Draft Environmental Impact Report

550 E Brokaw Development

State Clearinghouse No.: 2021060414

File Nos.: H21-005/T21-005/ER21-018

Prepared by

CITY OF SAN JOSE

CAPITAL OF SILICON VALLEY

In Consultation with

50 YEARS EST. 1972 DAVID J. POWERS & ASSOCIATES, INC.

ENVIRONMENTAL CONSULTANTS & PLANNERS

May 2022

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SUMMARY

PROJECT LOCATION

The 19.7-acre project site is located at 550 East Brokaw Road (APN: 237-08-079) in the North San José Development Policy (NSJDP) area. The project site is bounded by East Brokaw Road to the northwest, Junction Avenue to the southwest, and by Interstate 880 (I-880) to the east.

EXISTING CONDITIONS

The project site is currently occupied by a joint office and electronics superstore building (approximately 293,906 square feet) and a surface parking lot. Surrounding uses are predominantly commercial and industrial.

Vehicular access to the project site is currently provided via two driveways on East Brokaw Road and two driveways on Junction Avenue. Regional ingress and egress primarily occurs via the Interstate 880-East Brokaw Road interchange approximately 500 feet to the northeast of the site. Pedestrian and bicycle ingress and egress is provided via City streets and the Coyote Creek Trail connection with Charcot Avenue, approximately 1,850 feet north of the site.

Street trees are present along East Brokaw Road and Junction Avenue, and mature trees (including 210 ordinance-size trees[1]) are interspersed throughout the site interior on landscaped parking medians and adjacent to the existing Fry's building.

The site is designated as *Combined Industrial/Commercial (CIC)* under the City's Envision San José 2040 General Plan. Properties with a CIC land use designation are intended for commercial, office, or industrial developments or a compatible mix of these uses. The project site was rezoned in August 2020 from an *A(PD) Planned Development* Zoning District to the *CIC Combined Industrial/ Commercial* Zoning District. Sites zoned as *CIC Combined Industrial/Commercial* Zoning District, allow for a mixture of industrial and commercial uses.

PROJECT OVERVIEW

The applicant proposes to demolish the existing office and electronics superstore building, and construct seven new eight-story office towers in a campus design. The office towers would consist of approximately 1,921,215 square feet of office space and would be up to 135 feet tall to the top of the mechanical penthouse, with a floor area ratio (FAR) of 4.16.

The ground level of the office campus would be oriented around two east-west green belts running through the interior of the office campus development. Proposed amenities on the ground level would include two large paved open space areas, one in the northwest corner and one in the southeast corner of the project site, that are intended to be used as amphitheaters and flexible gathering spaces. A number of smaller flexible gathering spaces are also proposed, including paved office patios with furniture and planter pots, outdoor work and meeting pods, and various miniature plazas throughout the site. Additionally, the center of the proposed development would feature two unpaved lawns serving as game and picnic table areas.

[1] Of the 210 ordinance-sized trees, 186 are located on-site and 24 are off-site.

The project would also include approximately 1,646,220 square feet of structured parking consisting of 5,356 parking spaces divided between one nine-story garage ("Garage 1") and one 10-story garage ("Garage 2"). The two parking garages would provide a combined 5,356 parking spaces. An approximately 14,860 square foot surface parking lot would provide 29 surface parking stalls in the southeast corner of the project site.

SUMMARY OF SIGNIFICANT IMPACTS

The following is a summary of the significant impacts and mitigation measures addressed within this Draft EIR. The project description and full discussion of impacts and mitigation measures can be found in Section 2.0 Project Information and Description and Section 3.0 Environmental Setting, Impacts, and Mitigation.

Significant Impact	Mitigation Measures
Biological Resources	
Impact BIO-1: Development of the proposed project would result in impacts to nesting birds, if present on or adjacent to the project site at the time of construction.	**MM BIO-1.1:** Prior to the issuance of any demolition, grading, tree removal or building permits (whichever occurs first), the project applicant shall confirm the initial site disturbance (demolition and/or construction activities) is scheduled to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1 through August 31 (inclusive). **MM BIO-1.2:** If tree removal, demolition and construction cannot be scheduled between September 1 and January 31 (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests are disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1 through April 30 inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1 through August 31 inclusive). During this survey, the qualified ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests. **MM BIO-1.3:** If an active nest is found sufficiently close to work areas to be disturbed by construction, the qualified ornithologist shall determine the extent of a construction free buffer zone to be established

	around the nest to ensure that bird nests shall not be disturbed during project construction. **MM BIO-1.4:** Prior to any tree removal, or approval of any grading or demolition permits (whichever occurs first), the qualified ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the City's Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement.
Cultural Resources	
Impact CUL-1: Construction activities on the project site could potentially result in the disturbance of archaeological resources pursuant to CEQA Guidelines Section 15064.5.	**MM CUL-1.1:** Following the demolition of the existing buildings and parking lot and prior to excavation or construction activities including grading and potholing for utilities, a qualified archaeologist who is trained in both local prehistoric and historical archaeology, in collaboration with a Native American representative registered with the Native American Heritage Commission for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3, shall complete subsurface exploration of the site, to determine if there are any indications of discrete historic-era subsurface archaeological features. Exploring for historic-era features shall consist of at least one trench mechanically to evaluate the potential for Native American and historic era resources. Excavation depths shall be commensurate with the deepest proposed development impacts. If any archaeological resources are exposed, these should be briefly documented, tarped for protection, and left in place. The results of the presence/absence exploration, including any treatment recommendations if any, shall be submitted to the Director of the City of San José Department of Planning, Building, and Code Enforcement or Director's designee for review and approval prior to issuance of any grading permit. Based on the findings of the subsurface testing, an archaeological resources treatment plan as described in MM CUL-1.2 shall be prepared by a qualified archaeologist in collaboration with a Native American representative, registered with the Native American Heritage Commission for the City of San José and that is traditionally and culturally affiliated with the geographic area as

	described in Public Resources Code Section 21080.3, if necessary. **MM CUL-1.2: Treatment Plan.** If required by MM CUL-1.1, the project applicant shall retain a qualified archaeologist to prepare a treatment plan in consultation with the tribal representative that reflects detail pertaining to depths and locations of excavation activities. The treatment plan shall be prepared and submitted to the Director of the Department of Planning, Building, and Code Enforcement or Director's designee prior to approval of any grading permits. The treatment plan shall contain, at a minimum: i. Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations. ii. Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found). iii. Monitoring schedules and individuals iv. Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information). v. Detailed field strategy to record, recover, or avoid the finds and address research goals. vi. Analytical methods. vii. Report structure and outline of document contents. viii. Disposition of the artifacts. ix. Security approaches or protocols for finds. x. Appendices: all site records, correspondence, and consultation with Native Americans, etc. Implementation of the plan, by a qualified archaeologist, shall be required prior to the issuance of any grading permits. The treatment plan shall utilize data recovery methods to reduce impacts on subsurface resources.

	MM CUL-1.3: Evaluation. The project applicant shall notify the Director of Planning, Building, and Code Enforcement or Director's designee of any finds during the preliminary field investigation, grading, or other construction activities. Any historic or prehistoric material identified in the project area during the preliminary field investigation and during excavation activities shall be evaluated for eligibility for listing in the California Register of Historic Resources as determined by the California Office of Historic Preservation. Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand augering, and hand-excavation. The techniques used for data recovery shall follow the protocols identified in the approved treatment plan. Data recovery shall include excavation and exposure of features, field documentation, and recordation. All documentation and recordation shall be submitted to the Northwest Information Center and Native American Heritage Commission (NAHC) Sacred Land Files, and/or equivalent prior to the issuance of an occupancy permit. A copy of the evaluation shall be submitted to Director of Planning, Building, and Code Enforcement or Director's designee.
Hazards and Hazardous Materials	
Impact HAZ-1: Due to the agricultural history, there is a potential that the shallow soil on-site contains residual organochlorine pesticides and/or pesticide-based metals arsenic and lead from historic pesticide application. If pesticides are present above commercial/industrial screening levels and not mitigated, construction of the project could result in exposure of construction workers, adjacent properties and future site workers to pesticide contamination.	**MM HAZ-1.1:** Prior to issuance of any demolition or grading permits, the project applicant shall take shallow soil samples in the near surface soil in the proposed project area and tested for organochlorine pesticides and pesticide-based metals arsenic and lead to determine if contaminants from previous agricultural operations occur at concentrations above established construction worker safety and commercial/industrial regulatory environmental screening levels. The result of soil sampling and testing shall be provided to the Director of Planning Building and Code Enforcement or director's designee and Municipal Environmental Compliance Officer. If pesticide contaminated soils are found in concentrations above the appropriate regulatory environmental screening levels for the proposed project, the project applicant shall obtain regulatory oversight from the Santa Clara County Department of

	Environmental Health (or Department of Toxic Substances Control) under their Site Cleanup Program. A Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document must be prepared by a qualified hazardous materials consultant. The plan must establish remedial measures and/or soil management practices to ensure construction worker safety and the health of future workers and visitors. The Plan and evidence of regulatory oversight shall be provided to the Director of Planning Building and Code Enforcement or director's designee, and the Environmental Compliance Officer in the City of San José's Environmental Services Department.
Noise	
Impact NOI-1.1: Development of the project would involve substantial noise-generating activities which would exceed the ambient noise environment for more than 12 months within 200 feet of commercial uses.	**MM NOI-1.1:** Prior to issuance of any demolition or grading permits, a qualified acoustical consultant shall prepare a construction noise logistics plan specifying the hours of construction as well as the noise and vibration minimization measures to be implemented during the project's construction. Posting or notification of construction schedules is required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on surrounding uses. The construction noise logistics plan shall require, but not be limited to, the following: • The contractor shall use "new technology" power construction equipment with state-of-the-art noise shielding and muffling devices. • Commercial properties within 500 feet shall be notified, in writing and provided a written schedule of "noisy" construction activities. • Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g. bad muffler, etc.) and require that reasonable measures be implemented to correct the problem. The telephone number for the disturbance coordinator shall be conspicuously posted on the construction site and included in the notification sent to neighbors regarding the construction schedule.

Transportation	
Impact TRN-1: The project would generate 15 VMT per employee, which would exceed the City's significance threshold of 12.21 VMT per employee.	**MM TRN-1.1:** Prior to the issuance of any occupancy permits (temporary or final), The project applicant shall prepare and implement a Public Improvement Plan that includes multi-modal improvements to be implemented and schedules for completing the improvements. The plan shall be submitted to the Director of Public Works or Director's designee for review and approval. The plan shall include the following multi-modal improvements: • Expand the Reach of Bike Access with Investment in Infrastructure (Tier 2): The project shall implement bicycle facilities that close gaps in the bicycle network and/or improve the existing bicycle network (e.g. construct barrier or buffer for an existing bike lane). The project applicant shall also be required to implement protected/buffered bicycle lanes along Brokaw Road and Junction Avenue on the opposing side of or beyond the project frontages. At the intersection of Brokaw Road and Junction Avenue, the project applicant shall complete protected intersection signal modifications that include striped bike lanes adjacent to all crosswalks and installation of corner islands in addition to the removal of the pork chop islands (described in the next bullet, below). • Increase Transit Accessibility to Improve Last-Mile Transit Connections (Tier 2): The project applicant shall improve transit accessibility for the project to shorten last-mile connections for pedestrians and bicyclists by enhancing access to transit, which shall facilitate the use of transit by people traveling to/from the project site, resulting in a mode shift. The project applicant shall be required to remove the pork chop island at the northwest corner of the Junction Avenue/Brokaw Road intersection to allow for the relocation of the existing Route 60 stop from its current location east of Rogers Avenue to just west of Junction Avenue (on the far side of westbound Brokaw Road). This mitigation requires the construction of a sidewalk between

	the relocated bus stop and the existing sidewalk on the north side of Brokaw Road for pedestrian connectivity to the Junction Avenue/Brokaw Road intersection. The project applicant shall work with VTA staff to identify the specific placement of the re-located stop along Brokaw Road and improvement of the eastbound stop on its frontage. • Improve Network Connectivity/Design (Tier 2): The project applicant shall signalize its southern project driveway on Junction Avenue. The new signal provides an additional controlled crossing point along Junction Avenue south of Brokaw Road for pedestrians and bicyclists. • Provide Bike Parking/End of Trip Bike Facilities (Tier 3): The project applicant shall provide on-site shower facilities with lockers. In addition, the project applicant shall be required to provide bicycle parking that meets or exceeds the City's requirements for both short- and long-term bicycle parking. **MM TRN-1.2:** Prior to the issuance of any occupancy permits (temporary or final), the project applicant shall submit and implement a final TDM Plan, approved by the Director of Department of Public Works or Director's designee and the Director of Planning, Building and Code Enforcement, or Director's designee, that shall include implementation of one the following TDM measures to reduce the project's VMT. • Telecommuting and Alternative Work Schedules: Encourage employees to telecommute from home when possible, or to shift work schedules such that travel occurs outside of peak congestion periods. At a minimum, the measure would require that 50 percent of employees work a 4/40 schedule (10-hour work days for four days a week) or an equivalent alternative work schedule. • Operate a Free Direct Shuttle: Provide direct shuttle service to the project site from areas with high concentrations of employees. At a minimum, the measure would require at least 20 percent participation by employees.

	• Subsidize Vanpool: Provide subsidies for individuals forming new vanpools for their commute. The project would be required to subsidize 100 percent of the cost of the vanpools with at least 15 percent employee participation. **MM TRN-1.3: On-Site Coordinator and Annual Monitoring.** Prior to the issuance of any building permit, a first draft of the Transportation Demand Management Plan shall be submitted. The project applicant shall include an annual monitoring requirement establishing an average daily trip cap of 1,841 AM peak-hour trips and 1,825 PM peak hour trips or 15,463 daily trips. The annual monitoring shall be prepared by a traffic engineer and report must demonstrate the project is within 10% of the ADT cap. If the project is not in conformance with the trip cap, the project applicant shall implement additional TDM measures to meet the trip cap. A follow up report shall be required within six months of the last approved TDM if the project is still out of conformance, and penalties shall be assessed in accordance with Council Policy 5-1. The applicant shall identify a TDM coordinator for the project who would be responsible for resubmitting the annual monitoring reports to the Director of Planning, Building and Code Enforcement or the Director's Designee and the Director of Public Works or Director's Designee for the life of the project.
Tribal Cultural Resources	
Impact TCR-1: Development of the proposed project could potentially result in impacts to undiscovered tribal cultural resources.	**MM TCR-1.1: Tribal Monitoring.** Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest), a qualified Native American Tribal monitor, 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 be present during applicable earthmoving activities such as, but not limited to, trenching, initial or full grading, lifting of foundation, or boring on site. Evidence of a monitoring agreement shall be provided to the Director of Planning, Building and Code Enforcement or Director's Designee.

	MM TCR-1.2: Cultural Sensitivity Training: Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest), a qualified Native American Tribal representative, registered with the NAHC for the City of San José and that is traditionally and culturally affiliated with the geographic area, shall provide at least one cultural sensitivity training to construction personnel prior to the initial ground-breaking activities. Evidence of the training shall be submitted to the Director of Planning, Building and Code Enforcement or Director's Designee.

SIGNIFICANT UNAVOIDABLE IMPACTS

The proposed project would result in a significant unavoidable VMT impact. A detailed discussion of this impact is included in Section 3.17 Transportation.

SUMMARY OF ALTERNATIVES TO THE PROPOSED PROJECT

CEQA requires that an EIR identify alternatives to the project as proposed. The CEQA Guidelines state that an EIR must identify alternatives that would feasibly attain the most basic objectives of the project (refer to Section 2.3 for the eight project objectives), but avoid or substantially lessen significant environmental effects, or further reduce impacts that are considered less than significant with the incorporation of mitigation. A summary of project alternatives follows. A full analysis of project alternatives is provided in Section 7.0 Alternatives.

- Location Alternative – A Location Alternative was considered but rejected for further analysis, since the applicant does not control any properties within the City of San José of similar size or General Plan designation. Furthermore, the project's impacts would be similar at any infill, urbanized location alternative within the City of San José.

- Expedited Construction Alternative – The Expedited Construction Alternative was considered to reduce the project's significant but mitigable construction noise impact. The alternative was rejected from further analysis since it would not be logistically feasible to construct a project of this size and scale within a 12-month period and because it would likely result in significant and unavoidable construction-related air quality impacts associated with the generation of criteria air pollutants in exceedance of BAAQMD thresholds.

- 100 Percent Residential Alternative – A 100 Percent Residential Alternative was considered to reduce the project's significant, unavoidable vehicle miles traveled (VMT) impact but was rejected for further analysis since it would be inconsistent with the City's General Plan and Municipal Code, and would not achieve any project objectives.

- Reduced Scale Alternative – The Reduced Scale Alternative was considered to reduce the overall magnitude of the project's construction and/or operation impacts. The Reduced Scale

Alternative was considered but rejected from further analysis because it would not substantially lessen any significant effects of the project.

- No Project, No New Development Alternative – Under the No Project, No New Development Alternative, the project site would remain as it currently exists (i.e. developed with a 293,906 square foot joint office and electronics superstore building and a surface parking lot) with little or no change (e.g., minor tenant improvements or façade improvements). The existing development has been unoccupied since February 2021; under this alternative, it is assumed that the site would be reoccupied by a similar retail or office use as allowed by right under the City's General Plan and Municipal Code. While the No Project, No New Development Alternative would avoid the project's mitigated impacts, as well as the project's significant and unavoidable VMT impact, it would not achieve any of the project objectives.

- No Project, Redevelopment Alternative – The No Project, Redevelopment Alternative assumed the unoccupied and underutilized project site would be redeveloped with an alternative development that is consistent with what is allowed under the City's General Plan and Municipal Code and similar to what is being proposed by the project. The No Project, Redevelopment Alternative would be able to meet all project objectives and would result in a similar impact related to nesting birds, potentially contaminated soil, and VMT. This alternative would not be environmentally superior to the project.

- Industrial Development Alternative – The Industrial Development Alternative assumed the project site would be developed with an industrial development of approximately 30,400 square feet. The Industrial Development Alternative would result in a reduced VMT impact in comparison with the proposed project, and comparable impacts related to nesting birds, disturbance of potentially contaminated soil, and construction duration. This alternative would not meet objective one, but would partially meet objective two and three, and fully meet objective four.

AREAS OF KNOWN CONTROVERSY

Section 15123 of the CEQA Guidelines requires the summary section of a Draft EIR to identify areas of controversy known to the Lead Agency, including issues raised by agencies and the public. Environmental concerns about the project raised in comment letters received on the Notice of Preparation (refer to Appendix A) and at the public scoping meeting were related to the following:

- Biological resources, including impacts to birds due to light and glare and amount of exterior glass and tree removal
- Transportation, including impacts to Congestion Management Program facilities and Santa Clara facilities
- Tribal cultural resources

SECTION 1.0 INTRODUCTION

1.1 PURPOSE OF THE ENVIRONMENTAL IMPACT REPORT

The City of San José, as the Lead Agency, has prepared this Draft Environmental Impact Report (EIR) for the 550 East Brokaw Road Project in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines.

As described in CEQA Guidelines Section 15121(a), an EIR is an informational document that assesses potential environmental impacts of a proposed project, as well as identifies mitigation measures and alternatives to the proposed project that could reduce or avoid adverse environmental impacts (CEQA Guidelines 15121(a)). As the CEQA Lead Agency for this project, the City of San José is required to consider the information in the EIR along with any other available information in deciding whether to approve the project. The basic requirements for an EIR include discussions of the environmental setting, significant environmental impacts including growth-inducing impacts, cumulative impacts, mitigation measures, and alternatives. It is not the intent of an EIR to recommend either approval or denial of a project.

1.1.1 Responsible Agencies

Per CEQA Guidelines Section 15381, all public agencies other than the Lead Agency which have discretionary approval power over the project, shall be considered Responsible Agencies in the CEQA process. In addition to the City of San José as Lead Agency, the California Department of Transportation (Caltrans) has discretionary approval over portions of the proposed project. Therefore, Caltrans is considered a Responsible Agency for the proposed project.

1.2 EIR PROCESS

1.2.1 Notice of Preparation and Scoping

In accordance with Section 15082 of the CEQA Guidelines, the City of San José prepared a Notice of Preparation (NOP) for this EIR. The NOP was circulated to local, state, and federal agencies on June 14, 2021. The standard 30-day comment period concluded on July 14, 2021. The NOP provided a general description of the proposed project and identified possible environmental impacts that could result from implementation of the project. The City of San José also held a public scoping meeting on June 28, 2021 to discuss the project and solicit public input as to the scope and contents of this EIR. The meeting was held virtually. Appendix A of this EIR includes the NOP and comments received on the NOP.

1.2.2 Draft EIR Public Review and Comment Period

Publication of this Draft EIR will mark the beginning of a 45-day public review period. During this period, the Draft EIR will be available to the public and local, state, and federal agencies for review and comment. Notice of the availability and completion of this Draft EIR will be sent directly to every agency, person, and organization that commented on the NOP, as well as the Office of Planning and Research. Written comments concerning the environmental review contained in this Draft EIR during the 45-day public review period should be sent to:

City of San José
Department of Planning, Building, and Code Enforcement
Attn: Cassandra van der Zweep, Supervising Planner
200 East Santa Clara Street, 3rd Floor
San José, CA 95113-1905
(408) 535-7659
cassandra.vanderzweep@sanjoseca.gov

1.3 FINAL EIR/RESPONSES TO COMMENTS

Following the conclusion of the 45-day public review period, the City of San José will prepare a Final EIR in conformance with CEQA Guidelines Section 15132. The Final EIR will consist of:

- Revisions to the Draft EIR text, as necessary;
- List of individuals and agencies commenting on the Draft EIR;
- Responses to comments received on the Draft EIR, in accordance with CEQA Guidelines (Section 15088); and
- Copies of letters received on the Draft EIR.

Section 15091(a) of the CEQA Guidelines stipulates that no public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings. If the lead agency approves a project despite it resulting in significant adverse environmental impacts that cannot be mitigated to a less than significant level, the agency must state the reasons for its action in writing. This Statement of Overriding Considerations must be included in the record of project approval.

1.3.1 Notice of Determination

If the project is approved, the City of San José will file a Notice of Determination (NOD), which will be available for public inspection and posted within 24 hours of receipt at the County Clerk's Office and available for public inspection for 30 days. The filing of the NOD starts a 30-day statute of limitations on court challenges to the approval under CEQA (CEQA Guidelines Section 15094(g)).

SECTION 2.0 PROJECT INFORMATION AND DESCRIPTION

2.1 PROJECT INFORMATION

2.1.1 Project Location

The 19.7-gross acre project site is located at 550 East Brokaw Road (APN: 237-08-079) in the North San José Area Development Policy (NSJADP) area and the U.S. 101/Oakland/Mabury Transportation Development Policy (TDP) area. The project site is bounded by East Brokaw Road to the northwest, Junction Avenue to the southwest, and by Interstate 880 (I-880) to the east. Regional, vicinity, and aerial maps of the project site are shown below in Figures 2.2-1, 2.2-2, and 2.2-3, respectively.

The project site is currently developed with a joint office and electronics superstore building (approximately 293,906 square feet) and a surface parking lot. Surrounding uses are predominantly commercial and industrial.

2.1.2 Existing General Plan and Zoning Designation

The project site is designated Combined Industrial/Commercial (CIC) under the Envision San José 2040 General Plan (General Plan). Properties with a CIC land use designation are intended for commercial, office, or industrial developments or a compatible mix of these uses. A significant amount of flexibility in the mixture of compatible uses and in development intensity (up to 12.0 FAR, equivalent to 10,298,112 square feet at the project site) is permitted on CIC-designated parcels. The project site is zoned CIC Combined Industrial/Commercial.

