are not eligible for listing on the NRHP, CRHR, or the City of San José local landmark program and are not historical resources for the purposes of CEQA.

Archaeological Resources

Records Search Results

On July 18, 2024, Stantec conducted a records search for the project site and a 0.5-mile radius at the NWIC (NWIC File #24-0079). The NWIC, an affiliate of the California Office of Historic Preservation, is the official state repository of cultural resources records and reports for Santa Clara County. No previously recorded cultural resources were identified in or within the project site. Three archaeological resources were identified within 0.5-mile of the project site.

Three cultural resources studies were previously conducted within the project site and are listed in Table 3.5-1 below. Additionally, 44 cultural resources studies were previously conducted within 0.5-mile of the project site.

Table 3.5-1: Previous Studies within the Project Site

Date	Report Number	Title
1977	S-004429	Archeological Evaluation of the East San José Sanitary Sewer Interceptor in San José, California
1975	S-004701	An Archaeological Field Reconnaissance of a Parcel Located at Tully Road and McLaughlin Avenue in the City of San José, Santa Clara County, California (letter report)
1979	S-028132	Archaeological Survey of Intersection of Tully Road and McLaughlin Avenue (letter report)

Map Review Results

Archival maps and aerial photographs indicate that the project site had limited development and was primarily orchards until the late 1960's, the time when the current 76 gas station was constructed, indicating low potential for intact historic-period deposits at shallow depths just below the surface (e.g., artifact-filled features such as wells or privies).

The geological map and literature review identified Holocene age natural levee deposits (Qhl) which are considered to have sensitivity for containing buried archaeological resources. However, the project site was subject to extensive soil remediation excavation in 1998 to remove hazardous substances associated with a gasoline leak. No archaeological resources were documented as a result of the excavation, indicating a low likelihood for encountering buried pre-European contact archaeological deposits during project excavation.

3.5.2 Regulatory Setting

Federal

National Historic Preservation Act

The National Historic Preservation Act (NHPA) of 1966 establishes the role and responsibilities of the federal government in historic preservation. Toward this end, the NHPA directs agencies to (1) identify and manage historic properties under their control; (2) undertake actions that will advance the act's provisions and avoid actions contrary to its purposes; (3) consult with others while carrying out historic preservation activities; and (4) consider the effects of their actions on historic properties

The NHPA requires some degree of review for all federal projects, including federally assisted, federally licensed, or federally funded projects. If a project is subject to federal jurisdiction and the project is an "undertaking," as defined at 36 CFR Part 800.16(y), with the potential to cause effects on historic properties (36 CFR Part 800.3[a]), Section 106 of the NHPA must be addressed to take into account the effect of the undertaking on any district, site, building, structure, or object included in or eligible for inclusion in the NRHP (i.e., historic properties).

The NHPA is not applicable to discretionary actions at the municipal level including the current project; however, the NHPA establishes the NRHP, which provides a framework for resource evaluation which is similar to the process of evaluating resources under CEQA.

National Register of Historic Places

The NRHP, as authorized by Section 101 of the NHPA, is the nation's official list of cultural resources that are worthy of preservation. Properties listed in the NRHP consist of districts, sites, buildings, structures, and objects that are significant with respect to American history, architecture, archaeology, engineering, and culture. Properties that are listed in the NRHP, as well as properties that are formally determined to be eligible for listing in the NRHP, are automatically listed in the CRHR, described below, and therefore considered historical resources under CEQA.

There are no federal plans, policies, regulations, or ordinances related to cultural resources that apply to the proposed project.

State

CEQA, PRC Section 21082.2, and State CEQA Guidelines

CEQA requires the lead agency to consider the effects of a project on historical resources. State CEQA Guidelines Section 15064.5 provides specific guidance for determining the significance of impacts on historical resources (State CEQA Guidelines Section 15064.5[b]) and unique archaeological resources (State CEQA Guidelines Section 15064.5[b] and PRC Section 21083.2). Under CEQA, these resources are called "historical resources" whether they are of historic or pre-European contact age. CEQA Section 21084.1 defines historical resources as those listed, or eligible for listing, in the CRHR, or those listed in the historical register of a local jurisdiction (county or city) unless the preponderance of the evidence

demonstrates that the resource is not historically or culturally significant. NRHP-listed "historic properties" in California are considered historical resources for the purposes of CEQA and are also listed in the CRHR. The CRHR criteria for listing such resources are based on, and are very similar to, the NRHP criteria. CEQA Section 21083.2 and State CEQA Guidelines Section 15064.5(c) provide further definitions and guidance for archaeological sites and their treatment.

California Register of Historical Resources (PRC Section 5024.1)

PRC Section 5024.1 establishes the CRHR. The register lists California properties considered to be significant historical resources. The CRHR also includes all properties listed or determined eligible for listing in the NRHP, including properties evaluated and determined eligible under Section 106. The criteria for listing in the CRHR, criteria 1–4, are similar to those of the NRHP:

1. **Criterion 1:** Resources associated with important events that have made a significant contribution to the broad patterns of our history.

2. **Criterion 2:** Resources associated with the lives of persons important to our past.

3. **Criterion 3:** Resources that embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master.

4. **Criterion 4:** Resources that have yielded, or may be likely to yield, information important in prehistory or history.

The CRHR regulations govern the nomination of resources to the CRHR (14 CCR Section 4850). The regulations set forth the criteria for eligibility as well as guidelines for assessing historical integrity and resources that have special considerations.

Unique Archaeological Resources

State CEQA Guidelines Section 15064.5(c) specifies how CEQA applies to archaeological sites, including archaeological sites that are historical resources, unique archaeological resources, or neither.

PRC Section 21083.2(g) defines a unique archaeological resource as an archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria:

1. It contains information needed to answer important scientific research questions, and there is a demonstrable public interest in that information.

2. It has a special and particular quality, such as being the oldest of its type or the best available example of its type.

3. It is directly associated with a scientifically recognized important prehistoric or historic event or person.

State CEQA Guidelines Sections 15064.5(d) and (e) specify responsibilities and respectful treatment of human remains, including Native American human remains, that are found or likely to be found within a project site.

Human Remains – Health and Safety Code 7050.5

In the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, Section 7050.5 of the Health and Safety Code states that there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the coroner of the county in which the remains were discovered has determined whether the remains are subject to the coroner's authority. If the human remains are of Native American origin, the coroner must notify the Native American Heritage Commission (NAHC) within 24 hours of this identification.

Notification of Most Likely Descendant- PRC Section 5097.98

PRC Section 5097.98 states that the NAHC, upon receiving notification of the discovery of Native American human remains pursuant to Health and Safety Code Section 7050.5, shall immediately notify the Most Likely Descended (MLD) of the deceased. With permission of the landowner or a designated representative, the MLD may inspect the remains and any associated cultural materials and make recommendations for treatment or disposition of the remains and associated grave goods. The MLD shall provide recommendations or preferences for treatment of the remains and associated cultural materials within 48 hours of being granted access to the site.

Local

Envision San José 2040 General Plan

The City's General Plan includes the following goals and policies related to cultural resources that are applicable to the proposed project:

- **Goal ER-10: Archaeology and Paleontology.** Preserve and conserve archaeologically significant structures, sites, districts, and artifacts in order to promote a greater sense of historic awareness and community identity.
    - **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 discovery during construction, development activity will cease until professional archeological 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.

City of San José Historic Preservation Ordinance

The City's Historic Preservation Ordinance is under San José Municipal Code Section 13.48, which provides a framework for the City to identify, protect, and encourage the preservation of significant resources and foster civic pride in the City's cultural resources. Based on the ordinance, City Landmarks have special historical, architectural, cultural, aesthetic, or engineering interest or value of a historical nature, and designation as a landmark conforms to the goals and policies of the General Plan. In making such findings, the following factors, among other relevant factors, are considered with respect to the proposed landmark:

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

3.5.3 Environmental Impact Analysis

a) Would the project cause a substantial adverse change in the significance of a historical resource as identified in Section 15064.5?

As discussed in the Historic Resources Assessment prepared by Stantec in April 2025, the gas station and service center have been present at the project site since 1968 and are more than 45 years old. Based on a review of background research, no information was found indicating that the gas station had any association with important events in history at the local, state, or national level. The gas station was not found to have any associations with any historically significant individuals. Furthermore, the buildings associated with the service center and gas station are streamlined designs used by oil corporations across the United States and do not rise to any level of significance for their

design and are not the work of a master architect or engineer. It is also unlikely that the buildings and structures at the site would be a source of information regarding history, building materials, or construction techniques. Therefore, the Historic Resources Assessment determined the buildings and structures at 1152 Tully Road are not eligible for listing on the NRHP, CRHR, or San José Historic Resources inventory as a Candidate City Landmark and are not historical resources for the purposes of CEQA. The redevelopment of the project site would not have the potential to cause a substantial adverse change to the significance of any built environment historical resource, and no impact would occur. ***(No Impact)***

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

According to the CEQA Guidelines, "When a project will impact an archaeological site, a lead agency shall first determine whether the site is a historical resource" (CEQA Guidelines Section 15064.5[c][1]). Those archaeological sites that do not qualify as historical resources shall be assessed to determine if these qualify as "unique archaeological resources" (California PRC Section 21083.2).

Despite the negative results of the records search and the literature review, it cannot entirely be ruled out that archaeological deposits that qualify as historical resources could be encountered during project construction activities. Should such deposits be encountered during project ground disturbance, a substantial adverse change in the significance of a historical resource would occur from its demolition, destruction, relocation, or alteration such that the significance of the resource would be materially impaired (CEQA Guidelines Section 15064.5[b][1]). Therefore, in the event an undiscovered unique archaeological resource is found, the proposed project would implement the Standard Permit Condition listed below, which requires archaeological deposits encountered during excavation and/or grading of the site be examined by a qualified archaeologist for appropriate protection and preservation measures. The proposed project would also implement Mitigation Measure CUL-1, which requires cultural awareness training.

Standard Permit Condition – Archaeological 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 Tribal representative registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3 shall examine the find. The archaeologist in consultation with the Tribal representative shall (1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to the Director of Planning, Building and Code Enforcement or

the Director's designee, the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.

Impact CUL-1: Ground-disturbing activities during construction of the proposed project would have the potential to uncover, damage, or destroy archaeological deposits that qualify as historical resources.

Mitigation Measures

MM CUL-1: **Cultural Awareness Training.** Prior to the issuance of any demolition, grading, or building permits, the 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.

Therefore, with the implementation of the City's Standard Permit Conditions and Mitigation Measure CUL-1, impacts related to archaeological resources would be less than significant. ***(Less Than Significant Impact with Mitigation)***

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

Based on the archaeological records search and literature review, there is a low potential for the disturbance of human remains as a result of the proposed project. While it is highly unlikely that human remains exist within or near the project site, there is a possibility that subsurface construction activities associated with the proposed project, such as grading or trenching, could potentially damage or destroy previously undiscovered human remains. In the event of the accidental discovery or recognition of any human remains, the proposed project would implement the Standard Permit Condition listed below.

Standard Permit Condition – Human Remains

- If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Permittee shall immediately notify the Director of Planning, Building and Code Enforcement or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within

24 hours. The NAHC will then designate a Most Likely Descendant. The Most Likely Descendant will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or their authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

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

Compliance with the City's Standard Permit Conditions would ensure impacts to human remains would be less than significant. ***(Less Than Significant Impact)***

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3.6 ENERGY

ENERGY Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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?	☐	☐	☒	☐

An Air Quality, Greenhouse Gas, and Energy Impact Assessment was completed for the proposed project in August 2024 by Stantec (Appendix A). The information contained in the Air Quality, Greenhouse Gas, and Energy Impact Assessment formed the basis of the information and analysis in this section.

3.6.1 Environmental Setting

PG&E provides natural gas and electric service to approximately 16 million people throughout a 70,000-square-mile service area in northern and central California, including the City of San José (PG&E 2024). In February 2018, PG&E announced that it had reached California's 2020 renewable energy goal three years ahead of schedule (PG&E 2018). In 2022, approximately 38 percent of PG&E's electricity came from eligible renewable resources including solar, wind, geothermal, biomass and small hydroelectric sources. Additionally, approximately 95 percent of PG&E's total electric power mix was from GHG-free sources, which includes nuclear and large hydroelectric sources of energy (CEC 2024a).

The California Energy Commission (CEC) tracks electricity and natural gas consumption across the state for residential and non-residential sources. In 2022, Santa Clara County used a total of 17,102 gigawatt-hours (GWh) of electricity and 424 millions of therms of natural gas. Approximately 75 percent of the electricity usage and 45 percent of the natural gas use in Santa Clara County was attributed to non-residential consumption (CEC 2016a, CEC 2016b).

3.6.2 Regulatory Setting

Federal

National Energy Conservation Policy Act

The National Energy Conservation Policy Act (42 United States Code Section 8201 et seq.) serves as the underlying authority for federal energy management goals and requirements and is the foundation of most federal energy requirements. The National Energy Conservation Policy Act also established fuel economy standards for on-road motor vehicles in the United States. The National Highway Traffic Safety Administration (NHTSA) is responsible for establishing additional vehicle standards and for revising existing standards. NHTSA and the USEPA are taking coordinated steps to enable the production of clean energy vehicles with improved fuel efficiency. NHTSA sets the Corporate Average Fuel Economy

(CAFE) levels, which are rapidly increasing over the next several years to improve energy security and reduce fuel consumption.

Energy Independence and Security Act of 2007

The Energy Independence and Security Act (EISA) aimed to increase U.S. energy security, increased CAFE standards for motor vehicles, and included provisions related to energy efficiency, such as renewable fuel standards (RFS), appliance and lighting efficiency standards; and building energy efficiency standards. The EISA required increasing levels of renewable fuels to replace petroleum. The USEPA is responsible for developing and implementing regulations to ensure transportation fuel sold into the United States contains a minimum volume of renewable fuel.

The RFS programs regulations were developed in collaboration with refiners, renewable fuel products, and other stakeholders and were created under the Energy Policy Act of 2005. The RFS program established the first renewable fuel volume mandate in the U.S. As required under the EISA, the original RFS program required 7.5 billion gallons of renewable fuel to be blended into gasoline by 2012. The RFS program was expanded in several ways that laid the foundation for achieving significant reductions of GHG emissions through the use of renewable fuels, for reducing imported petroleum, and for encouraging the development and expansion of the nation's renewable fuels sector. The updated program is referred to as RFS2, and includes the following:

- EISA expanded the RFS program to include diesel, in addition to gasoline;
- EISA increased the volume of renewable fuel required to be blended into transportation fuel from 9 billion gallons in 2008 to 36 billion gallons by 2022;
- EISA established new categories of renewable fuel and set separate volume requirements for each one; and
- EISA required by the USEPA to apply lifecycle GHG performance threshold standards to ensure that each category of renewable fuel emits fewer GHGs than the petroleum fuel it replaces.

Additional provisions of the EISA address energy savings in government and public institutions, promoting research for alternate energy, additional research in carbon capture, international energy programs, and the creation of "green jobs."

Corporate Average Fuel Economy Standards

The Energy Policy and Conservation Act of 1975 mandated that NHTSA establish and implement a regulatory program for motor vehicle fuel economy, known as the CAFE program, to reduce national energy consumption. The CAFE program establishes average fuel economy standards for passenger cars and light trucks (49 United States Code Section 32901 et seq.). The EISA, discussed above, amended the CAFE program requirements by providing the U.S. Department of Transportation additional rulemaking authority and responsibilities. In June 2024, NHTSA finalized CAFE standards for model years 2027 to 2031. The standards will bring the average light-duty vehicle fuel economy to approximately 50.4 miles per gallon by model year 2031. In addition, heavy-duty pickup truck and van fuel



efficiency will increase to an average of approximately 35 miles per gallon by model year 2035. NHTSA projects that the foregoing standards will avoid the consumption of almost 70 billion gallons of gasoline through 2050, preventing more than 710 million metric tons of carbon dioxide emissions by 2050 (NHTSA 2024).

Inflation Reduction Act of 2022

The Inflation Reduction Act of 2022 is a multi-faceted, landmark federal law intended to reduce GHG emissions, help build a clean economy, reduce energy costs for Americans, and advance environmental justice. With funding from the IRA, the USEPA has launched a network of clean energy financing and provided grant funding for climate pollution reduction programs and will continue to implement programs to put more clean vehicles on the transportation network (USEPA 2023).

State

California Public Utilities Commission

The California Public Utilities Commission (CPUC) is a state agency that regulates investor-owned utilities providing telecommunications, electric, natural gas, water, railroad, rail transit, and passenger transportation services and in-state moving companies. The CPUC is responsible for ensuring that California utility customers have safe, reliable utility services at reasonable rates, while protecting utility customers from fraud. The CPUC regulates the planning and approval for the physical construction of electric generation, transmission, or distribution facilities, and local distribution pipelines of natural gas.

California Energy Code

New buildings in California must comply with the California Energy Code (Title 24, Part 6; California's Energy Efficiency Standards). These efficiency standards apply to new construction of both residential and nonresidential buildings, and address energy consumed for heating, cooling, ventilation, water heating, and lighting. The building efficiency standards are enforced through the local building permit processes, and local jurisdictions may adopt and enforce energy standards for new buildings provided that these standards meet or exceed those provided in Title 24.

California Integrated Energy Policy

Senate Bill (SB) 1389 requires the CEC to "conduct assessments and forecasts of all aspects of energy industry supply, production, transportation, delivery and distribution, demand, and prices. The Energy Commission shall use these assessments and forecasts to develop energy policies that conserve resources, protect the environment, ensure energy reliability, enhance the state's economy, and protect public health and safety." (PRC Section 25301[a]). The CEC adopts an Integrated Energy Policy Report every two years and an update every other year. The most recent version is the 2022 Integrated Energy Policy Report Update (CEC 2022).

Senate Bill 1078 – Renewable Electricity Standards

SB 1078 (September 12, 2002) required California to generate 20 percent of its electricity from renewable energy by 2017. SB 107 changed the due date to 2010 instead of 2017. On November 17, 2008, the governor signed Executive Order S-14-08, which established the Renewable Portfolio Standard (RPS) target for California requiring that all retail sellers of electricity serve 33 percent of their load with renewable energy by 2020. Executive Order S-21-09 directed CARB to adopt a regulation by July 31, 2010, requiring the state's load serving entities to meet a 33 percent renewable energy target by 2020. CARB approved the Renewable Electricity Standard on September 23, 2010, by Resolution 10-23. In 2011, the state legislature adopted this higher standard in SB X1-2. Renewable sources of electricity include wind, small hydropower, solar, geothermal, biomass, and biogas.

California Renewables Portfolio Standard

California's RPS was initially established in 2002 and has been accelerated over the past several years. SB 350, enacted in 2015, directs California utilities to further increase the amount of renewable energy delivered to customers to 50 percent by 2030. Most recently, SB 100, enacted in 2018, increased the RPS to 60 percent by 2030 and requires all electricity to come from carbon-free sources by 2045 (CPUC 2024).

CPUC implements and administers RPS compliance rules for California's retail sellers of electricity, which include large and small investor-owned utilities, publicly owned utilities, electric service providers, and community choice aggregators. The CEC is responsible for the certification of electrical generation facilities as eligible renewable energy resources and adopting regulations for the enforcement of RPS procurement requirements of public owned utilities.

California Green Building Standards Code

California Green Building Standards Code (CALGreen) establishes mandatory green building standards for buildings in California. CALGreen was developed to reduce GHG emissions from buildings, promote environmentally responsible and healthier places to live and work, reduce energy and water consumption, and respond to state environmental directives. The most recent update to CALGreen went into effect on January 1, 2017, and covers five categories: planning and design, energy efficiency, water efficiency and conservation, material and resource efficiency, and indoor environmental quality.

Local

Envision San José 2040 General Plan

The City's General Plan includes the following goals and policies related to energy that are applicable to the proposed project:

- **Goal MS-1: Green Building Policy Leadership.** Demonstrate San José's commitment to local and global Environmental Leadership through progressive use of green building policies, practices, and technologies to achieve 100 million square feet of new or retrofitted green buildings by 2040.

- **Policy MS-1.1:** Continue to demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with and/or exceed the City's Green Building Ordinance and City Council Policies as well as state or regional policies which require that projects incorporate various green building principles into their design and construction.

- **Goal MS-2: Energy Conservation and Renewable Energy Use.** Maximize the use of green building practices in new and existing development to maximize energy efficiency and conservation and to maximize the use of renewable energy sources.

  - **Policy MS-2.2:** Encourage maximized use of onsite generation of renewable energy for all new and existing buildings.

  - **Policy MS-2.3:** Utilize solar orientation, (e.g., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.

  - **Policy MS-2.4:** Promote energy efficient construction industry practices.

  - **Policy MS-2.7:** Encourage the installation of solar panels or other clean energy power generation sources over parking areas.

  - **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).

San José Municipal Code

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

3.6.3 Environmental Impact Analysis

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

The energy requirements for the proposed project were determined using the construction and operational estimates generated from the calculation worksheets for energy consumption (Appendix A). This impact addresses the energy consumption from both short-term construction and long-term operations, and they are discussed separately below.

Construction Energy Demand

During construction of the proposed project, energy resources would be consumed in the form of diesel and gasoline fuel from the use of off-road equipment (e.g., tractors, excavators, cranes) and on-road vehicles (e.g., construction employee commutes, haul trucks). Construction is not anticipated to require electricity or natural gas. Construction was assumed to occur over approximately 18 months.

Off-road Equipment

Construction activities associated with the proposed project, including demolition of the existing structures and USTs, site preparation, grading, building construction, and paving, were estimated to consume a total of 20,860 gallons of diesel fuel from the use of off-road equipment. In 2022, the State of California consumed approximately 3.6 billion gallons of diesel fuel (CEC 2024b). For comparison, off-road equipment used during project construction would consume 0.0006 percent of the state's annual diesel consumption.

On-road Vehicles

On-road vehicles for construction workers, vendors, and haulers would require fuel for travel to and from the site during construction. Table 3.6-1 provides an estimate of the total on-road vehicle fuel usage during construction.

Table 3.6-1: Construction On-Road Equipment Fuel Consumption

Project Component	Average Fuel Economy (miles/gallon)	Total VMT	Total Fuel Consumption (gallons)
Worker Trips	27.72	100,584	3,628
Vendor Trips	9.29	2,778	300
Haul Trips	5.94	5,780	973
Total Construction On-Road Trips		**109,142**	**4,901**

Notes:
Calculations use unrounded numbers; totals may not appear to sum exactly due to rounding.
VMT = vehicle miles traveled
Source: Stantec, Appendix A

As shown in the table, construction of the proposed project was estimated to consume 4,901 gallons of a combination of gasoline and diesel fuel from on-road vehicles. In 2022, the State of California consumed approximately 3.6 billion gallons of diesel fuel and 13.6 billion gallons of gasoline (CEC 2024b, CEC 2024c). If it was conservatively assumed that all on-road fuel consumed during project construction is diesel fuel, then on-road equipment used during project construction would consume 0.0001 percent of the state's annual diesel consumption.

Overall, construction activities associated with the proposed project would result in the consumption of petroleum-based fuels. However, there are no unusual project characteristics that would necessitate the use of construction equipment or vehicles that would be less energy efficient than at

comparable construction sites in other parts of the state. Therefore, it is expected that construction fuel consumption associated with the proposed project would not be any more inefficient, wasteful, or unnecessary than at other construction sites in the region.

Operational Energy Demand

During operation of the proposed project, energy would be required to power the proposed buildings and to fuel the vehicles travelling to and from the site.

Building Energy

The proposed convenience store, gas station, and service bay would require electricity and natural gas for typical operations. The car wash would also require electricity to operate, and the building exteriors and parking area would require electricity for lighting. The estimated net annual building energy demand is presented in Table 3.6-2.

Table 3.6-2: Long-Term Operational Building Energy Demand

Land Use	Electricity (kWh/yr)	Natural Gas (kBTU/yr)
Project		
Convenience Store, Gas Station, and Service Bay	424,989	223,526
Car Wash	1,591,200	0
Parking Area	24,691	0
Subtotal	*2,040,880*	*223,526*
Existing		
Convenience Market with Gas Pumps	179,953	94,648
Parking Lot	24,444	0
Subtotal	*204,397*	*94,648*
Net Total	**1,836,483**	**128,878**

Notes:
kWh = kilowatt-hour
kBTU = 1,000 British thermal units
Source: Stantec, Appendix A

Over the course of a year, the net operational electricity consumption would total approximately 1,836,483 kWh, and the net natural gas consumption would total approximately 128,878 kBTU/yr. For comparison, in 2022, Santa Clara County used a total of 17,102 GWh of electricity and 424 millions of therms (42,400 million kBTUs) of natural gas. Based on the countywide data, the proposed project net building energy would consume approximately 0.01 percent of the county's electricity demand and approximately 0.0003 percent of the county's natural gas demand. Additionally, it is noted that the proposed buildings would be constructed in compliance with the energy efficiency standards set forth in the CalGreen Code in effect at the time of construction. Therefore, the proposed project's total energy consumption would not result in the inefficient, wasteful, or unnecessary use of energy.

Transportation Energy

Future employees and customers of the proposed project would travel to and from the site during normal operations. In addition, heavy trucks would visit the site to deliver merchandise and fuel. Table 3.6-3 provides an estimate of the daily and annual fuel consumed by the net vehicle trips and the delivery trucks traveling to and from the project site. These estimates were derived using the same assumptions used in the operational GHG analysis for the proposed project.

Table 3.6-3: Net Operational Vehicle Fuel Consumption

Vehicle Type	Percent of Vehicle Trips	Average Fuel Economy (miles/gallon)	Total Annual Fuel Consumption (gallons)
Employee and Customer Trips			
Passenger Cars (LDA)	52.26	32.20	13,340
Light Trucks and Medium Duty Vehicles (LDT1, LDT2, MDV)	40.40	24.82	13,375
Light-Heavy to Heavy-Heavy Diesel Trucks (LHD1, LHD2, MHDT, HHDT)	4.67	9.49	4,046
Motorcycles (MCY)	2.20	42.55	426
Other (OBUS, UBUS, SBUS, MH)	0.46	7.85	481
Employee and Customer Trip Subtotal	*100.00*	--	*31,667*
Delivery Trips			
Heavy-Heavy Diesel Trucks (HHDT)	100.00	6.13	467
Total	**--**	**--**	*32,133*

As shown in the table, annual net vehicle and delivery truck trip fuel consumption is estimated to be 32,133 gallons of a combination of gasoline and diesel fuel. In 2022, the State of California consumed approximately 3.6 billion gallons of diesel fuel and 13.6 billion gallons of gasoline (CEC 2024b, CEC 2024c). If it was conservatively assumed that all on-road fuel consumed during project operations is diesel fuel, then on-road equipment used during project construction would consume 0.0002 percent of the state's annual petroleum fuel consumption.