2.2 PROJECT DESCRIPTION

The applicant proposes to demolish the existing office and electronics superstore building and construct seven new eight-story office towers in a campus design. The office towers would consist of approximately 1,921,215 square feet of office space. The towers would be 135 feet high (including 17-foot-tall mechanical penthouses), with a floor area ratio (FAR) of approximately 4.16.[2]

The office campus layout would consist of one standalone tower ("Tower 2") and three pairs of towers joined at the podium level (Towers 1a and 1b as "Tower 1," Towers 3a and 3b as "Tower 3," and Towers 4a and 4b as "Tower 4"). The first two floors, and portions of floors three through eight, would be dedicated to commercial and amenity spaces.[3] Each tower would also include an outdoor terrace on the seventh floor for use by the future office tenants. The towers would be configured around a central pedestrian network to encourage campus connectivity.

[2] FAR includes the gross parking area (1,646,220 square feet).
[3] This could be a small retail shop for either employee use or the public, depending on the tenant of the building.

REGIONAL MAP | FIGURE 2.2-1

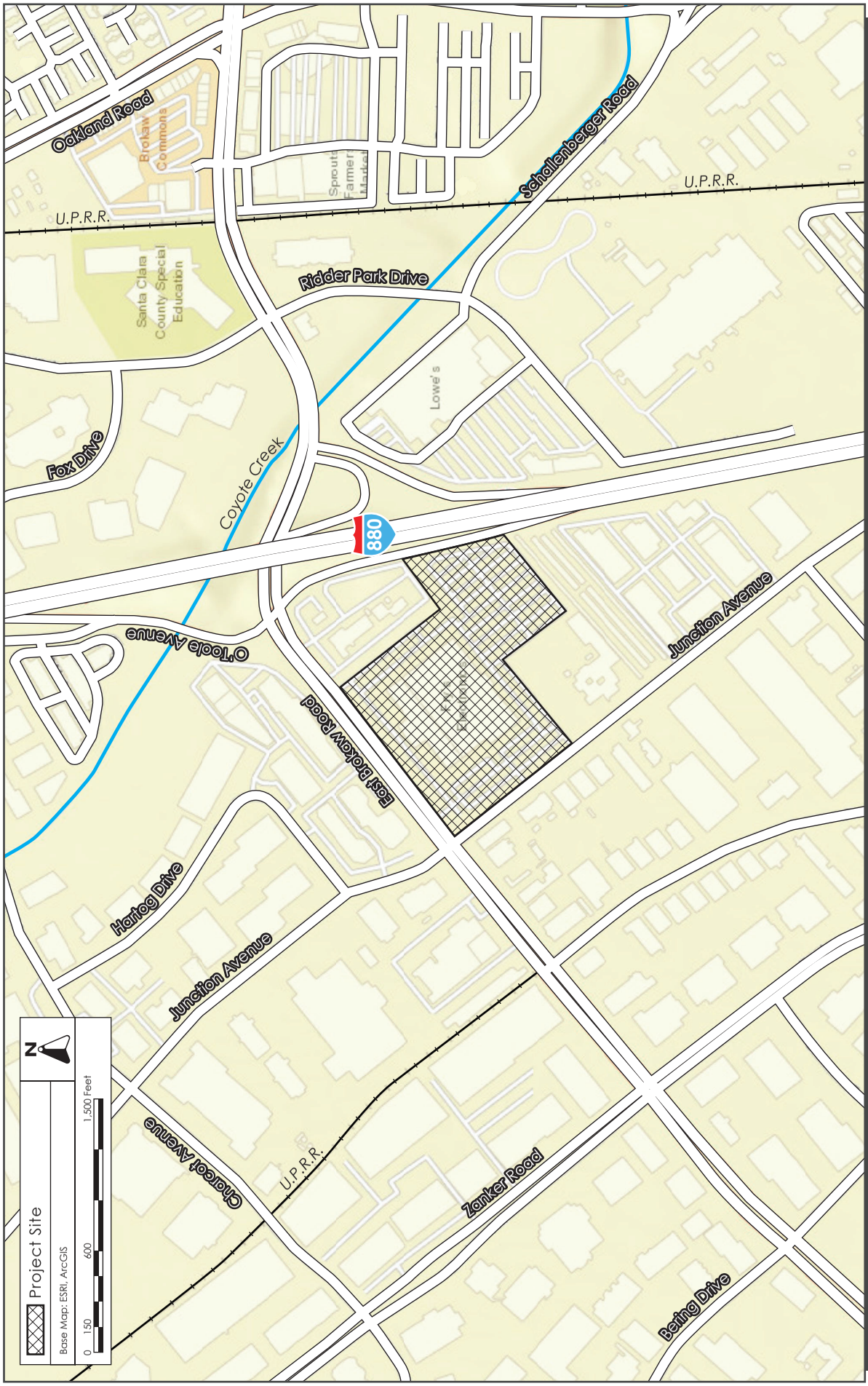


FIGURE 2.2-2

VICINITY MAP

AERIAL PHOTOGRAPH AND SURROUNDING LAND USES | FIGURE 2.2-3

The project would also include approximately 1,646,220 square feet of structured parking consisting of 5,385 parking spaces divided between one nine-story garage ("Garage 1") and one 10-story garage ("Garage 2"). The garages would be up to 118 feet high.

The site plan and a conceptual rendering of the proposed project are shown on Figures 2.2-4 and 2.2-5, respectively.

2.2.1 Site Access, Parking, and Circulation

2.2.1.1 *Vehicular Access*

Vehicular access to the project site is currently provided via two driveways on East Brokaw Road and two driveways on Junction Avenue. Regional ingress and egress primarily occurs via the Interstate 880-East Brokaw Road interchange approximately 500 feet to the northeast of the site. Pedestrian and bicycle ingress and egress is provided via City streets and the Coyote Creek Trail connection with Charcot Avenue, approximately 1,850 feet north of the site.

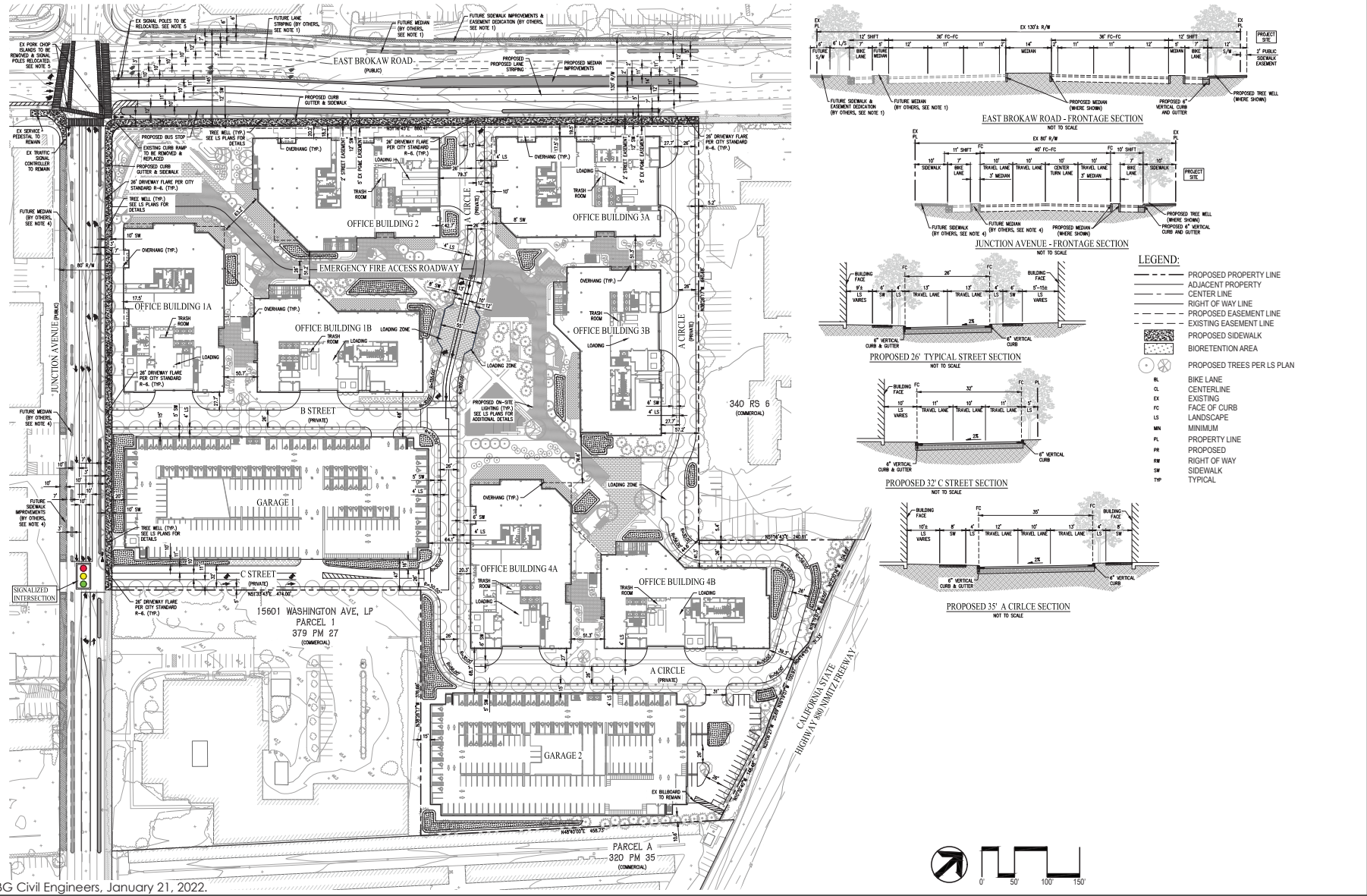
The project would provide one full access signalized driveway and one right-turn only driveway along Junction Avenue and two right-turn only driveways along Brokaw Road.

Interior circulation at the project site would be provided via a two-way access road ("A" Circle) that would run centrally through the project site and along the southern and eastern project frontages; providing access to and from each of the East Brokaw Road driveways. Two east-west roadways ("B" Street and "C" Street) would connect each of the Junction Avenue driveways to the central roadway. These roadways and accompanying sidewalks would be connected to the two proposed garages and a pedestrian drop-off areas along A Circle (approximately 100 feet north of B Street). Commuter vehicles and ride-share/taxi services would be permitted to enter and exit the project site from any of the four intersections and able to navigate to either of the parking garages or drop-off sites.

Trucks would access the site from Brokaw Road and Junction Avenue. Three loading zones would be provided on-site, one on each side of Circle A between B Street and the EVA roadway and a third one on A circle along the eastern portion of the site between B and C Streets. Truck loading spaces would be proved at each of the seven off buildings.
Emergency vehicles would access the interior of the project site via an emergency vehicle access (EVA) path accessible from Junction Road running between Towers 1 and 2, as shown on Figure 2.2-4.

2.2.1.1 *Pedestrian Access*

A pedestrian walkway and open space area would be provided at the Brokaw Road and Junction Avenue intersection along with landscaped areas throughout the site. Sidewalks along the project site frontage on Brokaw Road and Junction Avenue, would connect the project site to existing pedestrian facilities and destinations outside of the project site, including the bus stops on Brokaw Road. Four interior crosswalks would be installed that would allow commuters to migrate from the garage structures to the office campus development. Two east-west green belts on the interior of the office campus development are proposed: the first connecting Tower 1 with Tower 2, and the second connecting Tower 3 with Tower 4. The green belts would be connected by two crosswalks, allowing



Source: CBG Civil Engineers, January 21, 2022.

CONCEPTUAL SITE PLAN

FIGURE 2.2-4

CONCEPTUAL BUILDING RENDERING

FIGURE 2.2-5

pedestrians to circulate freely between both halves of the office campus. Pedestrians would also be able to travel between Towers 1A and 1B, Towers 3A and 3B, and Towers 4A and 4B via one-story floorplates connecting the podium levels.

2.2.1.2 *Vehicular and Bicycle Parking*

Parking for the proposed office campus would be provided via two parking garages and a surface parking lot. The two parking garages would ultimately provide a combined 5,356 parking spaces. Garage 1 includes Garage 1A and Garage 1B, and Garage 2 includes Garage 2A and 2B. Square footage totals and number of parking spaces provided by Garage 1 and Garage 2 is shown below in Table 2.2-1.

Table 2.2-1: Summary of Parking Garage Square Footage and Spaces Provided

Garage Number	Square Footage	Number of Parking Spaces
Garage 1A/1B	933,380	3,054
Garage 2A/2B	712,840	2,302
Total	**1,646,220**	**5,356**

The project would also provide 29 surface parking stalls in the southeast corner of the project site. Of the combined 5,385 parking spaces proposed, approximately 113 spaces would be Americans with Disabilities Act (ADA) accessible parking spaces. 432 parking spaces would be reserved for clean air vehicles, with 324 parking spaces would be equipped with EVSE-ready charging stations. The project would include 107 parking stalls dedicated for motorcycle parking.

Consistent with City requirements, the project would provide 410 bicycle parking spaces in designated "bike parking" rooms located on the ground floor of the proposed office towers and additional outdoor bicycle parking spaces. The project would also conform with City requirements by providing 32 "bike showers" and accompanying changing rooms.

2.2.2 Site Amenities

On the ground floor of the project site, the project proposes to construct three common use areas, including an amphitheater in the northwest corner, as well as a picnic/work area and a plaza located to the west and south of Tower 3B, respectively. Additionally, each tower would include terraces on floors two and seven for use by the future office tenants. A number of smaller outdoor flexible gathering spaces are also proposed, including paved office patios with furniture and planter pots, outdoor work and meeting pods, and various miniature plazas throughout the site.

2.2.3 Landscaping

Street trees are present along East Brokaw Road and Junction Avenue, and mature trees (including 218 ordinance-size trees) are interspersed throughout the site interior on landscaped parking medians and adjacent to the existing Fry's building. Approximately 276 trees, including 183 ordinance-size trees, would be removed as part of project implementation. The project would plant approximately 508 trees with at least a 24-inch box size throughout the proposed development.

Project landscaping includes the installation of terraced walls, steps, and seat walls with accent planting interspersed throughout the project site, as well as sloping berms and park strips planted with street trees along Junction Avenue and East Brokaw Avenue.

2.2.4 Utility and Other Facility Improvements

The existing utilities in the project area would serve the proposed project. The proposed project would include new sanitary sewer, storm drain, and water lines which would connect the proposed buildings to existing utility lines in the surrounding streets. The project proposes to treat 100 percent of stormwater runoff generated on-site using bioretention areas and proprietary media filter systems (MFS).

The project also includes the following improvements to existing transportation facilities:

- Construct Class IV bike lanes per the Better Bike Plan 2025 along the Brokaw Road and Junction Avenue project frontages.
- Construct a sidewalk between the relocated bus stop (described under MM TRN-1.1) and the existing sidewalk on the north side of Brokaw Road to improve pedestrian connectivity to the Junction Avenue/Brokaw Road intersection.
- The project will be required to remove the each of the pork-chop islands at the East Brokaw Road/Junction Avenue intersections and modify the signal phasing on Junction Avenue from permitted to protected phasing to improve pedestrian safety and access (described under MM TRN-1.1).
- At the intersection of Brokaw Road and Junction Avenue, the project shall complete protected intersection signal modifications that include striped bike lanes adjacent to all crosswalks and installation of corner islands.
- The project will be required to remove the pork chop island at the northwest corner of the Junction Avenue/Brokaw Road intersection to allow for the relocation of the existing Route 60 stop from its current location east of Rogers Avenue to just west of Junction Avenue (on the far side of westbound Brokaw Road) (described under MM TRN-1.1).
- The project will be required to signalize its southern project driveway on Junction Avenue (described under MM TRN-1.1).
- The project will be required to relocate the bus stop for westbound Frequent Route 60 from its current location on East Brokaw Road just west of Rogers Avenue to just west of Junction Avenue, on the far side of westbound Brokaw Road.
- At the I-880 and Old Bayshore Highway intersection, the applicant shall restripe the southbound through to a shared through and left-turn lane.
- A 300-foot northbound left-turn pocket shall be provided at the East Brokaw Road and Junction Avenue intersection.
- A second westbound left-turn lane should be constructed at the intersection of Junction Avenue and Brokaw Road in order to accommodate the projected queues during the AM peak hour.
- The design of the site must include adequate corner radii along all internal roadways/drive aisles, as well as driveway width, drive aisle width, parking dimensions, and signage that satisfies City of San Jose design standards.

- All curb returns along the on-site roadways should be a minimum of 30-feet to accommodate service and emergency (such as a garbage truck or fire truck) vehicle circulation.
- The right-turn only project driveways along Brokaw Road and Junction Avenue should be free and clear of obstructions ensuring a minimum clear sight distance of 250 feet along Junction Avenue and 305 feet along Brokaw Road.
- The two southbound left-turn lanes at the southern project driveway Junction Avenue will require two receiving lanes on C Street. One lane along C street would need to feed a left-turn lane into Garage 1 while the second lane would feed A Circle.
- The southbound left-turn pockets shall provide a minimum of 325 feet of queue storage capacity per lane.
- The project will be required to construct a median along Junction Avenue that extends north from the southernmost driveway approximately 325 feet to accommodate the southbound left-turn pockets and restrict the northernmost project driveway to right-turns only.
- "Keep Clear" signage shall be installed at the garage entrance along C Street to maintain access to the garage.

2.2.5 Green Building Measures

The City requires that the project be built in accordance with the California Green Building Standards Code (CALGreen) requirements which includes design provisions intended to minimize wasteful energy consumption and the most recent California Building Code (CBC). Consistent with the City's Private Sector Green Building Policy and the Green Building Ordinance, the proposed project would be designed to achieve, at minimum, Leadership in Energy and Environmental Design (LEED) Silver Certification. This would be met through community design and planning, site design, landscape design, building envelope performance, and material selections. The project would also meet the energy efficiency performance requirements of the San José Reach Code, and includes complementary measures, such as the use of low-e glass to reduce energy consumption and solar gain.

2.2.6 Emergency Generators

Seven emergency generators (rated 500 kW, equivalent to 674 horsepower) would be located on the first floor of every tower with the exception of Tower 2, and on the ground floor of Garage 1. Emergency generators of this caliber are typically tested monthly for a one-hour period between 7:00 a.m. and 7:00 p.m., Monday through Friday.

2.2.7 Construction

Construction of the proposed project is expected to occur in four phases beginning in October 2023. Each phase is anticipated to last 23 months for a combined duration of 92 months, with construction projected to end in June 2031.

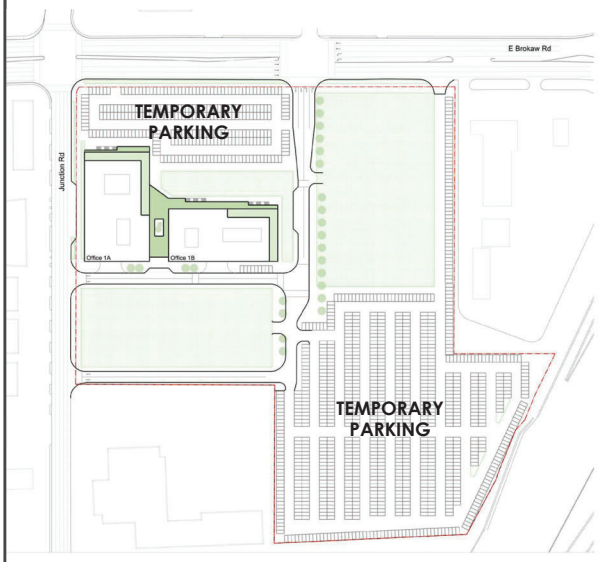
Construction would be expedited by phasing construction and obtaining occupancy permits after completion of each phase of the project. Temporary parking for the early building phases would be provided via a new surface parking lot located in the northwest corner and the existing surface parking lot located in the southeast corner of the site.

Phase One would demolish the Fry's Electronics building, construct a temporary parking lot in the northwest corner of the site, prepare the site for future construction phases, and construct Tower 1A and Tower 1B. It is assumed that the offsite improvements, including street lights, would be constructed during Phase One. Phase Two would construct Tower 3A and 3B, and Garage 1A and 1B. In Phase Three, Tower 2 and Garage 2A would be constructed, and the majority of the surface parking lot in the southeast corner of the site would be removed, with 29 surface parking stalls remaining. Phase Four would construct Tower 4A and 4B, Garage 2B, and complete installation of all site amenities and landscaping of the project site. Figure 2.2-6 below shows the location of the buildings and structures that would be constructed during each phase of the plan.

2.3 PROJECT OBJECTIVES

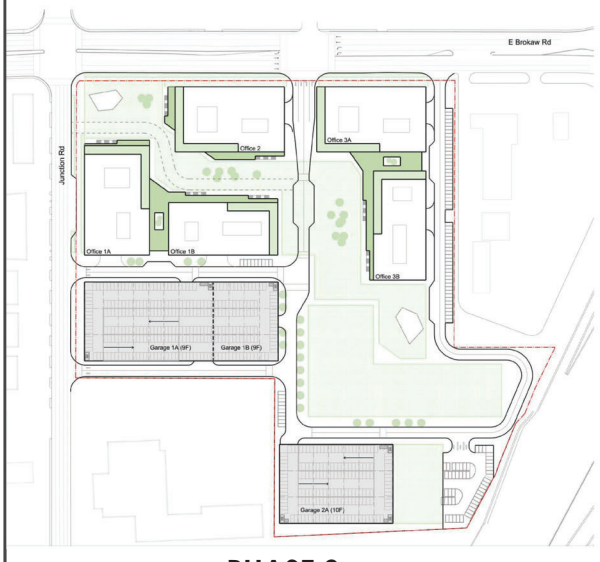
Pursuant to CEQA Guidelines Section 15124, the EIR must include a statement of the objectives. The objectives for the proposed project are as follows:

1. Provide an office development of approximately 1.9 million square feet, consistent with the Combined Industrial/Commercial land use designations of the Envision San José 2040 General Plan, in order to accommodate anticipated growth in North San José.
2. Develop the site with new, high-quality office buildings that will attract companies to the City of San José, both to create and retain local jobs and foster on-going job growth capacity.
3. Develop uses that are compatible with the surrounding land uses and further support and diversify the economic and employment goals of the greater North San José district.
4. Support San José's Environmental Stewardship goals by providing modern LEED buildings with sustainable energy and water usage, natural ventilation, and EV parking.

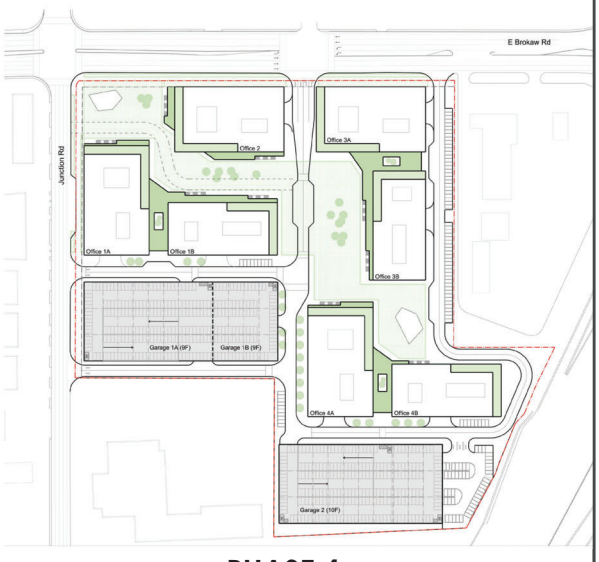


PHASE 1

PHASE 2



PHASE 3



PHASE 4

Source: Gensler, July 2, 2020.

PHASING DIAGRAM | FIGURE 2.2-6

2.4 USES OF THE EIR

This EIR is intended to provide the City of San José, other public agencies, and the general public with the relevant environmental information needed in considering the proposed project. The City of San José anticipates that discretionary approvals by the City, including but not limited to the following, will be required to implement the project addressed in this EIR:

- Site Development Permit
- Vesting Tentative Map
- Tree Removal Permit
- Demolition, Grading, Building, and Occupancy Permits
- Building Permits
- Other Public Works Clearances

Additionally, both the Valley Transit Authority (VTA) and California Department of Transportation (Caltrans) are tasked with the oversight and approval of discretionary permits in connection with the proposed bus stop relocation and restriping of the I-880 and Old Bayshore Highway intersection, respectively (refer to Section 2.2.4).

SECTION 3.0 ENVIRONMENTAL SETTING, IMPACTS, AND MITIGATION

3.0 INTRODUCTION

This section presents the discussion of impacts related to the following environmental subjects in their respective subsections:

3.1	Aesthetics	3.11	Land Use and Planning
3.2	Agriculture and Forestry Resources	3.12	Mineral Resources
3.3	Air Quality	3.13	Noise
3.4	Biological Resources	3.14	Population and Housing
3.5	Cultural Resources	3.15	Public Services
3.6	Energy	3.16	Recreation
3.7	Geology and Soils	3.17	Transportation
3.8	Greenhouse Gas Emissions	3.18	Tribal Cultural Resources
3.9	Hazards and Hazardous Materials	3.19	Utilities and Service Systems
3.10	Hydrology and Water Quality	3.20	Wildfire

The discussion for each environmental subject includes the following subsections:

Environmental Setting – This subsection 1) provides a brief overview of relevant plans, policies, and regulations that compose the regulatory framework for the project and 2) describes the existing, physical environmental conditions at the project site and in the surrounding area, as relevant.

Impact Discussion – This subsection includes the recommended checklist questions from Appendix G of the CEQA Guidelines to assess impacts.

- **Project Impacts** – This subsection discusses the project's impact on the environmental subject as related to the checklist questions. For significant impacts, feasible mitigation measures are identified. "Mitigation measures" are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370). Each impact is numbered to correspond to the checklist question being answered. For example, Impact BIO-1 answers the first checklist question in the Biological Resources section. Mitigation measures are also numbered to correspond to the impact they address. For example, MM BIO-1.3 refers to the third mitigation measure for the first impact in the Biological Resources section.

  Additionally, "standard permit conditions" and "conditions of approval" are also identified. "Standard permit conditions" are identified and are conditions the City typically requires of all development projects to comply with existing laws and regulations. "Conditions of approval" are measures the City requires to address non-CEQA issues.
- **Cumulative Impacts** – This subsection discusses the project's cumulative impact on the environmental subject. Cumulative impacts, as defined by CEQA, refer to two or more individual effects, which when combined, compound or increase other environmental impacts. Cumulative impacts may result from individually minor, but collectively significant

effects taking place over a period of time. CEQA Guideline Section 15130 states that an EIR should discuss cumulative impacts "when the project's incremental effect is cumulatively considerable." The discussion does not need to be in as great detail as is necessary for project impacts, but is to be "guided by the standards of practicality and reasonableness." The purpose of the cumulative analysis is to allow decision makers to better understand the impacts that might result from approval of past, present, and reasonably foreseeable future projects, in conjunction with the proposed project addressed in this EIR.

The CEQA Guidelines advise that a discussion of cumulative impacts should reflect both their severity and the likelihood of their occurrence (CEQA Guidelines Section 15130(b)). To accomplish these two objectives, the analysis should include either a list of past, present, and probable future projects or a summary of projections from an adopted general plan or similar document (CEQA Guidelines Section 15130(b)(1)). This EIR uses a hybrid approach and it reflects elements of both the list and projections methods for certain issue areas (i.e., aesthetics and noise) and impact discussions in order to depict the cumulative conditions more accurately. In general, the list method is better at assessing localized and near-term impacts, whereas the projections method provides a more accurate evaluation of cumulative impacts (i.e., population and housing) within the regional context. Pursuant to CEQA Guidelines Section 15130(d), a cumulative discussion from one or more previously certified EIR may be incorporated by reference pursuant to the provisions for tiering and program EIRs. No further cumulative impacts analysis is required when a project is consistent with a general, specific, master or comparable programmatic plan where the lead agency determines that the regional or areawide cumulative impacts of the proposed project have already been adequately addressed, as defined in section 15152(f), in a certified EIR for that plan.

The analysis must determine whether the project's contribution to any cumulatively significant impact is cumulatively considerable, as defined by CEQA Guideline Section 15065(a)(3). The cumulative impacts discussion for each environmental issue accordingly addresses the following issues: 1) would the effects of all of past, present, and probable future (pending) development result in a significant cumulative impact on the resource in question; and, if that cumulative impact is likely to be significant, 2) would the contribution from the proposed project to that significant cumulative impact be cumulatively considerable?

Table 3.0-1 identifies the approved (but not yet constructed or occupied) and pending projects in the project vicinity that are evaluated in the cumulative analysis.

Table 3.0-1: Cumulative Projects List

Name, Location, File Number	Description	Approximate Distance to Project Site (miles)
Granite Expo San Jose LP Retail Showroom and Warehouse; 1728 and 1750 Rogers Avenue, San Jose, CA; CP20-016	Conditional Use Permit to allow a wholesale retail use and to allow the addition of approximately 14,000 square feet of wholesale retail space, and approximately 6,000 square feet of additional warehouse space to an existing	0.09 southwest

Table 3.0-1: Cumulative Projects List		
Name, Location, File Number	**Description**	**Approximate Distance to Project Site (miles)**
	71,608-square foot warehouse building totaling approximately 91,658 square feet of building space and associated site improvements on an approximately 4.12-acre site.	
Supermicro; 708-750 Ridder Park Drive, San Jose, CA; H16-031	Demolition of an existing 312,000 square foot building (the former San José Mercury News Building) and the construction of a 209,320 square foot light industrial building with associated at-grade parking and improvements on a 9.98 gross acre site.	0.12 southeast
1605 Industrial; 1605 Industrial Avenue, San Jose, CA; PD18-044	Demolition of existing buildings totaling approximately 38,453 square feet, and the construction of approximately 180,500 square foot industrial warehouse building.	0.27 southeast
Oakland Road Industrial Project, Oakland Road, San Jose, CA; H20-018	Construction of approximately 39,100 gross square feet of industrial office and warehouse uses configured in two three-story buildings on an approximately 2.1-acre site. The proposed buildings would reach maximum heights of 50 feet. The project also includes the removal of 28 trees from the site.	0.45 northeast
2256 Junction Avenue Project; 2256 Junction Avenue, San Jose, CA; H20-039	Demolition of a portion of the existing 141,267 square foot warehouse building for the construction of a covered loading area on the north side of the building. The warehouse building will contain approximately 94,147 square feet of warehouse space, 13,572 square feet of office space, and 33,791 square feet of covered loading area. The project would remove 42 trees and provide a 158 replacement trees.	0.58 northwest
North First / Brokaw Corporate Campus, 60 East Brokaw Road, San Jose, CA, HA13-040; Brokaw Road Office – Parcel III; 90 East Brokaw Road, San Jose, CA; HA13-040-03	This is a two-phase project involving two separate but adjacent site; Phase 1 involves the construction of two eight-story office buildings, one four-story building, one five-story office and research & development building, and a three-story parking garage; Phase 2 involves the construction of 1,297,000 sf of office space in five buildings.	Phase 1--0.47 southwest Phase 2--0.59 southwest

Table 3.0-1: Cumulative Projects List		
Name, Location, File Number	**Description**	**Approximate Distance to Project Site (miles)**
Hampton Inn + Holiday Inn Express, 2108-2116 North 1st Street, San Jose, CA, H13-048	Construction of two five-story buildings totaling 20,052 square feet: a 144-room Hampton Inn; a 146-room Holiday Inn Express	0.58 west

For each resource area, cumulative impacts may occur over different geographic areas. For example, the project effects on air quality would combine with the effects of projects in the entire air basin, whereas noise impacts would primarily be localized to the surrounding area. The geographic area that could be affected by the proposed project varies depending upon the type of environmental issue being considered. Section 15130(b)(3) of the CEQA Guidelines states that lead agencies should define the geographic scope of the area affected by the cumulative effect. Table 3.0-2 provides a summary of the different geographic areas used to evaluate cumulative impacts.

Table 3.0-2: Geographic Considerations in Cumulative Analysis	
Resource Area	**Geographic Area**
Aesthetics	Project site and adjacent parcels
Agriculture and Forestry Resources	Santa Clara County
Air Quality	San Francisco Bay Area Air Basin
Biological Resources	Project site and adjacent parcels
Cultural Resources	Project site and adjacent parcels
Energy	Energy provider's territory
Geology and Soils	Project site and adjacent parcels
GHGs	Planet-wide
Hazards and Hazardous Materials	Project site and adjacent parcels
Hydrology and Water Quality	Coyote Creek watershed
Land Use and Planning/Population and Housing	City of San José
Minerals	Identified mineral recovery or resource area
Noise and Vibration	Project site and adjacent parcels
Public Services and Recreation	City of San José
Transportation/Traffic	City of San José
Tribal Cultural Resources	Project site and adjacent parcels
Utilities and Service Systems	City of San José
Wildfire	Within or adjacent to the wildfire hazard zone

3.1 AESTHETICS

3.1.1 Environmental Setting

3.1.1.1 *Regulatory Framework*

State

Streets and Highway Code Sections 260 through 263

The California Scenic Highway Program (Streets and Highway Code, Sections 260 through 263) is managed by Caltrans. The program is intended to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. There are no state-designated scenic highways in San José. Interstate 280 from the San Mateo County line to State Route (SR) 17, which includes segments in San José, is an eligible, but not officially designated, State Scenic Highway.[4]

In Santa Clara County, the one state-designated scenic highway is SR 9 from the Santa Cruz County line to the Los Gatos City Limit. Eligible State Scenic Highways (not officially designated) include: SR 17 from the Santa Cruz County line to SR 9, SR 35 from Santa Cruz County line to SR 9, Interstate 280 from the San Mateo County line to SR 17, and the entire length of SR 152 within the County.

Local

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding aesthetic-related impacts and are applicable to the project.

Policy	Description
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.
CD-1.8	Create an attractive street presence with pedestrian-scaled building and landscaping elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity throughout the City.
CD-1.12	Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create

[4] California Department of Transportation. "Scenic Highways." Accessed September 2, 2021. https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways.

Policy	Description
	an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
CD-1.13	Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.
CD-1.17	Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.
CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
CD-1.29	Provide and implement regulations that encourage high quality signage, ensure that business and organizations can effectively communicate though sign displays, promote way finding, achieve visually vibrant streetscapes, and control excessive visual clutter.
CD-10.2	Require that new public and private development adjacent to Gateways and freeways (including 101, 880, 680, 280, 17, 85, 237, and 87), and Grand Boulevards consist of high-quality materials, and contribute to a positive image of San José.
CD-10.3	Require that development visible from freeways (including 101, 880, 680, 280, 17, 85, 237, and 87) is designed to preserve and enhance attractive natural and man-made vistas.

San José Municipal Code

The City's Municipal Code includes several regulations associated with protection of the City's visual character and control of light and glare. For example, Chapter 13.32 (Tree Removal Controls) regulates the removal of trees on private property within the City, in part to promote the scenic beauty of the city.

San José Design Review Process and Citywide Design Standards and Guidelines

Nearly all new private development is subject to a design review process (architecture and site planning). The design review process is used to evaluate projects for conformance with adopted design guidelines and other relevant policies and ordinances.

To assist those involved with the design, construction, review, and approval of development in San José, the City developed the San José Citywide Design Standard Guidelines, which were adopted in February 2021. Guidelines are provided for specific development types, including high-rise office buildings, which are summarized below.

High-Rise Office Buildings

As defined in the San José City Wide Design Standards and Guidelines, high-rise office buildings are eight stories or taller and provide locations for larger companies or a collection of medium-sized organizations. High-rise office designs should manage the impacts of increased driveways and parking areas demands on pedestrian circulation and the public realm. Common open spaces should be visually and physically connected to common interior amenities. Mechanical equipment should be screened from public view. Stepbacks should be provided for buildings adjacent to General Plan land uses with permitted heights lower than the development site. Active frontages should be present at the ground floor of parking garages at street-facing façade.

North San José Area Development Policy (NSJADP) Design Guidelines

The City has adopted design guidelines as part of the Implementation Strategy for the NSJADP. The North San José Area Design Guidelines provide North San José-specific guidance to both private and public development in the area. The guidelines were intended to provide recommendations and/or guidance on key design elements that allows for retention and/or expansion of driving industry companies in San José.

City of San José Council Policy 4-3: Private Outdoor Lighting on Private Developments

City Council Policy 4-3 requires 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 referred to Lick Observatory for review and comment. One of the purposes of this policy is to provide for the continued enjoyment of the night sky and for continuing operation of Lick Observatory, by reducing light pollution and sky glow. The downtown area is exempt from this policy.

3.1.1.2 *Existing Conditions*

Project Site

The 19.7-acre project site, located at 550 East Brokaw Road, is developed with a joint office and electronics superstore building (Fry's Electronics) that is surrounded by surface parking lots and interspersed landscaped medians and mature trees. The site is currently vacant. The project site slopes gently uphill in an west-east direction at an average angle of two percent, with at-grade elevations ranging between 47 and 54 feet above sea level.[5]

The 293,906-square foot office and retail building is between two to three stories tall and square shaped, and occupies an approximately six-acre portion of the total project site. The office portion of the building (pictured in Photo One) is painted tan and green and features narrow rectangular window facades on both the first and second floors that are shadowed by a protruding overhang. Views of the office portion of the site from East Brokaw Road and Junction Avenue are partially obscured by street trees. The office portion of the building is architecturally distinct from the retail portion (pictured in Photo Two), which has no windows and features a Mayan-style pyramid on the southern building façade. Views of the retail portion of the site from I-880, Junction Avenue, and surrounding

[5] Measurements taken using Google Earth Pro.

sidewalks are heavily obscured by a combination of trees, signage, distance, and chain-link fencing. The retail portion of the site is not visible from East Brokaw Road. Additional views of the project site and surrounding areas are provided in Photos Three through Seven.

Surrounding Uses

Development in the North San José area consists predominantly of industrial/office campuses with large surface parking lots and perimeter landscaping, with smaller locally serving commercial uses interspersed throughout.

Surrounding land uses in the immediate vicinity of the project site consist of commercial and light- and heavy-industrial uses. Immediately east of the project site is a two-story car dealership and associated surface parking lot. On the opposite side of East Brokaw Road is the Brokaw Business Center, a commercial development with single-story retail stores and surface parking lots. Commercial uses are present to the northeast across the East Brokaw Road/Junction Avenue intersection. Single-story light industrial uses (auto services, door manufacturing, etc.) are present on the opposite side of Junction Avenue. Parcels south of the project site are zoned for heavy industrial use, and are currently occupied by single-story home improvement stores and storage facilities.

Scenic Views

The City of San José General Plan defines scenic vistas or resources in the City of San José as broad views of the Santa Clara Valley, the hills and mountains surrounding the valley, the urban skyline, and the baylands. Panoramic views of hillside areas, including the foothills of the Diablo Range, Silver Creek Hills, Santa Teresa Hills, and foothills of the Santa Cruz Mountains, are identified as key scenic features in the City.

Scenic Corridors

The City's General Plan identifies Gateways, Urban Throughways (urban corridors), and Rural Scenic Corridors where preservation and enhancement of views of the natural and man-made environment are crucial. The nearest Gateway segment to the project site is Charcot Avenue from Hartog Drive to O'Toole Avenue, approximately 2,000 feet north of the site. The City has designated SR 87, from the U.S. 101 interchange to SR 85, and Interstate 280 from the Interstate 880 intersection to Fair Oaks Avenue in Sunnyvale, as Urban Throughways. The nearest Urban Throughway segment to the project site is SR 87, approximately 1.2 mile southwest of the project site. The nearest Rural Scenic Corridor is Penitencia Creek Road, approximately 2.85 miles west of the project site.

There are no state-designated scenic highways in San José. The nearest officially designated state scenic highway to the project site is SR 9, located approximately 11 miles southwest of the site. Interstate 280 from the San Mateo County line to SR 17, which includes segments of San José, is an eligible, but not officially designated, State Scenic Highway. The project site is approximately 4.5 miles north of the nearest State Scenic Highway-eligible segment.

Photo 1: View looking southeast from East Brokaw Road at the entrance to the existing office development

Photo 2: View looking northwest at the entrance to the former Fry's Electronics building

PHOTOS 1 & 2

Photo 3: View looking northeast from intersection of East Brokaw Road and Project Driveway BR-2

Photo 4: View looking northeast from Junction Avenue of the Project Site and Project Driveway JR-1

PHOTOS 3 & 4

Photo 5: View looking west from the intersection of the Project Site and Junction Avenue

Photo 6: View looking north from Junction Avenue of the Project Site

PHOTOS 5 & 6

Photo 7: View looking south from the intersection of East Brokaw Road and Junction Avenue towards the Project Site

PHOTO 7

Light and Glare

The existing development primarily generates light from parking lot lighting and glare from sunlight reflecting off the windows on the northern side of the office buildings proposed on the site. Sources of light and glare in the surrounding area are those typical of developed urban areas, including headlights, streetlights, parking lot lights, security lights, and reflective surfaces such as windows.

3.1.2 Impact Discussion

For the purpose of determining the significance of the project's impact on aesthetics, except as provided in Public Resources Code Section 21099, would the project:

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?[6] 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?

3.1.2.1 *Project Impacts*

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

The project site is located in an area of North San José heavily developed with industrial and commercial uses. The site is not located within or adjacent to any of the scenic vistas or corridors identified in Section 3.1.1.2 Existing Conditions. Views from these scenic vistas and corridors would not be adversely affected since the proposed development would be virtually indistinguishable due to the distance between these vistas and the heavily developed project site and NDJADP area.

The project site is visible from surrounding roadways, including East Brokaw Road, Junction Avenue, and I-880. The proposed project would construct buildings up to 135 feet high. As shown in Photos 1, 3, 4, 6, and 7, no broad views of the Santa Clara Valley, the urban skyline, or the baylands are provided from the public areas surrounding the project site. Due to the site's topography, distance between the site and regional scenic resources, the height and mass of the existing development, and surrounding development and trees, views of the hills and mountains surrounding the valley are heavily obscured. For these same reasons, there are no public vantage points on or near the site that provide views of the Diablo Range, the Silver Creek Hills, or the foothills of the Santa Cruz Mountains. Furthermore, while the proposed project would increase the size and height of development on-site, the dispersion of the proposed office towers and parking garages would improve the visibility of the surrounding hills and mountains from East Brokaw Road and Junction Avenue, the current views are shown in Photos 1, 4, 6, and 7 and are almost entirely obscured by the

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

existing development. While the proposed development may block views from existing adjacent businesses, private views are not protected scenic resources under CEQA.

Conclusion for checklist question a): The project would not have a substantial adverse effect on a scenic vista. **(Less than Significant 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?

As discussed in Section 3.1.1.2 Existing Conditions, the closest designated state scenic highway is SR 9, located approximately 11 miles south of the site. The site is not adjacent to or visible from SR 9 which is the closest designated state scenic highway, and therefore the project would not damage scenic resources within a state scenic highway.

Conclusion for checklist question b): The project would not damage scenic resources within a state scenic highway. **(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? If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

The project site is located in the urbanized NSJADP area, which is heavily developed with commercial and industrial uses. The project site is also within the North San José Employment Area, which under Section 20.85.020.E and Section 20.85.040 of the City's Municipal Code, allows for maximum building heights of 120 feet and an additional 17 feet for elevator shafts, stairwells, and mechanical equipment. The project proposes to construct seven office towers, each approximately 118 feet high with an additional 17-foot-high mechanical penthouse (a combined height of 135 feet), would be consistent with allowable building heights.

The project has a floor area ratio (FAR) of 4.16, which is below the maximum permitted FAR for the CIC General Plan land use designation and the project would also be consistent with the intensity of development anticipated in the City of San José General Plan. The General Plan EIR concluded that new development and redevelopment allowed under the General Plan would alter the appearance of San José; and implementation of applicable policies and regulations (including the City's various Design Guidelines) would avoid substantial degradation of the visual character of the City.

As discussed in Section 3.4 Biological Resources, the project would remove 276 trees, including 183 ordinance-size trees. All trees removed by the project would be replaced in accordance with the City of San José Tree Protection Ordinance, San José Municipal Code Section 13.28, and General Plan Policies MS-21.4, MS-21.5, and MS-21.6. Therefore, the project would not conflict with applicable zoning and other regulations governing the scenic quality of the City's community forest and urban canopy.

Furthermore, the proposed project would be required to conform to the design criteria set forth in the San José Citywide Design Standards and Guidelines and the North San José Design Guidelines, as well as the policies and actions set forth in the Envision San José 2040 General Plan Final Environmental Impact Report (General Plan FEIR), as amended. The proposed project would be subject to the setback, massing, and height requirements included in the San José Municipal Code. The proposed project would be reviewed in accordance with the applicable guidelines and policies during the Planning Permit stage as part of the City's planning review. Implementation of the proposed project in conformance with existing policies, regulations, and adopted plans would not result in a substantial degradation of the visual character of the area and would not conflict with regulations governing scenic quality.