Based on the analysis above, the construction and operation of the proposed project would not result in a potential significant environmental impact due to the wasteful, inefficient, or unnecessary consumption of energy resources; therefore, the impact would be less than significant. ***(Less Than Significant Impact)***

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

California adopted the RPS in order to increase the amount of renewable energy supplied by utilities within the state. Project operations would primarily use electricity from the PG&E grid. PG&E would continue to be subject to state RPS requirements, and the proposed project would not preclude

achievement of the RPS goals. In addition, any new structures developed as part of the proposed project would comply with federal, state, and local regulations aimed at reducing energy consumption, including the Building Energy Efficiency Standards (CCR Title 24, Part 6) and the CALGreen Code (CCR Title 24, Part 11). The proposed project would also be required to comply with the City's Green Building Ordinance, as established in Chapter 17.84 of the San José Municipal Code. Finally, the proposed project would effectively replace the older and less efficient building, which would improve the overall energy efficiency onsite per square foot. Overall, operations of the proposed project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. Therefore, the impact would be less than significant. ***(Less Than Significant Impact)***

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3.7 GEOLOGY AND SOILS

GEOLOGY AND SOILS Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Directly or indirectly cause 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 strata or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or offsite 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 geological feature?	☐	☐	☒	☐

A Geotechnical Engineering Report was prepared by Earth Systems Pacific on August 2, 2024 (Appendix D). The information contained in the Geotechnical Engineering Report formed the basis of the information and analysis in this section.

3.7.1 Environmental Setting

Regional Geology

San José is located within the Santa Clara Valley, a broad alluvial plain with alluvial soils extending several hundred feet below ground surface. The Santa Clara Valley consists of a large structural basin containing alluvial deposits derived from the Diablo Range to the east and the Santa Cruz Mountains to the west. The valley sediments were deposited as a series of coalescing alluvial fans by streams that drain the adjacent mountains.

Site Soils

According to the Geotechnical Engineering Report, subsurface soils at the project site are primarily clayey with thin layers of sands and silts sandwiched between clayey soil layers. The first loose to medium dense silty sand to sandy silt layer was encountered between 5 to 13 feet bgs. Secondly, a loose to dense silty sand to sandy silt layer was encountered between 40 to 45 feet bgs. Aggregate base (fill) was encountered near the surface. The majority of the granular soil layers were interpreted to be medium dense to dense with low shrinkage/swelling potential.

Groundwater was encountered at approximately 15 feet bgs. The historic high depth to groundwater level is reported to be approximately 10 to 20 feet bgs by Santa Clara Water Valley District (Earth Systems Pacific 2024).

Seismicity and Seismic-Related Hazards

The San Francisco Bay Area is one of the most seismically active regions in the United States. Faults in the region can generate earthquakes of magnitude 6.7 or higher, and strong to very strong ground shaking would be expected to occur at the project site during a major earthquake on one of the nearby faults.

The site is not located within a designated Alquist-Priolo Earthquake Zone or Santa Clara County Geologic Hazard Zone (Santa Clara County 2012). Three northwest-trending major earthquake faults that are responsible for the majority of the movement on the San Andreas fault system extend through the Bay Area. They include the San Andreas fault, the Hayward fault, and the Calaveras fault, which are respectively located approximately 13.2 miles to the southwest, 4 miles to the northeast, and 6 miles to the northeast of the project site. The Silver Creek fault, another active fault, is located approximately 0.5-mile to the northeast (Earth Systems Pacific 2024). The probability of a magnitude 6.7 or greater earthquake occurring on the Silver Creek fault within the next 30 years is less than 0.1 percent. No active faults have been mapped on the project site; therefore, the risk of fault rupture at the site is low (Earth Systems Pacific 2024).

Liquefaction

Soil liquefaction occurs when ground shaking from an earthquake causes a sediment layer saturated with groundwater to lose strength and take on the characteristics of a fluid, thus becoming similar to

quicksand. Factors determining the liquefaction potential are soil type, the level and duration of seismic ground motions, the type and consistency of soils, and the depth to groundwater. Loose sands and peat deposits, along with recent Holocene age deposits, are more susceptible to liquefaction, while older deposits of clayey silts, silty clays, and clays deposited in freshwater environments are generally stable under the influence of seismic ground shaking. According to the Geotechnical Engineering Report, the project site is located in a State Seismic Hazard Zone for Liquefaction (Earth Systems Pacific 2024).

The Geotechnical Engineering Report completed a liquefaction analysis for the project site and determined that the majority of soils within the liquefiable zone are sandy. The total seismic settlement is estimated to be approximately 2-inches (Earth Systems Pacific 2024).

Landslides and Lateral Spreading

Any incline where relatively large masses of material are supported by soil that is likely to soften under strain is prone to a landslide. The risk increases in areas where the ground is steep, weak or fractured; is saturated by heavy rain; or is compromised by historical ground movements. Landslides most frequently occur during or following large storms or seismic activity and most likely take place in areas where they have previously occurred. The potential for landslides at the project site is very low as the project site and surrounding area are relatively flat and is not located within an area that is known to have landslide hazards. Furthermore, the nearest embankment is a west-facing slope on the east bank of the Coyote Creek drainage, approximately 0.5-mile southwest of the site. These slopes are located sufficiently far from the project site; therefore, the potential for lateral displacement at the site is considered low (Earth Systems Pacific 2024).

Paleontological Resources

Paleontological resources are fossils, the remains, or traces of prehistoric life preserved in the geological record. More recent Holocene sediments over much of the Santa Clara Valley cover older sediments and sedimentary rock of the Pleistocene age, the time period that spanned from 1.8 million to about 10,000 years ago, which have a greater potential to contain fossils. Geologic units of Holocene age are generally not considered sensitive for paleontological resources, because biological remains younger than 10,000 years are not usually considered fossils; however, mammoth remains were found along the nearby Guadalupe River in San José in 2005. The mammoth remains may have been reworked from older deposits, or some strata identified as Holocene in the Santa Clara Valley that are actually of Pleistocene age; in either case, Holocene materials in the Santa Clara Valley may have some level of sensitivity for paleontological resources (e.g., fossils may be encountered in areas mapped as Holocene geologic units) (City of San José 2011).

As identified in the City's General Plan EIR, the project site is located in an area identified as high sensitivity for paleontological resources. However, the project site was subject to extensive soil remediation excavation in 1998 to remove hazardous substances associated with a gasoline leak, indicating a low likelihood for encountering paleontological resources.



3.7.2 Regulatory Setting

Federal

There are no federal regulations or policies related to geology and soils that are relevant to the proposed project.

State

Alquist-Priolo Earthquake Fault Zoning Act

In 1972, the Alquist-Priolo Earthquake Fault Zoning Act was passed to mitigate the effects of surface faulting on structures designed for human occupancy. This act required the State Geologist to delineate Earthquake Fault Zones along known active faults that have a relatively high potential for ground rupture. Faults that are zoned under the Alquist-Priolo Earthquake Fault Zoning Act must meet the strict definition of being “sufficiently active” and “well-defined” for inclusion as an Earthquake Fault Zone. The Earthquake Fault Zones are revised periodically, and they extend 200 to 500 feet on either side of identified fault traces. No structures for human occupancy may be built across an identified active fault trace. An area of 50 feet on either side of an active fault trace is assumed to be underlain by the fault, unless proven otherwise. Proposed construction in an Earthquake Fault Zone is permitted only following the completion of a fault location report prepared by a California Registered Geologist.

Seismic Hazards Mapping Act

The Seismic Hazard Mapping Act governs the responsibilities of city, county, and state agencies in identifying and mapping seismic hazard zones and mitigation seismic hazards to protect public health and safety in accordance with the provision of the California PRC, Division 2 - Geology, Mines and Mining, Seismic Hazards Mapping – Chapter 7.8. The intent of this publication is to delineate zones where earthquakes could cause hazardous ground shaking and ground failure, including liquefaction and landslides. Currently, zones near the San Andreas Fault in the urban centers of the Greater San Francisco Bay Area and Los Angeles have been delineated. Local cities and counties within these zones regulate building construction to minimize loss associated with these seismic hazards.

California Building Standards Code

The California Building Standards Code (CBC) prescribes standards for constructing safer buildings. The CBC contains provisions for earthquake safety based on factors including occupancy type, soil and rock profile, ground strength, and distance to seismic sources. The CBC requires that a site-specific geotechnical investigation report be prepared for most development projects to evaluate seismic and geologic conditions, such as surface fault ruptures, ground shaking, liquefaction, differential settlement, lateral spreading, expansive soils, and slope stability. The CBC is updated every three years; the current version is the 2022 CBC.

Paleontological Resources Regulations

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

Local

Envision San José 2040 General Plan

The City's General Plan includes the following goals and policies related to geology and soils that are applicable to the proposed project:

- **Goal EC-3: Seismic Hazards.** Minimize the risk of injury, loss of life, property damage, and community disruption from seismic shaking, fault rupture, ground failure (liquefaction and lateral spreading), earthquake-induced landslides, and other earthquake-induced ground deformation.
    - **Policy EC-3.1:** Design all new or remodeled habitable structures in accordance with the most recent CBC and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.
    - **Policy EC-3.2:** Within seismic hazard zones identified under the Alquist-Priolo Fault Zoning Act, California Seismic Hazards Mapping Act and/or by the City of San José, complete geotechnical and geological investigations and approve development proposals only when the severity of seismic hazards have been evaluated and appropriate mitigation measures are provided as reviewed and approved by the City of San José Geologist. State guidelines for evaluating and mitigating seismic hazards and the City-adopted CBC will be followed.
    - **Policy EC-3.3:** The City of San José Building Official shall require conformance with state law regarding seismically vulnerable unreinforced masonry structures within the City.
- **Goal EC-4: Geologic and Soil Hazards.** Minimize the risk of injury, loss of life, and property damage from soil and slope instability including landslides, differential settlement, and accelerated erosion.
    - **Policy EC-4.1:** Design and build all new or remodeled habitable structures in accordance with the most recent CBC 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:** Approve 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.
- **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 15 and April 15.

San José Municipal Code

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

3.7.3 Environmental Impact Analysis

a) Would the project 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.

The project site is not located in a designated Alquist-Priolo earthquake fault zone, and there are no potentially active faults mapped within the project site. The nearest active fault is the Silver Creek fault, located approximately 0.5-mile northeast of the project site (Earth Systems Pacific 2024). Due to the lack of Alquist-Priolo fault zones in the project site, the potential for

fault rupture of a known earthquake fault at the project site is low and the impact would be less than significant. ***(Less Than Significant Impact)***

ii. Strong seismic ground shaking?

The project site is in a seismically active region, and earthquake-related ground shaking is expected to occur during the life of the proposed project. Depending upon the intensity and magnitude of a seismic event, the new buildings may experience shaking due to the site's proximity to the active Silver Creek fault. To avoid or minimize potential damage from seismic shaking, the proposed project would conform to the standard engineering practices in the CBC and implement the site-specific recommendations from the Geotechnical Engineering Report as required by the following Standard Permit Condition:

Standard Permit Condition – Seismic Safety Design

- To avoid or minimize potential damage from seismic shaking, the proposed project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the City of San José Department of Public Works as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the CBC.

- The proposed 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 City's Standard Permit Conditions for seismic safety design, the proposed 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 offsite geological and soil conditions. As the proposed project would be built using standard engineering and seismic safety design techniques and implement recommendations from a site-specific geotechnical investigation, the impact would be less than significant. ***(Less Than Significant Impact)***

iii. Seismic-related ground failure, including liquefaction?

According to the Geotechnical Engineering Report prepared for the proposed project, the project site is located within a State Seismic Hazard Zone for Liquefaction. The Geotechnical



Engineering Report completed a liquefaction analysis for the project site and determined that the majority of soils within the liquefiable zone are sandy. The total seismic settlement is estimated to be approximately 2-inches (Earth Systems Pacific 2024). As the seismic settlement of approximately 2-inches is considered relatively low, the Geotechnical Engineering Report determined surface manifestation of liquefaction, such as sand boils, is unlikely to occur (Earth Systems Pacific 2024). As listed above, the proposed project would implement the requirements of the City's Standard Permit Conditions for seismic design safety. The implementation of the City's Standard Permit Conditions would require the proposed project to conform to the standard engineering practices in the CBC and implement the site-specific recommendations from the Geotechnical Engineering Report to address potential liquefaction impacts. Therefore, with the implementation of the City's Standard Permit Conditions for seismic safety design, impacts related to liquefaction would be less than significant. ***(Less Than Significant Impact)***

iv. Landslides?

The project site and the surrounding area are relatively flat and not located near a slope that would result in a landslide hazard. Therefore, the potential for a seismically induced landslide to occur at the project site is very low and no impact would occur. ***(No Impact)***

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

The proposed project would not result in long-term, operational impacts associated with soil erosion or loss of topsoil as the site would be paved and would not contain a substantial amount of exposed soil. During construction, the proposed project would disturb the entire 0.66-acre site and include approximately 3,920 square feet (0.1-acre) for offsite improvements (e.g., bus shelter and concrete pad, new driveways, sidewalk, curb and gutter, and street tree wells). It is estimated the total amount of earth movement for the proposed project would require approximately 650 CY of cut and approximately 115 CY of fill. As project construction activities would involve disturbance of soils and excavation activities, the proposed project would be subject to the requirements of the City's Grading Ordinance as outlined in Chapter 17.04 of the San José Municipal Code. In addition, the project construction activities would be required to comply with the following Standard Permit Condition related to erosion:

Standard Permit Condition – Construction-Related Erosion

- 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 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.

Compliance with the requirements of the City's Grading Ordinance and the Standard Permit Conditions related to erosion would ensure project construction activities would not result in substantial soil erosion or loss of topsoil, and impacts would be less than significant. ***(Less Than Significant Impact)***

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

The potential for landslides at the project site is very low as the project site and surrounding area are relatively flat and are not located within an area that is known to have landslide hazards. Furthermore, the nearest embankment is a west-facing slope on the east bank of the Coyote Creek drainage, approximately 0.5-mile southwest of the site. These slopes are located sufficiently far from the project site; therefore, the potential for lateral displacement at the site is considered low (Earth Systems Pacific 2024). The project site is located within a State Seismic Hazard Zone for Liquefaction. The Geotechnical Engineering Report completed a liquefaction analysis for the project site and determined that the total seismic settlement is estimated to be approximately 2-inches (Earth Systems Pacific 2024). As required by the City's Standard Permit Conditions for seismic design safety (listed above), the proposed project would conform to the standard engineering practices in the CBC and implement the site-specific recommendations from the Geotechnical Engineering Report to address potential liquefaction impacts. Therefore, with the implementation of the City's Standard Permit Conditions, impacts related to unstable soils would be less than significant. ***(Less Than Significant Impact)***

d) Would the project 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?

According to the Geotechnical Engineering Report, subsurface soils at the project site are primarily clayey with thin layers of sands and silts sandwiched between clayey soil layers. The majority of the granular soil layers were interpreted to be medium dense to dense with low shrinkage/swelling potential. The proposed project would not locate new structures on expansive soils. Furthermore, the proposed project would conform to the standard engineering practices in the CBC and implement the site-specific recommendations from the Geotechnical Engineering Report as required by the Standard Permit Conditions listed above. With the implementation of the City's Standard Permit Conditions, impacts related to expansive soils would be less than significant. ***(Less Than Significant)***

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

The proposed project does not include the use of septic tanks or alternative wastewater disposal systems. The project would connect to the existing sewer infrastructure within McLaughlin Avenue. No impact would occur. ***(No Impact)***

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

As discussed, the project site contains Holocene age natural levee deposits (Qhl) which are considered to have high sensitivity for paleontological resources. However, the project site was subject to extensive soil remediation excavation in 1998 to remove hazardous substances associated with a gasoline leak indicating a low likelihood for encountering buried paleontological resources during project excavation. The proposed project would excavate to maximum depth of 19 feet bgs to remove and install the USTs. In the event previously undiscovered paleontological resources are discovered during excavation activities, the proposed project would implement the following Standard Permit Condition.

Standard Permit Condition – Paleontological Resources

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

With the implementation of the City's Standard Permit Conditions, potential impacts to paleontological resources would be less than significant. ***(Less Than Significant)***

3.8 GREENHOUSE GAS EMISSIONS

GREENHOUSE GAS EMISSIONS Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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?	☐	☐	☒	☐

An Air Quality, Greenhouse Gas, and Energy Impact Assessment was completed for the proposed project in August 2024 by Stantec (Appendix A). The information contained in the Air Quality, Greenhouse Gas, and Energy Impact Assessment formed the basis of the information and analysis in this section.

3.8.1 Environmental Setting

To fully understand global climate change, it is important to recognize the naturally occurring "greenhouse effect" and to define the GHGs that contribute to this phenomenon. Various gases in the earth's atmosphere, classified as atmospheric GHGs, play a critical role in determining the earth's surface temperature. Solar radiation enters the earth's atmosphere from space, and a portion of the radiation is absorbed by the earth's surface. The earth emits this radiation back toward space, but the properties of the radiation change from high-frequency solar radiation to lower-frequency infrared radiation. GHGs, which are transparent to solar radiation, are effective in absorbing infrared radiation. As a result, this radiation that would have escaped back into space is now retained, resulting in a warming of the atmosphere. This phenomenon is known as the greenhouse effect.

Greenhouse Gases

Among the prominent GHGs contributing to the greenhouse effect are CO_2, methane (CH_4), N_2O, hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), nitrogen trifluoride (NF_3), and sulfur hexafluoride (SF_6). Primary GHGs attributed to global climate change, are discussed in the following subsections.

Carbon Dioxide. CO_2 is a colorless, odorless gas. CO_2 is emitted in a number of ways, both naturally and through human activities. The largest source of CO_2 emissions globally is the combustion of fossil fuels such as coal, oil, and gas in power plants, automobiles, industrial facilities, and other sources. A number of specialized industrial processes, such as mineral production and metal production, and the use of petroleum-based products can also lead to CO_2 emissions. The atmospheric lifetime of CO_2 is variable because it is so readily exchanged in the atmosphere (USEPA 2024d).

Methane. CH_4 is a colorless and odorless gas. CH_4 is the major component of natural gas, about 87 percent by volume. It is also formed and released to the atmosphere by biological processes occurring in anaerobic environments. CH_4 is emitted from a variety of both human-related and natural sources. Human-related sources include fossil fuel production, animal husbandry (e.g., enteric fermentation in

livestock and manure management), rice cultivation, biomass burning, and waste management. These activities release significant quantities of CH_4 to the atmosphere. Natural sources of CH_4 include wetlands, gas hydrates, permafrost, termites, oceans, freshwater bodies, non-wetland soils, and other sources such as wildfires. The atmospheric lifetime of CH_4 is about 12 years (USEPA 2024d).

Nitrous Oxide. N_2O is a clear, colorless gas with a slightly sweet odor. N_2O is produced by both natural and human-related sources. Primary human-related sources of N_2O are agricultural soil management, animal manure management, sewage treatment, mobile and stationary combustion of fossil fuels, adipic acid production, and nitric acid production. N_2O is also produced naturally from a wide variety of biological sources in soil and water, particularly microbial action in wet tropical forests. The atmospheric lifetime of N_2O is approximately 120 years (USEPA 2024d).

Hydrofluorocarbons. HFCs are manufactured chemicals, many of which have been developed as alternatives to ozone-depleting substances for industrial, commercial, and consumer products. The only significant emissions of HFCs before 1990 were of the chemical HFC-23, which is generated as a byproduct of the production of HFC-22, or Freon 22, used in air conditioning applications. The atmospheric lifetime for HFCs varies from just over a year for HFC-152a to 260 years for HFC-23. Most of the commercially used HFCs have atmospheric lifetimes of less than 15 years (e.g., HFC-134a, which is used in automobile air conditioning and refrigeration, has an atmospheric life of 14 years) (USEPA 2024d).

Perfluorocarbons. PFCs are colorless, highly dense, chemically inert, and nontoxic. There are seven PFC gases: perfluoromethane (CF_4), perfluoroethane (C_2F_6), perfluoropropane (C_3F_8), perfluorobutane (C_4F_{10}), perfluorocyclobutane (C_4F_8), perfluoropentane (C_5F_{12}), and perfluorohexane (C_6F_{14}). Natural geological emissions have been responsible for the PFCs that have accumulated in the atmosphere in the past; however, the largest current source is aluminum production, which releases CF_4 and C_2F_6 as byproducts. The estimated atmospheric lifetimes for CF_4 and C_2F_6 are 50,000 and 10,000 years, respectively (USEPA 2024d).

Nitrogen Trifluoride. NF_3 is an inorganic, colorless, odorless, toxic, nonflammable gas used as an etchant in microelectronics. NF_3 is predominantly employed in the cleaning of the plasma-enhanced chemical vapor deposition chambers in the production of liquid crystal displays and silicon-based thin film solar cells. In 2009, NF_3 was listed by California as a potential GHG to be listed and regulated under AB 32, Section 38505 Health and Safety Code. NF_3 has an atmospheric lifetime of 740 years (USEPA 2024d).

Sulfur Hexafluoride. SF_6 is an inorganic compound that is colorless, odorless, nontoxic, and generally nonflammable. SF_6 is primarily used as an electrical insulator in high voltage equipment. The electric power industry uses roughly 80 percent of all SF_6 produced worldwide. Leaks of SF_6 occur from aging equipment and during equipment maintenance and servicing. The use of SF_6 in electric power systems has decreased dramatically in recent years; for example, according to the USEPA, an old circuit breaker can contain up to 2,000 pounds of SF_6 while modern breakers usually contain less than 100 pounds. Best practices to reduce the potential for SF_6 leaks include training staff to handle SF_6 properly; implement leak detection and repair strategies; and decommissioning equipment appropriately. SF_6 has an atmospheric life of 3,200 years (USEPA 2024e).



Black Carbon. Black carbon is the most strongly light-absorbing component of PM emitted from burning fuels such as coal, diesel, and biomass. Black carbon contributes to climate change both directly by absorbing sunlight and indirectly by depositing on snow and by interacting with clouds and affecting cloud formation. Black carbon is considered a short-lived species, which can vary spatially and, consequently, it is very difficult to quantify associated global warming potentials. The main sources of black carbon in California are wildfires, off-road vehicles (e.g., locomotives, marine vessels, tractors, excavators, dozers), on-road vehicles (e.g., cars, trucks, and buses), fireplaces, agricultural waste burning, and prescribed burning of forest or wildlands. California has been an international leader in reducing emissions of black carbon, including programs that target reducing PM from diesel engines and burning activities (CARB 2013).

Global Warming Potential

Each GHG differs in its ability to absorb heat in the atmosphere based on the lifetime, or persistence, of the gas molecule in the atmosphere. Often, estimates of GHG emissions are presented in carbon dioxide equivalents (CO_2e), which weigh each gas by its global warming potential.

Expressing GHG emissions in carbon dioxide equivalents takes the contribution of all GHG emissions to the greenhouse effect and converts them to a single unit equivalent to the effect that would occur if only CO_2 were being emitted. Based on a 100-year time horizon, CH_4 traps over 25 times more heat per molecule than CO_2; and N_2O absorbs roughly 298 times more heat per molecule than CO_2. Additional GHGs with high global warming potential include NF_3, SF_6, PFCs, and black carbon.

Sources of Greenhouse Gas Emissions

On a global scale, GHG emissions are predominantly associated with activities related to energy production from fossil-fuel sources; changes in land use, such as deforestation and land clearing; industrial sources; agricultural activities; transportation; waste and wastewater generation; and commercial and residential land uses. Worldwide, energy production including the burning of coal, natural gas, and oil for electricity and heat is the largest single source of global GHG emissions.

United States

In 2021, net GHG emissions in the United States totaled 5,586 million metric tons of CO_2e ($MMTCO_2e$). Within the United States, the largest contributor to GHG emissions is the transportation sector (28 percent). The next largest contributors are from electricity production (25 percent) and industry (23 percent), followed by the commercial and residential sector (13 percent) and the agricultural sector (10 percent). Transportation emissions primarily come from burning fossil fuels for cars, trucks, ships, trains, and planes. Over 90 percent of the fuel used for transportation is petroleum-based, which includes primarily gasoline and diesel. The bulk of emissions generated from energy production come from burning fossil fuels, mostly coal and natural gas. Industry emissions are also primarily generated from fossil fuels burned for heat, the use of certain products that contain GHGs, and the handling of waste. Similar to industry sector emissions, commercial and residential uses arise primarily from fossil fuels for heat, the use of certain products that contain GHGs, and the handling of waste. Agricultural emissions come from livestock such as cows, agricultural soil, and rice production. The land use and forestry sector

within the U.S. serves as a carbon sink. Carbon sinks absorb CO_2 from the atmosphere. Land areas across the U.S. absorbed approximately 12 percent of the 2021 GHG emissions (USEPA 2024f).

California

In 2021, GHG emissions within California totaled 381.3 $MMTCO_2e$. Similar to national emissions, in California, the transportation sector is the largest contributor. Transportation emissions account for approximately 38 percent of the total statewide GHG emissions. The majority of transportation emissions are derived from passenger vehicles and heavy-duty trucks. Emissions associated with industrial uses are the second largest contributor, totaling roughly 19 percent. Industrial emissions are driven by fuel combustion from sources that include refineries, oil and gas extraction, cement plants, and the portion of cogeneration emissions attribution to thermal energy output. Electricity generation (in-state and imports) totaled roughly 16 percent. Emissions from the electricity generation sector have declined over the years due to the increase in renewable generation that continues to replace fossil power (CARB 2023).