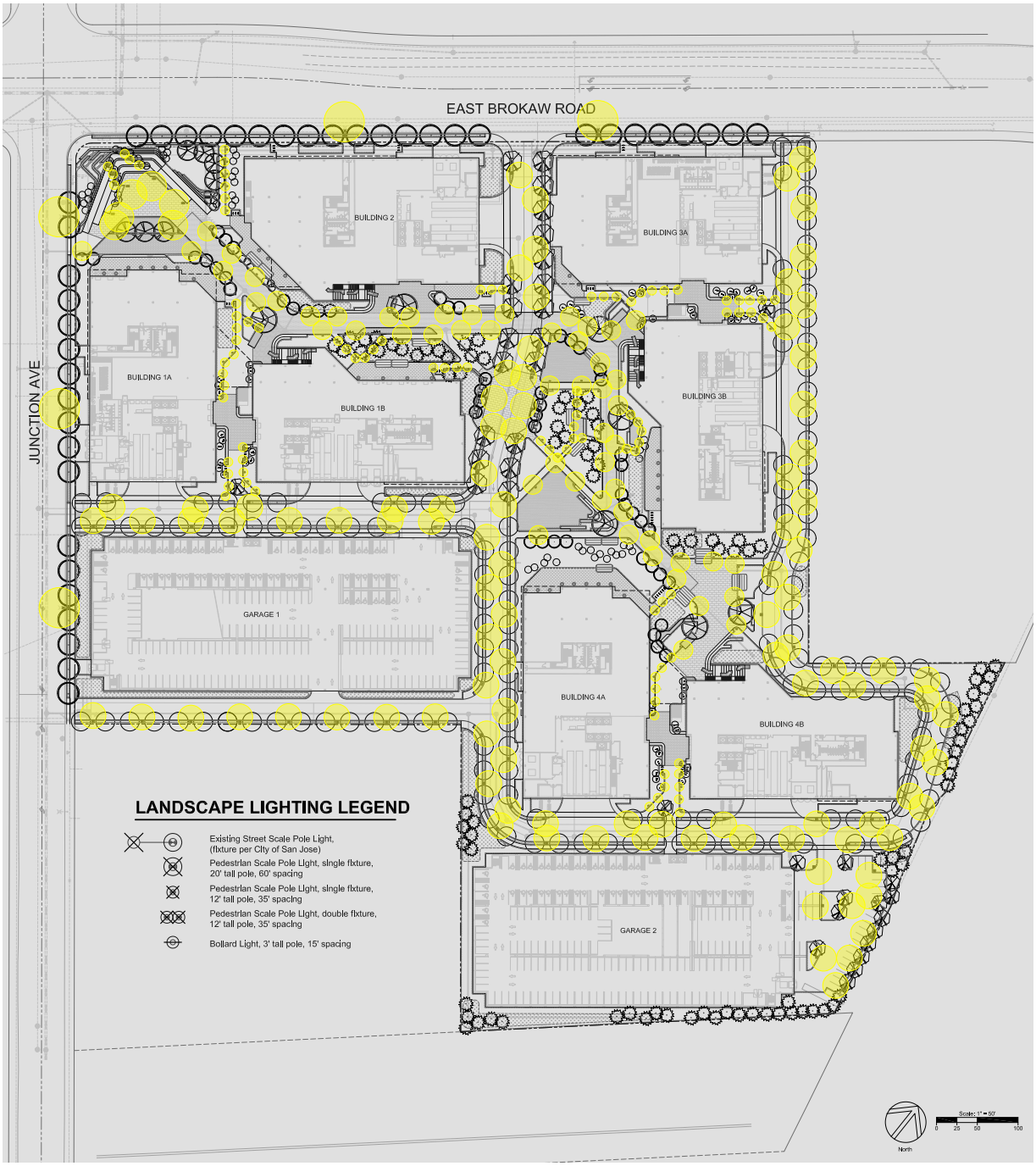
Conclusion for checklist question c): The project would not conflict with applicable zoning and other regulations governing scenic quality. **(Less than Significant Impact)**

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

As discussed under Section 3.1.1.2 Existing Conditions, the project site is located within an urbanized area with light and glare typical of urban areas, including headlights, streetlights, parking lot lights, security lights, and reflective surfaces such as windows. The project proposes to install three-foot-high bollard lighting and 12- and 20-foot-high light poles on the ground level of the proposed development, which would be required to meet the design and height standards of City Council Policy 4-3 (refer to Section 3.1.1.2). As demonstrated in Figure 3.1-1, illumination spillover generated by the proposed lighting would be restricted to the sidewalks and small portions of the roadway surrounding the project site. Furthermore, since the project vicinity is already dominated by existing light sources from the surrounding commercial and industrial uses, the increase in night lighting from the proposed development would not significantly increase the ambient light levels in the area.

The project would construct seven, eight-story office towers, each with a substantial amount of exterior glass with the potential to generate glare. The office towers have a base-body top design with cantilevered roofs, vertical louvers, and a recessed first and eighth floor. The recessed floors and associated exterior glass would be shaded by the overhanging architectural elements, thus reducing the amount of glare generated by these floors. The vertical shade louvers would reduce the sunlight exposure of exterior glass on non-recessed floors, further reducing the amount of glare generated by the proposed development. Additionally, the design of the proposed project would be subject to the City's design review process and would be required to utilize exterior materials that do not result in daytime glare, consistent with General Plan policies and the City's Design Guidelines.

Conclusion for checklist question d): The project would not create a new source of substantial light or glare which would adversely affect day or nighttime views in the area. **(Less than Significant Impact)**



Source: Gensler, July 27, 2020.

CONCEPTUAL LIGHTING PLAN | FIGURE 3.1-1

3.1.2.2 *Cumulative Impacts*

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

The geographic area for cumulative aesthetics impacts is limited to the project site and adjacent development in which the project site would be visible.

As shown in Photos 1 through 7, none of the cumulative projects identified in Table 3.0-1 are adjacent or visible from the project site. Future cumulative development adjacent to the project site would be subject to similar height and density limitations imposed by the City's General Plan and Municipal Code, and thus like the project would be virtually indistinguishable from scenic vistas and corridors. Therefore, the project would not contribute to a cumulatively significant impact to scenic vistas.

The project would have no impact on scenic resources within a state scenic highway, and therefore would not contribute to a cumulatively significant impact to those resources.

Future cumulative development within the geographic study area would occur in an urbanized environment and, like the project, be subject to the City's applicable zoning and other regulations regarding scenic quality, including the design criteria set forth in the City's General Plan, Citywide Design Standards and Guidelines, and the North San José Design Guidelines. Accordingly, the project would not contribute to a cumulatively significant conflict with zoning and other regulations governing scenic quality.

Lighting installed by future cumulative development within the geographic study area would be subject to the design and height standards of City Council Policy 4-3, and required to utilize exterior materials and lighting fixtures that reduce daytime glare, as required by the Citywide Design Standards Guidelines regarding site lighting, awnings, sunshades, screens, and materials and color. Therefore, the project would not contribute to a cumulatively significant light and glare impact.

Conclusion to the Aesthetics Cumulative Impacts discussion: The project would have a less than significant cumulative aesthetics impact. **(Less than Significant Cumulative Impact)**

3.2 AGRICULTURE AND FORESTRY RESOURCES

3.2.1 Environmental Setting

3.2.1.1 *Regulatory Framework*

State

Farmland Mapping and Monitoring Program

The California Department of Conservation's Farmland Mapping and Monitoring Program (FMMP) assesses the location, quality, and quantity of agricultural land and conversion of these lands over time. Agricultural land is rated according to soil quality and irrigation status. The best quality land is identified as Prime Farmland. In CEQA analyses, the FMMP classifications and published county maps are used, in part, to identify whether agricultural resources that could be affected are present on-site or in the project area.[7]

California Land Conservation Act

The California Land Conservation Act (Williamson Act) enables local governments to enter into contracts with private landowners to restrict parcels of land to agricultural or related open space uses. In return, landowners receive lower property tax assessments. In CEQA analyses, identification of properties that are under a Williamson Act contract is used to also identify sites that may contain agricultural resources or are zoned for agricultural uses.[8]

Fire and Resource Assessment Program

The California Department of Forestry and Fire Protection (CAL FIRE) identifies forest land, timberland, and lands zoned for timberland production that can (or do) support forestry resources.[9] Programs such as CAL FIRE's Fire and Resource Assessment Program and are used to identify whether forest land, timberland, or timberland production areas that could be affected are located on or adjacent to a project site.[10]

Local

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding aesthetic-related impacts and are applicable to the project.

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[7] California Department of Conservation. "Farmland Mapping and Monitoring Program." Accessed September 2, 2021. http://www.conservation.ca.gov/dlrp/fmmp/Pages/Index.aspx.
[8] California Department of Conservation. "Williamson Act." Accessed September 2, 2021. http://www.conservation.ca.gov/dlrp/lca.
[9] Forest Land is land that can support 10 percent native tree cover and allows for management of forest resources (California Public Resources Code Section 12220(g)); Timberland is land not owned by the federal government or designated as experimental forest land that is available for, and capable of, growing trees to produce lumber and other products, including Christmas trees (California Public Resources Code Section 4526); and Timberland Production is land used for growing and harvesting timber and compatible uses (Government Code Section 51104(g)).
[10] California Department of Forestry and Fire Protection. "Fire and Resource Assessment Program." Accessed September 2, 2021. http://frap.fire.ca.gov/.

Policy	Description
LU-12.3	Protect and preserve the remaining farmlands within San José's sphere of influence that are not planned for urbanization in the timeframe of the Envision General Plan through the following means: • Limit residential uses in agricultural areas to those which are incidental to agriculture. • Restrict and discourage subdivision of agricultural lands. Encourage contractual protection for agricultural lands, such as Williamson Act contracts, agricultural conservation easements, and transfers of development rights. • Prohibit land uses within or adjacent to agricultural lands that would compromise the viability of these lands for agricultural uses. • Strictly maintain the Urban Growth Boundary in accordance with other goals and policies in this Plan.
LU-12.4	Preserve agricultural lands and prime soils in non-urban areas in order to retain the aquifer recharge capacity of these lands.

3.2.1.2 *Existing Conditions*

The project site is not used for agricultural or timberland purposes. The areas surrounding the project site are developed and comprised of a mix of industrial and commercial office uses. The *Santa Clara County Important Farmlands 2016 Map* designates the project site as "Urban and Built-Up Land", which is defined as land with at least six structures per 10 acres. Common examples of "Urban and Built-Up Land" are residential, institutional, industrial, commercial, landfill, golf course, airports, and other utility uses.[11] The site is not under a Williamson Act contract.[12]

The site is designated as *Combined Industrial/Commercial (CIC)* under the City's Envision San José 2040 General Plan. Properties with a CIC land use designation are intended for commercial, office, or industrial developments or a compatible mix of these uses. This site currently has a *CIC Combined Industrial/Commercial* zoning district, which allows for a mixture of industrial and commercial uses consistent with the project site's land use designation and proposed uses.

3.2.2 Impact Discussion

For the purpose of determining the significance of the project's impact on agriculture and forestry resources, would the project:

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?

[11] California Natural Resources Agency. *Santa Clara County Important Farmland 2016.* Accessed September 2, 2021. https://www.conservation.ca.gov/dlrp/fmmp/Pages/SantaClara.aspx

[12] County of Santa Clara. "Williamson Act and Open Space Easement". September 17, 2018. Accessed September 2, 2021. https://www.sccgov.org/sites/dpd/programs/wa/pages/wa.aspx

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 a 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?

3.2.2.1 *Project Impacts*

a) Would the project convert Farmland, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

As discussed above in Section 3.2.1.2, there is no designated Prime Farmland, Unique Farmland, or Farmland of Statewide Importance on or near the site.

Conclusion for checklist question a): The project would not convert farmland to non-agricultural use. **(No Impact)**

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

The project site is neither zoned for agricultural use or under a Williamson Act contract.

Conclusion for checklist question b): The project would not conflict with existing zoning for agricultural use or a Williamson Act contract. **(No Impact)**

c) Would the project conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timberland zoned Timberland Production?

The project site and surrounding parcels are not zoned, or adjacent to any zoning, for forest land or timberland.

Conclusion for checklist question c): The project would not conflict with existing zoning or cause rezoning of forest land, timberland, or timberland production. **(No Impact)**

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

The project site is located within an urbanized area that is designated for industrial and commercial uses. No forest land would be lost as a result of the project, nor would forest land be converted to non-forest use.

Conclusion for checklist question d): The project would not result in a loss of forest land or conversion of forest land to a non-forest use. **(No Impact)**

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

The proposed project would allow for development of an office campus development on an existing commercial site in North San José. Development of the project would be confined to the project site and thus no indirect impacts to agricultural or forest land would occur.

Conclusion for checklist question e): The project would not involve other changes in the existing environment that could result in the conversion of farmland to non-agricultural use or the conversion of forest land to non-forest use. **(No Impact)**

3.2.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant cumulative agricultural and forestry resources impact?

The geographic area for cumulative agricultural and forestry resource impacts is Santa Clara County, since these resources are mapped and managed at the county level.

As described above under checklist question a), the project would have no impact to the conversion of farmland to non-agricultural use. Therefore, the project would not contribute to a cumulatively significant impact from the conversion of farmland to non-agricultural use.

As discussed above, the proposed project would not result in the loss of farmland or forestland, the conversion of forestland to non-forest use or the conversion of forest land to non-forest use. Therefore, the project would not contribute to a cumulatively significant impact to those resources.

Conclusion to the Agriculture and Forestry Resources Cumulative Impacts discussion: The project would have no cumulative impact on agriculture and forestry resources. **(No Cumulative Impact)**

3.3 AIR QUALITY

The following discussion is based, in part, on an Air Quality Assessment prepared for the project by Illingworth & Rodkin, Inc. The report, dated August 10, 2021, is attached to this EIR as Appendix B.

3.3.1 Environmental Setting

3.3.1.1 *Background Information*

Criteria Pollutants

Air quality in the Bay Area is assessed related to six common air pollutants (referred to as criteria pollutants), including ground-level ozone (O_3), nitrogen oxides (NO_x), particulate matter (PM), carbon monoxide (CO), sulfur oxides (SO_x), and lead.[13] Criteria pollutants are regulated because they result in health effects. An overview of the sources of criteria pollutants and their associated health are summarized in Table 3.3-1. The most commonly regulated criteria pollutants in the Bay Area are discussed further below.

Table 3.3-1: Health Effects of Air Pollutants

Pollutants	Sources	Primary Effects
Ozone (O_3)	Atmospheric reaction of organic gases with nitrogen oxides in sunlight	• Aggravation of respiratory and cardiovascular diseases • Irritation of eyes • Cardiopulmonary function impairment
Nitrogen Dioxide (NO_2)	Motor vehicle exhaust, high temperature stationary combustion, atmospheric reactions	• Aggravation of respiratory illness • Reduced visibility
Fine Particulate Matter ($PM_{2.5}$) and Coarse Particulate Matter (PM_{10})	Stationary combustion of solid fuels, construction activities, industrial processes, atmospheric chemical reactions	• Reduced lung function, especially in children • Aggravation of respiratory and cardiorespiratory diseases • Increased cough and chest discomfort • Reduced visibility
Toxic Air Contaminants (TACs)	Cars and trucks, especially diesel-fueled; industrial sources, such as chrome platers; dry cleaners and service stations; building materials and products	• Cancer • Chronic eye, lung, or skin irritation • Neurological and reproductive disorders

High O_3 levels are caused by the cumulative emissions of reactive organic gases (ROG) and NO_x. These precursor pollutants react under certain meteorological conditions to form high O_3 levels. Controlling the emissions of these precursor pollutants is the focus of the Bay Area's attempts to

[13] The area has attained both state and federal ambient air quality standards for CO. The project does not include substantial new emissions of sulfur dioxide or lead. These criteria pollutants are not discussed further.

reduce O_3 levels. The highest O_3 levels in the Bay Area occur in the eastern and southern inland valleys that are downwind of air pollutant sources.

PM is a problematic air pollutant of the Bay Area. PM is assessed and measured in terms of respirable particulate matter or particles that have a diameter of 10 micrometers or less (PM_{10}) and fine particulate matter where particles have a diameter of 2.5 micrometers or less ($PM_{2.5}$). Elevated concentrations of PM_{10} and $PM_{2.5}$ are the result of both region-wide emissions and localized emissions.

Toxic Air Contaminants

TACs are a broad class of compounds known to have health effects. They include but are not limited to criteria pollutants. TACs are found in ambient air, especially in urban areas, and are caused by industry, agriculture, diesel fuel combustion, and commercial operations (e.g., dry cleaners). TACs are typically found in low concentrations, even near their source (e.g., diesel particulate matter [DPM] near a freeway).

Diesel exhaust is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs. Diesel exhaust is a complex mixture of gases, vapors, and fine particles. Medium- and heavy-duty diesel trucks represent the bulk of DPM emissions from California highways. The majority of DPM is small enough to be inhaled into the lungs. Most inhaled particles are subsequently exhaled, but some deposit on the lung surface or are deposited in the deepest regions of the lungs (most susceptible to injury).[14] Chemicals in diesel exhaust, such as benzene and formaldehyde, have been previously identified as TACs by the California Air Resources Board (CARB).

Sensitive Receptors

Some groups of people are more affected by air pollution than others. CARB has identified the following persons who are most likely to be affected by air pollution: children under 16, the elderly over 65, athletes, and people with cardiovascular and chronic respiratory diseases. BAAQMD defines sensitive receptors as facilities where sensitive receptor population groups (children, the elderly, the acutely ill, and the chronically ill) are likely to be located. These land uses include residences, school playgrounds, child-care centers, retirement homes, convalescent homes, hospitals, and medical clinics.

3.3.1.2 *Regulatory Framework*

Federal and State

Clean Air Act

At the federal level, the United States Environmental Protection Agency (EPA) is responsible for overseeing implementation of the Clean Air Act and its subsequent amendments. The federal Clean Air Act requires the EPA to set national ambient air quality standards for the six common criteria pollutants (discussed previously), including PM, O_3, CO, SO_x, NO_x, and lead.

[14] California Air Resources Board. "Overview: Diesel Exhaust and Health." Accessed September 2, 2021. https://ww2.arb.ca.gov/resources/overview-diesel-exhaust-and-health

CARB is the state agency that regulates mobile sources throughout the state and oversees implementation of the state air quality laws and regulations, including the California Clean Air Act. The EPA and the CARB have adopted ambient air quality standards establishing permissible levels of these pollutants to protect public health and the climate. Violations of ambient air quality standards are based on air pollutant monitoring data and are determined for each air pollutant. Attainment status for a pollutant means that a given air district meets the standard set by the EPA and/or CARB.

Risk Reduction Plan

To address the issue of diesel emissions in the state, CARB developed the Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles. In addition to requiring more stringent emission standards for new on-road and off-road mobile sources and stationary diesel-fueled engines to reduce particulate matter emissions by 90 percent, the plan involves application of emission control strategies to existing diesel vehicles and equipment to reduce DPM (in additional to other pollutants). Implementation of this plan, in conjunction with stringent federal and CARB-adopted emission limits for diesel fueled vehicles and equipment (including off-road equipment), will significantly reduce emissions of DPM and NO_X.

Regional

2017 Clean Air Plan

The Bay Area Air Quality Management District (BAAQMD) is the agency primarily responsible for assuring that the federal and state ambient air quality standards are maintained in the San Francisco Bay Area. Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how state and federal air quality standards will be met. BAAQMD's most recently adopted plan is the Bay Area 2017 Clean Air Plan (2017 CAP). The 2017 CAP focuses on two related BAAQMD goals: protecting public health and protecting the climate. To protect public health, the 2017 CAP describes how BAAQMD will continue its progress toward attaining state and federal air quality standards and eliminating health risk disparities from exposure to air pollution among Bay Area communities. To protect the climate, the 2017 CAP includes control measures designed to reduce emissions of methane and other super-greenhouse gases (GHGs) that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.[15]

CEQA Air Quality Guidelines

The BAAQMD CEQA Air Quality Guidelines are intended to serve as a guide for those who prepare or evaluate air quality impact analyses for projects and plans in the San Francisco Bay Area. Jurisdictions in the San Francisco Bay Area Air Basin utilize the thresholds and methodology for assessing air quality impacts developed by BAAQMD within their CEQA Air Quality Guidelines. The guidelines include information on legal requirements, BAAQMD rules, methods of analyzing impacts, and recommended mitigation measures.

[15] Bay Area Air Quality Management District. *Final 2017 Clean Air Plan.* Accessed September 2, 2021. http://www.baaqmd.gov/plans-and-climate/air-quality-plans/current-plans.

Local

Envision San José 2040 General Plan

The General Plan includes the following policies that are specific to air quality and applicable to the proposed project:

Policy	Description
MS-10.1	Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement air emissions reduction measures.
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.
MS-10.3	Promote the expansion and improvement of public transportation services and facilities, where appropriate, to both encourage energy conservation and reduce air pollution
MS-11.2	For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.
MS-11.2	For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.
MS-11.5	Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.
MS-11.7	Consult with BAAQMD to identify stationary and mobile TAC sources and determine the need for and requirements of a health risk assessment for proposed developments.
MS-11.8	For new projects that generate truck traffic, require signage which reminds drivers that the state truck idling law limits truck idling to five minutes.
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.

MS-13.3	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 toxic control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

3.3.1.3 *Existing Conditions*

The City of San José is located in the Santa Clara Valley within the San Francisco Bay Area Air Basin. The project area's proximity to both the Pacific Ocean and the San Francisco Bay has a moderating influence on the climate. The portion of Santa Clara Valley in which the project site is located within is bounded by the San Francisco Bay to the north, the Santa Cruz Mountains to the southwest, and the Diablo Range to the east. The surrounding terrain influences winds in the valley, resulting in a prevailing wind that follows the valley's northwest-southwest axis.

The Bay Area is considered a nonattainment area for ground-level O_3 and $PM_{2.5}$ under both the federal Clean Air Act and state Clean Air Act (refer to Appendix B for additional information about the nearest pollutant monitoring station to the project site and data of days exceeding standards). The area is also considered in nonattainment for PM_{10} under the state act, but not the federal act. The area has attained both state and federal ambient air quality standards for CO. As part of an effort to attain and maintain ambient air quality standards for O_3 and PM_{10}, BAAQMD has established thresholds of significance for these air pollutants and their precursors[16] that apply to both construction and operational period emissions.

The closest sensitive receptors to the project site are located more than 1,700 feet east of the project site at the Orchard Park residential development, at the intersection of Pear Orchard Drive and Oakland Road across I-880 (refer to Figure 3.3-1).

3.3.2 Impact Discussion

For the purpose of determining the significance of the project's impact on air quality, would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?
c) Expose sensitive receptors to substantial pollutant concentrations?
d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. The City of San José has considered the air quality thresholds updated by BAAQMD in May 2017 and regards these

[16] ROG and NO_x are O3 precursor pollutants.

thresholds to be based on the best information available for the San Francisco Bay Area Air Basin and conservative in terms of the assessment of health effects associated with TACs and $PM_{2.5}$. The BAAQMD CEQA Air Quality thresholds used in this analysis are identified in Table 3.3-2 below.

Table 3.3-2: BAAQMD Air Quality Significance Thresholds

Pollutant	Construction Thresholds	Operation Thresholds	
	Average Daily Emissions (pounds/day)	Average Daily Emissions (pounds/day)	Annual Average Emissions (tons/year)
Criteria Air Pollutants			
ROG, NO_x	54	54	10
PM_{10}	82 (exhaust)	82	15
$PM_{2.5}$	54 (exhaust)	54	10
CO	Not Applicable	9.0 ppm (eight-hour) or 20.0 ppm (one-hour)	
Fugitive Dust	Dust Control Measures/Best Management Practices	Not Applicable	
Health Risks and Hazards for New Sources (within a 1,000-foot Zone of Influence)			
Health Hazard	**Single Source**	**Combined Cumulative Sources**	
Excess Cancer Risk	10 per one million	100 per one million	
Hazard Index	1.0	10.0	
Incremental Annual $PM_{2.5}$	0.3 µg/m^3	0.8 µg/m^3 (average)	

Notes:
m3 = micrograms per cubic meter.

3.3.2.1 *Project Impacts*

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

A project is considered consistent with the 2017 CAP if, a) the plan supports the primary goals of the 2017 CAP; b) includes relevant control measures; and c) does not interfere with implementation of 2017 CAP control measures.[17]

As discussed in Section 3.3.1.2 Regulatory Framework, the goals of the 2017 CAP include 1) protecting public health by progress towards attaining air quality standards and eliminating health risk and 2) protecting the climate. If a project exceeds the BAAQMD thresholds of significance, its

[17] Bay Area Air Quality Management District. *California Environmental Quality Act Air Quality Guidelines.* May 2017. Pages 9-2 and 9-3.

emissions are considered to result in significant adverse air quality impacts to the region's existing air quality conditions. Similarly, if the project exceeds the BAAQMD community health risk threshold of significance, the project would result in a community health risk. An analysis of the project's construction and operational air pollutant emissions and community health risk is provided below.

Construction Criteria Air Pollutants

The California Emissions Estimator Model (CalEEMod) Version 2020.4.0 was used to estimate emissions from project construction. Construction emissions were modeled based on equipment list and schedule information provided by the applicant. Details about the equipment list, construction schedule, modeling, data inputs, and assumptions are included in Appendix B. Table 3.3-3 below summarizes the annualized average daily construction emissions of ROG, NO_X, PM_{10} exhaust, and $PM_{2.5}$ exhaust during construction of the project.

Table 3.3-3: Project Construction Period Emissions

Year	ROG	NOx	PM_{10} Exhaust	$PM_{2.5}$ Exhaust
Construction Emissions Per Year (Tons)				
2023	0.04	0.27	0.02	0.01
2024	1.26	0.83	0.05	0.03
2025	2.18	1.13	0.06	0.04
2026	1.47	2.39	0.12	0.09
2027	2.28	1.49	0.08	0.06
2028	0.94	2.33	0.12	0.09
2029	1.34	1.32	0.07	0.05
2030	2.46	1.12	0.04	0.03
2031	0.84	0.22	0.01	0.01
Annualized Daily Construction Emissions (pounds/day)[1]				
2023 (65 construction workdays)	1.36	8.37	0.46	0.30
2024 (262 construction workdays)	9.60	6.31	0.36	0.21
2025 (261 construction workdays)	16.68	8.64	0.46	0.32
2026 (261 construction workdays)	11.29	18.29	0.91	0.68

Table 3.3-3: Project Construction Period Emissions				
Year	**ROG**	**NOx**	**PM_{10} Exhaust**	**$PM_{2.5}$ Exhaust**
2027 (261 construction workdays)	17.48	11.42	0.62	0.45
2028 (260 construction workdays)	7.26	17.93	0.91	0.68
2029 (261 construction workdays)	10.28	10.13	0.55	0.39
2030 (261 construction workdays)	18.82	8.56	0.30	0.19
2031 (82 construction workdays)	20.60	5.27	0.30	0.20
BAAQMD Thresholds	*54 lbs./day*	*54 lbs./day*	*82 lbs./day*	*54 lbs./day*
Exceed Threshold?	No	No	No	No

Source: Illingworth & Rodkin, Inc. *550 East Brokaw Road Air Quality and Greenhouse Gas Emission Assessment*. August 10, 2021.

Notes:

[1] This analysis assumes 65 construction work days in 2023; 262 construction work days in 2024; 261 construction work days in 2025, 2026, and 2027; 260 construction work days in 2028; 261 construction work days in 2029 and 2030; and 82 construction work days in 2031.

As shown in Table 3.3-3, the project's construction criteria pollutant emissions would not exceed BAAQMD thresholds. These emissions would be further reduced by adhering to the City's standard permit conditions addressing fugitive construction dust control, as described under checklist question c).

Operational Criteria Air Pollutants

Operational air emissions from the project would be generated primarily from autos driven by future employees. Emissions associated with vehicle travel depend on the year of analysis because emission control technology requirements are phased-in over time. This analysis assumed that the project would be fully built out and operating in the year 2032.

Annual emissions were predicted using CalEEMod, and daily emissions were estimated based on 365 days of operation. The emissions associated with existing land uses were subtracted from emissions associated with the project to calculate the net increase in emissions caused by the project. The modeling assumptions, data inputs, and results are described further in Appendix B of this EIR.

Table 3.3-4 below shows the net average daily operational emissions of ROG, NO_X, total PM_{10}, and total $PM_{2.5}$ during operation of the project in comparison with the BAAQMD thresholds of significance identified in Table 3.3-2.

Table 3.3-4: Project Operational Period Emissions

Scenario	ROG	NOx	PM_{10}	$PM_{2.5}$
Project (2032) Annual Emissions *(tons/year)*	12.76	5.37	10.26	2.63
Existing (2020) Annual Emissions *(tons/year)*	5.46	4.47	3.17	0.83
Net Annual Emissions (*tons/year*)	7.30	0.90	7.09	1.80
BAAQMD Thresholds (tons /year)	*10 tons*	*10 tons*	*15 tons*	*10 tons*
Exceed Threshold?	*No*	*No*	*No*	*No*
Net Average Daily Emissions (*pounds/day*)[1]	39.97	4.93	38.84	9.85
BAAQMD Thresholds (pounds/day)	54 lbs.	54 lbs.	82 lbs.	54 lbs.
Exceed Threshold?	*No*	*No*	*No*	*No*

Source: Illingworth & Rodkin, Inc. *550 East Brokaw Road Air Quality and Greenhouse Gas Emission Assessment*. August 10, 2021.

Notes:

[1] Assumes 365-day operation

As shown in Table 3.3-4, the project's operational emissions would not exceed BAAQMD significance thresholds.

Community Health Risk

Part of the 2017 CAP goals is to eliminate health risk disparities from exposure to air pollution. The project's community health risk impact is discussed under checklist question c). As discussed under Section 3.3.1.2 Existing Conditions, there are no sensitive receptors within 1,000 feet of the project site. Due to the distance between the project site and the nearest sensitive receptors, project construction and operation would not cause cancer risk, non-cancer health effects or annual $PM_{2.5}$ concentrations exceeding the BAAQMD community risk thresholds.

Consistency with 2017 CAP Control Measures

To protect the climate, the 2017 CAP includes control measures to reduce emissions of GHG emissions. As documented in Table 3.3-5 below, the proposed project would be consistent with all applicable measures of the 2017 CAP.

Table 3.3-5: Project Consistency with Bay Area 2017 CAP Applicable Control Measures	
Summary of Applicable Control Measures	**Project Consistency**
Transportation Measures	
TR2 – Trip Reduction Programs: Encourage trip reduction policies and programs in local plans, e.g., general and specific plans. Encourage local governments to require mitigation of vehicle travel as part of new development approval, to develop innovative ways to encourage rideshare, transit, cycling, and walking for work trips.	The proposed development would be located in proximity to VTA transit services, including the Karina Court LRT (approximately 0.75 mile west of the project site) and VTA bus routes 60 and 66. In addition, the project would provide bicycle parking as part of the development consistent with City standards. The proposed project would be required to implement a TDM Program (refer to MM TRN-1.2 under checklist question b in Section 3.17 of this EIR). The project is consistent with this measure.
TR9 – Bicycle and Pedestrian Access and Facilities: Encourage planning for bicycle and pedestrian facilities in local plans, e.g., general and specific plans, fund bike lanes, routes, paths and bicycle parking facilities.	The project would not remove or inhibit access to any existing bicycle facilities or inhibit implementation of the proposed improvements outlined in the San José Better Bike Plan 2025. The interior of the project site would be developed with two east-west pedestrian green belts as well as two-lane roads with sidewalks connected to existing sidewalks on East Brokaw Road and Junction Avenue. The project would construct sidewalks between the relocated bus stop (described under checklist question b in Section 3.17 of this EIR; MM TRN-1.1) and the existing sidewalk on the north side of Brokaw Road to improve pedestrian connectivity to the Junction Avenue/Brokaw Road intersection. The project is consistent with this measure.
TR10 – Land Use Strategies: Support implementation of Plan Bay Area, maintain and disseminate information on current climate action plans and other local best practices.	The project site's General Plan designation and zoning is consistent with the proposed commercial uses. Furthermore, the project would be located in proximity to VTA transit services including bus service on East Brokaw Road; therefore, the project is consistent with this measure (refer to Section 4.17 Transportation of the Initial Study for more information).

Table 3.3-5: Project Consistency with Bay Area 2017 CAP Applicable Control Measures	
Summary of Applicable Control Measures	**Project Consistency**
Building Measures	
BL1 – Green Buildings: Identify barriers to effective local implementation of CalGreen (Title 24) statewide building energy code; develop solutions to improve implementation/ enforcement. Engage with additional partners to target reducing emissions from specific types of buildings.	The project would comply with Building Energy Efficiency Standards (Title 24) and the City's Green Building Ordinance and the most recent CALGreen requirements. The project is consistent with this measure.
B4 – Urban Heat Island Mitigation: Develop and urge adoption of a model ordinance for "cool parking" that promotes the use of cool surface treatments for new parking facilities, as well existing surface lots undergoing resurfacing. Develop and promote adoption of model building code requirements for new construction or reroofing/ roofing upgrades for commercial and residential multifamily housing.	The project would be required to comply with the City's Green Building Ordinance and the most recent CALGreen requirements, thereby meeting model building code requirements. The negligible amount of surface parking proposed would not result in a significant urban heat island effect. The project overall, would result in a reduction of surface parking. Furthermore, the project includes a number of architectural elements (see Aesthetics checklist question d) that would reduce glare, thus mitigating the urban heat island effect. Therefore, the project is consistent with this control measure.
EN2 – Decrease Electricity Demands: Work with local governments to adopt additional energy efficiency policies and programs. Support local government energy efficiency program via best practices, model ordinances, and technical support. Work with partners to develop messaging to decrease electricity demand during peak times.	The proposed building would be constructed in compliance with the San José Green Building Ordinance (Policy 6-32) and the California Green Building Standards Code (Part 11 of Title 24, California Code of Regulations). Therefore, the project is consistent with this control measure.
Natural and Working Lands Measures	
NW2 – Urban Tree Planting: Develop or identify an existing model municipal tree planting ordinance and encourage local governments to adopt such an ordinance. Include tree planting recommendations, the Air District's technical guidance, best management practices for local plans, and CEQA review.	The project would be required to adhere to the City's tree replacement policy. Therefore, the project is consistent with this control measure.
Waste Management Measures	
WA4 – Recycling and Waste Reduction: Develop or identify and promote model ordinances on community-wide zero waste goals and recycling of construction and demolition materials in commercial and public construction projects.	The City adopted the Zero Waste Strategic Plan which outlines policies to help the City foster a healthier community and achieve its Green Vision (now Climate Smart) goals, including 75 percent diversion by 2013 and zero waste by 2022. In addition, the project would comply with the City's

Table 3.3-5: Project Consistency with Bay Area 2017 CAP Applicable Control Measures	
Summary of Applicable Control Measures	**Project Consistency**
	Construction and Demolition Diversion Program during construction which ensures that at least 75 percent of construction waste generated by the project is recovered and diverted from landfills. Therefore, the project is consistent with this control measure.
Water Conservation Measures	
WR2 – Support Water Conservation: Develop a list of best practices that reduce water consumption and increase on-site water recycling in new and existing buildings; incorporate into local planning guidance.	The project would comply with CALGreen and reduce potable indoor water consumption and outdoor water use by including water efficient fixtures and planting drought tolerant non-invasive landscaping. The project, therefore, is consistent with this measure.

Conclusion for checklist question a): The project would not conflict with or obstruct implementation of the applicable air quality plan. **(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?

As stated in the BAAQMD CEQA Air Quality Guidelines, air pollution by its nature is largely a cumulative impact. No single project is sufficient in size to, by itself, result in nonattainment of ambient air quality standards. If a project exceeds the identified significance thresholds, its emissions would be cumulatively considerable, resulting in significant adverse air quality impacts to the region's existing air quality conditions.

As described in Section 3.3.1.3 Existing Conditions, the Bay Area is considered a non-attainment area for ground-level O^3 and $PM_{2.5}$ under both the Federal Clean Air Act and the California Clean Air Act. The area is also considered non-attainment for PM_{10} under the California Clean Air Act, but not the federal act. The area has attained both State and federal ambient air quality standards for carbon monoxide. As part of an effort to attain and maintain ambient air quality standards for ozone and PM_{10}, BAAQMD has established thresholds of significance for these air pollutants and their precursors. These thresholds are for O^3 precursor pollutants (ROG and NO_X), PM_{10}, and $PM_{2.5}$ and apply to both construction period and operational period impacts. As described under checklist question a, the project would not result in an exceedance of BAAQMD thresholds for these air pollutants during construction or operation.

Conclusion for checklist question b): The project would not result in a cumulatively considerable increase of any criteria pollutant for which the region is in nonattainment. **(Less than Significant Impact)**

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

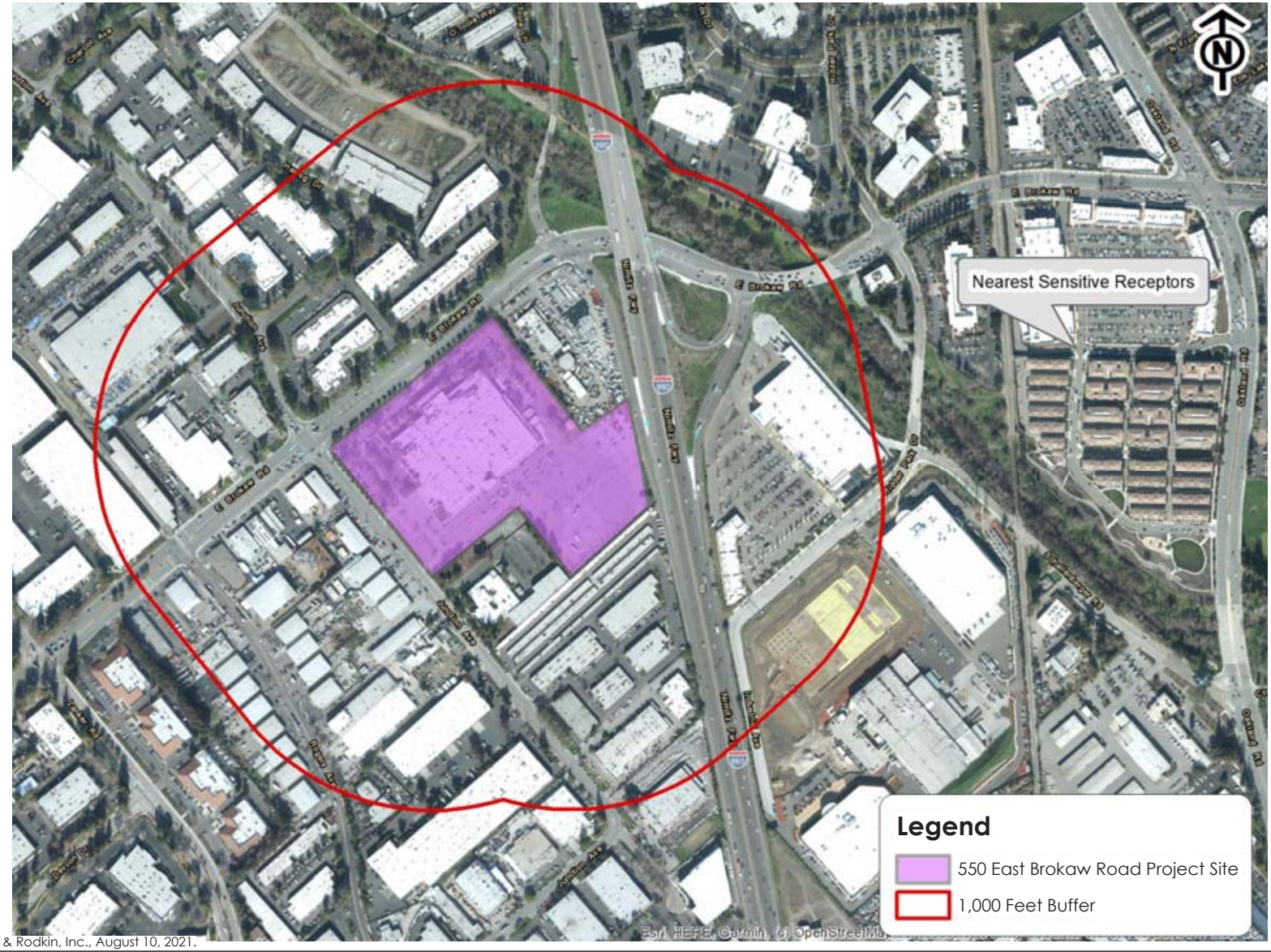
Community Health Risk Impacts

Project impacts related to increased community risk can occur either by introducing a new source of TACs with the potential to adversely affect existing sensitive receptors in the project vicinity or by significantly exacerbating existing cumulative TAC impacts. This project would introduce new sources of TACs during construction (i.e. on-site construction and truck hauling emissions) and operation (i.e. mobile and stationary sources). During project operation, the project would generate some traffic, consisting of mostly light-duty vehicles. In addition, the project proposes on-site stationary sources in the form of diesel-powered generators.

Per BAAQMD guidance, only sensitive receptors within 1,000 feet of TAC sources need to be evaluated. As shown below on Figure 3.3-1, the closest sensitive receptors to the project are located well beyond 1,000 feet, at more than 1,700 feet east of the project site. Accordingly, a quantitative health risk assessment for nearby sensitive receptors was not conducted.

Given the large distance and temporary nature of this impact, community health risks caused by construction are considered to be below the BAAQMD single-source thresholds for increased cancer risk, annual $PM_{2.5}$ concentration, and hazard index value. Implementation of the standard permit conditions described below would further reduce emission TACs and $PM_{2.5}$ during construction, thereby reducing associated health risks. Long-term operational emissions from the project would include traffic (i.e. passenger cars and delivery truck traffic), DPM emissions from routine testing and maintenance operation of diesel engines used to power the back-up emergency generators, and natural gas combustion from equipment used to provide space and water heating.

Each of these sources would emit minor amounts of TACs and $PM_{2.5}$. The emissions from generator operation (limited to 50 hours per year for non-emergency conditions) and natural gas combustion would have negligible effects on the sensitive receptors. Traffic emissions would be spread out over a large area and also have a negligible effect on any single sensitive receptor.



Source: Illingworth & Rodkin, Inc., August 10, 2021.

LOCATION OF NEARBY SENSITIVE RECEPTORS IN PROJECT VICINITY | FIGURE 3.3-1

Based on the above, the project would not in the short-term (i.e., during construction) or long-term (i.e., operation) cause cancer risk, non-cancer health effects or annual $PM_{2.5}$ concentrations to exceed the community risk thresholds.

Fugitive Dust

Construction activities, particularly during site preparation and grading, would temporarily generate fugitive dust in the form of PM_{10} and $PM_{2.5}$.

Standard Permit Conditions:

The project applicant shall implement the following measures during all phases of construction to control dust and exhaust at the project site.

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day, or as often as needed to control dust emissions.
- Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- Remove visible mud or dirt track-out onto adjacent public roads by using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- 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.
- Replant vegetation in disturbed areas as quickly as possible.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
- During construction, all vehicle speeds on unpaved roads shall be limited to 15 miles per hour.

Consistent with the BAAQMD CEQA Air Quality Guidelines, these impacts are considered to be less than significant if the above standard permit conditions are implemented to reduce the emissions.

Health Effects from Criteria Pollutants

In a 2018 decision (*Sierra Club v. County of Fresno*), the state Supreme Court determined that CEQA requires that when a project's criteria air pollutant emissions would exceed applicable thresholds and make a cumulatively considerable contribution to a significant cumulative regional criteria pollutant impact, the potential for the project's emissions to affect human health in the air basin must be disclosed. State and federal ambient air quality standards are health-based standards and exceedances of those standards result in continued unhealthy levels of air pollutants. In developing thresholds of significance for air pollutants, BAAQMD considered the emission levels for which a project's individual emissions would be cumulatively considerable. If a project has a less than significant impact for criteria pollutants, it is assumed to have no adverse health affect. As described previously under checklist question a, the proposed project would not exceed BAAQMD thresholds for criteria air pollutants. Therefore, the project would not result in an adverse health effect due to emissions of criteria air pollutants.

Conclusion for checklist question c): With implementation of standard permit conditions, the project would not expose sensitive receptors to substantial pollutant concentrations. **(Less than Significant Impact)**

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

According to the BAAQMD CEQA Guidelines, an odor source with five or more confirmed complaints per year averaged over three years is considered to have a significant impact.[18] BAAQMD has identified a variety of land uses that produce emissions that may lead to odors and generate complaints including, but are not limited to, wastewater treatment plants, landfills, composting operations, and food manufacturing facilities.

Office uses do not typically generate objectionable odors, nor do they fall under any of the land uses identified by BAAQMD to cause objectionable odors. Localized odors, mainly resulting from diesel exhaust and construction equipment on-site, would be created during the construction phase of the project. These odors would be temporary and not likely be noticed beyond the project site's boundaries. Odors associated with the application of paints and coatings may also be noticeable on occasion by adjacent receptors. Painting and coating of the project would occur during daytime hours only, would be localized, and would be generally confined to the project site. These odors would also be temporary. Operation and maintenance of the project would require the use of cleaning supplies, maintenance chemicals, and herbicides and pesticides for landscape maintenance, as well as diesel fuel for occasional testing and operation of the emergency generators. Any odors generated by the use of these materials would be both temporary and highly localized.

Conclusion for checklist question d): The project would not result in other emissions, such as odors, that would adversely affect a substantial number of people. **(Less than Significant Impact)**

[18] Bay Area Air Quality Management District. California Environmental Quality Act Air Quality Guidelines. May 2017. Page 2-1.

3.3.2.2 *Cumulative Impacts*

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

The geographic area for cumulative air quality impacts is the San Francisco Bay Area Air Basin. Past, present, and future development projects contribute to the region's adverse air quality impacts on a cumulative basis. By its very nature, air pollution is largely a cumulative impact.

As described above under Air Quality checklist question a), the project would be consistent with the 2017 CAP. Therefore, the project would not contribute to a cumulatively considerable impact related to implementation of the 2017 CAP.

In developing thresholds of significance for criteria air pollutants, BAAQMD considered the emissions levels for which a project's individual emissions would be cumulatively considerable. That is, if a project exceeds BAAQMD's significance thresholds, its emissions are considered cumulatively considerable. As discussed under Air Quality checklist questions a) and b), the project would not exceed the BAAQMD thresholds for criteria air pollutant (ROG, NO_x, PM_{10}, and $PM_{2.5}$) emissions. Therefore, the project would not contribute to a cumulatively significant criteria air pollutant impact.

As discussed under checklist question c), there are no sensitive receptors within 1,000 feet; therefore, the project would not contribute to a cumulatively significant impact on sensitive receptors.

On its own, construction and operation of the project would not result in other emissions, such as odors, that would adversely affect a substantial number of people. Odors generated by construction of the cumulative projects identified in Table 3.0-1 and future cumulative development would, like the project, be temporary and highly localized. Neither the project or the cumulative projects identified in Table 3.0-1 proposes uses that have been identified by BAAQMD as producing emissions leading to odors that would generate complaint. Since the proposed use of the site as an office development has not been identified as a source of substantial emissions leading to odors, operation of the project would not contribute to a cumulatively significant impact.

Conclusion to the Air Quality Cumulative Impacts discussion: With the implementation of standard permitting conditions, the project would have less than significant cumulative air quality impacts. **(Less than Significant Cumulative Impact)**

3.4 BIOLOGICAL RESOURCES

The following discussion is based, in part, on an Arborist Report prepared for the project by HortScience | Bartlett Consulting. The report, dated December 15, 2021, is attached to this EIR as Appendix C.

3.4.1 Environmental Setting

3.4.1.1 *Regulatory Framework*

Federal and State

Endangered Species Act

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

In addition to species listed under state and federal Endangered Species Acts, Sections 15380(b) and (c) of the CEQA Guidelines provide that all potential rare or sensitive species, or habitats capable of supporting rare species, must be considered as part of the environmental review process. These may include plant species listed by the California Native Plant Society and CDFW-listed Species of Special Concern.

Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA) prohibits killing, capture, possession, or trade of migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. Hunting and poaching are also prohibited. The taking and killing of birds resulting from an activity is not prohibited by the MBTA when the underlying purpose of that activity is not to take birds.[19] Nesting birds are considered special-status species and are protected by the USFWS. The CDFW also protects migratory and nesting birds under California Fish and Game Code Sections 3503, 3503.5, and 3800. The CDFW defines taking as causing abandonment and/or loss of reproductive efforts through disturbance.