Effects of Global Climate Change

There are uncertainties as to exactly what the climate changes will be in various areas of Earth. There are also uncertainties associated with the magnitude and timing of other consequences of a warmer planet (e.g., sea level rise), spread of certain diseases out of their usual geographic range, the effect on agricultural production, water supply, sustainability of ecosystems, increased strength and frequency of storms, extreme heat events, increased air pollution episodes, and the consequence of these effects on the economy.

Within California, climate changes would likely alter the ecological characteristics of many ecosystems throughout the state. Such alterations would likely include increases in surface temperatures and changes in the form, timing, and intensity of precipitation. For instance, historical records are depicting an increasing trend toward earlier snowmelt in the Sierra Nevada Mountain Range. This snowpack is a principal supply of water for the state, providing roughly 50 percent of the state's annual runoff. If this trend continues, some areas of the state may experience an increased danger of floods during the winter months and possible exhaustion of the snowpack during spring and summer months. An earlier snowmelt would also impact the state's energy resources. An early exhaustion of the Sierra snowpack may force electricity producers to switch to more costly or non-renewable forms of electricity generation during spring and summer months. A changing climate may also impact agricultural crop yields, coastal structures, and biodiversity. As a result, resultant changes in climate will likely have detrimental effects on some of California's largest industries, including agriculture, wine, tourism, skiing, recreational and commercial fishing, and forestry.

3.8.2 Regulatory Setting

Federal

As noted previously, the USEPA is the federal agency responsible for implementing the Federal Clean Air Act. On April 2, 2007, the U.S. Supreme Court held that the USEPA must consider regulation of motor

vehicle GHG emissions. In addition, in 2010, the USEPA issued a GHG Tailoring Rule, which relates to permitting GHG emissions of major sources.

The Inflation Reduction Act of 2022 is a multi-faceted, landmark federal law intended to reduce GHG emissions, help build a clean economy, reduce energy costs for Americans, and advance environmental justice. The Inflation Reduction Act affirms USEPA's authority to regulate GHG emissions under the Federal Clean Air Act.

State

Executive Order S-3-05

Executive Order S-3-05, issued in June 2005, set forth the following target dates by which statewide GHG emissions shall be progressively reduced:

- By 2010, reduce GHG emissions to 2000 levels.
- By 2020, reduce GHG emissions to 1990 levels.
- By 2050, reduce GHG emissions to 80 percent below 1990 levels.

Assembly Bill 32 – The California Global Warming Solutions Act

In line with Executive Order S-3-05, AB 32, passed in 2006, required that GHGs emitted in California be reduced to 1990 levels by the year 2020. GHGs, as defined under AB 32, include CO_2, CH_4, N_2O, HFCs, PFCs, and SF_6. Since AB 32 was enacted, a seventh chemical, NF_3, has also been added to the list of GHGs. CARB is the state agency charged with monitoring and regulating sources of GHGs. AB 32 states the following:

> *Global warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California. The potential adverse impacts of global warming include the exacerbation of air quality problems, a reduction in the quality and supply of water to the state from the Sierra snowpack, a rise in sea levels resulting in the displacement of thousands of coastal businesses and residences, damage to marine ecosystems and the natural environment, and an increase in the incidences of infectious diseases, asthma, and other human health-related problems.*

CARB approved the 1990 GHG emissions level of 427 $MMTCO_2e$ on December 6, 2007. Therefore, to meet the state's target, emissions generated in California in 2020 were required to be equal to or less than 427 $MMTCO_2e$. In order to set a framework for the state to meet this target, CARB was tasked with creating a Scoping Plan (as described below). California announced in July 2018 that the state emitted 427 $MMTCO_2e$ in 2016 and achieved AB 32 goals (CARB 2018).

Executive Order B-30-15

Executive Order B-30-15, issued in April 2015, established a statewide GHG reduction goal of 40 percent below 1990 levels by 2030. The emission reduction target acts as an interim goal between the AB 32 goal

(i.e., achieve 1990 emission levels by 2020) and Executive Order S-3-05 goal of reducing statewide emissions 80 percent below 1990 levels by 2050.

Senate Bill 32

SB 32 is an amendment to the California Global Warming Solutions Act (AB 32) and was signed into law on September 8, 2016. SB 32 states that "In adopting rules and regulations to achieve the maximum technologically feasible and cost-effective GHG emissions reductions authorized by this division, the state [air resources] board shall ensure that statewide GHG emissions are reduced to at least 40 percent below the statewide GHG emissions limit no later than December 31, 2030." In other words, SB 32 codified the interim goal established in Executive Order B-30-15 of reducing statewide emissions to 40 percent below 1990 levels by 2030.

Assembly Bill 1279 – The California Climate Crisis Act

On September 16, 2022, AB 1279, also known as the California Climate Crisis Act, codified the carbon neutrality goal established by EO B-55-18. AB 1279 establishes the policy of the state to achieve carbon neutrality as soon as possible, but no later than 2045, and maintain net negative GHG emissions thereafter. AB 1279 would also ensure that by 2045 the statewide anthropogenic GHG emissions are reduced by at least 85 percent below 1990 levels. The bill would require CARB to ensure that an updated Scoping Plan identifies and recommends measures to achieve carbon neutrality, and to identify and implement policies and strategies that enable CO_2 removal and carbon capture, utilization, and storage technologies to complement AB 1279's emissions reduction requirements.

2022 Climate Change Scoping Plan

The 2022 Climate Change Scoping Plan (2022 Scoping Plan) was approved in December 2022 and assesses progress toward achieving the interim 2030 Target and laying out a path to achieve carbon neutrality no later than 2045. The 2022 Scoping Plan focuses on outcomes needed to achieve carbon neutrality by assessing paths for clean technology, energy deployment, natural and working lands, and others, and is designed to meet the state's long-term climate objectives and support a range of economic, environmental, energy security, environmental justice, and public health priorities (CARB 2022a).

Cap-and-Trade Program

CARB administers the state's Cap-and-Trade Program, which covers GHG sources that emit more than 25,000 metric tons CO_2e ($MTCO_2e$) per year, such as refineries, power plants, and industrial facilities. This market-based approach to reducing GHG emissions provides economic incentives for achieving GHG emission reductions.

The governor signed AB 398 on July 25, 2017, to extend the Cap-and-Trade Program to 2030. The legislation includes provisions to ensure that offsets used by sources are limited to 4 percent of their compliance obligation from 2021 to 2025 and 6 percent of their compliance obligation from 2026 through 2030. AB 398 also prevents air districts from adopting or implementing emission reduction rules from stationary sources that are also subject to the Cap-and-Trade Program (CARB 2022b).



Senate Bill 375 – The Sustainable Communities and Climate Protection Act of 2008

SB 375 was signed into law on September 30, 2008. According to SB 375, the transportation sector is the largest contributor of GHG emissions, which emits more than 40 percent of the total GHG emissions in California. SB 375 states, "Without improved land use and transportation policy, California will not be able to achieve the goals of AB 32." SB 375 does the following: (1) requires metropolitan planning organizations to include sustainable community strategies in their regional transportation plans for reducing GHG emissions, (2) aligns planning for transportation and housing, and (3) creates specified incentives for the implementation of the strategies.

On March 22, 2018, CARB updated the SB 375 Greenhouse Gas Emission Reduction Targets setting GHG reduction targets for metropolitan planning organizations for 2020 and 2035 (CARB 2024c). The Bay Area reduction targets for per capita vehicular emissions were 10 percent by 2020 and are 19 percent by 2035.

Assembly Bill 1493 – Pavley Regulations and Fuel Efficiency Standards

AB 1493, enacted on July 22, 2002, required CARB to develop and adopt regulations and fuel efficiency standards that reduce GHGs emitted by passenger vehicles and light duty trucks. The fuel efficiency standards were phased in during the 2009 through 2016 model years.

The second phase of the implementation for AB 1493 was incorporated into Amendments to the LEV III or the ACC program. The ACC program combines the control of smog-causing pollutants and GHG emissions into a single coordinated package of requirements for model years 2017 through 2025. The regulation would reduce GHGs from new cars by 34 percent from 2016 levels by 2025. The rules would reduce pollutants from gasoline and diesel-powered cars and would deliver increasing numbers of zero-emission technologies, such as full battery-electric cars, newly emerging plug-in hybrid electric vehicles, and hydrogen fuel cell cars. The regulations would also provide adequate fueling infrastructure for the increasing numbers of hydrogen fuel cell vehicles planned for deployment in California. In general, these regulations ensure that emissions associated with non-commercial, personal transportation are gradually reduced such that the state is able to achieve its climate goals.

Executive Order S-01-07 – Low Carbon Fuel Standard

EO S-01-07 was signed on January 18, 2007. The EO mandates that a statewide goal shall be established to reduce the carbon intensity of California's transportation fuels by at least 10 percent by 2020. In particular, the EO established a Low Carbon Fuel Standard (LCFS) and directed the Secretary for Environmental Protection to coordinate the actions of the California Energy Commission, CARB, the University of California, and other agencies to develop and propose protocols for measuring the "life-cycle carbon intensity" of transportation fuels. This analysis supporting development of the protocols was included in an implementation plan for the State Alternative Fuels Plan adopted by the CEC on December 24, 2007, and was submitted to CARB for consideration as an "early action" item under AB 32. CARB adopted the LCFS on April 23, 2009.

The LCFS was subject to legal challenge in 2011. Ultimately, CARB was required to bring a new LCFS regulation for consideration in February 2015. The proposed LCFS regulation was required to contain



revisions to the 2010 LCFS and new provisions designed to foster investments in the production of the low-carbon fuels, offer additional flexibility to regulated parties, update critical technical information, simplify and streamline program operations, and enhance enforcement. The Office of Administrative Law approved the regulation on November 16, 2015. The regulation was amended in 2018 to strengthen the carbon intensive fuel reduction targets beyond 2020 to support SB 32. Additional amendments have been proposed and are scheduled for public hearings in November 2024 (CARB 2024d).

Senate Bill 350 – Clean Energy and Pollution Reduction Act of 2015

SB 350 (October 7, 2015) reaffirms California's commitment to reducing its GHG emissions and addressing climate change. Key provisions include an increase in the Renewable Portfolio Standards, higher energy efficiency requirements for buildings, initial strategies toward a regional electricity grid, and improved infrastructure for EV charging stations.

Executive Order S-13-08 – Climate Adaptation Strategy

Executive Order S-13-08 states that, "climate change in California during the next century is expected to shift precipitation patterns, accelerate sea level rise and increase temperatures, thereby posing a serious threat to California's economy, to the health and welfare of its population and to its natural resources." Pursuant to the requirements in this Executive Order, the 2009 California Climate Adaptation Strategy was adopted, which is the, "… first statewide, multi-sector, region-specific, and information-based climate change adaptation strategy in the United States." Objectives include analyzing risks of climate change in California, identifying and exploring strategies to adapt to climate change, and specifying a direction for future research.

California Green Building Standards Code and Energy Efficiency Standards

The CALGreen Code (CCR Title 24, Part 11) is a state-mandated building code aimed at improving public health, safety, and general welfare through mandating efficient design and construction of buildings within the state. An updated CALGreen standards is published every three years by order of the California legislature.

The California Energy Efficiency Standards (CCR Title 24, Part 6) are updated by the CEC every three years. The triennial updates strengthen efficiency standards and allow for the regulation consideration of new energy efficient technologies and methods. Energy efficient buildings require less electricity; therefore, increased energy efficiency reduces fossil fuel consumption and decreases GHG emissions. The current 2022 Building Energy Efficiency Standards went into effect on January 1, 2023.

Executive Order N-79-20

In September 2020, Governor Newsom signed Executive Order N-79-20, which sets the following goals for the state: 100 percent of in-state sales of new passenger cars and trucks shall be zero-emission by 2035; 100 percent of medium- and heavy-duty vehicles in the state shall be zero-emission by 2045 for all operations where feasible and by 2035 for drayage trucks; and 100 percent of off-road vehicles and equipment in the state shall be zero-emission by 2035, where feasible.



Local

Envision San José 2040 General Plan

Multiple policies and actions in the General Plan have GHG implications, including land use, housing, transportation, water usage, solid waste generation and recycling, and reuse of historic buildings. The GHG Reduction Strategy is intended to meet the mandates as outlined in the CEQA Air Quality Guidelines and standards for "qualified plans" as set forth by the Air District.

On December 15, 2015, the San José City Council certified a Supplemental Program EIR to the Envision San José 2040 Final Program EIR and readopted the City's GHG Reduction Strategy in the General Plan. Projects that conform to the General Plan Land Use/Transportation Diagram and supporting policies are considered consistent with the City's GHG Reduction Strategy. The GHG Reduction Strategy identifies GHG emissions reduction measures to be implemented by development projects in three categories: built environment and energy, land use and transportation, and recycling and waste reduction. Some measures are mandatory for all proposed developments and others are voluntary. Voluntary measures could be incorporated as mitigation measures for a proposed project, at the City's discretion.

2030 Greenhouse Gas Reduction Strategy

The City of San José has updated its 2030 Greenhouse Gas Reduction Strategy (GHGRS) for greenhouse gas reduction in alignment with SB 32, which established an interim statewide greenhouse gas reduction goal for 2030 to meet the long-term target of carbon neutrality by 2045 (AB 1279).

The City's 2030 GHGRS is a comprehensive update to the city's original GHGRS and reflects the plans, policies, and codes as approved by the City Council. The strategy builds on the City's General Plan and Climate Smart San José - these plans expanded the City's Green Vision to advance urban sustainability. Leveraging these existing plans and supporting policy and program frameworks, the 2030 GHGRS provides a set of strategies and additional actions for achieving the 2030 target (City of San José 2020a).

The 2030 GHGRS serves as a Qualified Climate Action Plan for purposes of tiering and streamlining under CEQA. The Development Compliance Checklist serves to apply the relevant General Plan and 2030 GHGRS policies through a streamlined review process for proposed new development projects that are subject to discretionary review and that trigger environmental review under CEQA. The proposed project would be required to submit a completed checklist and comply with applicable measures to be consistent with the GHGRS.

Green Vision

In 2007, the City adopted the Green Vision, a 15-year sustainability plan that focused on economic growth while reducing GHG emissions. The strategy included goals to increase energy efficiency and reduce consumption along with creating clean tech jobs, diverting waste from landfills and converting waste into energy, increase electricity consumption from renewable sources, and plant 100,000 new trees. Significant progress has been made and as the program approaches its horizon year, the City plans to incorporate goals of the Green Vision into its Climate Smart San José's program.



Climate Smart San José

This program was adopted in 2018 to continue the City's efforts to reduce the impacts of climate change. In addition to addressing climate change issues, the program's strategies would reduce air pollution, save water, and improve the quality of life communitywide. The program is the first in the country to provide a plan for achieving GHG reductions consistent with those in the Paris Agreement.

San José Municipal Code

The San José Municipal Code includes the Green Building Regulations for Private Development which are intended to advance GHG reductions and other sustainability strategies in the City's Green Vision. The Green Building regulation would reduce energy and water consumption, divert waste from landfills, and provide power from renewable sources. The City determined that reduction of total energy and peak energy use as a result of incremental energy efficiency measures resulted in positive cost-benefits for building owners.

3.8.3 Environmental Impact Analysis

Threshold of Significance

In April 2022, the Air District's Board of Directors adopted CEQA Thresholds for Evaluating the Significance of Climate Impacts from Land Use Projects and Plans, which updated the Air District's previous guidance related to evaluating GHG emissions to address the most recent climate legislation.

Because construction emissions are temporary and variable, the Air District has not developed a quantitative threshold of significance for construction related GHG emissions. However, the Air District recommends that construction related GHG emissions should still be quantified and disclosed in environmental documents.

For land use projects, the Air District considers a project to have a less than significant impact related to GHG emissions if it either (1) meets specific project design elements, or (2) is consistent with a local GHG reductions strategy that meets the requirements of CEQA Guidelines Section 15183.5(b) (Air District 2022b). The City of San José's 2030 GHGRS is a qualified Climate Action Plan that meets the requirements established in CEQA Guidelines Section 15183.5(b). Therefore, this analysis relies on project consistency with the 2030 GHGRS to determine impacts.

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

As noted previously, the applicable threshold for the significance of GHG emissions is project consistency with the City's 2030 GHGRS. However, the following GHG emissions inventories are provided for informational purposes.

Construction Emissions

Construction GHGs would be emitted by the off-road construction equipment and vehicle travel by workers and material deliveries to the project site. The estimated construction GHG emissions are shown in Table 3.8-1.

Table 3.8-1: Construction Greenhouse Gas Emissions

Construction Year	Emissions ($MTCO_2e$)
2025	103.94
2026	149.27
Total	*253.21*

Source: Stantec, Appendix A

Operational Emissions

This analysis considers the net change in emissions that would occur from implementation of the proposed project as compared to the emissions that occur under existing conditions. Table 3.8-2 presents the estimated GHG emissions that occur under existing conditions. Table 3.8-3 presents the estimated GHG emissions that would occur under the proposed project, as well as the net change in emissions from implementation of the proposed project.

Table 3.8-2: Operational Greenhouse Gas Emissions – Existing Conditions

Source	Emissions ($MTCO_2e$ per year)
Mobile	344.95
Area	0.05
Energy	24.14
Water	0.12
Waste	0.79
Refrigerants	119.96
Existing Total	*490.01*

Source: Appendix A

Table 3.8-3: Operational Greenhouse Gas Emissions – Proposed Project

Source	Emissions ($MTCO_2e$ per year)
Mobile	619.66
Area	0.12
Energy	53.91
Water	3.89
Waste	0.53
Refrigerants	283.31

Source	Emissions ($MTCO_2e$ per year)
Project Total	*961.42*
Existing Total	(490.01)
Net Change in Annual GHG Emissions	***471.41***

Source: Stantec, Appendix A

Consistency with 2030 GHGRS

The City's 2030 GHGRS describes the measures that are required for the City to achieve its share of the state's GHG emissions reductions to comply with SB 32. The City's GHGRS includes strategies focused on green building, renewable energy, transportation and land use, education, and waste management.

Pursuant to CEQA Guidelines Sections 15064(h)(3), 15130(d), and 15183(b), a project's incremental contribution to a cumulative GHG emissions effect may be determined not to be cumulatively considerable if it complies with the requirements of the GHGRS. The 2030 GHGRS includes a compliance checklist, which must be completed to demonstrate conformance with the measures. Projects must complete Table A, General Plan Policy Conformance, and Table B, Greenhouse Gas Reduction Strategies (City of San José 2020b). Project consistency with both sections included in the 2030 GHGRS project compliance checklist is evaluated in Table 3.8-4 and Table 3.8-5, below.

Table 3.8-4: Project Compliance with General Plan GHG Reduction Measures (Table A)

General Plan Measure	Project Conformance
(1) Consistency with the Land Use/Transportation Diagram (Land Use and Density)	
Is the proposed project consistent with the Land Use/Transportation Diagram?	**Consistent**. The proposed project would be consistent with the existing land use designation of Neighborhood/Community Commercial. The Neighborhood/ Community Commercial designation is intended to support a broad range of commercial uses that serve the communities in neighboring areas, such as neighborhood serving retail services and commercial/professional office development.
(2) Implementation of Green Building Measures	
MS-2.2: Encourage maximized use of onsite generation of renewable energy for all new and existing buildings.	**Consistent.** The proposed fuel canopy would be designed to be solar ready.
MS-2.3: Encourage consideration of solar orientation, including building placement, landscaping, design and construction techniques for new construction to minimize energy consumption.	**Consistent**. The proposed project would be constructed in compliance with the City's Green Building Ordinance and the CALGreen Code.
MS-2.7: Encourage the installation of solar panels or other clean energy power generation sources over parking areas.	**Consistent.** The proposed fuel canopy would be designed to be solar ready.

General Plan Measure	Project Conformance
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).	**Consistent**. The proposed project would be constructed in compliance with the City's Green Building Ordinance and CALGreen Code.
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.	**Consistent.** The proposed fuel canopy would be designed to be solar ready.
(3) Pedestrian, Bicycle & 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 2040 General Plan. Design the street network for its safe shared use by pedestrians, bicyclists, and vehicles. Include elements that increase driver awareness. 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. 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.	**Consistent**. The proposed project would include offsite improvements, including new pedestrian sidewalks, that would connect to existing infrastructure. The proposed project would also construct a new bus shelter and concrete bus pad on Tully Road. The new bus shelter would serve the existing VTA bus stop on Tully Road. Further, the proposed project would not interfere with any planned expansions of the City's multimodal infrastructure. Lastly, the proposed project would constitute redevelopment within an established community and would not induce growth in a new area such that it would draw mostly new vehicle trips and/or substantially lengthen existing trips
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.	**Consistent**. The proposed project would be constructed in compliance with the San José Green Building Policy. The proposed project would redevelop an existing gas station and would not increase impervious surfaces. However, the proposed project would construct a new bus shelter and concrete bus pad on Tully Road and construct new pedestrian sidewalks. Additionally, the proposed project's car wash would utilize a recycled water system.

General Plan Measure	Project Conformance
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.	**Not Applicable**. The project site is not located within the Downtown or an Urban Village Overlay.
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.	**Consistent**. The proposed project would include offsite improvements, including new pedestrian sidewalks, that would connect to existing infrastructure. The proposed project would also construct a new bus shelter and concrete bus pad on Tully Road. The new bus shelter would serve the existing VTA bus stop on Tully Road.
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.	**Consistent**. The proposed project would include offsite improvements, including new pedestrian sidewalks, that would connect to existing infrastructure.
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.	**Not Applicable**. The project site is not located within the City's Downtown area.
TR-2.8: Require new development to provide onsite 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.	**Consistent**. The proposed project would include offsite improvements, including new pedestrian sidewalks, that would connect to existing infrastructure.
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 proposed project is not considered a "large employer."
TR-8.5: Promote participation in car share programs to minimize the need for parking spaces in new and existing development.	**Not Applicable**. As an auto-centric land use that includes fueling stations, a car wash, and car service

General Plan Measure	Project Conformance
	center, a car share program is not applicable for the proposed project.
(4) 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.	**Consistent**. The proposed project would comply with Chapter 15.10, Water Efficient Landscape Standards for New and Rehabilitated Landscaping, of the City's Municipal Code, and all proposed landscaping would be drought tolerant.
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.	**Consistent**. The proposed project would be constructed in compliance with the City's Green Building Ordinance, and the car wash would use recycled water.
MS-19.4: Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.	**Consistent**. The proposed car wash would use an average of 3,950 gpd of recycled water.
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.	**Not Applicable**. The proposed project is an infill development and would not impact any urban forests.
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.	**Consistent**. The proposed project would include 23 new onsite trees as well as new street tree wells.
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.	**Not Consistent**. The proposed project would not include stormwater reuse. However, stormwater runoff from 100 percent of new impervious surfaces would be treated with onsite low impact development measures.

Source: City of San José 2020b.

Table 3.8-5: Project Compliance with 2030 GHGRS (Table B)

Consistency Options	Project Measure	Project Conformance
Renewable Energy Development		
Install solar panels, solar hot water, or other clean energy power generation sources on development sites, or Participate in community solar programs to support development of renewable energy in the community, or	The proposed fuel canopy would be designed to be solar ready.	☒ Proposed ☐ Not Applicable ☐ Not Feasible

Consistency Options	Project Measure	Project Conformance
Participate in San José Clean Energy at the Total Green Level (i.e., 100% carbon free electricity) for electricity accounts associated with the project.		☐ Alternative Measure Proposed
Building Retrofits – Natural Gas		
This strategy only applies to projects that include a retrofit of an existing building. If the proposed project does not include a retrofit, select "Not Applicable" in the Project Conformance column. Replace an existing natural gas appliance with an electric alternative (e.g., space heater, water heater, clothes dryer), or Replace an existing natural gas appliance with a high-efficiency model	The proposed project is not a retrofitting project.	☐ Proposed ☒ Not Applicable ☐ Not Feasible ☐ Alternative Measure Proposed
Zero Waste Goal		
Provide space for organic waste (e.g., food scraps, yard waste) collection containers, and/or Exceed the City's construction & demolition waste diversion requirement.	The increase in solid waste generation from development of the proposed project would be minimized through implementation of the City's Zero Waste Strategic Plan, which set a goal of 75 percent waste diversion by 2013 and zero waste by 2022. The proposed project would conform to City plans and policies to reduce solid waste generation and would be served by landfills with adequate capacity.	☒ Proposed ☐ Not Applicable ☐ Not Feasible ☐ Alternative Measure Proposed
Caltrain Modernization		
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 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 vehicle miles traveled (VMT).	The proposed project is not located within 0.5-mile of a Caltrain station.	☐ Proposed ☒ Not Applicable ☐ Not Feasible ☐ Alternative Measure Proposed
Water Conservation		
Install high-efficiency appliances/fixtures to reduce water use, and/or include water-sensitive landscape design, and/or Provide access to reclaimed water for outdoor water use on the project site.	The proposed project would install high efficiency fixtures in compliance with City's Green Building Ordinance and CALGreen requirements, and all onsite landscaping would consist of drought tolerant plants and comply with the City of San José's Ordinance	☒ Proposed ☐ Not Applicable ☐ Not Feasible ☐ Alternative Measure Proposed

Consistency Options	Project Measure	Project Conformance
	15.11.900 that requires water efficiency design for landscaping. Additionally, the proposed car wash would use recycled water.	

Source: City of San José 2020b.

As shown above, the proposed project would not conflict with the GHG reduction strategies included in the General Plan. The proposed project is consistent with the Neighborhood Community/Commercial land use designation as identified in the General Plan Land Use/Transportation Diagram. Additionally, the proposed project would comply with all applicable measures in the GHGRS. The proposed project is considered to be consistent with the City's 2030 GHGRS, and the impact would be less than significant. ***(Less Than Significant Impact)***

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

A project would have a significant impact with respect to GHG emissions and global climate change if it would substantially conflict with the provisions of Section 15064.4(b) of the CEQA Guidelines. Pursuant to Appendix G of the CEQA Guidelines, a significant GHG impact is identified if the project could conflict with applicable GHG reduction plans, policies, or regulations. The proposed project would be subject to complying with SB 32 and AB 1279. For this analysis, the applicable plans adopted for the purpose of reducing GHG emissions are the CARB's 2022 Scoping Plan and the City's 2030 GHGRS. Project consistency with the 2030 GHGRS was demonstrated in Impact (a) above. Project consistency with the 2022 Scoping Plan is evaluated below.