[19] United States Department of the Interior. "Memorandum M-37050. The Migratory Bird Treaty Act Does Not Prohibit Incidental Take." Accessed September 2, 2021. https://www.doi.gov/sites/doi.gov/files/uploads/m-37050.pdf.

Sensitive Habitat Regulations

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

Fish and Game Code Section 1602

Streambeds and banks, as well as associated riparian habitat, are regulated by the CDFW per Section 1602 of the Fish and Game Code. Work within the bed or banks of a stream or the adjacent riparian habitat requires a Streambed Alteration Agreement from the CDFW.

Regional and Local

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (Habitat Plan) covers approximately 520,000 acres, or approximately 62 percent of Santa Clara County. It was developed and adopted through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District (Valley Water), VTA, USFWS, and CDFW. The Habitat Plan is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in southern Santa Clara County. The Santa Clara Valley Habitat Agency is responsible for implementing the plan.

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes the following policies that are specific to biological resources and applicable to development projects in San José:

Policy	Description
CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
CD-1.24	Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Any adverse effect on the health and longevity of such trees should be avoided through design measures, construction, and best maintenance practices. When tree preservation is not feasible include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.
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.
ER-5.2	Require that development projects incorporate measures to avoid impacts to nesting migratory birds.
ER-6.3	Employ low-glaring lighting in areas developed adjacent to natural areas, including riparian woodlands. Any high-intensity lighting used near natural areas will be placed as close to the ground as possible and directed downward or away from natural areas.
ER-6.5	Prohibit use of invasive species, citywide, in required landscaping as part of the discretionary review of proposed development.
MS-21.4	Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.
MS-21.5	As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse effect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.
MS-21.6	As a condition of new development, require, where appropriate, the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.
MS-21.8	For Capital Improvement Plan or other public development projects, or through the entitlement process for private development projects, require landscaping including the selection and planting of new trees to achieve the following goals: 1. Avoid conflicts with nearby power lines. 2. Avoid potential conflicts between tree roots and developed areas. 3. Avoid use of invasive, non-native trees. 4. Remove existing invasive, non-native trees. 5. Incorporate native trees into urban plantings in order to provide food and cover for native wildlife species. 6. Plant native oak trees and native sycamores on sites which have adequately sized landscape areas and which historically supported these species

San José Tree Ordinance

The City of San José maintains the urban landscape by controlling the removal of ordinance trees on private property (San José Municipal Code Section 13.32). Ordinance trees are defined as trees exceeding 38 inches in circumference, or approximately 12 inches in diameter, at a height of 4.5 feet above the ground. Ordinance trees are generally mature trees that help beautify the City, slow the erosion of topsoil, minimize flood hazards, minimize the risk of landslides, increase property values, and improve local air quality. A tree removal permit is required from the City of San José for the removal of ordinance trees.

San José Citywide Design Standards and Guidelines

The San José Citywide Design Standards and Guidelines (adopted February 23, 2021) set expectations for high-quality site and building design, and maintain and enhance the character of its neighborhoods and communities. Compliance with the Design Standards and Guidelines will be mandatory in the design review process for all applicable developments. The Citywide Design Standards and Guidelines include bird-safe design techniques to ensure that new developments and building renovations avoid adverse consequences to birds, including the following:

- For non-residential uses, apply a bird safety treatment on areas of glazing within 10 feet of a building corner.
- For non-residential uses, apply a bird safety treatment to glazed areas of any building façade with more than 10 percent glazing that is within 15 vertical feet and 20 horizontal feet of a green roof or a vegetated courtyard, within or outside of the development.
- Use a bird safety treatment on parallel panes of glass 30 feet or less apart, such as skyways, walkways, and other glass building connectors
- Use a bird safety treatment on transparent atria, free-standing glass features, and glass architectural elements that protrude from the primary building mass
- Do not use mirrored glass or glazing with a reflective index above 20 percent.
- For façades with more than 20 percent glazing within 60 feet of grade and located within 300 feet from a body of water, including creeks and vegetated flood control channels; or within 100 feet of a landscaped area, open space, or park larger than one acre in size, apply a bird safety treatment to at least 90 percent of the glazed areas within 60 feet of grade.
- Turn off decorative exterior lighting between 11:00 p.m. and 6:00 a.m. except during June, July, December, and January due to bird migration.
- Use a bird safety treatment on windows or other glazed areas in which trees, landscaping, water features, or the sky will be reflected.
- Use a bird safety treatment on windows or other glazed areas through which landscaping, water features, or the sky can be seen through the glass.
- Do not plant trees in a line perpendicular to glass façades

3.4.1.2 *Existing Conditions*

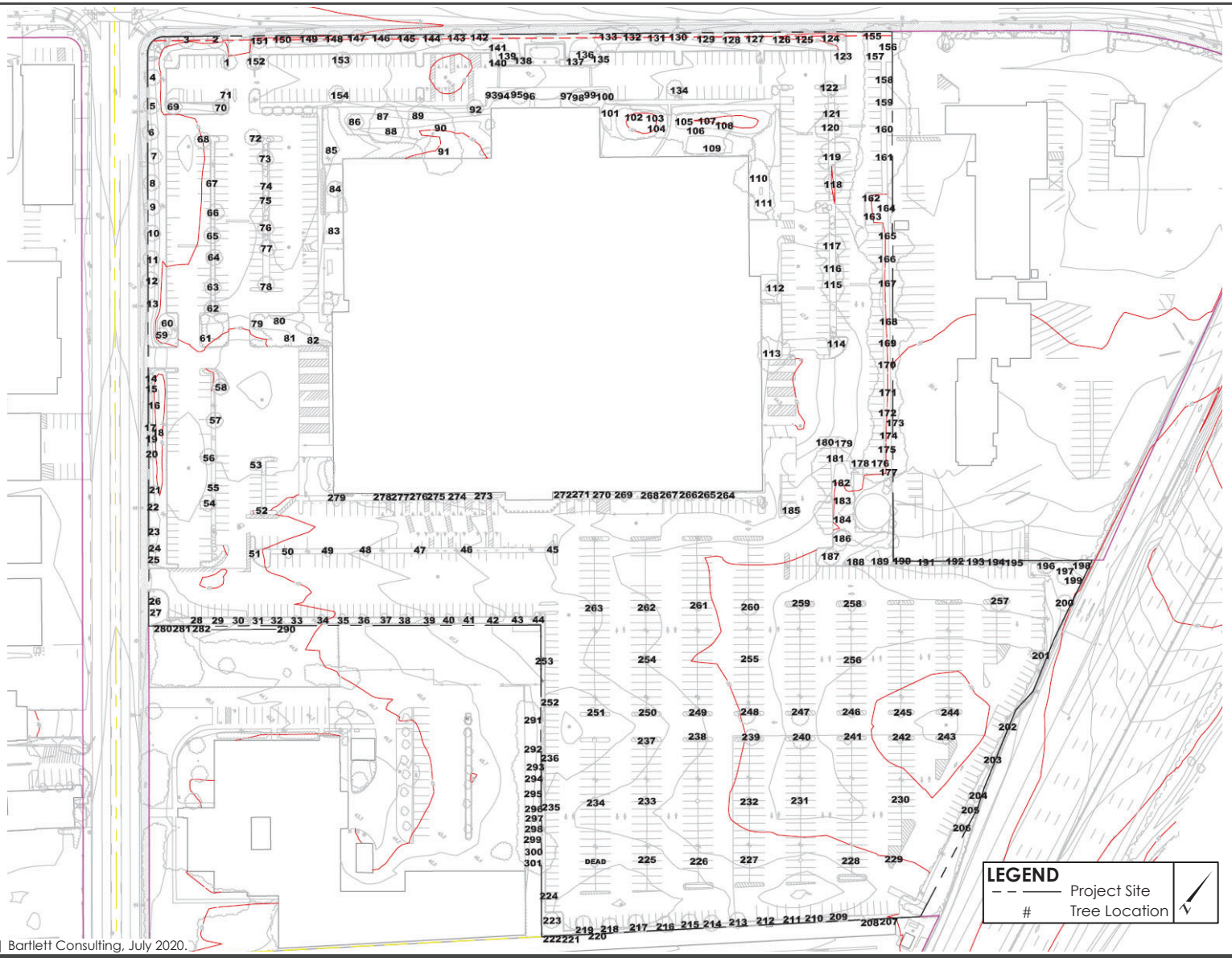
The 19.7-acre project site is located in the urbanized North San José area and is surrounded by commercial and industrial development. The project site is developed with a joint office and electronics superstore building that is surrounded by surface parking lots and interspersed landscaped medians and mature trees. Habitats commonly associated with Bay Area special-status species, such as salt marsh, freshwater marsh, and serpentine grassland habitats, are not present on-site. The project site is physically separated from Coyote Creek and its associated riparian habitat (located approximately 650 feet to the north) by East Brokaw Road, O'Toole Avenue, I-880, and intervening commercial developments.

The NSJADP FEIR identified five habitat types on developable properties in the NSJADP, including urban landscape, agricultural, non-native grassland, coyote brush scrub, and remnant sycamore alluvial woodland. Urban landscape is characterized by properties that are occupied by buildings, residences, and outbuildings and generally contain a mixture of landscape plants and volunteer weedy species. Agricultural and non-native grassland habitats are vegetated with non-native, ruderal vegetation, with non-native grassland generally containing productive habitats for wildlife where

plowing or weed control has been limited. Coyote brush scrub is found in areas protected from disturbance, such as along fences or property corners. The land cover on the project site is urban landscape, as identified in the Biological Resource Assessment prepared for the NSJADP FEIR.[20] Additionally, the project site is within the SCVHP study area, and is designated as "Urban-Suburban" land.[21] "Urban-Suburban" land is comprised 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.

Due to the developed, urbanized nature of the project site, the primary biological resources on-site are ordinance-sized trees. There are approximately 274 trees on-site, and 27 trees adjacent to the project site that are within the project's potential area of effect. Of the 301 total trees present on or adjacent to the project site, 210 are ordinance-size trees and 24 of the ordinance-size trees are located off-site. A summary of the existing trees on-site is provided in Table 3.4-1; a full inventory of the trees within the project's area of effect can be found within Appendix C. The location of trees within the project's area of effect is shown in Figure 3.4-1.

[20] H.T. Harvey & Associates. *North San José Area Development Policy Final Environmental Impact Report, Appendix G, Biological Resources Report*. September 2004.
[21] Santa Clara Valley Habitat Agency. "GIS Data & Key Maps." Accessed September 2, 2021. https://scv-habitatagency.org/193/GIS-Data-Key-Maps.



Source: HortScience | Bartlett Consulting, July 2020.

TREE LOCATION MAP

FIGURE 3.4-1

Table 3.4-1: Summary of Existing Trees					
Common Name	**Scientific Name**	**Tree Condition**			**Total**
		Poor	**Fair**	**Good**	
Monkey puzzle	*Araucaria araucana*	2	-	-	2
Strawberry tree	*Arbutus unedo*	-	1	-	1
Deodar cedar	*Cedrus deodara*	1	1	1	3
River red gum	*Eucalyptus camaldulensis*	15	6	-	21
Blue gum	*Eucalyptus globulus*	3	5	-	8
Compact blue gum	*Eucalyptus globulus 'Compacta'*	-	1	-	1
Red iron bark	*Eucalyptus sideroxylon*	-	5	-	5
Fig	*Ficus carica*	1	-	-	1
Evergreen ash	*Fraxinus uhdei*	22	15	6	43
Chinese flame tree	*Koelreuteria bipinnata*	32	60	-	92
Sweet bay	*Laurus nobilis*	5	4	-	9
Saratoga bay laurel	*Laurus x 'Saratoga'*	4	-	-	4
Glossy privet	*Ligustrum lucidum*	31	14	1	46
Myoporum	*Myoporum laetum*	1	-	-	1
Monterey pine	*Pinus radiata*	1	2	-	3
London plane	*Platanus x hispanica*	1	-	-	1
Evergreen pear	*Pyrus kawakamii*	2	11	-	13
Holly oak	*Quercus ilex*	2	-	-	2
Willow	*Salix sp.*	1	-	-	1

Queen Palm	*Syagrus romanzoffianum*	-	13	3	16
Chinese elm	*Ulmus parvifolia*	18	4	-	22
Siberian elm	*Ulmus pumila*	-	1	-	1
Mexican fan palm	*Washingtonia robusta*	-	4	-	4
Sawleaf zelkova	*Zelkova serrata*	1	-	-	1
	Total	143	147	11	301
Source: HortScience | Bartlett Consulting. *Preliminary Arborist Report for 550 E. Brokaw Rd., San Jose, CA*. July 24, 2020.					

3.4.2 Impact Discussion

For the purpose of determining the significance of the project's impact on biological resources, would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS)?
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 CDFW or USFWS?
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?

3.4.2.1 *Project Impacts*

a) Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS?

As described in Section 3.4.1.2 Existing Conditions, the project site is in a highly urbanized area and is developed with a joint office and electronics superstore building that is surrounded by surface

parking lots and interspersed landscaped medians and mature trees. Due to the lack of suitable habitat and history of development on the site and in the surrounding areas, special-status species (with the exception of nesting birds, described below) are unlikely to occur on-site.

As described above, there are a total of 301 trees present on or adjacent to the project site. Project implementation would remove 276 trees, including 183 ordinance-size trees. Trees could provide nesting and/or foraging habitat for birds, including migratory birds. Migratory birds, like nesting raptors, are protected under the Migratory Bird Treaty Act and CDFW Code Sections 3503, 3503.5, and 3800. The CDFW defines "taking" as causing abandonment and/or loss of reproductive efforts through disturbance. Any loss of fertile eggs, nesting raptors, or any activities resulting in nest abandonment would constitute a significant impact. Construction activities such as site grading that disturb a nesting bird or raptor on-site or immediately adjacent to the project construction zone would also constitute an impact.

Impact BIO-1: Development of the proposed project would result in impacts to nesting birds, if present on or adjacent to the project site at the time of construction.

Mitigation Measures:

MM BIO-1.1: Prior to the issuance of any demolition, grading, tree removal or building permits (whichever occurs first), the project applicant shall confirm the initial site disturbance (demolition and/or construction activities) is scheduled to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1 through August 31 (inclusive).

MM BIO-1.2: If tree removal, demolition and construction cannot be scheduled between September 1 and January 31 (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests are disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1 through April 30 inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1 through August 31 inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.

MM BIO-1.3: If an active nest is found sufficiently close to work areas to be disturbed by construction, the qualified ornithologist shall determine the extent of a construction free buffer zone to be established around the nest to ensure that bird nests shall not be disturbed during project construction.

MM BIO-1.4: Prior to any tree removal, or approval of any grading or demolition permits (whichever occurs first), the qualified ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the City's Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement.

Implementation of mitigation measures MM BIO-1.1 through -1.4, the City's avoidance measures would ensure that construction of the project takes place outside of the nesting season, thus avoiding any incidental loss of fertile eggs or nestlings, or nest abandonment. Alternatively, if demolition and construction cannot be scheduled between September 1 and January 31, the implementation of mitigation measures MM BIO-1.2 through MM BIO-1.4 would identify and protect all active nests within the project's area of effect from being disturbed during construction. For these reasons, the project with the implementation of mitigation measures MM BIO-1.1 through MM BIO-1.4 would not result in significant impacts to nesting birds.

Conclusion for checklist question a): With mitigation incorporated, the project would not have a substantial adverse effect on any species identified as a candidate, sensitive, or special status species. **(Less than Significant Impact with Mitigation Incorporated)**

b) Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?

As described in Section 3.4.1.2 Existing Conditions, the project site does not contain any riparian habitats or other sensitive natural communities. As discussed under Section 3.4.1.2, Coyote Creek is approximately 650 feet northeast of the project site, which is physically separated from this riparian corridor by East Brokaw Road, O'Toole Avenue, I-880, and intervening commercial developments. Project construction and operation would be confined to the site boundaries and would not have any substantial effect on Coyote Creek or the riparian area adjacent to it.

Additionally, the project would not result in any indirect effects to the adjacent riparian habitat. Indirect effects could be those resulting from any construction disturbances, night lighting, shading effects, a degraded vegetative buffer between the water body and Project causing altered movement of wildlife, or any invasive on-site landscaping moving into the riparian corridor. At the nearest location, the riparian corridor associated with Coyote Creek is approximately 650 feet from the existing developed site. Construction disturbances such as loud noises associated with demolition, grading, and building would be temporary and buffered by the 650-foot separation. Given the distance and physical obstacles between the site and the Coyote Creek, there would be no indirect effects.

Conclusion for checklist question b): The project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community. **(No Impact)**

c) Would the project have a substantial adverse effect on state or federally protected wetlands through direct removal, filling, hydrological interruption, or other means?

The project site is surrounded by urban uses and is devoid of wetlands, marshes, and vernal pools. The project would not impact any federally protected wetlands under the Clean Water Act.

Conclusion for checklist question c): The project would not impact any wetlands. **(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?

Migratory movements of animal species are most often associated with riparian corridors. Coyote Creek provides an important migratory corridor for bird and fish species, including steelhead and Chinook salmon. As discussed under Section 3.4.1.2, Coyote Creek is approximately 650 feet northeast of the project site, which is physically separated from this riparian corridor by East Brokaw Road, O'Toole Avenue, I-880, and intervening commercial developments. Therefore, the proposed project would not interfere with wildlife movement along this riparian corridor.

Glass windows and building facades can result in injury or mortality of birds due to bird collisions with these surfaces. Because birds do not perceive glass as an obstruction the way humans do, they may collide with glass when the sky or vegetation is reflected in the glass; when transparent windows allow birds to perceive an unobstructed flight route through the glass (such as at corners); and when the combination of transparent glass and interior vegetation results in attempts by birds to fly through glass to reach that vegetation. The greatest risk of avian collisions with buildings occur in areas approximately 40 to 60 feet above ground. Buildings that are 500 feet or taller may pose a threat to birds that are migrating through the area. The proposed project would have a maximum height of 135 feet to the top of the roof.

A low number of native birds and occasional migratory bird collisions would be expected to occur on-site regardless of project design. Due to the highly urbanized nature of the project area, trees on and adjacent to the project site are more conducive to use by urban-adapted resident birds than by migratory species. Bird-safe design measures are required of projects in San José in the Baylands and riparian habitats of lower Coyote Creek, north of SR 237 (City Council Policy 6-34), due to the heightened sensitivity of these areas. The proposed project is not located in these areas, nor is it located within 300 feet of the vegetative edge of the Coyote Creek riparian corridor, and would not be subject to the bird-safe design requirements set forth in City Council Policy 6-34. However, the project would be subject to the Bird Safety Standards and Guidelines presented in the San José Citywide Design Standards and Guidelines. The design of the proposed project would be subject to the City's design review process and would be required to include bird-safe design techniques to ensure that project design avoids adverse consequences to birds.

Furthermore, the base-body top design of the office towers and the use of vertical louvres would break up the glass façades of the proposed buildings. These design elements would prevent the building from appearing as unbroken panes of glass and would break up the reflection of the sky and/or vegetation within the glass avoiding bird collisions. These design elements would prevent the building from appearing as unbroken panes of glass and would break up the reflection of the sky and/or vegetation within the glass avoiding bird collisions. Therefore, possible bird collisions with the proposed buildings would not substantially interfere with migratory bird movements or impact regional bird populations.

Due to developed nature of the site and its location in a dense urban setting without suitable habitat, there are no wildlife nursery sites present on the project site.[22] With implementation of the standard permit conditions outlined under checklist question a), the project would not interfere with the movement of native resident or migratory bird species due to tree removal or construction disturbances.

Conclusion for checklist question d): The project would not substantially interfere with the movement or migration of fish or wildlife species, established wildlife corridors, or impede the use of wildlife nursery sites. **(Less than Significant Impact)**

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

The City of San José maintains the urban forest by controlling the removal of ordinance trees on private property (San José Municipal Code Section 13.32). Removal of trees would be required to conform to the replacement requirements as identified in the Municipal Code Section 13.28.300, General Plan Policies MS-21.4, MS-21.5, MS-21.6 and CD-1.24 and City of San José Tree Removal Ordinance (Municipal Code Section 13.31.010 to 13.32.100). Additionally, the project would be required to conform with their landscape plan and maintain all trees and other vegetations shown to be retained, including off-site vegetation. Tree protection standard would be applied including fencing and signage at the dripline of a tree during construction to ensure the trees not proposed for removal would be protected during project construction.

As discussed under Section 3.4.1.2 Existing Conditions, project implementation would remove 274 trees, including 186 ordinance-sized trees. Existing trees on the project site would need to be removed due to their poor health conditions and/or to allow for the proposed improvements. The trees anticipated to be removed are shown on Figure 3.4-1 and primarily consist of typical landscape plants found in the San Jose area, none are native trees.

Standard Permit Conditions:

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

[22] A wildlife nursery site is defined as a site where wildlife concentrates for hatching and/or raising young, such as rookeries, spawning areas and bat colonies.

Table 3.4-2: City of San José Tree Replacement Ratios				
Circumference of Tree to be Removed[1]	**Type of Tree to be Removed[2]**			**Minimum Size of Replacement Tree**
	Native	**Non-Native**	**Orchard**	
38 inches or more[3]	5:1	4:1	3:1	15-gallon
19 to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon

[1]As measured 4.5 feet above ground level

[2]X:X = tree replacement to tree loss ratio

[3]Ordinance-sized tree

Notes:

Trees greater than or equal to 38 inches in circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.

For multi-family residential, commercial, and industrial properties, a Tree Removal Permit is required for removal of trees of any size.

A 38-inch tree equals 12.1 inches in diameter.

A 24-inch box tree = two 15-gallon trees

- The project would remove 211 non-native trees with a diameter of greater than 12 inches, 51 trees with a diameter between six to 11 inches, and 12 trees with a diameter of less than six inches. Based on the City of San José Tree Replacement ratios, the project applicant would be required to plant 958 15-gallon trees.
- Prior to the issuance of building permit(s), the permittee shall pay Off-Site Tree Replacement Fee(s) to the City for off-site replacement trees in accordance with the City Council approved Fee Resolution in effect at the time of payment.
- If there is insufficient area on the project site to accommodate the required replacement trees, one or more of the following measures shall be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement. Changes to an approved landscape plan require the issuances of a Permit Adjustment or Permit Amendment
    - The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the project site.
    - Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of Public Works grading permit(s), in accordance with the City Council approved Fee Resolution, in effect at the time of payment. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

By conforming to the above standard permit conditions the proposed project would meet all applicable tree removal and tree protection guidelines set forth by the City of San José and offset the loss of the existing trees.

Conclusion for checklist question e): The project would not conflict with any ordinance protecting biological resources and would not result in a significant impact to trees and the community forest. **(Less Than Significant Impact)**

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

While the project site is within the Habitat Plan permit area and the project is considered a covered activity, it does not have a natural communities land cover designation identified for the purposes of protection, enhancement, and restoration. The project is designated as Urban-Suburban land in the Habitat Plan and, therefore, not subject to any land cover fee. The project would comply with the Habitat Plan by implementing the below standard permit condition.

Standard Permit Condition:

- The project is subject to applicable Habitat Plan conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant would be required to submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of Planning or Director's designee of the City of San José Department 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 grading permits. The Habitat Plan and supporting materials can be viewed at https://scv-habitatagency.org/178/Santa-Clara-Valley-Habitat-Plan.

Compliance with the standard permit condition listed above would ensure that the project does not conflict with provisions of the Habitat Plan.

Conclusion for checklist question f): The project would not conflict with the provisions of an adopted Habitat Conservation Plan or Natural Community Conservation Plan. **(No Impact)**

3.4.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant cumulative biological resources impact?

The geographic area for cumulative impacts to biological resources includes the project site and its surrounding area because localized development would affect the same group of biological resources.

As discussed under checklist question a), the surrounding area is highly urbanized and does not contain habitat suitable for special-status species. Therefore, the project would not contribute to a cumulatively significant impact on special-status species. Both the cumulative projects identified in Table 3.0-1 and future cumulative development projects would be required to comply with existing regulations (including the MBTA, Fish and Game Code, and CEQA) and would be subject to the standard permit conditions identified in checklist question a), which are designed to avoid and/or minimize impacts to nesting migratory birds and raptors. As such, the project would not contribute to a cumulatively significant impact to nesting migratory birds and raptors.

As discussed under checklist question d), the project would have a less than significant impact on the movement of resident or migratory fish or wildlife species, including birds. None of the cumulative projects identified in Table 3.0-1 would construct buildings 500 feet or taller may pose a threat to birds that are migrating through the area, and all cumulative projects with the exception of the Supermicro project would occur outside of areas protected by City Council Policy 6-34. The Supermicro project would occur within 300 feet of the vegetative edge of the Coyote Creek riparian corridor, and therefore would be subject to the bird-safe design requirements of City Council Policy 6-34, as would any future cumulative development within protected areas and as required by the Citywide Design Standards and Guidelines adopted in February 2021. Thus, the project would not contribute to a cumulatively significant impact on movement or migration of fish or wildlife species. The project would have no impact on riparian habitats, sensitive natural communities, wetlands, or wildlife nursery sites, and therefore would not contribute to a cumulatively significant impact on these resources. Similarly, the project would comply with the City's ordinances protecting biological resources and the requirements of the Santa Clara Valley Habitat Plan, and therefore would not contribute to a cumulative significant conflict with policies, ordinances, or plans protecting biological resources.

Conclusion to the Biological Resources Cumulative Impacts discussion:

- With the implementation of MM BIO-1.1 through MM BIO-1.4 and standard permit conditions, the project would not result in a cumulatively considerable contribution to a significant biological resources impact. **(Less than Significant Cumulative Impact)**

3.5 CULTURAL RESOURCES

The following discussion is based, in part, on an Archaeological Literature Search prepared by Holman & Associates (dated October 6, 2020) and a Historic Resource Assessment prepared by TreanorHL (dated August 4, 2021). The Archaeological Literature Search is being confidentially withheld to protect the location of cultural resources; the Historic Resource Assessment is attached to this EIR as Appendix D.

3.5.1 Environmental Setting

3.5.1.1 *Regulatory Framework*

Federal and State

National Historic Preservation Act

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

The NRHP is the nation's master inventory of historic resources that are considered significant at the national, state, or local level. The minimum criteria for determining NRHP eligibility include:

- The property is at least 50 years old (properties under 50 years of age that are of exceptional importance or are contributors to a district can also be included in the NRHP);
- It retains integrity of location, design, setting, materials, workmanship, feeling, and associations; and
- It possesses at least one of the following characteristics:
- Association with events that have made a significant contribution to the broad patterns of history;
- Association with the lives of persons significant in the past;
- Distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant, distinguishable entity whose components may lack individual distinction; or
- Has yielded, or may yield, information important to prehistory or history.

California Register of Historical Resources

The California Register of Historical Resources (CRHR) is administered by the State Office of Historic Preservation and encourages protection of resources of architectural, historical, archeological, and cultural significance. The CRHR identifies historic resources for state and local

planning purposes and affords protections under CEQA. Under Public Resources Code Section 5024.1(c), a resource may be eligible for listing in the CRHR if it meets any of the NRHP criteria.[23]

Historical resources eligible for listing in the CRHR must meet the significance criteria described previously and retain enough of their historic character or appearance to be recognizable as historical resources and to convey the reasons for their significance. A resource that has lost its historic character or appearance may still have sufficient integrity for the CRHR if it maintains the potential to yield significant scientific or historical information or specific data.

The concept of integrity is essential to identifying the important physical characteristics of historical resources and, therefore, in evaluating adverse changes to them. Integrity is defined as "the authenticity of a historical resource's physical identity evidenced by the survival of characteristics that existed during the resource's period of significance." The processes of determining integrity are similar for both the CRHR and NRHP and use the same seven variables or aspects to define integrity that are used to evaluate a resource's eligibility for listing. These seven characteristics include 1) location, 2) design, 3) setting, 4) materials, 5) workmanship, 6) feeling, and 7) association.

California Native American Historical, Cultural, and Sacred Sites Act

The California Native American Historical, Cultural, and Sacred Sites Act applies to both state and private lands. The act requires that upon discovery of human remains, construction or excavation activity must cease and the county coroner be notified.

Public Resources Code Sections 5097 and 5097.98

Section 15064.5 of the CEQA Guidelines specifies procedures to be used in the event of an unexpected discovery of Native American human remains on non-federal land. These procedures are outlined in Public Resources Code Sections 5097 and 5097.98. These codes protect such remains from disturbance, vandalism, and inadvertent destruction, establish procedures to be implemented if Native American skeletal remains are discovered during construction of a project, and establish the Native American Heritage Commission (NAHC) as the authority to resolve disputes regarding disposition of such remains.

Pursuant to Public Resources Code Section 5097.98, in the event of human remains discovery, no further disturbance is allowed until the county coroner has made the necessary findings regarding the origin and disposition of the remains. If the remains are of a Native American, the county coroner must notify the NAHC. The NAHC then notifies those persons most likely to be related to the Native American remains. The code section also stipulates the procedures that the descendants may follow for treating or disposing of the remains and associated grave goods.

[23] California Office of Historic Preservation. "CEQA Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6." March 14, 2006.

Local

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes the following policies that are specific to cultural resources and applicable to the proposed project:

Policy	Description
ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
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.
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.
LU-13.2	Preserve candidate or designated landmark buildings, structures and historic objects, with first priority given to preserving and rehabilitating them for their historic use, second to preserving and rehabilitating them for a new use, or third to rehabilitation and relocation on-site. If the City concurs that no other option is feasible, candidate or designated landmark structures should be rehabilitated and relocated to a new site in an appropriate setting.
LU-13.4	Require public and private development projects to conform to the adopted City Council Policy on the Preservation of Historic Landmarks.
LU-13.6	Ensure modifications to candidate or designated landmark buildings or structures conform to the Secretary of the Interior's Standards for Treatment of Historic Properties and/or appropriate State of California requirements regarding historic buildings and/or structures, including the California Historical Building Code.
LU-13.15	Implement City, State, and Federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.

City of San José Historic Preservation Ordinance

The City's Historic Preservation Ordinance (Chapter 13.48 of the Municipal Code) promotes the preservation of old historic or architecturally worthy structures and neighborhoods which impart a distinct aspect to the City and serve as visible reminders of the historical and cultural heritage of the City, the state, and the nation. The City contains over 200 designated City Landmarks, structures which represent a physical connection with significant persons, activities, or events from the City's past. Any historic property may be nominated for designation as a City Landmark by either the City Council or the Historic Landmarks Commission; property owners may also apply for nomination and

consideration by the Historic Landmarks Commission. Factors to be considered when making a finding regarding Landmark designation of a historic structure include the following:

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

3.5.1.2 *Existing Conditions*

Historical Resources

550 East Brokaw Road

The project site contains the former Fry's Electronics store headquarters. The existing building was originally constructed in 1966 and was remodeled in 1983 and 1995. The original building was designed Schubart and Friedman Consulting Architects and Planners and built by Associated Construction and Engineering Company for the Levi Strauss Company.

The original building on site was constructed as a one-story warehouse and office building for the Levi Strauss Company and served as a distribution center for the company from 1967 until 1979. Tandem Computers, Inc. of Cupertino leased the subject property from 1981 through 1983. In 1983, the property was purchased by TeleVideo Systems, Inc. and remodeled for the company. A larger, two story office building was constructed to the north of the original warehouse building and the northern half of the warehouse was renovated by Frederiksen Engineering to match the new two-story addition. TeleVideo Systems occupied the building from 1985 to 1995. Fry's Electronics purchased the property in 1995 and remodeled the former warehouse building for use as a themed retail store which opened in 1996. In 1998, Fry's Electronics moved its company headquarters to San José.

Fry's Electronics was founded in Silicon Valley in 1985 as a family venture by three brothers, John, Randy, and David Fry, with Kathryn Kolder as a business partner. Fry's Electronics opened its first store in Sunnyvale in 1985 near the intersection of Oakmead Parkway and Lakeside Drive. Since the Fry brothers started working in their father's grocery business, Fry's Food Stores, the electronics stores carried both electronics and groceries, aiming to be a one stop-shop for the area's tech workers. Every Fry's store featured its own unique theme: the Wild West in Palo Alto, a Martian landscape in Burbank, the 1893 World's Fair in Fremont, the history of Silicon Valley in Sunnyvale, and Egypt in Campbell.

The retail store at 550 East Brokaw Road paid tribute to the Mayans, with settings from Chichen Itza, including a massive temple at the entrance, palm trees and hidden speakers in the parking lot that played the sounds of chirping birds. Eric Christensen, a movie prop designer, created the designs for the Fry's Electronics stores. Christensen worked at the Skywalker Arts and Crafts Studio during the early 1980s and helped design George Lucas' ranch. The exotically themed electronics stores became "techie heavens" or "quirky go-to places" with a wide selection and low prices. Fry's initially catered to engineers and workers in the tech industry of the Silicon Valley. The components they stocked, such as computer processors, memory chips, circuit boards and transistors, could be used by the hobbyist or aspiring entrepreneurs for their own projects. By the late 1990s, it was the place to go to find cutting-edge tech devices that couldn't be found anywhere else. According to a Silicon Valley Business Journal article, "at its peak in the [1990s] and in the early 2000s, Fry's was kind of the center of Silicon Valley."

In the early 2000s, the electronics chain began to expand its offerings and became a big-box store and never quite regained the identity that made it a destination in the late 1980s and early 1990s. Ultimately, Fry's Electronics struggled with the demand for online shopping. They also struggled with the industry's shift from the PCs to laptops, tablets, and smartphones since people stopped buying computer parts. The store used to sell software, but it had to downsize that section as well when tech companies switched to online software downloads and subscriptions. On an even higher level, Fry's was a physical manifestation of a Silicon Valley that no longer exists. In the age when it was founded and prospered, the iconic products of the Valley were, indeed, products - from Apple desktop computers to HP laser printers to Seagate hard drives. But this century, the area's biggest new successes, such as Google and Facebook, got huge fast because their businesses were entirely cloud-based and free to use. You didn't have to go to Fry's to get them, which severed the tight relationship between the store and the region that gave it birth.

In 2019, it was rumored that Fry's was going out of business. At the time, the company had eight stores in Northern California (including the subject property), nine in Southern California, and 17 stores in other states. In February 2021, Fry's Electronics announced the permanent closure of all of its stores. At the time of the closing announcement, Fry's had Bay Area stores in San Jose, Sunnyvale, Fremont, and Concord.

The property at 550 East Brokaw Road was evaluated for eligibility for listing the NRHP, CRHR and the San José Historic Resources Inventory. The evaluation concluded that the subject property did not possesses sufficient historical significance for listing on the national, state or local level. The property is not associated with the development of San Jose or the Bay Area in an individually significant way. No persons of significance are known to be directly associated with the subject property. The utilitarian warehouse and the contemporary office addition do not embody any distinctive characteristics of a type, period, region, or method of construction. The original warehouse building was designed by Schubart and Friedman, a notable firm based in San Francisco. However, it is a modest structure and does not possess high artistic values. The property is unlikely to yield information important to the prehistory or history of the area. Therefore, the property at 550 East Brokaw Road is not considered a historical resource as defined by CEQA.

The area surrounding the subject property was agricultural in the late 1940s and early 1950s. The first warehouse-like structures on East Brokaw Road to the west of the subject property appeared on the 1960 aerial photograph. Although more buildings at the intersection of East Brokaw Road and Junction Avenue had been developed by 1968, the area remained primarily agricultural. Most of the buildings at the East Brokaw Road and Junction Avenue intersection were constructed between 1957 and 1981 according to the City of San José records. No surrounding properties are identified as a

historical resource in the NRHP, CRHR, or City's Historic Resources Inventory (HRI).[24,25] Because the surrounding industrial area was largely built out by the early 1980s and the project will not directly affect any surrounding properties, there will not be indirect impacts to historical resources under CEQA.

Prehistoric Resources

The project site is located in the Santa Clara Valley, which was originally inhabited by a Native American group known as the "Costanoan" or Ohlone over a period of 5,000 to 8,000 years prior to Spanish exploration and colonization of the region. Prehistoric sites recorded in the Santa Clara Valley include villages, temporary campsites, and non-habitation sites including stone tool and other manufacturing areas, quarries for tool stone procurement, cemeteries usually associated with large villages, isolated burial locations, rock art sites, bedrock mortars or other milling feature sites, and Native American trails.

Eighteen prehistoric archaeological sites, one isolated prehistoric find, two reported but unrecorded prehistoric resources and two Native American ethnographic villages/settlements are known to be present in the North San José area. Prehistoric archaeological resources within and adjacent to the North San José area are typically midden sites (former habitation sites) which provide evidence of intensive and extensive human occupation. Native American burials are often present in these deposits. Midden sites included former mounds along the Guadalupe River as well as sites covered with up to four feet of sediments.

Native American archaeological sites have been identified adjacent to the Guadalupe River and Coyote Creek, the latter of which is located 650 feet northeast of the project site. The Archaeological Literature Search identified one study of the project site and 11 studies in the project vicinity but did not identify any cultural or built environments recorded on or within approximately 150 feet of the project site. Additionally, no archaeological resources were identified within 0.25 mile of the project site. However, due to the project site's proximity to Coyote Creek, the Archaeological Literature Search identified a moderate to high potential for subsurface cultural resources to be discovered.

3.5.2 Impact Discussion

For the purpose of determining the significance of the project's impact on cultural resources, would the project:

a) Cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?
c) Disturb any human remains, including those interred outside of dedicated cemeteries?

[24] City of San José. *Historic Resources Inventory, Landmarks, Districts, and Architectural and Archaeological Resources.* Map. December 2010.
[25] TreanorHL. *Historic Resources Assessment for 550 E. Brokaw Road, San Jose, California.* August 4, 2021.

3.5.2.1 *Project Impacts*

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

A historic resource is considered to be historically significant by the City of San José if it is listed or meets the criteria for listing on the NRHP, CRHR, or as a Candidate City Landmark on the City's HRI.

A Historic Resources Assessment (HRA) was prepared for the 550 East Brokaw property by TreanorHL (refer to Appendix D) to evaluate the potential historic significance of the property at 550 East Brokaw Road. The subject property was not previously identified on any local, state, or national historic resources inventory.

NRHP/CRHR Evaluation

Under CEQA, resources that meet the criteria of the NRHP/CRHR are considered historical resources for the purposes of CEQA. The determination of historical significance requires that several factors be considered, including: the property's history; the history and context of the surrounding community; an association with important persons or uses; the number of resources associated with the property; the potential for the resources to be the work of a master architect, builder, craftsman, landscape gardener or artist; the historical, architectural or landscape influences that have shaped the property's design and its pattern of use; and alterations that have taken place and how these changes may have affected the property's historical integrity.

To be eligible for the NRHP/CRHR, historic resources must both possess historic significance and retain historic integrity. There are four significance criteria under the NHRP/CRHR which must be reviewed. If significance is identified, then an analysis of a resource's integrity is conducted. The four significance criteria are as follows:

- Criterion A/1: Association with Significant Events. It is associated with events or patterns of events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States.
- Criterion B/2: Important Person(s). It is associated with the lives of persons important to local, California or national history.
- Criterion C/3: Architecture/Construction. It embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of a master, or possesses high artistic values.
- Criterion D/4: Information Potential. It has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California or the nation.

San José Landmark Evaluation

According to the City of San José's Historic Preservation Ordinance, a resource qualifies as a City Landmark if it has "special historical, architectural, cultural, aesthetic or engineering interest or value

of an historical nature."[26] The Historic Landmarks Commission may consider the following factor when reviewing landmark designations:

- 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 Jose;
- 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 Jose; and
- Its embodiment of elements of architectural or engineering design, detail, materials or craftsmanship which represents a significant architectural innovation or which is unique." (Sec. 13.48.110.H)

The HRA prepared by TreanorHL concluded that the subject property is not eligible for listing in the NRHP or CRHR. Although the property was associated with the jeans and clothing company Levi Strauss & Co. and various electronics companies, including Fry's Electronics, there is no individually significant association with any events or persons of exceptional importance. The existing building is of utilitarian and contemporary design and was not constructed or designed by masters. Based on archival research, the subject property is not expected to yield any information of archaeological or historical significance. While the existing building retains its integrity of location and setting, the integrity of the design, materials, and workmanship has been compromised by the numerous renovations and alterations that have occurred.

Additionally, the HRA included a San José Candidate City Landmark evaluation, which concluded that the subject property is not eligible for listing on the City's HRI. Although the property and its buildings were used by a number of prominent Silicon Valley electronic companies, none of these companies were associated with the development of Silicon Valley or the San Francisco Bay Area in an individually significant way. None of these businesses have achieved significance recently, are of exceptional importance, or exemplify the cultural, economic, social or historic heritage of the City of San José. No historic events or persons of significance are associated with the property. Further, the utilitarian and contemporary design of the existing buildings do not portray the environment of a group of people in an era of history or embody distinguishing characteristics of an architectural type or specimen or elements of architectural or engineering design, detail, materials or craftsmanship

[26] The ordinance defines the term "historical, architectural, cultural, aesthetic, or engineering interest or value of an historical nature" as deriving from, based on, or related to any of the following factors:

1. Identification or association with persons, eras or events that have contributed to local, regional, state or national history, heritage or culture in a distinctive, significant or important way;
2. Identification as, or association with, a distinctive, significant or important work or vestige
3. The factor of age alone does not necessarily confer a special historical, architectural, cultural, aesthetic or engineering significance, value or interest upon a structure or site, but it may have such effect if a more distinctive, significant or important example thereof no longer exists.

which represents a significant architectural innovation or which is unique. As noted above, the existing development was not constructed or designed by masters.

Conclusion for checklist question a): The project would not cause a substantial adverse change in the significance of a historical resource. **(No Impact)**

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

Previous archaeological studies of the project site and surrounding area have not discovered archaeological resources on or within 0.25 mile of the project site. However, due to the project site's proximity to Coyote Creek, the project has a moderate to high sensitivity for subsurface archaeological resources. Construction activities could significantly impact archaeological resources, if encountered.

Impact CUL-1: Construction activities on the project site could potentially result in the disturbance of archaeological resources pursuant to CEQA Guidelines Section 15064.5.

Mitigation Measures:

MM CUL-1.1: Following the demolition of the existing buildings and parking lot and prior to excavation or construction activities including grading and potholing for utilities, a qualified archaeologist who is trained in both local prehistoric and historical archaeology, in collaboration with a Native American representative registered with the Native American Heritage Commission for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3, shall complete subsurface exploration of the site, to determine if there are any indications of discrete historic-era subsurface archaeological features. Exploring for historic-era features shall consist of at least one trench mechanically to evaluate the potential for Native American and historic era resources. Excavation depths shall be commensurate with the deepest proposed development impacts. If any archaeological resources are exposed, these should be briefly documented, tarped for protection, and left in place. The results of the presence/absence exploration, including any treatment recommendations if any, shall be submitted to the Director of the City of San José Department of Planning, Building, and Code Enforcement or Director's designee for review and approval prior to issuance of any grading permit. Based on the findings of the subsurface testing, an archaeological resources treatment plan as described in MM CUL-1.2 shall be prepared by a qualified archaeologist in collaboration with a Native American representative, registered with the Native American Heritage Commission for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3, if necessary.

MM CUL-1.2: **Treatment Plan.** If required by MM CUL-1.1, the project applicant shall retain a qualified archaeologist to prepare a treatment plan in consultation with the tribal representative that reflects detail pertaining to depths and locations of excavation activities. The treatment plan shall be prepared and submitted to the Director of Planning, Building, and Code Enforcement or Director's designee prior to approval of any grading permits. The treatment plan shall contain, at a minimum:

i. Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations.
ii. Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found).
iii. Monitoring schedules and individuals
iv. Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information).
v. Detailed field strategy to record, recover, or avoid the finds and address research goals.
vi. Analytical methods.
vii. Report structure and outline of document contents.
viii. Disposition of the artifacts.
ix. Security approaches or protocols for finds.
x. Appendices: all site records, correspondence, and consultation with Native Americans, etc. Implementation of the plan, by a qualified archaeologist, shall be required prior to the issuance of any grading permits. The treatment plan shall utilize data recovery methods to reduce impacts on subsurface resources.

MM CUL-1.3: **Evaluation.** The project applicant shall notify the Director of Planning, Building, and Code Enforcement or Director's designee of any finds during the preliminary field investigation, grading, or other construction activities. Any historic or prehistoric material identified in the project area during the preliminary field investigation and during excavation activities shall be evaluated for eligibility for listing in the California Register of Historic Resources as determined by the California Office of Historic Preservation. Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand augering, and hand-excavation. The techniques used for data recovery shall follow the protocols identified in the approved treatment plan. Data recovery shall include excavation and exposure of features, field documentation, and recordation. All documentation and recordation shall be submitted to the Northwest Information Center and Native American Heritage Commission (NAHC) Sacred Land Files, and/or equivalent prior to the issuance of an occupancy permit. A copy of the evaluation shall be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee.

Implementation of MM CUL-1.1 through CUL-1.3 would ensure that any unearthed buried archaeological resources are analyzed, evaluated, and curated in compliance with CEQA.

In accordance with General Plan Policy ER-10.3, the project would also be required to implement the below standard permit condition to reduce or avoid impacts to unknown subsurface cultural resources.

Standard Permit Conditions:

- **Subsurface Cultural Resources.** If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist in consultation with a Native American Tribal representative registered with the Native American Heritage Commission for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3 shall 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 Director of PBCE or the Director's designee and the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.

Adherence to MM CUL-1.1 through CUL-1.3 and the standard permit condition described above would ensure that any objects encountered during ground-disturbing activities that meet the definition of a prehistoric or historic resource are appropriately identified and protected.

Conclusion for checklist question b): The project with implementation of standard permit conditions would not cause a substantial adverse change in the significance of an archaeological resource. **(Less than Significant Impact)**

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

Human graves are often associated with prehistoric occupation sites. Although unlikely, it is possible that project construction activities could disturb as-yet undiscovered human remains at the project site. The City has standard permit conditions which ensure that an appropriate process is followed in the event of accidental discovery of human remains during project construction.

Standard Permit Conditions: Implementation of the following conditions would reduce impacts to human remains.

- **Human Remains.** If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:
    i. The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
    ii. The MLD identified fails to make a recommendation; or
    iii. The landowner or his authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.

By following the process set forth in the above standard permit conditions, the project would ensure that any human remains encountered during ground-disturbing activities are appropriately identified and treated.

Conclusion for checklist question c): The project with implementation of standard permit condition would not result in a significant impact to human remains if encountered. **(Less than Significant Impact)**

3.5.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant cumulative cultural resources impact?

The geographic area for cumulative impacts to cultural resources includes the project site and surrounding area because it is assumed disturbance in the project area would affect similar cultural resources. As discussed under Cultural Resources checklist question a), the project would have no impact on historic resources; as such, the project would not contribute to a cumulatively significant impact to historic resources. Current and future cumulative projects may include construction activities (excavation, grading, etc.) that could encounter undiscovered subsurface archaeological resources or human remains. All cumulative projects would be subject to federal, state, and local regulations protecting archaeological resources and human remains (refer to Section 3.5.1.1 Regulatory Framework), as well as the standard permit conditions identified under Cultural

Resources checklist questions b) and c). As a result, the project would not contribute to a cumulatively significant impact on archaeological resources or human remains.