Consistency with CARB's 2022 Scoping Plan

The 2022 Scoping Plan, approved in December 2022, builds upon previous iterations of state scoping plans to achieve carbon neutrality and reduce anthropogenic GHG emissions below 85 percent below 1990 no later than 2045, as directed by AB 1279 (CARB 2022a). Table 3.8-6 identifies the Scoping Plan policies that may be applicable to the proposed project.

Table 3.8-6: Project Consistency with 2022 Scoping Plan Greenhouse Gas Reduction Strategies

Measure	Consistency Determination
Deploy ZEVs and reduce driving demand	**Consistent.** While the proposed project would not deploy ZEVs, the proposed project would constitute redevelopment within an established community and would not induce growth in a new area such that it would draw mostly new vehicle trips and/or substantially lengthen existing trips. Thus, the proposed project would not substantially increase driving demand and would not interfere with this goal. Additionally, the proposed project would include offsite improvements, including new pedestrian sidewalks, and would construct a new bus shelter and concrete bus pad on Tully Road. The new bus shelter would serve the existing Santa Clara Valley Transportation Authority bus stop on Tully Road. The availability of public transportation options near the project site would encourage the use of alternative modes of transportation and reduce single-passenger vehicle use.
Coordinate supply of liquid fossil fuels with declining CA fuel demand	**Not Applicable.** This measure is aimed at petroleum refineries and fossil fuel extraction operations. The proposed project would not interfere with this goal.
Generate clean electricity	**Consistent.** The proposed fuel canopy would be designed to be solar ready.
Decarbonize Buildings	**Consistent.** The proposed project would be constructed in compliance with the applicable version of the CBC as well as the City's Green Building Ordinance.
Decarbonize Industrial Energy Supply	**Not Applicable.** The proposed project would not affect the industrial energy sector.
Reduce non-combustion emissions (Methane)	**Consistent.** The proposed project would not include any land uses that generate significant levels of methane, such as landfills or dairy farms.
Reduce non-combustion emissions (HFCs)	**Consistent.** The proposed project will comply with all state regulations governing short-lived climate pollutants, including HFCs.
Compensate for remaining emissions	**Not Applicable.** This measure is aimed at the state government to reduce statewide emissions to meet AB 1279 goals.

Source: CARB 2022a.

This analysis finds that the proposed project would be generally consistent with the applicable strategies recommended in the 2022 Scoping Plan. Given the proposed project's consistency with the City's General Plan measures, GHGRS and the CARB's 2022 Scoping Plan, the proposed project would not conflict with an applicable plan, policy or regulation adopted for the purpose of reducing GHG emissions, and the impact would be less than significant. ***(Less Than Significant Impact)***

3.9 HAZARDS AND HAZARDOUS MATERIALS

HAZARDS AND HAZARDOUS MATERIALS Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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?	☐	☐	☐	☒

The project site is developed as an active 76 gas station with two fuel canopies and a convenience store with service bay. The fuel canopies provide six dispensers that are served by two 10,000-gallon USTs, one 500-gallon oil UST, and associated underground piping. A Phase I Environmental Site Assessment (ESA) was completed for the project site in May 2025 by Silicon Valley Environmental (Appendix E).

3.9.1 Environmental Setting

Historic Use of Project Site

Based on a review of available aerial imagery, the Phase I ESA indicates the project site was undeveloped and vacant land/farmland from at least 1889 to 1961. By 1968, the existing gas station structures were constructed and visible. Due to the age of the existing convenience store with service bay, asbestos containing materials and lead-based paint may be present in the building materials onsite.

Onsite and Offsite Sources of Contamination

Based on a review of historical records, the project site operated as a fuel service station for several decades, during which USTs were utilized for gasoline and waste oil storage. The 2025 Phase I ESA identified that in January 1990 the project site was listed on the Cortese list as a leaking underground storage tank (LUST) site due to a leaking 280-gallon UST. Further contamination occurred during installation of soil vapor extraction equipment in 1995 when underground piping was damaged, resulting in a gasoline release estimated at 13 gallons. As such, various groundwater monitoring events and soil vapor extraction activities have occurred onsite as remedial options since 1990 and soil sampling and removal of impacted soils have occurred on numerous occasions since the project site was listed as a LUST case (Appendix E).

Based on a review of the State Water Resource Control Board's (SWRCB) GeoTracker database, the project site has been remediated to acceptable levels since the preparation of the 2025 Phase I ESA and the LUST cleanup case for the project site was closed on July 21, 2022 (SWRCB 2024). The SCCDEH issued a case closure letter for the project site on July 19, 2022. The case closure letter notes that residual contamination in soil, groundwater, and soil vapor remains at the site that could pose an unacceptable risk under certain site development activities such as, but not limited to, site grading, excavation, or the installation of water wells. The levels of residual contamination and any associated site risk are expected to reduce with time. However, the SCCDEH and the appropriate planning and building department shall be notified prior to any changes in land use, grading activities, excavation, and installation of water wells (SCCDEH 2022).

Offsite Sources of Contamination

The project site is one of four active gas stations located at the intersection of Tully Road and McLaughlin Avenue. Based on a review of the SWRCB's GeoTracker database, the three other gas stations are also listed as closed LUST cleanup sites. As such, these sites would not represent an environmental concern to the project site (SWRCB 2024).

Other Hazards

Airports

The San José Mineta International Airport (SJC) is the nearest airport, located approximately 5.5 miles northwest of the project site. Due to the distance from the airport, the project site is not within the airport influence area, aircraft noise contours, Federal Aviation Regulations Part 77 surface zones, or the airport safety zones for the SJC.

Wildfire Hazards

There are no wildlands located within the City. Based on a review of the Fire Hazard Severity Zone maps developed by the California Department of Forestry and Fire Protection (CAL FIRE), the project site is not located in or near a state responsibility area or a very high fire hazard severity zone (CAL FIRE 2023).

The United States Forest Service's (USFS) Wildfire Hazard Potential map also identifies the project site and the surrounding area as "non-burnable" (USFS 2024).

3.9.2 Regulatory Setting

Federal

Hazardous Materials Transportation Act

The transport of hazardous materials is regulated by the United States Department of Transportation under the Hazardous Materials Transportation Act. To accomplish this, the Federal Aviation Administration, Federal Motor Carrier Safety Administration, Federal Railway Administration, Pipeline and Hazardous Materials Safety Administration, and the United States Coast Guard have been given authority to enforce hazardous material transport regulations.

Occupational Safety and Health Administration

The Occupational Safety and Health Act of 1970 created the Occupational Safety and Health Administration, which is responsible for protecting the health of workers, such as during the handling of hazardous materials. The Occupational Safety and Health Administration has created regulations to set federal standards of workplace safety including exposure limits, mandatory workplace training, accident and injury reporting, and safety procedures. These regulations are recorded in the Code of Federal Regulations Title 29.

State

Department of Toxic Substances Control

The Department of Toxic Substances Control (DTSC) is part of the California Environmental Protection Agency and is the primary state agency that regulates hazardous waste and cleans up existing contamination. DTSC regulates hazardous waste in California primarily under the authority of the Resource Conservation and Recovery Act and the California Health and Safety Code. DTSC also administers the California Hazardous Waste Control Law (HWCL) to regulate hazardous waste. While the HWCL is generally more stringent than the Resource Conservation and Recovery Act, until EPA approves the California program, both federal and state laws apply in California. The HWCL lists 791 chemicals and approximately 300 common materials that may be hazardous; establishes criteria for identifying, packaging, and labeling hazardous wastes; proscribes management controls; provides permit requirements for treatment, storage, disposal, and transportation; and identifies some wastes that cannot be disposed of in landfills.

Government Code Section 65962.5 requires DTSC, the State Department of Health Services, the SWRCB, and California Department of Resources Recycling and Recovery (CalRecycle) to compile and annually update lists of hazardous waste sites and land designated as hazardous waste sites throughout the state. The Secretary for Environmental Protection consolidates the information submitted by these agencies and distributes it to each city and county where sites on the lists are located. Before the lead



agency accepts an application for any development project as complete, the Applicant must consult these lists to determine if the site at issue is included.

Cortese List Government Code Section 65962

Government Code Section 65962 was enacted in 1985 and was amended in 1992. It is used as a planning tool to comply with CEQA and requires information about locations of hazardous materials release sites. It states that through the combined efforts of the DTSC, the Department of Health Services, the SWRCB and local enforcement agencies a list of potentially hazardous areas and sites will be compiled and remain up to date (at a minimum, updated annually). The list is consolidated by the Secretary for Environmental Protection and is distributed to each city and county in which sites on the list are located. The list can be found on the DTSC's data management system known as EnviroStor, which includes information from the SWRCB GeoTracker database.

California Code of Regulations, Title 8 Section 1529 – Asbestos

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

California Code of Regulations, Title 8 Section 1532.1 – Lead

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

Local

Envision San José 2040 General Plan

The City's General Plan includes the following goals and policies related to hazards and hazardous materials that are applicable to the proposed project:

- **Goal EC-6: Hazardous Materials.** Protect the community from the risks inherent in the transport, distribution, use, storage, and disposal of hazardous materials.
    - **Policy EC-6.1:** Require all users and producers of hazardous materials and wastes to clearly identify and inventory the hazardous materials that they store, use or transport in conformance with local, state and federal laws, regulations and guidelines.
    - **Policy EC-6.2:** Require proper storage and use of hazardous materials and wastes to prevent leakage, potential explosions, fires, or the escape of harmful gases, and to

prevent individually innocuous materials from combining to form hazardous substances, especially at the time of disposal by businesses and residences. Require proper disposal of hazardous materials and wastes at licensed facilities.

- **Policy EC-6.4:** Require all proposals for new or expanded facilities that handle hazardous materials that could impact sensitive uses offsite to include adequate mitigation to reduce identified hazardous materials impacts to less than significant levels.
- **Policy EC-6.5:** The City shall designate transportation routes to and from hazardous waste facilities as part of the permitting process in order to minimize adverse impacts on surrounding land uses and to minimize travel distances along residential and other non-industrial frontages.
- **Policy EC-6.7:** Do not approve land uses and development that use hazardous materials that could impact existing residences, schools, day care facilities, community or recreation centers, senior residences, or other sensitive receptors if accidentally released without the incorporation of adequate mitigation or separation buffers between uses.

- **Goal EC-7: Environmental Contamination.** Protect the community and environment from exposure to hazardous soil, soil vapor, groundwater, and indoor air contamination and hazardous building materials in existing and proposed structures and developments and on public properties, such as parks and trails.
  - **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.



- **Goal TR-14: Safe Airport.** Ensure that airport facilities in San José are safe by removing potential conflicts between land use and airport operations.
    - **Policy TR-14.2**: Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.

San José Emergency Operations Plan

The City of San José Emergency Operations Plan (EOP) was adopted in February 2019. The EOP identifies emergency response policies, describes the response and recovery organization, and assigns specific roles and responsibilities to City departments, agencies, and community partners in a way that allows the EOP to be used for all emergencies that could occur within the City.

3.9.3 Environmental Impact Analysis

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

AND

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

Construction

Project construction activities would include demolition of the existing structures, site preparation, excavation, building construction, utility connections, paving, and landscaping. During construction, the proposed project would involve the minor routine transport and handling of hazardous substances such as diesel fuels, lubricants, solvents, asphalt, paints, building materials, finishing materials, pesticides, and fertilizers. Additionally, construction of the proposed project would require removal of the two 10,000-gallon USTs, one 500-gallon oil UST, and associated underground piping. The proposed project would install a new underground fueling system, including two 20,000-gallon USTs. Accidental releases of small quantities of hazardous materials or toxic substances could contaminate soils and degrade the quality of surface water and groundwater, resulting in a public safety hazard. However, contractors would be required to transport, store, and handle hazardous materials and toxic substances related to construction activities in accordance with relevant regulations and guidelines, including California Health and Safety Codes and City ordinances. Regulatory requirements for the transport of hazardous wastes in California are specified in Title 22 of CCR, Division 4.5, Chapters 13 and 29. In accordance with these regulations, the transport of hazardous materials must comply with the California Vehicle Code, California Highway Patrol regulations (contained in CCR, Title 13); the California State Fire Marshal regulations (contained in CCR, Title 19); United States Department of Transportation regulations (CFR, Title 49); and USEPA regulations (contained in CFR, Title 40). The use of hazardous materials is also regulated by DTSC (CCR, Title 22, Division 4.5).

The proposed project would demolish the existing onsite structures. As discussed, the project site has been developed as the existing gas station since 1968. Due to the age of the existing convenience store with service bay, asbestos containing materials and lead-based paint may be present in the building materials onsite. The proposed project would be subject to the City's Standard Permit Conditions related to the removal of asbestos-containing materials in the existing buildings.

Standard Permit Condition - Asbestos-Containing Materials and Lead-Based Paint

- In conformance with state and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of onsite building(s) to determine the presence of asbestos-containing materials and/or lead-based paint.
- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Title 8, CCR, Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.
- All potentially friable asbestos-containing materials shall be removed in accordance with National Emission Standards for Air Pollution guidelines prior to demolition or renovation activities that may disturb asbestos-containing materials. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.
- A registered asbestos abatement contractor shall be retained to remove and dispose of asbestos-containing materials identified in the asbestos survey performed for the site in accordance with the standards stated above.
- Materials containing more than 1 percent asbestos are also subject to BAAQMD regulations. Removal of materials containing more than 1 percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.

Additionally, the project site is listed as a closed LUST cleanup site as of July 21, 2022. The closure letter issued by the SCCDEH on July 19, 2022 indicates residual contamination in soil, groundwater, and soil vapor remains at the site that could pose an unacceptable risk under certain site development activities such as, but not limited to, site grading, excavation, or the installation of water wells. Therefore, the Applicant would be required to implement Mitigation Measure HAZ-1 which requires notifying the SCCDEH and the Director of Planning, Building and Code Enforcement Department or the Director's designee of the redevelopment plans and retain an environmental professional to assess the residual contamination and determine if additional investigation, health risk assessment, and mitigation are necessary to protect public health and the environment.

Impact HAZ-1: The property is a former leaking underground storage tank site due to contamination found after an underground tank was removed in 1990. The project was remediated to regulatory closure with residual contamination remaining in the soil and groundwater that may need mitigation when the project site is redeveloped.



Mitigation Measures

MM HAZ-1: **Notification to Santa Clara County Department of Environmental Health (SCCDEH).** Prior to the issuance of any demolition or grading permits (whichever occurs earliest), the Applicant shall notify the SCCDEH and Director of Planning, Building and Code Enforcement Department or the Director's designee of the redevelopment plans and retain an environmental professional to assess the residual contamination and determine if additional investigation, health risk assessment, and mitigation are necessary to protect public health and the environment. The Applicant shall provide proof of SCCDEH notification to the Director of Planning, Building and Code Enforcement or the Director's designee and City's Environmental Compliance Officer.

The proposed project would also remove the existing USTs at the project site prior to commencement of the demolition and construction activities. As required by Mitigation Measure HAZ-2, the Applicant would be required to obtain a UST removal permit from SCCDEH. The tank removal activities would be completed in accordance with the requirements of the UST removal permit and under the oversight of SCCDEH. The UST removal activities would include removal of the existing canopy to provide access to the existing USTs; draining the USTs; removal of the three USTs, two fuel dispenser islands and associated piping; sampling of excavated areas; and removal of soil with evidence of petroleum products and backfilling excavations with clean fill. As part of the UST removal permit, the proposed project would be subject to the SCCDEH's UST System and Sump Closure Requirements, including any additional requirements related to dewatering of contaminated groundwater, soil and groundwater sampling, and reporting to ensure the health and safety of construction workers and the public.

Impact HAZ-2: The proposed project would remove the existing underground storage tanks (USTs), requiring the Applicant to obtain a UST removal permit from the Santa Clara County Department of Environmental Health (SCCDEH).

Mitigation Measures

MM HAZ-2: **Underground Storage Tank Removal.** Prior to removal of the existing Underground Storage Tanks (USTs) at the project site, the Applicant shall complete and submit a UST System Closure Permit Application to the Santa Clara County Department of Environmental Health (SCCDEH) Hazardous Materials Compliance Division. Closure of the USTs shall consist of removing the tanks and ancillary equipment such as piping from the ground and performing soil sampling to evaluate if there is residual contamination from the operation of the tank system. Tank and sump removal and soil sampling activities must be witnessed by a representative from SCCDEH Hazardous Materials Compliance Division. The tanks and primary pipe are to be managed as hazardous waste once removed, unless they are cleaned onsite and certified as non-hazardous in accordance with California hazardous waste regulations (CCR, Title 22, Division 4.5, Chapter 32). Based upon the findings of the soil sampling, the SCCDEH

Hazardous Materials Compliance Division will determine if the USTs have leaked and require enrollment in the County's LUST program, or if there are other further requirements.

With implementation of Mitigation Measure HAZ-1, Mitigation Measure HAZ-2, and compliance with the City's Standard Permit Conditions, the project's construction activities would not be anticipated to create a significant hazard through routine transportation, use, or disposal of hazardous materials or through accidental release of hazardous materials and impacts would be less than significant. ***(Less Than Significant with Mitigation Incorporated)***

Operation

Once operational, the project site would continue to operate as a gas station with a new fuel canopy, convenience store and service bay, and car wash. The proposed project would be served by a new underground fueling system that contains two 20,000-gallon USTs. Additionally, the gas station would provide a 500-gallon propane tank with dispenser. The proposed project would contain a combined total of 40,500 gallons of fuel storage onsite.

Gasoline storage and dispensing facilities contain potentially hazardous materials including liquid fuels as well as gas vapors. Additionally, other potentially hazardous materials including propane fuel, lubricants, oils, and petroleum-based products would likely be available at the convenience store and auto service bay. At operation, the proposed project would routinely handle, store, and dispense potentially hazardous materials. The design and operation of the proposed gas station would be required to comply with local, state, and federal regulations that are applicable to fueling facilities and be required to meet certain standards for design, operation, maintenance and safety.

The transfer and storage of gasoline would result in the emission of volatile organic compounds, also referred to as ROGs. Such compounds are emitted through the loading, breathing, and dispensing of fuels. The state requires that fueling stations incorporate proper control equipment to minimize vapor emitted from the facility such as enhanced vapor recovery systems. The fuel dispensing valves would control and minimize vapor emissions in accordance with Air District regulations for the operation of gas stations. Additionally, the facility would be constructed in accordance with state fire, building, and health codes that require measures such as automatic shutoffs, signage, collision bollards, and onsite spill containment for the USTs. The proposed project would be required to comply with all applicable federal, state, and local regulations in order to operate, including but not limited to Section 2540.7 – Gasoline Dispensing and Service Stations, of the Cal/OSHA regulations; and Chapter 38 – Liquified Petroleum Gases, of the California Fire Code. Additionally, the proposed project would be subject to Title 40 of the CFR, which requires sites that handle any individual hazardous materials or mixture in excess of the following quantities: 55 gallons (liquid); 500 pounds (solid); or 2,000 cubic feet (gases) to prepare a Hazardous Materials Business Plan (HMBP). The HMBP would be implemented as Mitigation Measure HAZ-3 and would include a contingency plan that describes the facility's response procedures in the event of an accidental release of hazardous materials. The HMBP would be submitted to SCCDEH, which is the Certified Unified Program Agency for the City.

Transportation of hazardous materials would be accomplished in accordance with regulations established by the federal Department of Transportation and the California Department of Transportation (Caltrans). The delivery of gasoline would also be required to follow the designated hazardous material carrier route to promote safe transport of hazardous materials through the City as required by General Plan Policy EC-6.5.

Impact HAZ-3: Operation of the proposed project would include handling of individual hazardous materials or mixture in excess of the following quantities: 55 gallons (liquid); 500 pounds (solid); or 2,000 cubic feet (gases).

Mitigation Measures

MM HAZ-3: **Hazardous Materials Business Plan (HMBP).** The Applicant shall prepare a HMBP in accordance with CFR Title 40. The HMBP shall include inventory of any individual hazardous material or mixture in excess of any of the following quantities: 55 gallons (liquid); 500 pounds (solid); or 2,000 cubic feet (gases). The HMBP would include measures for safe storage, transportation, use, and handling of hazardous materials. The HMBP shall also include a contingency plan that describes the facility's response procedures in the event of a hazardous materials release. The HMBP shall be submitted to SCCDEH prior to start of operation. The Applicant shall provide proof of SCCDEH's approval of the HMBP to the Director of Planning, Building and Code Enforcement or the Director's designee and City's Environmental Compliance Officer.

With implementation of Mitigation Measure HAZ-3, as well as compliance with federal, state, and local regulations and requirements related to hazardous materials, the project's operation activities would not be anticipated to create a significant hazard through routine transportation, use, or disposal of hazardous materials or through accidental release of hazardous materials and impacts would be less than significant. ***(Less Than Significant with Mitigation Incorporated)***

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

There are no schools located within 0.25-mile of the project site. The nearest schools are Stonegate Elementary School, approximately 0.40-mile southwest of the project site, and Jeanne Meadows Elementary School, approximately 0.5-mile northwest of the project site. The proposed project would redevelop the site with a new fuel canopy, convenience store, service bay, and car wash. As with existing conditions, the proposed project would comply with all applicable federal, state and local laws and regulations pertaining to the transport, use, disposal, handling and storage of hazardous materials. As required by Mitigation Measure HAZ-2, the existing USTs would be removed in accordance with the requirements of the SCCDEH's UST removal permit process. The proposed project would also comply with the City's Standard Permit Conditions related to the removal of asbestos containing materials and lead-based paint. Additionally, the Applicant would implement Mitigation Measure HAZ-3, which requires implementation of a HMBP that identifies measures for the storage, transportation, use, and handling of hazardous materials at the project site. Pursuant to

Cal/OSHA regulations, all hazardous materials stored onsite would be accompanied by a Material Safety Data Sheet, which would inform onsite operators of necessary remediation processes in the event of accidental release. Therefore, with adherence to the required applicable regulations and implementation of Mitigation Measure HAZ-2 and Mitigation Measure HAZ-3, the proposed project would have a less than significant impact related to the emission or handling of hazardous materials near a school. ***(Less Than Significant with Mitigation Incorporated)***

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

As discussed, the project site is listed on the Cortese List as a closed LUST as of July 21, 2022. The project site was listed on the Cortese List in January 1990 due to the unauthorized release of waste oil and gasoline that contaminated soil and groundwater. Additionally, further contamination occurred during installation of soil vapor extraction equipment in 1995 when underground piping was damaged which resulted in a gasoline release estimated at 13 gallons. Remaining product was suctioned from the damaged piping and approximately 13 CY of contaminated soil was removed. Various groundwater monitoring events and soil vapor extraction activities were conducted onsite as remedial options since 1990 and soil sampling and removal of impacted soils have occurred on numerous occasions since the project site was listed as a LUST case (Appendix E).

The SCCDEH issued a case closure letter for the project site on July 19, 2022. The case closure letter notes that residual contamination in soil, groundwater, and soil vapor remains at the site that could pose an unacceptable risk under certain site development activities such as, but not limited to, site grading, excavation, or the installation of water wells. The removal of the existing USTs at the project site would occur prior to commencement of the demolition and construction activities. As required by Mitigation Measure HAZ-2, the Applicant would remove the existing USTs in accordance with the SCCDEH's UST removal permit process. Therefore, the proposed project would not create a significant hazard to the public or the environment with implementation of Mitigation Measure HAZ-2. ***(Less Than Significant with Mitigation Incorporated).***

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 or private airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?

The project site is not located within 2 miles of a public airport. The nearest public airport is SJC, located approximately 5.5 miles northwest of the project site. Due to the distance from the airport, the project site is not within the airport influence area, aircraft noise contours, Federal Aviation Regulations Part 77 surface zones, or the airport safety zones for the SJC. Therefore, the project site is not located in an area that would result in a safety hazard or excessive noise for people working in the project area and no impact would occur. ***(No Impact)***

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

The proposed project would not involve permanent modification to the existing roadways or circulation system that could potentially impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. Project construction activities would primarily occur within the 0.66-acre project site; however, work may temporarily extend to the centerlines of Tully Road and McLaughlin Avenue to connect utilities and to construct the concrete bus pad. Any construction traffic, lane closures, or street staging would be temporary and require an approved TCP and an encroachment permit from the City. The TCP would identify all detours, appropriate traffic controls, and ensure adequate circulation and emergency access is provided.

During operation, the project site would be accessed via two new driveways consisting of a 36-foot-wide driveway on Tully Road and a 32-foot-wide driveway on McLaughlin Avenue. The driveways would connect to a two-way, 20-foot-wide drive aisle that would provide access to the fueling canopy, convenience store, service bay, and car wash. The San José Fire Department (SJFD) would review the project site development plans to ensure fire protection design features are incorporated and adequate emergency access is provided to the site. Therefore, the proposed project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan and impacts would be less than significant. ***(Less Than Significant Impact)***

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

The project site is located in an urbanized area and developed as an active 76 gas station. Based on a review of the Fire Hazard Severity Zone maps developed by CAL FIRE, the project site is not located within or near an area designated as an SRA, nor is it classified as or located near a very high fire hazard severity zone (CAL FIRE 2023). All utilities are currently within underground easements and would remain so with the proposed project. The proposed project would also be required to comply with all applicable building and safety codes, including the California Fire Code, and all applicable fire safety standards set forth by the City. Therefore, the proposed project would not expose people or structures to a significant risk involving wildland fires and there would be no impact. ***(No Impact)***

3.10 HYDROLOGY AND WATER QUALITY

HYDROLOGY AND WATER QUALITY Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Violate water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater 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 offsite;				
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?	☐	☒	☐	☐

3.10.1 Environmental Setting

Surface Water and Water Quality

The project site is located within the Coyote Creek watershed (City of San José 2011). The water quality of the river is directly affected by pollutants contained in stormwater runoff from a variety of urban and non-urban uses. Stormwater from urban uses contains metals, pesticides, herbicides, and other contaminants, such as oil, grease, asbestos, lead, and animal wastes. Pollutants from unidentified sources, known as “non-point” source pollutants, are washed from streets, construction sites, parking lots, and other exposed surfaces into storm drains.

Groundwater

Groundwater levels fluctuate seasonally depending on variations in rainfall, tidal influences, and other factors. The Geotechnical Engineering Report identified that groundwater at the project site was

encountered at approximately 15 feet bgs; however, the historic high depth to groundwater level is reported to be approximately 10 to 20 feet bgs by SCVWD (Earth Systems Pacific 2024).

Stormwater

Stormwater runoff within the urbanized areas of the City is discharged into local storm drains, which in turn flow into local creeks and the Bay. The City of San José Public Works Department owns and maintains the municipal storm drainage system which serves the project site.

Flooding

Based on the Federal Emergency Management's (FEMA) Flood Insurance Rate Maps (Flood Insurance Rate Map No. 06085C0254H), the project site is located in Flood Zone D (FEMA 2009). Some flood maps include areas where there are possible but undetermined flood hazards or unstudied areas. These areas are shown on flood maps or areas as Zone D. Therefore, the project site is located in an area with an undetermined flood hazard.

3.10.2 Regulatory Setting

Federal

Federal Clean Water Act

The Clean Water Act (33 United States Code Section 1251 et seq.), formerly the Federal Water Pollution Control Act of 1972, was enacted with the intent of restoring and maintaining the chemical, physical, and biological integrity of the waters of the United States. The Clean Water Act requires states to set standards to protect, maintain, and restore water quality through the regulation of point source and certain non-point source discharges to surface water. Those discharges are regulated by the National Pollutant Discharge Elimination System (NPDES) permit process (Clean Water Act Section 402). Section 401 of the Clean Water Act regulates surface water quality, and a Water Quality Certification is required for federal actions (including construction activities) that may entail impacts to surface water. In California, NPDES permitting authority is delegated to, and administered by, the SWRCB and the nine Regional Water Quality Control Boards (RWQCBs).

State

Statewide Construction General Permit

The SWRCB has implemented a NPDES General Construction Permit for the State of California. For projects disturbing 1 acre or more, a Notice of Intent and a SWPPP must be prepared by a qualified professional prior to commencement of construction. The General Construction Permit for the State of California 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.

San Francisco Bay Water Quality Control Plan (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.

Local

Envision San José 2040 General Plan

The City's General Plan includes the following goals and policies related to hydrology and water quality that are applicable to the proposed project:

- **Goal ER-8: Stormwater.** Minimize the adverse effects on ground and surface water quality and protect property and natural resources from stormwater runoff generated in the City of San José.
    - **Policy ER-8.1:** Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
    - **Policy ER-8.3:** Ensure that private development in San José includes adequate measures to treat stormwater runoff.
    - **Policy ER-8.4:** Assess the potential for surface water and groundwater contamination and require appropriate preventative measures when new development is proposed in areas where storm runoff will be directed into creeks upstream from groundwater recharge facilities.
    - **Policy ER-8.5:** Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite.
    - **Policy ER-9.6:** Require the proper construction and monitoring of facilities that store hazardous materials in order to prevent contamination of the surface water, groundwater and underlying aquifers. In furtherance of this policy, design standards for such facilities should consider high groundwater tables and/or the potential for freshwater for tidal flooding.
    - **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.

- **Goal EC-5: Flooding Hazards.** Protect the community from flooding and inundation and preserve the natural attributes of local floodplains and floodways.
    - **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.

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

The City of San José's Policy 6-28 establishes requirements to prevent Polychlorinated Biphenyls (PCBs) from entering the waterways during building demolition consistent with Provision C.12.g of the Municipal Regional Stormwater NPDES Permit. Policy 6-28 requires all projects involving a full building demolition be screened for applicability such that buildings constructed between 1950 and 1980 are tested for PCB-containing material prior to demolition; applicable projects must implement enhanced construction best management practices, provide advanced notice for inspection, and submit the required waste management documentation.

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 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 surface.

Hydromodification Management (Policy 8-14)

The City of San José's Policy No. 8-14 implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater Permit. Policy No. 8-14 requires all new and redevelopment projects that create or replace 1 acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan.

The project site is exempt from the NPDES hydromodification requirements related to preparation of an Hydromodification Management Plan because it would create or replace less than 1 acre of impervious surfaces.

Municipal Regional Stormwater Permit

The San Francisco Bay RWQCB has issued a Municipal Regional Stormwater Permit 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 Municipal Regional Stormwater Permit to discharge stormwater from the City's storm drain system to surface waters. The Municipal Regional Stormwater Permit

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 Municipal Regional Stormwater Permit regulates the following types of development projects:

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

The MRP requires regulated projects to include Low Impact Development 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.

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

3.10.3 Environmental Impact Analysis

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

Construction activities required for the proposed project would include site clearing, grading, utility connection, building construction, and landscaping onsite. These activities have the potential to generate stormwater runoff and to discharge pollutants, such as fuels, solvents, oil, paints, and trash, into the City's storm drainage system. The proposed project would disturb less than 1 acre of land, and therefore would be required to comply with the City of San José's NPDES Storm Water Permit and include best management practices as a Standard Permit Condition, to control the discharge of storm water pollutants, including sediments associated with construction activities.

Standard Permit Condition – Construction-Related Water Quality

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

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

Compliance with the City's NPDES Storm Water Permit and Standard Permit Conditions during the construction phase would ensure project construction activities would not violate any water quality standards or discharge requirements and impacts would be less than significant.

During operation, the proposed project would comply with applicable City requirements for control of post-construction stormwater runoff. The proposed project would be required to comply with the City's Post-Construction Urban Runoff Management Plan (Policy 6-29), which requires all new and redevelopment projects to implement post-construction BMPs and TCMs. TCMs would be included to direct stormwater runoff into treatment areas to protect water quality. Details of specific site design, pollutant source control, and stormwater treatment control measures would be included in the project design. In addition, the proposed project would be required to comply with the MRP. Under the MRP, development projects that create, add, or replace 10,000 square feet or more of impervious surface area are required to control post-development stormwater runoff through source control, site design, and treatment control BMPs. As identified in Section 2.0, Project Description, the proposed project would include construction of four bioretention areas totaling approximately 1,026 square feet. The bioretention basins would be designed to treat stormwater runoff from the site prior to it being discharged into the City's system. The treated stormwater would be conveyed via a new 15-inch storm drain line that connects to an existing 54-inch storm drain within Tully Road. As such, compliance with the City's post-construction water quality requirements would ensure operation of the proposed project would not violate any water quality standards or waste discharge requirements and impacts would be less than significant impact. ***(Less Than Significant Impact)***

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

Construction

According to the Geotechnical Engineering Report, the depth to groundwater at the project site was encountered at approximately 15 feet bgs; however, the historic high depth to groundwater level is reported to be approximately 10 to 20 feet bgs by SCVWD (Earth Systems Pacific 2024). The proposed project would connect to the City's water supply system and would not include the construction of wells onsite that could decrease groundwater supplies. As discussed in Section 3.9, Hazards and Hazardous Materials, the proposed project would involve the removal of the two existing 10,000-gallon USTs, one 500-gallon oil UST, and associated underground piping. The proposed project would excavate to a maximum depth of 19 feet bgs, and therefore groundwater could be encountered during the tank removal activities and require dewatering. If required during the tank removal activities, dewatering could result in the withdrawal of groundwater. However, as required by Mitigation Measure HAZ-2, the proposed project would be subject to the SCCDEH's UST System and Sump Closure Requirements, including any additional requirements related to dewatering of contaminated groundwater, soil and groundwater sampling, and reporting to ensure the health and safety of construction workers and the public. Furthermore, any dewatering required during construction activities would be localized and temporary and would not deplete groundwater supplies.

Impact HYD-1: The proposed project could encounter groundwater during removal of the underground storage tanks (USTs), and therefore require dewatering activities that could result in the withdrawal of groundwater.

Mitigation Measures

Implement Mitigation Measure HAZ-2.

As the proposed project would implement Mitigation Measure HAZ-2 and the dewatering activities would be localized and temporary, project construction activities would not substantially deplete groundwater supplies or impede sustainable groundwater management of the basin and the impact would be less than significant.

Operation

Operation of the proposed project would be consistent with existing conditions as most of the project site is currently paved. The proposed project would result in 25,739 square feet of onsite impervious area and 3,879 square feet of offsite impervious area. Additionally, the proposed project would result in 2,880 square feet of onsite pervious area and 75 square feet of offsite pervious area. Stormwater runoff from the impervious areas would be directed to four bioretention areas totaling approximately 1,026 square feet. The bioretention basins would be designed with an underdrain and overflow to convey stormwater from the impervious areas after being treated. The pervious surfaces would reduce the amount of runoff from leaving the project site and allow for groundwater recharge to continue following project construction. Therefore, the operation of the proposed project would not

substantially decrease groundwater water supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management, and impacts would be less than significant. ***(Less Than Significant with Mitigation Incorporated)***

c) Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would;

i. Result in substantial erosion or siltation on- or offsite;

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.

Construction of the proposed project would include ground disturbing activities that could result in erosion related impacts. As discussed above in Impact (a), the proposed project would disturb less than 1 acre of land, and therefore would be required to comply with the City of San José's NPDES Storm Water Permit and include BMPs as specified in Council Policy 6-37, Projects Disturbing Less than 1 Acre: Construction BMPs, to control the discharge of storm water pollutants, including sediments associated with construction activities. Additionally, the proposed project would be required to comply with the requirements of the City's Grading Ordinance as identified in San José Municipal Code Section 17.04 Part 6, which requires the implementation of erosion and dust control measures during construction. Implementation of City standards and requirements during the construction phase would ensure that construction activities would not result in substantial erosion or siltation on or offsite.

Operation of the proposed project would be consistent with existing conditions as most of the project site is currently paved. The proposed project would result in 25,739 square feet of onsite impervious area and 3,879 square feet of offsite impervious area. Additionally, the proposed project would result in 2,880 square feet of onsite pervious area and 75 square feet of offsite pervious area. Stormwater runoff from the impervious areas would be directed to four bioretention areas totaling approximately 1,026 square feet. The bioretention basins would be designed with an underdrain and overflow to convey stormwater from the impervious areas after being treated. Thus, the proposed project would not substantially alter the existing drainage pattern of the sites such that erosion or siltation would occur, nor would the proposed project substantially increase the rate or amount of surface runoff beyond the capacity of available storm drain facilities. The construction and operation of the proposed project would not substantially increase the rate or amount of surface runoff in a manner that would result in flooding on or offsite nor would it cause the City's existing storm drainage

system to exceed capacity. Therefore, impacts would be less than significant. ***(Less Than Significant Impact)***

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

The project site is not located within a seiche or tsunami hazard area. The project site is identified by FEMA as located within Flood Hazard Zone D which is identified as areas with an undetermined flood hazard. The closest flood hazard area to the project site identified by FEMA is Coyote Creek which is located approximately 0.5-mile west of the project site. Coyote Creek is identified as a regulatory floodway and some areas located along the creek are identified as special flood hazard areas. However, the special flood hazard areas located around Coyote Creek are limited to the areas directly adjacent to Coyote Creek and are not anticipated to impact other areas. As the closest known flood hazard area is located 0.5-mile away from the project site and the project site is relatively flat with no other known flood hazard sources nearby, the project site is not anticipated to be located in a flood hazard zone and impacts related to flood hazards would be less than significant. ***(Less Than Significant Impact)***

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

In the San Franciso Bay Area, including the project site, the RWQCB is responsible for implementation of the Basin Plan, which establishes beneficial water uses for waterways and water bodies within the region. As discussed, the proposed project would be required to comply with the City of San José's NPDES Storm Water Permit and Standard Permit Conditions listed above to control the discharge of storm water pollutants, including sediments associated with construction activities. Compliance with the City of San José's NPDES Storm Water Permit and Standard Permit Conditions would ensure that the proposed project would not degrade or alter water quality, thereby causing the receiving waters to exceed the water quality objectives or impair the beneficial use of receiving waters. As such, the proposed project would not result in water quality impacts that would conflict with the Basin Plan.

The project site is located within the Santa Clara Valley Subbasin, which the State Department of Water Resources identifies as a high-priority basin (DWR 2020). The 2021 Groundwater Management Plan for the Santa Clara Valley Subbasin was approved by the State Department of Water Resources in June 2024. As discussed in Impact (b), the proposed project would not interfere with groundwater recharge or substantially deplete groundwater supplies. Any groundwater extracted during construction dewatering would be temporary and completed in accordance with SCCDEH's UST System and Sump Closure Requirements, as required by Mitigation Measure HAZ-2.

Impact HYD-2: The proposed project could encounter groundwater during removal of the underground storage tanks (USTs), and therefore require dewatering activities that could conflict with the Santa Clara Valley Subbasin Groundwater Management Plan.

Mitigation Measures

Implement Mitigation Measure HAZ-2.

Compliance with the City of San José's NPDES Storm Water Permit and Standard Permit Conditions and the implementation of Mitigation Measure HAZ-2 would ensure the proposed project would not conflict with or obstruct the implementation of a sustainable groundwater management plan and the impact would be less than significant. ***(Less Than Significant with Mitigation Incorporated)***

3.11 LAND USE AND PLANNING

LAND USE AND PLANNING Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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?	☐	☐	☒	☐

3.11.1 Environmental Setting

The 0.66-acre project site is developed and operates as an active 76 gas station. The gas station consists of two fuel canopies totaling approximately 1,864 square feet and a convenience store with service bay totaling approximately 1,631 square feet. The fuel canopies provide six dispensers that are served by two 10,000-gallon USTs, one 500-gallon oil UST, and associated underground piping.

The existing gas station is one of four gas stations located at the intersection of Tully Road and McLaughlin Avenue. Other land uses surrounding the project site include the San José Christian Alliance Church and residential development to the north, commercial development to the east and west, and residential development and the Đức Viên Buddhist Temple to the south and southeast.

The City's General Plan designates the project site as Neighborhood/Community Commercial, which is intended to support a broad range of commercial uses that serve the communities in neighboring areas, such as neighborhood serving retail services and commercial/professional office development (City of San José 2011). Additionally, the project site is zoned CP. The CP Zoning District conditionally allows fuel service stations with no incidental service or repair services. The project site currently operates as a fuel station with incidental service and repair uses; however, this is considered a non-conforming use in the CP Zoning District. The proposed project would be required to rezone the project site to the CN Zoning District, which conditionally allows the operation of fuel stations with incidental service or repair uses and car wash facilities. The proposed convenience store would also include the sale of alcohol, which would require approval of a CUP.

3.11.2 Regulatory Setting

Federal

There are no federal regulations or policies related to land use and planning that are relevant to the proposed project.

State

General Plans

The land use planning and zoning authority of local jurisdictions in California is set forth in the state's planning laws. California Government Code Section 65300, et seq. obliges cities and counties to adopt and implement general plans. The general plan is a comprehensive, long-term, and general document that describes plans for the physical development of a city or county and of any land outside its boundaries that, in the city's or county's judgment, bears relation to its planning. The general plan addresses a broad range of topics including, at a minimum, land use, circulation, housing, conservation, open space, noise, and safety. In addressing these topics, the general plan identifies the goals, objectives, policies, principles, standards, and plan proposals that support the City's or county's vision for the area. The general plan is a long-range document that typically addresses the physical character of an area over a 20-year period. Although the general plan serves as a blueprint for future development and identifies the overall vision for the planning area, it remains general enough to allow flexibility in the approach taken to achieve the plan's goals.

State Zoning Law

The State Zoning Law (California Government Code Section 65800, et seq.) establishes that zoning ordinances, which are laws that define allowable land uses within a specific district, are required to be consistent with the general plan and any applicable specific plans. When amendments to the general plan are made, corresponding changes in the zoning ordinance may be required within a reasonable time to ensure the land uses designated in the general plan would also be allowable by the zoning ordinance (California Government Code Section 65860, sub.[c]).

Local

Envision San José 2040 General Plan

The City's General Plan includes the following goals and policies related to land use and planning that are applicable to the proposed project:

- **Goal CD-8: Building Height.** Regulate the height of new development to avoid adverse land use incompatibility while providing maximum opportunity for the achievement of the Envision General Plan goals for economic development and the provision of new housing within the identified Growth Areas.
    - **Policy CD-8.1:** Ensure new development is consistent with specific height limits established within the City's Zoning Ordinance and applied through the zoning designation for properties throughout the City. Land use designations in the Land Use/ Transportation Diagram provide an indication of the typical number of stories expected for new development, however specific height limitations for buildings and structures in San José are not identified in the Envision General Plan.

  - **Policy CD-8.3:** While the height of new development should be regulated to avoid long term land use incompatibilities, ensure proposed Zoning Ordinance changes establish adequate maximum building heights to allow full build-out of the planned job and housing growth capacity within each of the identified Growth Areas.

- **Goal LU-4: Commercial.** Establish commercial uses that maximize revenue to the City and provide employment for its residents in order to achieve fiscal sustainability and our desired jobs per employed resident ratio.
  - **Policy LU-4.1:** Retain existing commercial lands to provide jobs, goods, services, entertainment, and other amenities for San José's workers, residents, and visitors.

- **Goal IP-1: Land Use/Transportation Diagram.** Make land use and permit decisions to implement the Envision General Plan Land Use / Transportation Diagram and to further the vision, goals and policies of the Envision General Plan.
  - **Policy IP-1.3:** Ensure that proposals for redevelopment or significant intensification of existing land uses on a property conform to the Land Use / Transportation Diagram. Because the Diagram designation identifies the City's long-term planned land use for a property, non-conforming uses should transition to the planned use over the timeframe of the Envision General Plan. Allow improvements or minor expansions of existing, non-conforming land uses provided that such development will contribute to San José's employment growth goals or advance a significant number of other Envision General Plan goals.

3.11.3 Environmental Impact Analysis

a) Would the project physically divide an established community?

The project site is located in an urbanized area and developed as an active 76 gas station. The proposed project would result in the redevelopment of the site with a new fuel canopy, convenience store, service bay, and car wash. The proposed project would be accommodated by the existing roadway network and would not involve the construction of new roadways, which would preclude access to adjacent development. Therefore, the proposed project would not physically divide an established community, and no impact would occur. ***(No Impact)***

b) Would the project cause a significant environmental impact due to a conflict with any applicable land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

The project site is currently designated Neighborhood/Community Commercial in the General Plan land use diagram and is located in the CP Zoning District. According to the General Plan, the Neighborhood/Community Commercial land use designation is intended to support a broad range of commercial uses that serve the communities in neighboring areas, such as neighborhood serving retail services and commercial/professional office development (City of San José 2011). The CP Zoning District implements the Neighborhood/Community Commercial land use designation. Fuel



service stations with no incidental service or repair are conditionally allowed in the CP Zoning District. However, the CP Zoning District does not permit fuel service stations with incidental service or repair uses or car wash facilities.

As discussed, the existing gas station includes operation of a service bay which is a non-conforming use in the CP Zoning District. The proposed project includes a conforming rezoning of the site to the CN Zoning District, which conditionally allows the operation of fuel stations with incidental service or repair uses and car wash facilities. The proposed convenience store would also include the sale of alcohol subject to the approval of a CUP.

The proposed project would result in the demolition of the existing structures and construct a new fuel canopy of approximately 3,007 square feet with a maximum height of 16 feet 6 inches, a convenience store building of approximately 2,626 square feet with a maximum height of 23 feet 6 inches, and a car wash tunnel and equipment room with a maximum height of 16 feet. The proposed structures would be consistent with the site's existing visual character, as well as the maximum height requirement of 50 feet for the CN Zoning District. The project design would be required to conform to the City's Commercial Design Guidelines. The design would be reviewed in accordance with the City's design review process and reviewed for consistency with the City's Commercial Design Guidelines and implementation of General Plan policies CD-1.1 and CD-1.23, which ensure the design is compatible with surrounding development. Therefore, with the conforming rezoning and approval of a CUP, the proposed project would not conflict with the City's General Plan or Zoning Code and the impact would be less than significant. ***(Less Than Significant Impact)***

3.12 MINERAL RESOURCES

MINERAL RESOURCES Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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?	☐	☐	☐	☒

3.12.1 Environmental Setting

The California Geologic Survey classifies lands into Aggregate and Mineral Resource Zones based on guidelines adopted by the State Mining and Geology Board, as mandated by the Surface Mining and Reclamation Act (SMARA) of 1977. These Mineral Resources Zones identify whether known or inferred significant mineral resources are present in an area. Local governments are required to incorporate identified Mineral Resource Zones delineated by the State into their general plan.

According to the City's General Plan, an area of Communications Hill in central San José is the only portion of the City designated by the State Mining and Geology Board as containing mineral deposits which are of regional significance. The project site is located approximately 2.5 miles northeast of the Communications Hill area, and therefore is not within a portion of the City identified by the State Mining and Geology Board as containing mineral deposits of regional significance.

3.12.2 Regulatory Setting

Federal

There are no federal regulations related to mineral resources that are relevant to the proposed project.

State

Mineral Resources and the Surface Mining and Reclamation Act

SMARA was enacted by the California Legislature in 1975 to address the need for a continuing supply of mineral resources, and to prevent or minimize the negative impacts of surface mining to public health, property and the environment. SMARA mandated the initiation by the State Geologist of mineral land classification in order to help identify and protect mineral resources in areas within the State subject to urban expansion or other irreversible land uses which would preclude mineral extraction. SMARA also allowed the State Mining and Geology Board, after receiving classification information from the State Geologist, to designate lands containing mineral deposits of regional or statewide significance.

Pursuant to the mandate of the SMARA, the State Mining and Geology Board has designated the Communications Hill Area (Sector EE), bounded generally by the Southern Pacific Railroad, Curtner Avenue, State Route 87, and Hillsdale Avenue as containing mineral deposits that are of regional significance as a source of construction aggregate materials. Neither the State Geologist nor the State Mining and Geology Board have classified any other areas in San José as containing mineral deposits of statewide significance or requiring further evaluation.

Local

There are no local regulations or policies related to mineral resources that are relevant to the proposed project.

3.12.3 Environmental Impact Analysis

a) Would the project 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?

The project site is located in a highly urbanized portion of the City and developed as an active 76 gas station. As discussed, the City's General Plan identifies that an area of Communications Hill in central San José is the only portion of the City designated by the State Mining and Geology Board as containing mineral deposits which are of regional significance. The project site is located approximately 2.5 miles northeast of the Communications Hill area, and therefore is not within a portion of the City identified by the State Mining and Geology Board as containing mineral deposits of regional significance. The proposed project would not result in the loss of availability of a known mineral resource that would be of value to the region and residents of the state. No impact would occur. ***(No Impact)***

b) Would the project result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?

As discussed, the project site does not contain any mineral resources, mineral resource production areas, nor is it in proximity to an area with identified mineral resources. Therefore, the proposed project would not 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. No impact would occur ***(No Impact)***

3.13 NOISE

NOISE Would the project result in:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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?	☐	☐	☒	☐

A Noise and Vibration Assessment was completed for the proposed project in October 2023 by Dudek (Appendix F). The information contained in the Noise and Vibration Assessment formed the basis of the information and analysis in this section.

3.13.1 Environmental Setting

Existing Ambient Noise Levels

The proposed project is located in the southeastern portion of San José and developed as an active gas station with convenience store and service bay. The project site is located in a highly urbanized area and surrounded by the San José Christian Alliance Church and residential development to the north, commercial development to the east and west, and residential development and the Đức Viên Buddhist Temple to the south and southeast. The dominant noise source affecting the overall area is transportation noise, primarily generated from vehicular traffic on the local roadway network. In addition, there is general community noise associated with residents and visitors of the area participating in general suburban community noise sources (e.g., landscape maintenance, etc.).

An ambient noise survey was performed by Dudek from May 9 through 10, 2023, to document the existing noise environment in the project area. As shown in Figure 3-1, the ambient noise survey included one long-term monitoring and three short-term monitoring locations. A description of the measurement location, the short-term measurement results, and the estimated DNL at each measurement location is shown in the table below.

Table 3.13-1: Existing Ambient Noise Measurements

Site	Location	Date	Time	DNL	Daytime			Nighttime		
					Leq	Lmax	L90	Leq	Lmax	L90
Long-Term Monitoring										
LT1	Attached to the fence on the southern corner of the project site	5/9/23 to 5/10/23	4:00 p.m. to 4:00 p.m.	70.6	67.1	95.7	52.4	63.4	93.6	41.8
Short-Term Monitoring										
ST1	Northern corner of the project site	5/10/23	3:39 p.m. to 3:45 p.m.	78.1[1]	77.0	88.4	69.8	--	--	--
ST2	Western side of McLaughlin Avenue, adjacent to the single-family residence at 2421 McLaughlin Ave.	5/10/23	3:50 p.m. to 4:00 p.m.	74.0[1]	71.5	87.8	62.3	--	--	--
ST3	Đức Viên Buddhist Temple parking lot located southeast of the project site	5/10/23	4:04 p.m. to 4:10 p.m.	64.9[1]	59.2	67.2	55.4	--	--	--

Notes:

dB(A) = A-weighted decibels; DNL = Day Night noise level; Leq = average equivalent noise level; Lmax = maximum noise level; L90 = sound level exceeded 90 percent of the period.

[1] DNL (24-hour) noise levels calculated based on the modeled offset of traffic noise levels at the measurement locations

Source: Dudek 2023, Appendix F

Based on the measured data, ambient noise levels at the project site are anticipated to be between 59 and 77 dB(A) and 78 dB(A) DNL. Noise levels are reduced with greater distance from the roadway as shown in the measurements at the southern corner of the project site and at the Đức Viên Buddhist Temple parking lot.

Existing Traffic Noise

Observations and cataloged noise level data collected during the ambient noise survey indicate that the noise level exposure at receptors in the area surrounding the project site is primarily attributable to vehicular traffic. The magnitude of the noise level exposure at each receptor location would be dependent on the relative distance from nearby roadways to noise measurement locations, the volume of vehicles on the roadway, and shielding provided by nearby structures.

Modeled existing traffic noise levels are summarized in Table 3.13-2, based on annual average daily traffic volumes from the City of San José (City of San José 2021) and adjusted to a common existing year (2019) by utilizing Average Daily Traffic (ADT) data for nearby roadways (specifically U.S. 101) from the California Department of Transportation Traffic Census Program. The traffic noise levels were modeled at receivers representing the nearest building façade of the nearby-sensitive receptors in the project area.

Table 3.13-2: Modeled Existing Traffic Noise Levels in the Project Vicinity

Prediction Location	Description	Modeled Day/ Night Noise Level (dB[A] DNL)
M1	Single family residence at 2421 McLaughlin Ave.	71.6
M2	The garden of the Đức Viên Buddhist Temple at 2420 McLaughlin Ave.	69.0
M3	Single family residence at 1215 Danforth Ct.	52.9
M4	Basketball court for the San Jose Alliance Christian Church	72.2
M5	Southern façade of the San Jose Alliance Christian Church	67.4

Notes: M= modeled location; dB(A) = A-weighted decibels; DNL = Day Night noise level
Source: Dudek 2023, Appendix F

As shown in Table 3.13-2, predicted existing traffic noise levels ranged from approximately 53 to 72 dB(A) DNL at nearby noise-sensitive land uses.

Existing Vibration

There are no major sources of groundborne vibration in the project area. Transportation-related vibration from roadways in the vicinity of the project site is the primary source of groundborne vibration. Heavy truck traffic can generate groundborne vibration, which varies considerably depending on vehicle type, weight, and pavement conditions. However, groundborne vibration levels generated from vehicular traffic are not typically perceptible outside of the roadway right-of-way (Caltrans 2013).

3.13.2 Regulatory Setting

Federal

There are no federal regulations or policies related to noise that are relevant to the proposed project.

State

California Building Code

For commercial uses, CALGreen (Section 5.507.4.1 and 5.507.4.2) requires that wall and roof ceiling assemblies exposed to the adjacent roadways have a composite STC rating of at least 50 or a composite OITC rating of no less than 40, with exterior windows of a minimum STC of 40 or OITC of 30 when the commercial property falls within the 65 dBA DNL or greater noise contour for a freeway or expressway, railroad, or industrial or stationary noise source. The state requires interior noise levels to be maintained at 50 dBA Leq(1-hr) or less during hours of operation at a proposed commercial use.

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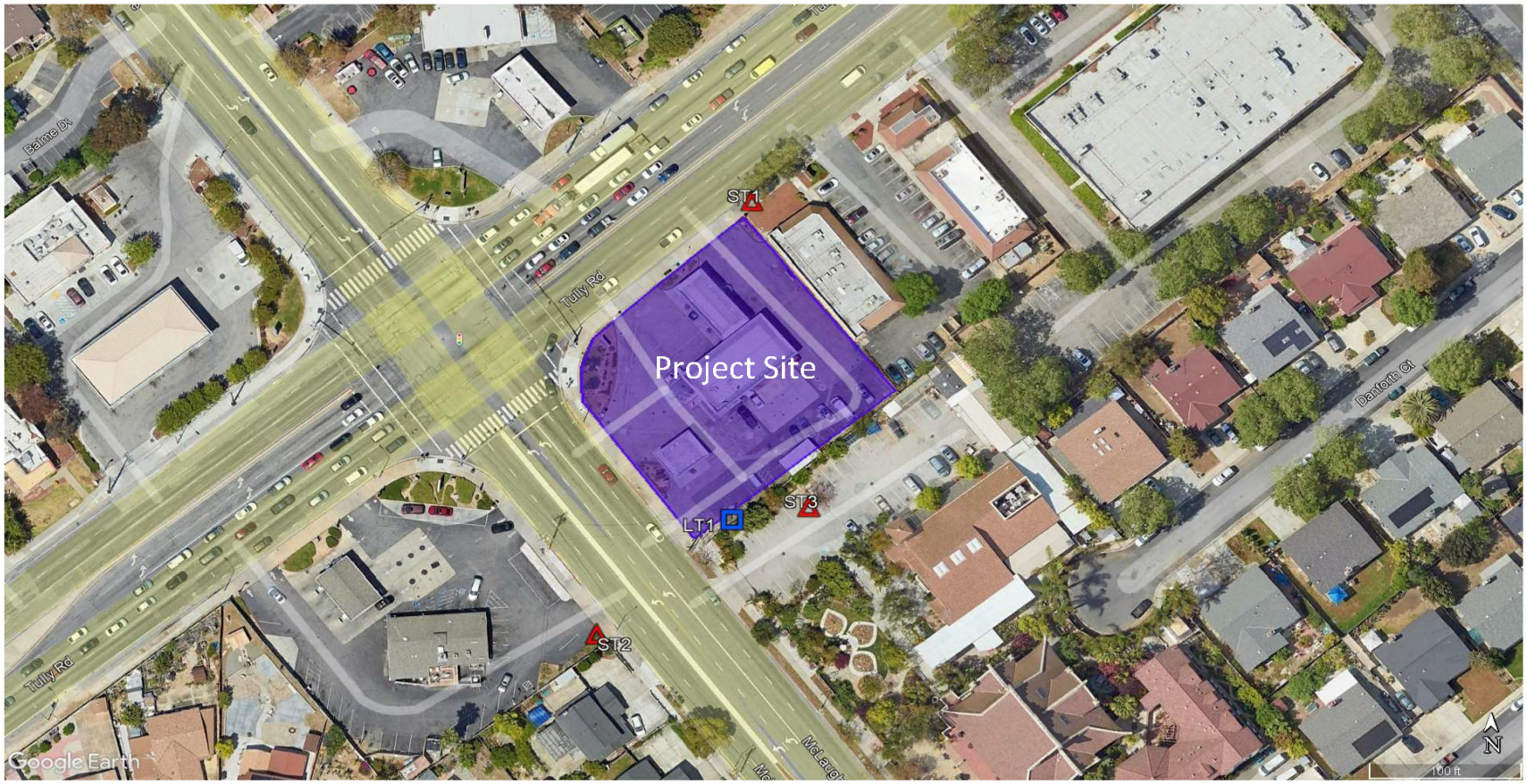

Source: Dudek, December 2023

Project Location
San José, California

Client/Project
City of San José
Tully 76 Service Project
ISMND

Figure No.
3-1

Title
Ambient Noise Monitoring Locations

Stantec

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Local

Envision San José 2040 General Plan

The City's General Plan includes the following goals and policies related to noise that are applicable to the proposed project:

- **Goal EC-1:** Minimize the impact of noise on people through noise reduction and suppression techniques, and through appropriate land use policies.
    - **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.
    - **Policy EC-1.2:** Minimize the noise impacts of new development on land uses sensitive to increased noise levels 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 (day-night noise level) at noise sensitive receptors to increase by 5 dB(A) DNL or more where the noise levels would remain "Normally Acceptable"; or
        - Cause the DNL at noise sensitive receptors to increase by 3 dB(A) DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.
    - **Policy EC-1.3:** Mitigate noise generation of new non-residential land uses to 55 dB(A) DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.
    - **Policy EC-1.6:** Regulate the effects of operational noise from existing and new industrial and commercial development on adjacent uses through noise standards in the City's Municipal Code.
    - **Policy EC-1.7**: Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project is located within 500 feet of residential uses or 200 feet of commercial or offices 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 residential and other uses.

- **Policy EC-2.3:** Require new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. A continuous vibration limit of 0.20 in/sec (inches per second) PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Equipment or activities typical of generating continuous vibration include but are not limited to excavation equipment; static compaction equipment; vibratory pile drivers; pile-extraction equipment; and vibratory compaction equipment. Avoid use of impact pile drivers within 125 feet of any buildings, and within 300 feet of historical buildings, or buildings in poor condition. On a project-specific basis, this distance of 300 feet may be reduced where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction. Transient vibration impacts may exceed a vibration limit of 0.08 in/sec PPV only when and where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction.

Sites with ambient noise at “conditionally acceptable” levels may be permitted only after a detailed analysis of the noise reduction requirements and needed noise insulation features included in the design. New construction with exterior noise levels in the “Unacceptable” range are discouraged because mitigation is usually not feasible to comply with the noise element policies.

City of San José Municipal Code

Paragraph 20.40.600.B “Performance Standards”, Table 20-105 “Noise Standards” in the City of San José Municipal Code sets criteria for noise generated by commercially-zoned properties that is received by other adjacent properties. The table lists a maximum noise level of 55 dB(A) at the property line of all adjacent residentially zoned properties and a maximum noise level of 60 dB(A) at the property line of all commercially zoned or other non-residential uses.

Chapter 20.100.450 of the Municipal Code establishes allowable hours of construction within 500 feet of a residential unit between 7:00 a.m. to 7:00 p.m. on Monday through Friday, unless otherwise expressly allowed in a Development Permit or other planning approval. The Municipal Code does not establish quantitative noise limits for demolition or construction activities occurring in the City.

Paragraph 20.40.600.C states there shall be no activity on any site that causes ground vibration that is perceptible without instruments at the property line of the site.

3.13.3 Environmental Impact Analysis

a) Would the project result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

Construction Noise

General Plan Policy EC-1.7 of the City's General Plan requires that all construction activities within the City use best available noise suppression devices and techniques and limit construction hours near residential uses per the Municipal Code, which are between 7:00 a.m. and 7:00 p.m. on weekdays when construction occurs within 500 feet of a residential land use. Further, the City considers a significant construction noise impact to occur if a project is located within 500 feet of a residential use or 200 feet of a commercial or office use and would involve substantial noise-generating activities continuing for a period of more than 12 months. General Plan Policy EC-1.7, requires projects with a construction schedule of more than 12 months to implement a construction noise logistics plan. The construction 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 residential and other uses.

Construction activities associated with implementation of the proposed project would temporarily increase noise levels in the project area. Construction noise impacts depend on 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 receptors.

As described in Section 2.0, Project Description, project construction would take approximately 18 months to complete. In accordance with General Plan Policy EC-1.7, the proposed project would implement Mitigation Measure NOI-1 which requires preparation of a Construction Noise Logistics Plan.

Impact NOI-1: The proposed project would result in a temporary significant noise impact to nearby residential land uses, as construction activities will continue for a period longer than 12 months.

Mitigation Measures

MM NOI-1: **Construction Noise Logistics Plan.** Prior to the issuance of any grading or demolition permits, the Applicant shall submit a Construction Noise Logistics Plan prepared by a qualified acoustical consultant to the Director of Planning, Building and Code Enforcement, or the Director's designee, that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction

and implemented during construction to reduce noise impacts on neighboring residents and other uses. As a part of the Construction Noise Logistics Plan, project construction activities for the proposed project shall include, but is not limited to, the following best management practices:

- Construction activities shall be limited to the hours between 7:00 a.m. and 7:00 p.m., Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence (San José Municipal Code Section 20.100.450).
- Construct temporary noise barriers, where feasible, to screen mobile and stationary construction equipment. The temporary noise barrier fences would provide noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receiver and if the barrier is constructed in a manner that eliminates any cracks or gaps.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Pile driving is prohibited.
- Unnecessary idling of internal combustion engines should be strictly prohibited.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Construction staging areas shall be established at locations that would create the greatest distance between the construction-related noise source and noise-sensitive receptors nearest the project site during all project construction.
- A temporary noise control blanket barrier could be erected, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected.



- Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from residential receptors.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.
- Designate a "disturbance coordinator" who would 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 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 in it the notice sent to neighbors regarding the construction schedule.

The implementation of Mitigation Measure NOI-1 would reduce construction noise impacts to a less than significant level by limiting construction activities to daytime hours, constructing temporary noise barriers around the site, and designating a disturbance coordinator to respond to any complaints from neighboring properties regarding excessive construction noise. ***(Less than Significant with Mitigation Incorporated)***

Operational Noise

Traffic Noise

The City's Noise Element establishes a policy for exterior use areas of sensitive land uses to be protected from high noise levels. The Noise Element sets 55 dBA DNL for the outdoor (i.e., exterior use) areas and 45 dBA DNL for interior areas (e.g., residential indoor space) as the upper limit for normally acceptable levels. In addition, for the purposes of this noise analysis, traffic-related noise impacts are considered significant when they cause an increase of 3 dB or more from existing noise levels. An increase or decrease in noise level of at least 3 dB is required before any noticeable change in community response would be expected (Caltrans 2013a). The proposed project would result in the contribution of additional vehicle trips on local arterial roadways (Tully Road and McLaughlin Avenue), which could result in increased traffic noise levels at adjacent noise-sensitive land uses. The Noise and Vibration Assessment used Federal Highway Administration Traffic Noise Model to quantify predicted traffic noise levels and City 2019 average daily traffic data. Information used in the Traffic Noise Model included the roadway geometry, posted traffic speeds, and traffic volumes for the following scenarios: existing (year 2019) and existing (year 2019) plus project. The predicted DNL values for both scenarios are shown in Table 3.13-3. The locations are shown in Figure 3-2.

Table 3.13-3: Offsite Roadway Traffic Noise Modeling Results

Prediction Location	Predicted Noise Level, dBA, DNL		
	Existing (2019)	Existing (2019) Plus Project	Change due to Project (dB[A])
M1	71.6	71.9	0.3
M2	69.0	69.3	0.3
M3	52.9	52.8	-0.1
M4	72.2	72.3	0.1
M5	67.4	68.2	0.8

Source: Dudek 2023, Appendix F

As shown in Table 3.13-3, the addition of proposed project traffic to the roadway network would result in a DNL increase of less than 3 dB, which is below the discernible level of change for the average healthy human ear. Thus, a less than significant impact is expected for proposed project related offsite traffic noise increases affecting existing residences in the vicinity.

Operation

The proposed project is expected to feature “stationary” producers of noise associated with onsite operations that are distinct from the transportation noise. The assumed major onsite operating noise sources are as follows:

- The 2,626 square foot convenience store would likely feature a set of packaged air-conditioners or refrigeration units on its roof, which one could assume might feature five 5-ton air-cooled condensing units that each resemble a Bryant BH16-060 (Bryant 2017) or comparable model and thus having a reference sound power level of 69 dBA. These rooftop HVAC units would also operate during some or all nighttime hours.



Source: Dudek, December 2023

Project Location
San José, California

Client/Project
City of San José
Tully 76 Service Project
ISMND

Figure No.
3-2

Title
Noise Prediction Receiver Locations

Stantec

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- An approximately 1,176 square-foot car wash. Sound sources include:
  - The three car wash tunnel exit air dryers (blowers) exhibit a total of approximately 104 dBA sound power level.
  - Seven idling vehicles queued up for the car wash and one idling vehicle at the car wash exit. Conservatively, a vehicle is considered idling with an overall sound power level of 85 dBA. Six additional vehicles are idling in parking stalls near the proposed convenience store, with a 3 dB attenuation to account for half of the vehicles being off and empty.
  - Up to eight fuel pumps operate during the day for no more than 20 minutes in any hour (33 percent of the time), and each generates no more than 80 dBA sound power level.
  - A self-service vacuum unit, exhibiting 77 dBA sound power level.
  - An air compressor operating up to 15 minutes per hour (e.g., to recharge a connected tank, from which customers would draw pressure to fill tires) with an overall sound power level of 94.6 dBA (Guyer 2013).

Masonry wall segments located adjacent to the car wash tunnel structure entrance and exit and situated on the southeastern property boundary was also included in the model to assist in achieving applicable City of San José noise thresholds. The wall varies in height from 6 feet high to 12 feet high, with the 12-foot section being a virtual extension of the proposed car wash tunnel wall beyond the exit port. Table 3.13-4 compares the predicted aggregate project operation noise emission levels with the applicable City of San José noise thresholds.

Table 3.13-4: Predicted Project Stationary Operations Noise at Nearest Sensitive Receptors

Prediction Location	Predicted Noise Level, dBA, DNL				
	M1	**M2**	**M3**	**M4**	**M5**
Predicted Stationary Ops Noise Level (hourly Leq)	51	50	41	46	45
Predicted Stationary Ops Noise Level (DNL)	58	57	47	52	51
Lowest Calculated Ambient Noise Level (DNL)[1]	65	65	65	65	65
Delta (i.e., dB difference of Predicted from Ambient)	-7	-8	-18	-13	-14
DNL Limit (residential/church zone)	60	60	60	60	60
Exceedance?	***No***	***No***	***No***	***No***	***No***

Notes:

[1] Calculated using measurement results from ST3, as shown in Table 3.13-1

Source: Dudek 2023, Appendix F

Under these conservative sound modeling conditions (such as all gas station pumps in use, three convenience store parking spaces occupied by idling vehicles, the self-service vacuum and air compressor in operation, and a full queue of cars waiting to use the car wash) and operating 24 hours a day, no exceedances with respect to the municipal standards (i.e., no predicted increase in ambient

level or a predicted level greater than the threshold for the analyzed land use as shown in Table 3.13-4 are expected; thus, operational noise impact from stationary sources would be less than significant. ***(Less Than Significant Impact)***

b) Would the project result in generation of excessive groundborne vibration or groundborne noise levels?

Construction of the project may generate perceptible vibration when heavy equipment or impact tools (e.g., jackhammers, hoe rams) are used in the vicinity of nearby sensitive land uses. Construction activities would include demolition, site preparation, grading, excavation, trenching and foundation work, construction of building exteriors and interiors, and paving. Impact pile driving (which generates substantial vibration) is not proposed as a method of construction. According to General Plan Policy EC-2.3, a continuous vibration limit of 0.2 in/sec PPV is used to minimize damage at buildings of conventional construction and a continuous vibration limit of 0.08 in/sec PPV is used to minimize the potential for cosmetic damage to historical structures. The vibration limits contained in this policy are conservative and designed to provide the ultimate level of protection for existing buildings in San José. As discussed in Section 3.5, Cultural Resources, the project site does not contain any historic resources and there are no historic resources located within 0.5-mile of the site. There would be no risk of damage to any historic buildings resulting from project construction.

However, construction activities such as drilling, the use of jackhammers (approximately 0.035 in/sec PPV at 25 feet), rock drills and other high-power or vibratory tools (approximately 0.09 in/sec PPV at 25 feet), and rolling stock equipment such as tracked vehicles, and compactors (approximately 0.89 in/sec PPV at 25 feet) may generate substantial vibration in the immediate site vicinity. Therefore, construction of the proposed project could exceed the vibration limit of 0.2 in/sec PPV for normal and conventional structures. The proposed project would implement Mitigation Measure NOI-2, which would require that a qualified noise consultant reviews the final construction equipment list for the project and that a project-specific vibration plan is implemented to ensure project construction activities would not exceed the 0.2 in/sec PPV thresholds for conventional construction buildings at the nearby properties.

Impact NOI-2: Construction activities of the proposed project, including drilling, the use of jackhammers (approximately 0.035 in/sec PPV at 25 feet), rock drills and other high-power or vibration tools (approximately 0.09 in/sec PPV at 25 feet), and rolling stock equipment such as tracked vehicles and compactors (approximately 0.89 in/sec PPV at 25 feet) could exceed the City's General Plan Policy EC-2.3 vibration limit of 0.2 in/sec PPV at adjacent development.

Mitigation Measures

MM NOI-2: **Review of Final Construction Equipment.** Prior to the issuance of any demolition, grading, tree removal, or building permits (whichever occurs first), a qualified noise consultant shall review the final construction equipment list for the proposed project to ensure the construction equipment would not exceed the 0.2 in/sec PPV thresholds for conventional construction buildings at the nearby properties. A project-specific vibration plan shall be prepared and include the

project's planned vibration-generating construction activities (e.g., demolition, vibratory compaction), the potential project-specific vibration levels (given project-specific equipment and soil conditions, if known) at specific building locations that may be impacted by the vibration-generating work activities (generally buildings within 50 feet of the work area), and identify any necessary vibration control measures to reduce levels to 0.2 in/sec PPV or below. The Applicant shall submit a copy of the project-specific vibration plan to the Director of Planning, Building and Code Enforcement or Director's designee for review and approval.

With the implementation of Mitigation Measure NOI-2, impacts from construction vibration would be less than significant. ***(Less than Significant with Mitigation Incorporated)***

c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

The project site is not located within 2 miles of a public airport. The nearest public airport is SJC, located approximately 5.5 miles northwest of the project site. Due to the distance from the airport, the project site is not within the airport influence area, aircraft noise contours, Federal Aviation Regulations Part 77 surface zones, or the airport safety zones for the SJC. Therefore, the proposed project would not expose people working at the project site to excessive noise levels, and no impact would occur. ***(No Impact)***

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3.14 POPULATION AND HOUSING

POPULATION AND HOUSING Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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?	☐	☐	☐	☒

3.14.1 Environmental Setting

San José is the largest and most urban city located in the Silicon Valley. As of January 1, 2024, the City had a population of 969,491 (DOF 2024). The City's General Plan policies support the development of up to 382,000 new jobs within San José by 2040 and a jobs to employed residents ratio of 1.1 to 1 by 2040. The General Plan focuses employment growth in downtown, in proximity to regional and local transit facilities, and in existing employment lands citywide, while also encouraging the development of neighborhood serving commercial uses throughout the community and close to the residents they serve (City of San José 2016).

3.14.2 Regulatory Setting

Federal

There are no federal regulations or policies related to population and housing that are relevant to the proposed project.

State

There are no state regulations or policies related to population and housing that are relevant to the proposed project.

Local

Envision San José 2040 General Plan

The City's General Plan includes the following goals and policies related to population and housing that are applicable to the proposed project:

- **Goal LU-4: Commercial.** Establish commercial uses that maximize revenue to the City and provide employment for its residents in order to achieve fiscal sustainability and our desired jobs per employed resident ratio.

- **Policy LU-4.1:** Retain existing commercial lands to provide jobs, goods, services, entertainment, and other amenities for San José's workers, residents, and visitors.

- **Goal LU-5: Neighborhood Serving Commercial.** Locate viable neighborhood-serving commercial uses throughout the City in order to stimulate economic development, create complete neighborhoods, and minimize vehicle miles traveled.

  - **Policy LU-5.10:** In the review of new locations for the off-sale of alcohol, give preference to establishments that offer a full range of food choices including fresh fruit, vegetables, and meat.

3.14.3 Environmental Impact Analysis

a) Would the project induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

The project site currently operates as a 76 gas station and would be redeveloped with a new fuel canopy, convenience store, service bay, and car wash. The proposed project does not involve a residential component that would directly induce unplanned growth in the City's population. The project site would be served by existing roadways and infrastructure. Furthermore, operation of the proposed project would require a limited number of employees consisting of up to three full-time employees and three part-time employees for the gas station and convenience store and up to two mechanics for the service bay. As the project site would operate with similar commercial uses and require a limited number of employees, the proposed project would not directly or indirectly induce unplanned growth in City's population. No impact would occur. ***(No Impact)***

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

The project site is currently developed as a 76 gas station and does not contain any residential dwellings or residences onsite. Therefore, the proposed project would not result in the displacement of people or housing that would necessitate the construction of replacement housing elsewhere. No impact would occur. ***(No Impact)***

3.15 PUBLIC SERVICES

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

3.15.1 Environmental Setting

Fire Protection

The SJFD provides fire protection, emergency medical services, and fire prevention services to residents and visitors within its approximate 200 square mile jurisdiction. The SJFD has 34 fire stations, which collectively respond to more than 109,000 service calls per year (SJFD 2023). There are approximately 852 authorized positions within the SJFD that operate in shifts to provide services 24-hours a day, 365-days a year. Within the 34 fire stations, there are 33 engine companies, 9 truck companies, and 3 squad units (SJFD 2023). The nearest fire station to the project site is Fire Station 26, which is located approximately 1 mile southwest of the project site. The City's General Plan establishes a goal of a total response time (reflex) of 8 minutes and a total travel time of 4 minutes for 80 percent of emergency incidents.

Police Protection

Police protection services within the City are provided by the San José Police Department (SJPD), which is comprised of 11 divisions with approximately 1,700 authorized employees (SJPD 2024). For police protection services, the General Plan identifies a service goal of 6 minutes or less for 60 percent of all Priority 1 calls (e.g., emergency) and 11 minutes or less for 60 percent of all Priority 2 calls (e.g., non-emergency) (City of San José 2024b). The nearest police station to the project site is the main SJPD office, located approximately 4.5 miles northwest of the project site.

Schools

The project site is located in the East Side Union High School District. The nearest public schools are the Stonegate Elementary School, approximately 0.4-mile southwest of the project site, and Jeanne Meadows Elementary School, approximately 0.5-mile northwest of the project site.

Parks

According to the 2023-2024 Annual Report on City Services, the City manages approximately 3,621 acres of parkland, community gardens, and open space lands and is planning to implement a 100-mile network of multi-use trails throughout the City (City of San José 2024a). In addition to the parklands, the City also provides 50 indoor community facilities that provide recreational opportunities to the public. Various other private entities such as the SCVWD and PG&E provide recreational opportunities and amenities within the City (City of San José 2024b). The nearest public park to the project site is Nisich Park, a 1.3-acre neighborhood park located approximately 0.2-mile northeast of the project site.

Other Public Facilities

Libraries within the City are operated and managed by the San José Public Library System. This system consists of one main library, the Dr. Martin Luther King Junior Library, which is jointly operated with San José State University, as well as 22 branch libraries scattered through the City. The nearest library to the project site is the Tully Community Branch Library, which is located approximately 0.4-mile west of the project site.

3.15.2 Regulatory Setting

Federal

There are no federal regulations or policies related to public services that are relevant to the proposed project.

State

There are no state regulations or policies related to public services that are relevant to the proposed project.

Local

Envision San José 2040 General Plan

The City's General Plan includes the following goals and policies related to public services that are applicable to the proposed project:

- **Goal ES-3: Law Enforcement and Fire Protection.** Provide high-quality law enforcement and fire protection services to the San José community to protect life, property and the environment through fire and crime prevention and response. Utilize land use planning, urban design and site

development measures and partnerships with the community and other public agencies to support long-term community health, safety and well-being.

- **Policy ES-3.1:** Provide rapid and timely Level of Service response time to all emergencies:
  - For police protection, use as a goal a response time of 6 minutes or less for 60 percent of all Priority 1 calls, and of 11 minutes or less for 60 percent of all Priority 2 calls.
  - For fire protection, use as a goal a total response time (reflex) of 8 minutes and a total travel time of 4 minutes for 80 percent of emergency incidents.
  - Enhance service delivery through the adoption and effective use of innovative, emerging techniques, technologies and operating models.
  - Measure service delivery to identify the degree to which services are meeting the needs of San José's community.
  - Ensure that development of police and fire service facilities and delivery of services keeps pace with development and growth in the city.
- **Policy ES-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-3.10:** Incorporate universal design measures in new construction and retrofit existing development to include design measures and equipment that support public safety for people with diverse abilities and needs. Work in partnership with appropriate agencies to incorporate technology in public and private development to increase public and personal safety.
- **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 ED-3.16:** Coordinate and implement a comprehensive program designed to control and mitigate harmful effects resulting from the storage, use, and transport of hazardous materials.
- **Policy ES-3.17:** Promote installation of fire sprinkler systems for both commercial and residential use and in structures where sprinkler systems are not currently required by the City Municipal Code or Uniform Fire Code.



3.15.3 Environmental Impact Analysis

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 public services:

Fire Protection

The project site currently operates as a 76 gas station and is in the existing service area of the SJFD. With implementation of the proposed project, the site would continue to operate as a gas station with a new fuel canopy, convenience store, service bay, and car wash. As the project site would be developed with a similar commercial use, the proposed project is not expected to increase demand for fire protection services that would require the construction of new or physically altered fire protection facilities. Additionally, the proposed project would also be required to comply with all applicable building and safety codes, including the California Fire Code, and applicable fire safety standards set forth by the City. Therefore, the impact to fire protection services would be less than significant. ***(Less Than Significant Impact)***

Police Protection

The project site is currently served by SJPD. The proposed project would result in the redevelopment of the existing gas station with a new fuel canopy, convenience store, service bay, and car wash. As the project site would continue to operate with similar commercial uses, the proposed project is not anticipated to increase demand on police protection services that would require the construction of new or physically altered police facilities. Therefore, the impact to police protection services would be less than significant. ***(Less Than Significant Impact)***

Schools

The proposed project does not include a residential component, and therefore would not directly increase the demand on school facilities. The proposed project would generate a limited number of employees consisting of up to three full-time employees and three part-time employees for the gas station and convenience store and up to two mechanics for the service bay. It is anticipated employees generated by the proposed project would already reside in or near the City. As such, the proposed project would have no impact on school facilities. ***(No Impact)***

Parks

The proposed project would not involve a residential component or introduce a new population that would directly create additional demand on existing or planned park facilities. Furthermore, the proposed project would generate a limited number of employees consisting of up to three full-time employees and three part-time employees for the gas station and convenience store and up to two mechanics for the service bay. It is expected employees generated by the proposed project would



already reside in or near San José. Therefore, the proposed project would not significantly affect the City's parkland ratios or result in the need for new or expanded park facilities. No impact would occur. ***(No Impact)***

Other Public Facilities

As discussed, the proposed project would not generate a residential population that would substantially increase the demand for libraries or other public facilities. The proposed project would generate a limited number of employes, which are expected to already reside in or near the City and would not directly or indirectly increase the demand on other public facilities. No impact would occur. ***(No Impact)***

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3.16 RECREATION

RECREATION Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) 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) Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☒

3.16.1 Environmental Setting

According to the 2023-2024 Annual Report on City Services, the City manages approximately 3,621 acres of parkland, community gardens, and open space lands and is planning to implement a 100-mile network of multi-use trails throughout the City (City of San José 2024a). In addition to the parklands, the City also provides 50 indoor community facilities that provide recreational opportunities to the public. Various other private entities such as the SCVWD and PG&E provide recreational opportunities and amenities within the City (City of San José 2011). The nearest public park to the project site is Nisich Park, a 1.3-acre neighborhood park located approximately 0.2-mile northeast of the project site.

3.16.2 Regulatory Setting

Federal

There are no federal regulations or policies related to recreation that are relevant to the proposed project.

State

There are no state regulations or policies related to recreation that are relevant to the proposed project.

Local

There are no local regulations or policies related to recreation that are relevant to the proposed project.

3.16.3 Environmental Impact Analysis

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

The proposed project involves the redevelopment of a 76 gas station with a new fuel canopy, convenience store, service bay, and car wash. The project would not include a residential component that would directly increase the City's residential population. Operation of the proposed project would generate a limited number of employees consisting of up to three full-time employees and up to three

part-time employees for the gas station and convenience store, and up to two mechanics for the service bay. It is expected the employees would already reside in or near the City and would not substantially increase the use of nearby recreation facilities. Therefore, the proposed project would not result in the deterioration of City recreational facilities and no impact would occur ***(No Impact)***.

b) Would the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

The proposed project involves the redevelopment of a 76 gas station. The scope of the proposed project does not include the construction or expansion of recreational facilities. Furthermore, the proposed project does not include a residential component that would necessitate the need for construction or expansion of new recreational facilities. The proposed project would not result in an adverse physical effect on the environment related to the construction or expansion of recreation facilities and no impact would occur. ***(No Impact)***

3.17 TRANSPORTATION

TRANSPORTATION Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Conflict with a program plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	☐	☐	☒	☐
b) Conflict with 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 intersection(s) or incompatible uses (e.g. farm equipment))?	☐	☐	☒	☐
d) Result in inadequate emergency access?	☐	☐	☒	☐

A Local Transportation Analysis Report was prepared by TJKM in January 2024 (Appendix G). The information contained in the Local Transportation Analysis Report formed the basis of the information and analysis in this section.

3.17.1 Environmental Setting

The proposed project is located at 1152 Tully Road in San José, California. The project site currently operates as a 76 gas station and is approximately 0.30-mile west of U.S. 101. The existing gas station is one of four gas stations located at the intersection of Tully Road and McLaughlin Avenue. Other land uses surrounding the project site include the San José Christian Alliance Church and residential development to the north, commercial development to the east and west, and residential development and the Đức Viên Buddhist Temple to the south and southeast. The surrounding street network is discussed below.

Roadway Network

Freeways

U.S. 101 is a north-south, ten- to eleven-lane freeway (four to five mixed-flow lanes and one high occupancy vehicle lane in each direction) located in the vicinity of the project site. U.S. 101 extends northward through San Francisco and southward through Gilroy. Access to and from the site is provided via an interchange at the Tully Road/ U.S. 101 off-ramps.

Connectors

Tully Road is an east-west roadway that extends from Curtner Avenue in the west to Ruby Avenue to the east and is a designated City Connector Street west of U.S. 101 (including along the project frontage) and a Main Street east of U.S. 101. Tully Road is primarily six-lanes wide; however, it expands to seven lanes at the U.S. 101 overcrossing. The 2020 San José Vision Zero Action Plan designates Tully Road as a

priority safety corridor between First Street and Capitol Expressway. Under the City's Vision Zero Action Plan, investments for safety strategies would be prioritized on Tully Road and other priority corridors. Tully Road currently provides direct access to the project site via two driveways. The posted speed limit is 40 mph.

McLaughlin Avenue is a north-south, four lane City Connector Street. McLaughlin Avenue extends between E. William Street and Tuers Road within the City of San José. Within the project vicinity, McLaughlin Avenue provides direct access to commercial land uses and local residential streets. McLaughlin Avenue currently provides direct access to the project site via two driveways. The posted speed limit along McLaughlin Avenue within the project vicinity is 35 mph.

Pedestrian and Bicycle Facilities

In the project vicinity, the intersections of Tully Road/McLaughlin Avenue, Tully Road/U.S. 101 southbound ramps, and Tully Road/U.S. 101 northbound ramps are signalized and equipped with countdown pedestrian signal heads. The Tully Road/McLaughlin Avenue intersection has crosswalks on all sides. The Tully Road/U.S. 101 southbound ramps intersection and Tully Road/U.S. 101 northbound ramps intersection has crosswalks on two legs of the intersections; there are no crosswalks on the east and west legs of Tully Road. The project site has adequate accessibility via Tully Road and McLaughlin Avenue. There are continuous sidewalks present on both sides of Tully Road and McLaughlin Avenue near the project site. Overhead streetlights provide adequate street lighting in the project vicinity.

Coyote Creek Trail, a City of San José Class I bicycle facility (off-street bike path) that runs from the San Francisco Bay to the City's southern boundary, is accessible via Tully Road approximately 0.6-mile west of the project site. Class II bicycle lanes are provided on both sides of Tully Road for the entire extent of the roadway. The City of San José 2025 Better Bike Plan describes a list of existing and proposed bicycle facilities in the City. Overall, existing bicycle facilities provide adequate connectivity between the project site and the adjacent residential neighborhoods.

Transit Facilities and Services

VTA operates bus service and light rail services in the City of San José. The project site is served by VTA Frequent Bus Routes 26 and 72. There is one bus stop in the immediate vicinity of the project site, located between the two existing Tully Road driveways. Other bus stops nearby include two located on McLaughlin Avenue north of Tully Road, and one on Tully Road west of McLaughlin Avenue. All bus stops are accessible to and from the project site via existing sidewalks and crosswalks along Tully Road.

3.17.2 Regulatory Setting

Federal

There are no federal regulations or policies related to transportation that are relevant to the proposed project.

State

Congestion Management Program

In accordance with California Statute, Government Code Section 65088, Santa Clara County has established a Congestion Management Program (CMP). The legislation requires that all urbanized counties in California prepare a CMP to obtain each county's share of the increased gasoline tax revenues. The following five elements are mandated under the CMP legislation: (1) a system definition and traffic level of service (LOS) standard element, (2) a transit service and standards element, (3) a trip reduction and transportation demand management element, (4) a land use impact analysis program element, and (5) a capital improvement element. The Santa Clara County CMP includes the five mandated elements and three additional elements, including a county-wide transportation model and database element, an annual monitoring and conformance element, and a deficiency plan element. Deficiency plans, as they relate to traffic congestion management, are plans that identify offsetting measures to improve transportation conditions on the CMP facility in lieu of making physical traffic capacity improvements such as widening an intersection or roadway.

Local

Envision San José 2040 General Plan

The City's General Plan includes the following goals and policies related to transportation that are applicable to the proposed project:

- **Goal TR-1: Balanced Transportation System.** Complete and maintain a multimodal transportation system that gives priority to the mobility needs of bicyclists, pedestrians, and public transit users while also providing for the safe and efficient movement of automobiles, buses, and trucks.
    - **Policy TR-1.2**: Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.
    - **Policy TR-1.4:** Through the entitlement process for new development, projects shall be required to fund or construct needed transportation improvements for all transportation modes giving first consideration to improvement of bicycling, walking and transit facilities, and services that encourage reduced vehicle travel demand.
        - Development proposals shall be reviewed for their impacts on all transportation modes through the study of vehicle miles traveled (VMT), Envision San José 2040 General Plan policies, and other measures enumerated in the City Council Transportation Analysis Policy and its Local Transportation Analysis. Projects shall fund or construct proportional fair share mitigations and improvements to address their impacts on the transportation systems.
        - The City Council may consider adoption of a statement of overriding considerations, as part of an EIR, for projects unable to mitigate their VMT

impacts to a less than significant level. At the discretion of the City Council, based on CEQA Guidelines Section 15021, projects that include overriding benefits, in accordance with PRC Section 21081 and are consistent with the General Plan and the Transportation Analysis Policy 5-1 may be considered for approval. The City Council will only consider a statement of overriding considerations for (i) market-rate or mixed-income housing consistent with the General Plan Land Use Designation effective on November 29, 2022 or future City-initiated General Plan amendments; (ii) market-rate or mixed-income housing that requires a privately-initiated General Plan amendment that is on land currently designated with a Private Recreation and Open Space land use designation; (iii) commercial projects; (iv) industrial projects; and (v) 100 percent deed-restricted affordable housing as defined in General Plan Policy IP-5.12. Such projects shall fund or construct multimodal improvements, which may include improvements to transit, bicycle, or pedestrian facilities, consistent with the City Council Transportation Analysis Policy 5-1.

- An "area development policy" may be adopted by the City Council to establish special transportation standards that identifies development impacts and mitigation measures for a specific geographic area. These policies may take other names or forms to accomplish the same purpose.

- **Policy TR-1.5:** Design, construct, operate, and maintain public streets to enable safe, comfortable, and attractive access and travel for motorists and for pedestrians, bicyclists, and transit users of all ages, abilities, and preferences.

- **Policy TR-1.6:** Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.

- **Goal TR-2: Walking and Bicycling.** Improve walking and bicycling facilities to be more convenient, comfortable, and safe, so that they become primary transportation modes in San José.

  - **Policy TR-2.3:** Construct crosswalks and sidewalks that are universally accessible and designed for use by people of all abilities.

  - **Policy TR-2.8:** Require new development where feasible to provide onsite 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.

- **Goal TR-5: Vehicular Circulation.** Maintain the City's street network to promote the safe and efficient movement of automobile and truck traffic while also providing for the safe and efficient movement of bicyclists, pedestrians, and transit vehicles.

- **Goal TR-6: Goods Movement.** Provide for safe and efficient movement of goods to support commerce and industry.

  - **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.

- **Goal TR-8: Parking Strategies.** Develop and implement parking strategies that reduce automobile travel through parking supply and pricing management.

Transportation Analysis Policy (City Council Policy 5-1)

City Council Policy 5-1 aligns with SB 743 that establishes the thresholds for transportation impacts under CEQA, removing transportation level of service based on delay and congestion and replacing it with VMT. VMT refers to the amount of and distance of automobile travel in a day attributed to a development project. VMT is measured by multiplying the total vehicle trips generated by a development project by the average distance of those trips, adjusting for the number of people in the vehicle. In the City of San José, VMT is calculated using the Origin-Destination VMT method, which measures the full distance of vehicle travel with one end within the project.

Typically, development projects that are farther from other, complementary land uses (such as a business park far from housing) and in areas without transit or active transportation infrastructure (bike lanes, sidewalks, etc.) generate more driving than development near complementary land uses with more robust transportation options. Therefore, developments located in a central business district with high density and diversity of complementary land uses and frequent transit services are expected to internalize trips and generate shorter and fewer vehicle trips than developments located in a suburban area with low density of residential developments and no transit service in the project vicinity.

To determine whether a project would result in CEQA transportation impacts related to VMT, the City has developed the San José VMT Evaluation Tool to streamline the analysis for residential, office, and industrial projects. The tool estimates a project's VMT and compares it to the appropriate thresholds of significance based on the project location and type of development.

Drive-Through Use Policy (City Council Policy 6-10)

The City has established Criteria for Review of Drive-Through Uses (Council Policy 6-10), such as the proposed car wash. The goal of this policy is to ensure that drive-through uses do not impact adjacent uses, intersections, or streets; and do not create safety issues for drivers and pedestrians. The policy lists the following criteria for development of establishments with drive-through facilities:

A. Primary ingress and egress to drive-through type use parking lots should be from at least a four-lane major street.

B. The drive-through stacking lane shall be situated so that any overflow from the stacking lane shall not spill out onto public streets or major aisles of any parking lot. Overflow capacity shall be 50 percent of required stacking for overflow restricted to the parking lot and 100 percent of required stacking if the overflow is directed to the street.

C. No ingress and egress points shall conflict with turning movements of street intersections.

D. No drive-through use shall be approved with ingress or egress driveways within 300 feet of a signalized intersection operating at LOS D, E, or F unless a traffic analysis demonstrates, to the satisfaction of the Director of Public Works, that vehicles entering or leaving said use will not impair the efficiency or operation of the intersection.

E. The drive-through stacking lane shall be separated physically from the user's parking lot and shall have a capacity of:

   a. Financial Institutions—8 cars per lane or 16 total*;

   b. Restaurants—8 cars per lane*;

   c. Photo Uses—2 cars per lane*;

   d. Self-Service Car Washes—5 cars per lane*;

   e. Full-Service Car Washes—15 cars* (may be in multiple lanes);

   f. Other—Capacity requirement to be determined on an individual basis.

   * Allow 20 feet per car

F. No pedestrian crossing of the drive-through lane shall be allowed.

G. Proposed drive-through uses at or near signalized intersections may compound existing traffic congestion and make it intolerable even if the intersection meets the Transportation LOS Policy. In these situations proposed drive-through uses should be discouraged.

3.17.3 Environmental Impact Analysis

a) Would the project conflict with a program plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?

During construction, the proposed project would generate traffic through the transport of workers, equipment, and materials to and from the project site. It is currently anticipated that project construction would take approximately 18-months. All construction materials and equipment would be staged on the 0.66-acre site. The construction activities would generally occur within the project site; however, work may extend into Tully Road and McLaughlin Avenue to connect utilities and to construct the concrete bus pad. The proposed project would enhance the existing crosswalk at the east leg of the Tully Road and McLaughlin Avenue intersection with high visibility striping and green pavement enhancements. Any construction traffic, lane closures, or street staging would be temporary and require an approved TCP and an encroachment permit from the City. The TCP would identify all detours, appropriate traffic controls, and ensure adequate circulation and emergency access is provided.

The Local Transportation Analysis Report determined that the proposed project was consistent with criterion A-G of the City's Drive-Through Use Policy (Council Policy 6-10). The proposed project

would provide access to the project site via Tully Road and McLaughlin Avenue where Tully Road has three lanes in each direction and McLaughlin Avenue has two lanes in each direction. The drive-through stacking lane can accommodate seven vehicles and would accommodate 100 percent of the required stacking and. In the event of stacking lane overflow, onsite space between the stacking lane and Tully Road is sufficient to accommodate at least four more vehicles. The ingress and egress to the project site would not conflict with the turning movements or operation at the nearby intersection of Tully Road and McLaughlin Avenue. Furthermore, although the Tully Road and McLaughlin Avenue intersection (which is 125 feet west of the proposed car wash driveway) operates at LOS D, the trip generation and traffic analysis conducted for the project concluded that the project would not have a significant adverse effect on the operation of the intersection. The proposed project would provide stacking capacity for seven vehicles without intruding into the onsite parking lot and additional stacking would be available onsite within the lot. One pedestrian crossing of the drive-through lane is proposed; however, it is intended for use by employees only generally after busy operation hours and leads to the trash and parking area. Finally, it is projected that the proposed project trips will not compound existing traffic congesting nor have any significant adverse effect on the operation of the intersection of Tully Road and McLaughlin Avenue.

During operation, vehicles would access the project site either from the new 36-foot-wide driveway on Tully Road or the new 32-foot-wide driveway on McLaughlin Avenue. The driveways would connect to a two-way, 20-foot-wide drive aisle to provide access to the fuel canopy, car wash, convenience store, and surface parking spaces. The proposed project is not expected to generate a significant amount of pedestrian or bicycle traffic. The Local Transportation Analysis Report determined that the proposed project does not conflict with the existing and planned pedestrian and bicycle facilities and the proposed project would not have an adverse effect on the pedestrian and bicycle facilities in the area. Additionally, the proposed project would improve the sidewalks and curb and gutters along the project frontage and would provide an in-lieu monetary contribution for the future Class IV protected bicycle lanes along the Tully Road and McLaughlin Avenue project frontages per the San José Better Bike Plan 2025.

The proposed project would construct a new bus shelter and concrete bus pad on Tully Road. The new bus shelter would serve the existing VTA bus stop on Tully Road. The Local Transportation Analysis Report identified that the proposed project would add very few trips to the existing transit facilities and would be accommodated by the existing transit capacity. The proposed project is not anticipated to result in significant transit use due to the proposed uses onsite. Customers of the project site would be anticipated to drive to the site and the most common users of transit to and from the site is expected to be project employees. Therefore, the proposed project is not expected to have a noticeable effect on transit use in the area as the number of project employees is minimal.

Operation of the proposed project would not result in substantial modifications to the existing roadway network, bicycle facilities, or bus system. As such, the proposed project would not conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system. This impact would be less than significant. ***(Less Than Significant Impact)***

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

The City's VMT guidelines establish that specific project types, such as local-serving retail, can be screened out if they are less than 100,000 square feet in size. The proposed project involves the redevelopment of an existing gas station with a new fuel canopy, convenience store, and a car wash. According to the Local Transportation Analysis Report, the proposed project is equivalent to 33,350 square feet of retail space and less than the City's screening criteria of 100,000 square feet. The proposed project would also be a convenience-based service as it would provide an option for customers to wash their vehicles as part of their existing trip to the gas station. Access to the car wash facility would reduce trip lengths and VMT as customers would have the option to obtain car wash services onsite rather than make a separate trip to a nearby car wash facility. Therefore, the VMT Assessment determined the proposed project would qualify as a local-serving retail project as it would be less than 100,000 square feet in size, reduce trip lengths, and improve the convenience of car washing services.

As the proposed project would meet the project type screening criteria, the Local Transportation Analysis Report determined the proposed project can be presumed to have a less than significant VMT impact. ***(Less Than Significant Impact)***

c) Would the project substantially increase hazards to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

During construction, the proposed project would use heavy construction equipment on local roadways and connectors. The use of roadways by heavy construction equipment can increase the risk to drivers, cyclists, and pedestrians in the project area. Construction activities would generally be anticipated to occur within the project site; however, work may extend into Tully Road and McLaughlin Avenue to connect utilities and to construct the concrete bus pad. Any construction traffic, lane closures, or street staging would be temporary and require an approved TCP and an encroachment permit from the City. The TCP would identify all detours, appropriate traffic controls, and ensure adequate circulation and emergency access is provided. Therefore, project construction would not create a transportation hazard, and the impact would be less than significant.

Operation of the proposed project would not result in changes to the adjacent roadways that would create road hazards or alter design features developed to mitigate such hazards. The proposed project would construct two new driveways consisting of a 36-foot-wide driveway on Tully Road and a 32-foot-wide driveway on McLaughlin Avenue. The driveways would connect to a two-way, 20-foot-wide drive aisle that would provide access to the fueling canopy, convenience store, service bay, and car wash. Additionally, the proposed project would provide new sidewalks, curb and gutters, street tree wells, bus shelter, and a concrete bus pad on Tully Road. The new bus shelter would serve the existing VTA bus stop on Tully Road.

The Local Transportation Analysis Report included a Sight Distance Analysis for the project site (Appendix G). Based on Chapter 200, 2014 of the Caltrans Highway Design Manual, the required minimum stopping sight distance for design speed of 40 mph (Tully Road) is 300 feet, and 35 mph

(McLaughlin Avenue) is 250 feet. The Local Transportation Analysis Report determined that the lines of sight for vehicles exiting the driveways and vehicles travelling eastbound on Tully Road and southbound on McLaughlin Avenue are clear and visible for a minimum of 300 feet and 250 feet, respectively. The City's Transportation Department and SJFD would review all site plans to ensure that the project driveways would provide clear sight lines, adequate access for emergency vehicles, and pedestrian safety features. Therefore, operation of the proposed project would not substantially increase hazards due to a design feature, and impacts would be less than significant. ***(Less Than Significant Impact)***

d) Would the project result in inadequate emergency access?

The proposed project would not involve permanent modification to the existing roadways or circulation system that could potentially impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. Project construction activities would primarily occur within the 0.66-acre project site; however, work may temporarily extend to the centerlines of Tully Road and McLaughlin Avenue to connect utilities and to construct the concrete bus pad. Any construction traffic, lane closures, or street staging would be temporary and require an approved TCP and an encroachment permit from the City. The TCP would identify all detours, appropriate traffic controls, and ensure adequate circulation and emergency access is provided.

During operation, the project site would be accessed via two new driveways consisting of a 36-foot-wide driveway on Tully Road and a 32-foot-wide driveway on McLaughlin Avenue. The driveways would connect to a two-way, 20-foot-wide drive aisle that would provide access to the fueling canopy, convenience store, service bay, and car wash. The SJFD would review the project site development plans to ensure fire protection design features are incorporated and adequate emergency access is provided to the site. Therefore, the proposed project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan and impacts would be less than significant. ***(Less Than Significant Impact)***

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3.18 TRIBAL CULTURAL RESOURCES

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

3.18.1 Environmental Setting

PRC Section 21080.3.1 requires that local agencies formally consult with recognized California Native American tribes during the CEQA process to discuss potential impacts on tribal cultural resources. Prior to the release of a Negative Declaration, Mitigated Negative Declaration, or EIR, the agency must initiate consultation with tribes that are traditionally and culturally affiliated with the geographic area of a proposed project if (1) the tribe requested of the agency, in writing, to be informed through formal notification of proposed projects in the geographic area that is traditionally and culturally affiliated with the tribe; and (2) the tribe responds, in writing, within 30 days of receipt of the formal notification of a proposed project and requests consultation with the agency (PRC Section 21080.3.1[b]).

On July 18, 2024, Stantec, on behalf of the City, submitted a request to the NAHC to review its Sacred Lands File for the project site. The NAHC is the official State repository of Native American sacred site location records in California. Stantec received a response on August 1, 2024, from the NAHC, stating that the results were negative. A list of 22 tribal contacts from 10 tribal groups was also provided with the NAHC response.

The City of San José invited California Native American tribes that are traditionally and culturally affiliated with the project area to consult on the proposed project. On November 15, 2022, the City sent letters to the Tamien Nation and the Indian Canyon Band of Costanoan People informing them of the proposed project and formally inviting them to consultation pursuant to PRC Section 21080.3.1 (i.e., AB 52). No response was received from the Tamien Nation. A request to consult was received from the Indian

Canyon Band of Costanoan People on November 16, 2022. The City met with representatives of the Indian Canyon Band of Costanoan People on November 28, 2022. During the consultation meeting, representatives with the Indian Canyon Band of Costanoan People requested cultural awareness training be included during construction. The City sent a follow-up email to the Indian Canyon Band of Costanoan People on June 4, 2025. The City received confirmation regarding the addition of Mitigation Measure CUL-1 – Cultural Awareness Training and the AB 52 consultation process was closed on June 25, 2025.

3.18.2 Regulatory Setting

Federal

There are no federal regulations related to tribal cultural resources that are relevant to the proposed project.

State

CEQA and Tribal Cultural Resources

CEQA defines a "tribal cultural resource" as any one of the following (PRC Section 21074):

- Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either (1) included in or eligible for inclusion in the CRHR, or (2) included in a local register of historical resources.
- 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 Section 5024.1. The lead agency shall consider the significance of the resource to a California Native American tribe.
- A cultural landscape that meets the requirements listed above and is geographically defined in size and scope.

Archaeological sites, including those that qualify as historical resources (PRC Section 21084.1), unique archaeological resources (PRC Section 21083.2[g]), and non-unique archaeological resources (PRC Section 21083.2[h]), may qualify as tribal cultural resources.

Prior to the release of a Negative Declaration, Mitigated Negative Declaration, or EIR, the agency must initiate consultation with tribes that are traditionally and culturally affiliated with the geographic area of the proposed project if (1) the tribe requested of the agency, in writing, to be informed through formal notification of proposed projects in the geographic area that is traditionally and culturally affiliated with the tribe; and (2) the tribe responds, in writing, within 30 days of receipt of the formal notification of a proposed project and requests consultation with the agency (PRC Section 21080.3.1[b]).

Consultation is concluded when the agency and tribe(s) agree to measures to mitigate or avoid significant effects on a tribal cultural resource, or if either party concludes that mutual agreement cannot be reached after a good-faith and reasonable effort (PRC Section 21080.3.2[b]).

Human Remains – Health and Safety Code 7050.5

In the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, Section 7050.5 of the Health and Safety Code states that there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the coroner of the county in which the remains were discovered has determined whether the remains are subject to the coroner's authority. If the human remains are of Native American origin, the coroner must notify the NAHC within 24 hours of this identification.

Notification of Most Likely Descendant- PRC Section 5097.98

PRC Section 5097.98 states that the NAHC, upon receiving notification of the discovery of Native American human remains pursuant to Health and Safety Code Section 7050.5, shall immediately notify the MLD of the deceased. With permission of the landowner or a designated representative, the MLD may inspect the remains and any associated cultural materials and make recommendations for treatment or disposition of the remains and associated grave goods. The MLD shall provide recommendations or preferences for treatment of the remains and associated cultural materials within 48 hours of being granted access to the site.

Local

Envision San José 2040 General Plan

The City's General Plan includes the following goals and policies related to tribal cultural resources that are applicable to the proposed project:

- **Goal ER-10: Archaeology and Paleontology.** Preserve and conserve archaeologically significant structures, sites, districts and artifacts in order to promote a greater sense of historic awareness and community identity.
    - **Policy ER-10.2**: Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.
    - **Policy ER-10.3**: Ensure that City, state, and federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.
- **Goal IP-12: Environmental Clearance.** Use the Environmental Clearance process to further implement General Plan goals and policies related to the minimization of environmental impacts, improving fiscal sustainability and enhancing the delivery of municipal services.
    - **Policy IP-12.3:** Use the Environmental Clearance process to identify potential impacts and to develop and incorporate environmentally beneficial actions, particularly those dealing with the

avoidance of natural and human-made hazards and the preservation of natural, historical, archaeological and cultural resources.

3.18.3 Environmental Impact Analysis

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, or object with cultural value to the California Native American tribe and that is:

i. Listed or eligible for listing in the California Register of Historical Resources, or in the local register of historical resources as defined in Public Resources Code section 5020.1(k)?

ii. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

The results of the records search and literature review, as described in Section 3.5, Cultural Resources, indicate that there are no previously recorded archaeological resources or tribal cultural resources listed or eligible for listing in the CRHR. No tribal representatives provided additional information about tribal cultural resources that may be affected by the project as a result of the City's invitation to consult pursuant to PRC Section 21080.3.1. As discussed in Section 3.5, Cultural Resources, no archaeological deposits that may qualify as tribal cultural resources are expected to be encountered during project excavation. Should deposits be encountered during project excavation, this could result in an adverse change to a tribal cultural resource. Thus, potentially significant impacts related to tribal cultural resources could result from construction of the project.

Implementation of City Standard Permit Conditions and Mitigation Measure CUL-1, as described in Section 3.5, Cultural Resources, would ensure that impacts related to tribal cultural resources would be reduced to less than significant through the implementation of worker awareness training and requirements to stop work if archaeological deposits which could qualify as tribal cultural resources are encountered during ground-disturbing activities.

Impact TCR-1: Ground-disturbing activities during construction of the proposed project would have the potential to uncover, damage, or destroy tribal cultural resources.

Mitigation Measures

Implement Mitigation Measure CUL-1.

Therefore, with the implementation of the City's Standard Permit Conditions and Mitigation Measure CUL-1, impacts to tribal cultural resources would be less than significant. ***(Less Than Significant Impact with Mitigation Incorporated)***

3.19 UTILITIES AND SERVICE SYSTEMS

UTILITIES and SERVICE SYSTEMS Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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 supply 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 is 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?	☐	☐	☒	☐

3.19.1 Environmental Setting

Water Supply

The San José Water Company (SJWC) currently provides potable water to the project site. Approximately 52 percent of SJWC's water supply is purchased from SCVWD, 43 percent is pumped from local groundwater aquifers, and 3 percent comes from local surface water sources. The remaining 2 percent comes from the recycled water system. According to the SJWC's UWMP, total water demand within its service area is expected to increase to 43,331 million gallons in 2025 and 44,416 million gallons in 2045 (SJWC 2021).

Wastewater Collection/Treatment

Wastewater from the City is treated at the San José/Santa Clara Water Pollution Control Plant (WPCP), which is a regional wastewater treatment facility serving eight tributary sewage collection agencies and is administered and operated by the City of San José's Department of Environmental Services. The WPCP treats an average of 110 million gallons of wastewater per day (mgd), with a capacity of up to 167 mgd (City of San José 2024d). In 2020, approximately 24,420 million gallons of wastewater was collected within the service area of the WPCP. Therefore, the WPCP was treating approximately 66.9 mgd of

wastewater in 2020, leaving approximately 100 mgd of excess treatment capacity (SJWC 2021). According to the City's General Plan EIR, the City 's share of the WPCP's total treatment capacity of 167 mgd is approximately 108.6 mgd (City of San José 2011). In 2020, the City of San José produced 36,949 million gallons of treated wastewater (SJWC 2021).

Stormwater

The City's stormwater drainage system flows into facilities that are owned, operated, and maintained by the Santa Clara Valley Urban Runoff Pollution Prevention Program, which is an association of thirteen cities and towns in Santa Clara Valley, the County of Santa Clara, and the SCVWD. The City of San José Public Works Department operates and maintains the City's storm drain system, which has over 1,250 miles of storm drains and drainage channels. City infrastructure such as catch basins and storm drainpipes collect stormwater runoff, which is eventually discharged into the San Francisco Bay. The United States Army Corps of Engineers and the SCVWD jointly oversee and operate the region's flood control facilities and stream channels. In low-lying areas of the City, stormwater pump stations are employed to facilitate drainage when gravity drainage is not feasible (City of San José 2011).

Solid Waste

San José's businesses receive solid waste collection service from Republic Services. Republic Services has an exclusive franchise agreement with the City to collect recycling, organics, and non-organic garbage from all businesses in the City (City of San José 2024c). The City is served by five landfills, eleven recycling and transfer stations, five composting facilities, and eight processing facilities for construction and demolition debris (City of San José 2011). Municipal solid waste generated in the City of San José that is not diverted through recycling or composting must go to Newby Island Landfill. However, City-certified construction and demolition recycling facilities should be used during the construction phase. Newby Island Landfill has a remaining capacity of 16,400,00 cubic yards and a maximum throughput of 4,000 tons per day (CalRecycle 2023).

The City of San José's Construction and Demolition Diversion Deposit Program is an incentive program to encourage the recovery of debris from construction and demolition projects. The City collects a deposit that is fully refundable with proper documentation that the construction and demolition debris has been diverted from burial in the landfill.

Electricity and Telecommunications

Electricity would be provided to the project site by PG&E who transmits and delivers electricity to residents and businesses throughout the City. Additionally, telecommunications facilities are plentiful within the City, as the City is the tenth largest city in the nation for the installation and operation of telecommunication services (City of San José 2020). Telecommunications to the surrounding areas are currently provided by several major providers, including AT&T, Verizon and T-Mobile/Sprint.

3.19.2 Regulatory Setting

Federal

There are no federal regulations related to utilities and service systems that are relevant to the proposed project.

State

California Integrated Waste Management Act

To minimize the amount of solid waste that must be disposed of by transformation (i.e., recycling) and land disposal, the State Legislature passed the California Integrated Waste Management Act of 1989 (AB 939), effective January 1990. According to AB 939, all cities and counties are required to divert 25-percent of all solid waste from landfill facilities by January 1, 1995, and 50 percent by January 1, 2000. Solid waste plans are required to explain how each city's AB 939 plan would be integrated within the respective county plan. They must promote (in order of priority) source reduction, recycling and composting, and environmentally safe transformation and land disposal. Cities and counties that do not meet this mandate are subject to $10,000-per-day fines.

Assembly Bill 1826

AB 1826 sets forth the requirements of the statewide mandatory commercial organics recycling program for businesses that generate four or more (two or more by December 31, 2020) cubic yards of commercial solid waste per week and multi-family dwellings with five or more units in California. AB 1826 sets a statewide goal for 50 percent reduction in organic waste disposal by the year 2020.

Senate Bill 1383

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

Local

Envision San José 2040 General Plan

The City's General Plan includes the following goals and policies related to utilities and service systems that are applicable to the proposed project:

- **Goal MS-3: Water Conservation and Quality.** Maximize the use of green building practices in new and existing development to minimize use of potable water and to reduce water pollution.
    - **Policy MS-3.1:** Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and

developer-installed residential development unless for recreation needs or other area functions.

- **Policy MS-3.2:** Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply as building codes permit.
- **Policy MS-3.3**: Promote the use of drought tolerant plants and landscaping materials for non-residential and residential uses.

- **Goal IN-1: General Provision of Infrastructure**. Provide and maintain adequate water, wastewater, stormwater, water treatment, solid waste and recycling, and recycled water infrastructure to support the needs of the City's residents and businesses.
  - **Policy IN-1.6:** Ensure that public facilities and infrastructure are designed and constructed to meet ultimate capacity needs to avoid the need for future upsizing. For facilities subject to incremental upsizing, initial design shall include adequate land area and any other elements not easily expanded in the future. Infrastructure and facility planning should discourage over-sizing of infrastructure which could contribute to growth beyond what was anticipated in the General Plan.
- **Goal IN-3: Water Supply, Sanitary Sewer, and Storm Drainage**. Provide water supply, sanitary sewer, and storm drainage infrastructure facilities to meet future growth planned within the City, to assure high-quality service to existing and future residents, and to fulfill all applicable local, state, and federal regulatory requirements.
  - **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 NPDES permit.

Urban Water Management Plan

Pursuant to the State Water Code, water suppliers providing water for municipal purposes to more than 3,000 customers or supplying more than 3,000 acre-feet (approximately 980 million gallons) of water annually must prepare and adopt an UWMP and update it every 5 years. As part of a UWMP, water agencies are required to evaluate and describe their water resource supplies and projected needs over a 20-year planning horizon, water conservation, water service reliability, water recycling, opportunities for water transfers, and contingency plans for drought events. The most recent UWMP for the San José municipal water system was prepared in June 2021.

Zero Waste Resolution

In 2007, the City of San José adopted a Zero Waste Resolution (No. 74077). This resolution set a goal of shifting consumption patterns to achieve 75 percent waste diversion by 2013 and a goal of zero waste by 2022 for the City. Key zero waste objectives that the City included are as follows (City of San José 2007):

- Improving "downstream" reuse and recycling of end-of-life products and materials to ensure their highest and best use;
- Pursuing "upstream" redesign strategies to reduce the volume and toxicity of discarded products and materials while promoting less wasteful lifestyles;
- Supporting the reuse of discarded products and materials to stimulate and drive local economic workforce development; and
- Preserving land for sustainable development and green industry infrastructure.

City of San José Integrated Waste Management Zero Waste Strategic Plan/Climate Smart San José

The City's Integrated Waste Management Zero Waste Strategic Plan provides a comprehensive approach to achieving sustainability through new technology and innovation. The Integrated Waste Management Zero Waste Strategic Plan outlines policies to help the City foster a healthier community and achieve its Climate Smart San José goals, including 75 percent waste diversion by 2013 and zero waste by 2022. The Climate Smart San José also includes ambitious goals for economic growth, environmental sustainability, and enhances quality of life for San José residents and businesses (City of San José 2008).

City of San José Green Building Policy

The City's Green Building Policy for new private sector construction encourages building owners, architects, developers, and contractors to incorporate meaningful sustainable building goals early in the design process. This policy establishes baseline green building standards for private sector construction and provides a framework for the implementation of these standards. It is also intended to enhance the public health, safety, and welfare of San José residents, workers, and visitors by fostering practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water, and other resources. The City of San José requires 75 percent diversion of nonhazardous construction and demolition debris for projects that qualify under CALGreen (San José Municipal Code Section 9.10.2480).

City of San José Construction and Demolition Diversion Deposit Program

The Construction and Demolition Diversion Deposit Program requires projects to divert at least 50 percent of total projected project waste to be refunded the deposit. Permit holders pay this fully refundable deposit upon application for the construction permit with the City if the project is a demolition, alteration, renovation, or a certain type of tenant improvement. The minimum project valuation for a deposit is $2,000 for an alteration-renovation residential project and $5,000 for a non-residential project. There is no

minimum valuation for a demolition project and no square footage limit for the deposit applicability. The deposit is fully refundable if construction and demolition 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.

3.19.3 Environmental Impact Analysis

a) Would the project 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?

Water Facilities

The project site is currently served by SJWC. The proposed project would construct a new 2-inch water meter and 2-inch water line to convey fresh water to the car wash facility and convenience store. The new 2-inch water meter and 2-inch water line would connect to the existing 17-inch water line within McLaughlin Avenue. It is anticipated the convenience store would use an average of 500 gpd of fresh water. The car wash facility would use an average of 950 gpd of fresh water and an average of 3,950 gpd of recycled water. The proposed project's water infrastructure would be designed in accordance with City requirements to adequately handle the operational needs of the proposed project. Furthermore, the City's 2020 UWMP determined SJWC has adequate water supplies to meet system demand under average year conditions, single year conditions, and multi dry year conditions from 2025 to 2045. The proposed project is consistent with the current Neighborhood Community/Commercial land use designation as contemplated in the City's 2020 UWMP and General Plan. Therefore, there would be adequate water supplies available to serve the proposed project and the relocation or construction of new or expanded offsite water facilities would not be required. Therefore, impacts would be less than significant. ***(Less Than Significant Impact)***

Wastewater Facilities

The proposed project would utilize a water reclamation system consisting of one underground 1,500-gallon wastewater clarifier tank and one underground 1,500-gallon sand/oil separator. The water reclamation system would be designed to minimize the amount of fresh water used for each wash and to treat all wastewater before disposal to the existing sanitary sewer system.

The proposed project would construct 4-inch and 6-inch sewer lines to convey wastewater from the car wash tunnel and convenience store. The proposed sewer lines would direct wastewater to the existing 15-inch sewer main along McLaughlin Avenue. It is estimated the proposed project would discharge an average of 950 gpd of wastewater into the sanitary sewer system. The proposed project's wastewater infrastructure has been designed to handle the operational needs of the proposed project and would be designed and constructed in accordance with the City's standards and regulations. As discussed, the WPCP treats an average of 110 mgd of wastewater, with a capacity of up to 167 mgd (City of San José 2024d). The WPCP is operating below its permitted capacity. Furthermore, the proposed project's discharge of 950 gpd of wastewater would represent less than 1



percent in the current average daily flow of 110 mgd. As the WWTP is operating below its maximum capacity and has sufficient capacity remaining to serve the proposed project's anticipated wastewater flows, the proposed project would not require or result in the relocation or construction of new or expanded wastewater treatment facilities. Therefore, impacts to wastewater treatment facilities would be less than significant. ***(Less Than Significant Impact)***

Stormwater Facilities

The project site is currently served by the City's stormwater system. The proposed project would result in 25,739 square feet of onsite impervious area and 3,879 square feet of offsite impervious area. Additionally, the proposed project would result in 2,880 square feet of onsite pervious area and 75 square feet of offsite pervious area. Stormwater runoff from the impervious areas would be directed to four bioretention areas totaling approximately 1,026 square feet. The bioretention basins would be designed with an underdrain and overflow to convey stormwater from the impervious areas after being treated. From the overflow structure, the stormwater would be conveyed via a new 15-inch storm drain line that connects to an existing 54-inch storm drain within Tully Road. The proposed project would not require new or expanded offsite stormwater infrastructure. The bioretention facilities provided onsite would reduce the rate of runoff to ensure that the existing stormwater system is not overloaded and the existing infrastructure in the area would be adequate to serve the proposed project. Therefore, the proposed project would not require the construction or expansion of stormwater treatment facilities and impacts would be less than significant. ***(Less Than Significant Impact)***

Electricity, Natural Gas, and Telecommunications

The proposed project would tie into existing electrical, natural gas, and telecommunication facilities that serve the surrounding area. The proposed project would not require the construction or relocation of electric power, natural gas, or telecommunications facilities. As the proposed project would not require or result in the relocation or construction of new or expanded electrical power, natural gas, or telecommunications facilities or require the expansion of existing facilities, the impact would be less than significant. ***(Less Than Significant Impact)***

b) Would the project have sufficient water supply available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?

The proposed project comprises the redevelopment of the existing gas station with a new fuel canopy, convenience store, service bay, and car wash. The proposed commercial uses are similar to the site's existing conditions. Additionally, the proposed project would utilize a water reclamation system consisting of one underground 1,500-gallon wastewater clarifier tank and one underground 1,500-gallon sand/oil separator. The water reclamation system would be designed to minimize the amount of fresh water used for each wash and to treat all wastewater before disposal to the existing sanitary sewer system. It is anticipated the convenience store would use an average of 500 gpd of fresh water. The car wash facility would use an average of 950 gpd of fresh water and an average of 3,950 gpd of recycled water.



The 2020 UWMP for SJWC projects that water supply availability, as well as demand, would increase from 44,201 million gallons per year in 2025 to approximately 45,605 million gallons in 2045. This increase would account for 100 percent of water supply available through 2045 under average conditions (SJWC 2021). The proposed project is consistent with the current Neighborhood Community/Commercial land use designation as contemplated in the City's 2020 UWMP and General Plan. The City's 2020 UWMP determined SJWC has adequate water supplies to meet system demand under average year conditions, single year conditions, and multi dry year conditions from 2025 to 2045 (SJWC 2021). As there would be sufficient water supplies available and the project water demand would consist mostly of reclaimed water, the impact would be less than significant. ***(Less Than Significant Impact)***

c) Would the project result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

The WPCP treats an average of 110 mgd of wastewater, with a capacity of up to 167 mgd (City of San José 2024d). It is estimated the proposed project would discharge an average of 950 gpd of wastewater into the sanitary sewer system. The WPCP is operating below its permitted capacity. Furthermore, the proposed project's discharge of 950 gpd of wastewater would represent less than 1 percent in the current average daily flow of 110 mgd. The WPCP would have adequate capacity to serve the proposed project's wastewater generation and impacts would be less than significant. ***(Less Than Significant Impact)***

d) Would the project generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

During operation, the proposed project would generate solid waste that would be collected by Republic Services. Since the site would be redeveloped with similar commercial uses, the generation of solid waste at the project site is not anticipated to substantially increase compared to existing conditions. According to CalRecycle, auto dealers and service stations generate approximately 0.9 pounds of solid waste per 100 square feet per day (CalRecycle 2023). The fuel canopy, convenience store, and car wash would total approximately 7,030 square feet, resulting in approximately 63.3 pounds (0.03 tons) of solid waste per day or 11.5 tons per year. It should be noted that this is a conservative estimate, and the actual solid waste generation would likely be less.

As discussed, all commercial, residential, and City facility waste must go to Newby Island Landfill which has a remaining capacity of 16,400,00 cubic yards and a maximum throughput of 4,000 tons per day. The estimated 0.03 tons per day of solid waste generated by the proposed project would be less than 1 percent of the maximum permitted throughput received at the landfill. Therefore, there would be sufficient landfill capacity available to accommodate solid waste disposal needs for the proposed project. Any hazardous waste generated at the site would be required to be handled and disposed of in accordance with existing hazardous waste regulations. Additionally, project demolition and construction activities would be required to comply with the City's Construction and Demolition Diversion Deposit Program. Therefore, the proposed project would not exceed the capacity of existing

landfills or solid waste disposal infrastructure and impacts would be less than significant. ***(Less Than Significant Impact)***

e) Would the project comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

As discussed, the proposed project would be required to comply with City plans, policies, and regulations to reduce solid waste generated during construction and operation. The proposed project would redevelop the site with similar commercial uses, and therefore is not anticipated to substantially increase the generation of solid waste at the project site compared to existing conditions. Therefore, the proposed project would not conflict with federal, state, or local statutes or regulations related to solid waste. Impacts would be less than significant. ***(Less Than Significant Impact)***

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3.20 WILDFIRE

WILDFIRE Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones;				
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?	☐	☐	☐	☒

3.20.1 Environmental Setting

The project site is located in an urbanized area and developed as a 76 gas station. Based on a review of the Fire Hazard Severity Zone maps developed by CAL FIRE, the project site is not located in or near an SRA or a very high fire hazard severity zone (CAL FIRE 2023). The USFS's Wildfire Hazard Potential map also identifies the project site and the surrounding area as "non-burnable" (USFS 2024).

3.20.2 Regulatory Setting

Federal

There are no federal regulations related to wildfire that are relevant to the proposed project.

State

There are no state regulations related to wildfire that are relevant to the proposed project.

Local

Envision San José 2040 General Plan

The City's General Plan includes the following goals and policies related to wildfire that are applicable to the proposed project:

- **Goal EC-8: Wildland and Urban Fire Hazards.** Protect lives and property from risks associated with fire-related emergencies at the urban/wildland interface.
    - **Policy EC-8.1:** Minimize development in very high fire hazard zone areas. Plan and construct permitted development so as to reduce exposure to fire hazards and to facilitate fire suppression efforts in the event of a wildfire.

3.20.3 Environmental Impact Analysis

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?

The project site is not located in an SRA or a very high fire hazard severity zone (CAL FIRE 2023). The proposed project would not involve permanent modification to the existing roadways. Project construction activities would primarily occur within the 0.66-acre project site; however, may temporarily extend to the centerlines of Tully Road and McLaughlin Avenue to connect utilities and to construct the concrete bus pad. Any construction traffic, lane closures, or street staging would be temporary and require an approved TCP and an encroachment permit from the City. The TCP would identify all detours, appropriate traffic controls, and ensure adequate circulation and emergency access are provided during the construction phase.

The project site would be accessed via two new driveways consisting of a 36-foot-wide driveway on Tully Road and a 32-foot-wide driveway on McLaughlin Avenue. The driveways would connect to a two-way, 20-foot-wide drive aisle that would provide access to the fueling canopy, convenience store, and car wash. The SJFD would review the project site development plans to ensure fire protection design features are incorporated into the project design and that adequate emergency access is provided to the site. Therefore, project construction and operation activities would not interfere with an emergency evacuation or response plan, and this impact would be less than significant. ***(Less Than Significant Impact)***

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?

The project site is not located within or near an area designated as an SRA, nor is it classified as or located near a very high fire hazard severity zone (CAL FIRE 2023). The site and the surrounding area are relatively flat and classified as “non-burnable” (USFS 2024). The proposed project would involve the redevelopment of an existing site occupied by a similar commercial use, and therefore would not exacerbate fire risk beyond what currently exists in the vicinity of the project site. Development of the proposed project would not expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of wildfire, and the impact would be less than significant. ***(Less Than Significant Impact)***

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?

As discussed, the project site is not located in an SRA or a very high fire hazard severity zone (CAL FIRE 2023). The project site is developed as an existing 76 gas station and surrounded by roadways, buildings, and associated infrastructure. The proposed project would redevelop the site with a new gas station consisting of a fuel canopy, convenience store, service bay, and car wash. The project site is served by all necessary utilities and is surrounded by public streets and urban development. All utilities are currently within underground easements and would remain so with the proposed project. The proposed project would also be required to comply with all applicable building and safety codes, including the California Fire Code, and all applicable fire safety standards set forth by the City. Therefore, the proposed project would not require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines, or other utilities) that would exacerbate fire risk. The impact would be less than significant. ***(Less Than Significant Impact)***

d) Would the project 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.

The project site is not in an SRA nor does it contain lands classified as a very high fire hazard severity zone (CALFIRE 2023). The site and surrounding area are relatively flat and not located in an area subject to landslides or flooding. The site is currently and would continue to be almost entirely paved. As a result, post-fire-related effects would not occur to adjacent properties, and no impact would occur. ***(No Impact)***

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3.21 MANDATORY FINDINGS OF SIGNIFICANCE

MANDATORY FINDINGS OF SIGNIFICANCE	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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 cumulative considerable? ("Cumulative 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?	☐	☒	☐	☐

3.21.1 Environmental Impact Analysis

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?

With implementation of Mitigation Measure BIO-1, the proposed project would not impact nesting raptors or migratory birds. Additionally, the proposed project is consistent with the activity described in the SCVHP and would require discretionary approval by the City. The proposed project would be subject to applicable SCVHP fees prior to issuance of any grading permits. All projects in the City, including the proposed project, would be required to pay the cumulative nitrogen deposition fees. Impacts to biological resources would be less than significant with mitigation.

Subsurface cultural resources could be uncovered during ground disturbing activities of the project; however, implementation of the City's Standard Permit Conditions and Mitigation Measure CUL-1 would avoid or reduce impacts to cultural resources, including tribal cultural resources, to a less than significant level. Therefore, project impacts would be reduced to less than significant with mitigation incorporated and/or City Standard Permit Conditions. ***(Less Than Significant with Mitigation Incorporated)***

b) Does the project have impacts that are individually limited, but cumulative considerable? ("Cumulative 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)?

As described in the impact analysis in Sections 3.1 through 3.20 of this ISMND, any potentially significant impacts of the proposed project would be reduced to a less than significant level following incorporation of the mitigation measures listed herein. Projects completed in the past have also implemented mitigation as necessary. Future projects would similarly be required to mitigate potential impacts. Accordingly, the proposed project would not otherwise combine with impacts of related development to add considerably to any cumulative impacts in the region, and impacts would be considered less than significant. ***(Less Than Significant with Mitigation Incorporated)***

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

The proposed project would not directly or indirectly cause substantial adverse effects on human beings. Air quality, greenhouse gases, hazardous materials, and/or noise are resources that could cause potential effects through which the project could have a substantial effect on human beings. However, all potential effects of the proposed project related to air quality, greenhouse gases, hazardous materials, and noise are identified as less than significant or less than significant with the implementation of mitigation. All other resource areas would either have no impact, less than significant impact, or less than significant impact with mitigation incorporated. Therefore, the proposed project would not have environmental impacts which would cause substantial adverse impacts on human beings. ***(Less Than Significant with Mitigation Incorporated)***



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