Conclusion to the Cultural Resources Cumulative Impacts discussion:

- For these reasons described above, the project with the implementation of standard permit conditions would not result in a cumulatively considerable contribution to a significant cultural resources impact. **(Less than Significant Cumulative Impact)**

3.6 ENERGY

The discussion in this section is based, in part, on an Air Quality and Greenhouse Gas Assessment prepared for the project site by Illingworth & Rodkin, Inc. The report, dated August 10, 2021, is attached to this EIR as Appendix B.

3.6.1 Environmental Setting

3.6.1.1 *Regulatory Framework*

Federal and State

Energy Star and Fuel Efficiency

At the federal level, energy standards set by the EPA apply to numerous consumer products and appliances (e.g., the EnergyStar™ program). The EPA also sets fuel efficiency standards for automobiles and other modes of transportation.

Renewables Portfolio Standard Program

In 2002, California established its Renewables Portfolio Standard Program, with the goal of increasing the percentage of renewable energy in the state's electricity mix to 20 percent of retail sales by 2010. Governor Schwarzenegger issued Executive Order (EO) S-3-05, requiring statewide emissions reductions to 80 percent below 1990 levels by 2050. In 2008, EO S-14-08 was signed into law, requiring retail sellers of electricity serve 33 percent of their load with renewable energy by 2020. In October 2015, Governor Brown signed SB 350 to codify California's climate and clean energy goals. A key provision of SB 350 requires retail sellers and publicly owned utilities to procure 50 percent of their electricity from renewable sources by 2030. SB 100, passed in 2018, requires 100 percent of electricity in California to be provided by 100 percent renewable and carbon-free sources by 2045.

Executive Order B-55-18 To Achieve Carbon Neutrality

In September 2018, Governor Brown issued an executive order, EO-B-55-18 To Achieve Carbon Neutrality, setting a statewide goal "to achieve carbon neutrality as soon as possible, and no later than 2045, and achieve and maintain net negative emissions thereafter." The executive order requires CARB to "ensure future Scoping Plans identify and recommend measures to achieve the carbon neutrality goal." EO-B-55-18 supplements EO S-3-05 by requiring not only emissions reductions, but also that, by no later than 2045, the remaining emissions be offset by equivalent net removals of CO_2 from the atmosphere through sequestration.

California Building Standards Code

The Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6 of the California Code of Regulations (Title 24), was established in 1978 in response to a legislative mandate to reduce California's energy consumption. Title 24 is updated approximately

every three years.[27] Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.[28]

California Green Building Standards Code

CALGreen establishes mandatory green building standards for buildings in California. CALGreen was developed to reduce GHG emissions from buildings, promote environmentally responsible and healthier places to live and work, reduce energy and water consumption, and respond to state environmental directives. CALGreen covers five categories: planning and design, energy efficiency, water efficiency and conservation, material and resource efficiency, and indoor environmental quality.

Advanced Clean Cars Program

CARB adopted the Advanced Clean Cars program in 2012 in coordination with the EPA and National Highway Traffic Safety Administration. The program combines the control of smog-causing pollutants and GHG emissions into a single coordinated set of requirements for vehicle model years 2015 through 2025. The program promotes development of environmentally superior passenger cars and other vehicles, as well as saving the consumer money through fuel savings.[29]

Local

Climate Smart San José

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

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

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes the following policies that are specific to energy resources and applicable to the proposed project:

[27] California Building Standards Commission. "California Building Standards Code." Accessed September 2, 2021. https://www.dgs.ca.gov/BSC/Codes#@ViewBag.JumpTo.
[28] California Energy Commission (CEC). "2019 Building Energy Efficiency Standards." Accessed September 2, 2021. https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2019-building-energy-efficiency.
[29] California Air Resources Board. "The Advanced Clean Cars Program." Accessed September 2, 2021. https://ww2.arb.ca.gov/our-work/topics/clean-cars

Policy	Description
MS-2.2	Encourage maximized use of on-site generation of renewable energy for all new and existing buildings.
MS-2.3	Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
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).
MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation or other area functions.
MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
MS-6.5	Reduce the amount of waste disposed in landfills through waste prevention, reuse, and recycling of materials at venues, facilities, and special events.
MS-6.8	Maximize reuse, recycling, and composting citywide.
MS-14.3	Consistent with the California Public Utilities Commission's California Long Term Energy Efficiency Strategic Plan, as revised and when technological advances make it feasible, require all new residential and commercial construction to be designed for zero net energy use.
MS-14.4	Implement the City's Green Building Policies (see Green Building Section) so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, and passive solar building design and planting of trees and other landscape materials to reduce energy consumption.
MS-14.5	Consistent with State and Federal policies and best practices, require energy efficiency audits and retrofits prior to or at the same time as consideration of solar electric improvements.

City of San José Municipal Code

The City's Municipal Code includes regulations associated with energy efficiency and energy use. City regulations include an Energy and Water Building Performance Ordinance (Chapter 17.85) to minimize the use and waste of energy, water and other resources in commercial and multi-family residential buildings, Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.10), requirements for Transportation Demand Programs for employers with more than 100 employees (Chapter 11.105), and a Construction & Demolition Diversion (CDD) Program that requires recycling of construction and demolition materials (Chapter 9.10).

2030 Greenhouse Gas Reduction Strategy

The 2030 Greenhouse Gas Reduction Strategy (GHGRS) is the latest update to the City's previously adopted 2011 GHGRS and is designed to meet statewide GHG reduction targets for 2030 set by Senate Bill 32. As a qualified Climate Action Plan, the 2030 GHGRS allows for tiering and streamlining of GHG analyses under CEQA. The GHGRS identifies General Plan policies (including the policies identified in in the above table) and strategies to be implemented by development projects in the areas of green building/energy use, multimodal transportation, water conservation, and solid waste reduction. These seven strategies include:

1. San José Clean Energy – The City will implement the San José Clean Energy program to provide residents and businesses access to cleaner energy at competitive rates.
2. Zero Net Carbon Residential Construction – The City will implement its building reach code ordinance (adopted September 2019) and its prohibition of natural gas infrastructure ordinance (adopted October 2019) to guide the city's new construction toward zero net carbon (ZNC) buildings.
3. Renewable Energy Development – The City will expand development of rooftop solar energy through the provision of technical assistance and supportive financial incentives to make progress toward the Climate Smart San José goal of becoming a one-gigawatt solar city.
4. Natural Gas Building Retrofits – The City will support a transition to building decarbonization through increased efficiency improvements in the existing building stock and reduced use of natural gas appliances and equipment.
5. Zero Waste Goal – As an expansion to Climate Smart San José, the City will update its Zero Waste Strategic Plan and reassess zero waste strategies. Throughout the development of the update, the City will continue to divert 90 percent of waste away from landfills through source reduction, recycling, food recovery and composting, and other strategies.
6. Caltrain Modernization Project – The City will continue to be a partner in the Caltrain Modernization Project to enhance local transit opportunities while simultaneously improving the city's air quality.
7. Water Conservation – The City will expand its water conservation efforts to achieve and sustain long-term per capita reductions that ensure a reliable water supply with a changing climate, through regional partnerships, sustainable landscape designs, green infrastructure, and water-efficient technology and systems.

San José Reach Code

In 2019, the San José City Council approved Ordinance No. 30311 and adopted Reach Code Ordinance (Reach Code) to reduce energy-related GHG emissions consistent with the goals of Climate Smart San José. In December 2020, the City Council updated the Reach Code to prohibit all natural gas infrastructure in new construction. This ordinance applies to any new construction starting August 1, 2021. The Reach Code also requires electric vehicle (EV) charging infrastructure for all building types (above current CALGreen requirements), and solar readiness for non-residential buildings.

City of San José Private Sector Green Building Policy (City Council Policy 6-32)

In October 2008, the City adopted City Council Policy 6-32, which establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. This policy requires that applicable projects achieve minimum green building performance levels using the Council adopted standards.

3.6.1.2 *Existing Conditions*

Total energy usage in California was approximately 7,802 trillion British thermal units (Btu) in the year 2019, the most recent year for which this data was available.[30] Out of the 50 states, California is ranked second in total energy consumption and 46th in energy consumption per capita. The breakdown by sector was approximately 19 percent (1,456 trillion Btu) for residential uses, 19 percent (1,468 trillion Btu) for commercial uses, 23 percent (1,805 trillion Btu) for industrial uses, and 39 percent (3,073 trillion Btu) for transportation.[31] This energy is primarily supplied in the form of natural gas, petroleum, nuclear electric power, and hydroelectric power.

Electricity

Electricity in Santa Clara County in 2019 was consumed primarily by the commercial sector (76 percent), followed by the residential sector consuming 24 percent. In 2019, a total of approximately 16,664 gigawatt hours (GWh) of electricity was consumed in Santa Clara County.[32]

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

Natural Gas

PG&E provides natural gas services within the City of San José. In 2018, approximately one percent of California's natural gas supply came from in-state production, while the remaining supply was imported from other western states and Canada.[33] In 2018, California used approximately 2,210 trillion Btu of natural gas.[34] In 2019, Santa Clara County used approximately 46 trillion Btu of natural gas, approximately two percent of the state's total consumption of natural gas in 2018.[35]

[30] United States Energy Information Administration. "State Profile and Energy Estimates, 2019." Accessed September 2, 2021. https://www.eia.gov/state/?sid=CA#tabs-2.
[31] United States Energy Information Administration. "State Profile and Energy Estimates, 2019." Accessed September 2, 2021. https://www.eia.gov/state/?sid=CA#tabs-2.
[32] California Energy Commission. Energy Consumption Data Management System. "Electricity Consumption by County." Accessed September 2, 2021. http://ecdms.energy.ca.gov/elecbycounty.aspx.
[33] California Gas and Electric Utilities. 2019 *California Gas Report.* Accessed September 2, 2021. https://www.socalgas.com/regulatory/documents/cgr/2019_CGR_Supplement_7-1-19.pdf.
[34] United States Energy Information Administration. "State Profile and Energy Estimates, 2018." Accessed September 2, 2021. https://www.eia.gov/state/?sid=CA#tabs-2.
[35] California Energy Commission. "Natural Gas Consumption by County." Accessed September 2, 2021. http://ecdms.energy.ca.gov/gasbycounty.aspx.

Fuel for Motor Vehicles

In 2018, approximately 15.6 billion gallons of gasoline were sold in California.[36] The average fuel economy for light-duty vehicles (autos, pickups, vans, and sport utility vehicles) in the United States has steadily increased from about 13.1 miles per gallon (mpg) in the mid-1970s to 25.5 mpg in 2019.[37] Federal fuel economy standards have changed substantially since the Energy Independence and Security Act was passed in 2007. That standard, which originally mandated a national fuel economy standard of 35 miles per gallon by the year 2020, was subsequently revised to apply to cars and light trucks model years 2011 through 2020. [38,39]

Energy Use of Existing Development

Energy (in the form of electricity and natural gas) are used by the existing development primarily for heating and cooling, lighting, and water heating. The existing development uses approximately 2,409,572 kilo British thermal units (kBtu)[40] of natural gas per year and 3,895,960 kilowatt-hours (kWh)[41] of electricity per year.[42] Traffic associated with the existing development generates 9,127,280 vehicle miles traveled annually. Assuming an annual fuel economy of 24.9 miles per gallon (mpg), the existing development uses 366,558 gallons of gasoline per year.

3.6.2 Impact Discussion

For the purpose of determining the significance of the project's impact on energy, would the project:

a) Result in a 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?
c) Result in a substantial increase in demand upon energy resources in relation to projected supplies?

[36] California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed September 2, 2021. https://www.cdtfa.ca.gov/taxes-and-fees/MVF-10-Year-Report.pdf.
[37] United States Environmental Protection Agency. "The 2019 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." Accessed September 2, 2021. https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100YVFS.pdf
[38] United States Department of Energy. *Energy Independence & Security Act of 2007.* Accessed September 2, 2021. http://www.afdc.energy.gov/laws/eisa.
[39] Public Law 110–140—December 19, 2007. *Energy Independence & Security Act of 2007.* Accessed September 2, 2021. http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf.
[40] The Btu is a unit of heat defined as the amount of heat required to raise the temperature of one pound of water by one degree Fahrenheit.
[41] The kilowatt-hour is a unit of energy equal to 3600 kilojoules.
[42] Illingworth & Rodkin, Inc. *550 East Brokaw Road Air Quality and Greenhouse Gas Emission Assessment*. August 10, 2021.

3.6.2.1 *Project Impacts*

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

Energy would be consumed during the construction and operational phases of the project, as discussed below.

Energy Use During Construction

The construction phase would require energy for the manufacture and transportation of building materials, preparation of the project site for grading, and the actual construction of the buildings. Petroleum-based fuels such as diesel fuel and gasoline would be the primary sources of energy for these tasks.

Construction of the project would require demolition, preparation of the site, grading, trenching, building construction, paving, and finishing of the building interiors. The overall construction schedule and process is designed to be efficient in order to avoid excess monetary costs. That is, equipment and fuel would not be used wastefully on the project site because of the added expense associated with renting the equipment, maintaining it, and fueling it. Further, construction of the project would occur in an urbanized area in proximity to roadways, construction supplies, and workers, making it more efficient than construction occurring in outlying, undeveloped areas. For these reasons, the construction process for the project is efficient.

In addition, energy would not be wasted or used inefficiently by construction equipment as the proposed project shall implement MM AIR-1.1, which would require the project to select equipment during construction that would minimize emissions. The project would also participate in the City's CDD program, which requires 75 percent of waste is recovered and recycled, thereby minimizing energy impacts from the creation of waste. For these reasons, the construction of the project would not use energy in a wasteful manner.

Energy Use During Project Operation

Operation of the project would consume energy for multiple purposes, including building heating and cooling, lighting, and appliance use. As noted in Section 3.6.1.1 Regulatory Framework, the City's Reach Code prohibits natural gas infrastructure in new construction projects. Accordingly, the project's estimated natural gas use was converted to electricity. Additionally, operational energy would also be consumed by employee vehicle use to and from the project site. The net increase in energy use of the project is summarized in Table 3.6-1 below.

Table 3.6-1: Estimated Annual Energy Use of Project	
Electricity (kWh/yr.)	**Gasoline (gallons)[1]**
42,005,740	1,196,627
Source: Illingworth & Rodkin, Inc. *550 East Brokaw Road Air Quality and Greenhouse Gas Emission Assessment*. August 10, 2021.	
Notes:	
[1] For gasoline use, an average fuel economy of 24.9 mpg and estimated annual VMT of 29,795,994 was assumed.	

As shown in Table 3.6-1 above, the project would result in an increase in energy demand for electricity and gasoline, but a decrease in demand for natural gas in comparison with existing conditions (refer to Section 3.6.1.2 Existing Conditions). The project, however, would not represent a wasteful or inefficient use of energy resources because the project would be required to comply with Title 24 and CALGreen requirements to reduce energy consumption. As required by the City's Private Sector Green Building Policy and the Green Building Ordinance, the project would achieve LEED Silver Certification. The project would also meet the energy efficiency performance requirements of the San José Reach Code, and includes complementary measures, such as the use of low-e glass to reduce energy consumption and solar gain. Additionally, mitigation measures TRN-1.1 through TRN-1.3 would incentivize the use of alternative methods of transportation to and from the site, which would reduce the project's gasoline demand. Finally, as the project involves the construction and operation of conventional building types, there is nothing atypical or unusual about the project's construction or operations that would result in wasteful, inefficient, or unnecessary consumption of energy.

Conclusion for checklist question a): With implementation of mitigation measures TRN-1.1 through TRN-1.3, the project would not result in a potentially significant impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation. **(Less than Significant Impact with Mitigation Incorporated)**

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

The project would comply with the current energy efficiency standards set forth in Title 24, Climate Smart San José, the City's Reach Code and Private Sector Green Building Policy, and the City's Municipal Code chapters identified in Section 3.6.1.1 Regulatory Framework pertaining to energy, water, and construction and demolition efficiencies. In addition, the project would be required by Climate Smart San José and the City's Reach Code to enroll in SJCE's TotalGreen program, which provides 100 percent carbon-free energy, consistent with the state's Renewables Portfolio Standard Program and SB 350. For these reasons, the project would comply with state and local plans for renewable energy and energy efficiency.

Conclusion for checklist question b): The project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. **(Less than Significant Impact)**

c) Would the project result in a substantial increase in demand upon energy resources in relation to projected supplies?

Electricity

Due to population increases, it is estimated that future demand in California (for electricity) would increase by approximately one percent each year through 2027. Efficiency and production capabilities would help meet increased electricity demand in the future, such as improving energy efficiency in existing and future buildings, establishing energy efficiency targets, inclusion of microgrids and zero-net energy buildings, and integrating renewable technologies.[43] The project would be built to the most recent CALGreen requirements, Title 24 energy efficiency standards, and meet LEED Silver standards, which would improve the efficiency of the overall project.

Electricity supply and demand data and reporting is provided at the state level. At maximum, the project would result in a net increase in approximately 42,005,740 kWh, or 42 GWh of electricity use per year, which would be less than a 0.0002 percent increase in the state's annual use.[44] Also, refer to the discussion under checklist question a) as to why the project would not result in wasteful, inefficient, or unnecessary consumption of energy. For these reasons, the project's increase in electricity use would not result in a significant increase in demand on electrical energy resources in relation to projected supplies statewide.

Natural Gas

As noted under Section 3.6.1.1 Regulatory Framework, the City's Reach Code prohibits the installation of natural gas infrastructure in new construction. Therefore, operation of the project, which would comply with the City's Reach Code and enroll in the SJCE TotalGreen program, which provides 100 percent carbon-free energy, would not increase demand for natural gas.

Fuel for Motor Vehicles

Project trips would increase gasoline use by approximately 830,069 gallons per year in comparison to existing conditions.[45] This increase is small when compared to the 15.4 billion gallons of gasoline consumed in California in 2019. Further, as discussed under checklist question a), the project's gasoline use would also be reduced with implementation of mitigation measures TRN-1.1 through TRN-1.3 (refer to Section 3.17 Transportation checklist question b). Further, new automobiles purchased by future occupants of the project would be subject to fuel economy and efficiency standards applied throughout the State of California, which means that over time, the fuel efficiency of vehicles associated with the project would improve. As such, the project would not result in a significant increase in gasoline demand relative to projected supply. Also, refer to the discussion under checklist question a) as to why the project would not result in wasteful, inefficient, or unnecessary consumption of energy.

[43] California Energy Commission. "2016 Integrated Energy Policy Report." Accessed September 2, 2021. https://www.energy.ca.gov/data-reports/reports/integrated-energy-policy-report

[44] As of the latest available data (2019), California's total electricity consumption in 2019 was 279,402 GWh. Source: http://ecdms.energy.ca.gov/elecbycounty.aspx

[45] 1,196,627 (annual gallons of gasoline consumed under project) minus 366,558 (annual gallons consumed under existing conditions) equals 830,069 gallons.

Conclusion for checklist question c): With implementation of mitigation measures TRN-1.1 through TRN-1.3, the project would not result in a substantial increase in demand upon energy resources in relation to projected supplies. **(Less than Significant Impact with Mitigation Incorporated)**

3.6.2.2 *Cumulative Impacts*

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

By its nature, energy is a cumulative resource. The geographic area for cumulative energy impacts is the state. Past, present, and future development projects contribute to the state's energy impacts. If the project is determined to have a significant energy impact, it is concluded that the impact is cumulatively considerable. As discussed under checklist questions a) through c) above, the project with the implementation of mitigation measures TRN-1.1 through TRN-1.3 would not result in significant energy impacts and it is concluded that the project would not result in significant cumulative energy impacts.

Conclusion to the Energy Cumulative Impact discussion: With the implementation of mitigation measures TRN-1.1 through TRN-1.3, the project would have a less than significant cumulative energy impact. **(Less than Significant Cumulative Impact with Mitigation Incorporated)**

3.7 GEOLOGY AND SOILS

The following discussion is based, in part, on a Geotechnical Investigation completed for the proposed project by Rockridge Geotechnical, Inc. The report, dated August 12, 2020, is included in this EIR as Appendix E.

3.7.1 Environmental Setting

3.7.1.1 *Regulatory Framework*

State

Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Earthquake Fault Zoning Act was passed following the 1971 San Fernando earthquake. The act regulates development in California near known active faults due to hazards associated with surface fault ruptures. Alquist-Priolo maps are distributed to affected cities, counties, and state agencies for their use in planning and controlling new construction. Areas within an Alquist-Priolo Earthquake Fault Zone require special studies to evaluate the potential for surface rupture to ensure that no structures intended for human occupancy are constructed across an active fault.

Seismic Hazards Mapping Act

The Seismic Hazards Mapping Act (SHMA) was passed in 1990 following the 1989 Loma Prieta earthquake. The SHMA directs the California Geological Survey (CGS) to identify and map areas prone to liquefaction, earthquake-induced landslides, and amplified ground shaking. CGS has completed seismic hazard mapping for the portions of California most susceptible to liquefaction, landslides, and ground shaking, including the central San Francisco Bay Area. The SHMA requires that agencies only approve projects in seismic hazard zones following site-specific geotechnical investigations to determine if the seismic hazard is present and identify measures to reduce earthquake-related hazards.

California Building Standards Code

The CBC prescribes standards for constructing safe buildings. The CBC contains provisions for earthquake safety based on factors including occupancy type, soil and rock profile, ground strength, and distance to seismic sources. The CBC requires that a site-specific geotechnical investigation report be prepared for most development projects to evaluate seismic and geologic conditions such as surface fault ruptures, ground shaking, liquefaction, differential settlement, lateral spreading, expansive soils, and slope stability. The CBC is updated every three years; the 2019 CBC went into effect on January 1, 2020.

California Division of Occupational Safety and Health Regulations

Excavation, shoring, and trenching activities during construction are subject to occupational safety standards for stabilization by the California Department of Industrial Relations, Division of Occupational Safety and Health (Cal/OSHA) under Title 8 of the California Code of Regulations and

Excavation Rules. These regulations minimize the potential for instability and collapse that could injure construction workers on the site.

Public Resources Code Section 5097.5

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. They range from mammoth and dinosaur bones to impressions of ancient animals and plants, trace remains, and microfossils. These are valued for the information they yield about the history of the earth and its past ecological settings. California Public Resources Code Section 5097.5 specifies that unauthorized removal, excavation, destruction, injury, or defacement 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 following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to geology and soils and are applicable to the project.

Policy	Description
EC-3.1	Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.
EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.
EC-4.2	Approve development in areas subject to soils and geologic hazards, including 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.
EC-4.4	Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
EC-4.5	Ensure that any development activity that requires grading does not impact adjacent properties, local creeks, and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 1 and April 30.

EC-4.7	Consistent with the San José Geologic Hazard Ordinance, prepare geotechnical and geological investigation reports for projects in areas of known concern to address the implications of irrigated landscaping to slope stability and to determine if hazards can be adequately mitigated.
ES-4.9	Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.

City of San José Municipal Code

Title 24 of the San José Municipal Code includes the 2019 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 17.10 (Building Code, Part 6 Excavation and Grading). In accordance with the 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.

3.7.1.2 *Existing Conditions*

Regional Geology

The City of San José is located in the northern Santa Clara Valley, an alluvial basin underlain by sedimentary and metamorphic rocks of the Franciscan Complex. These alluvial deposits consist of unconsolidated to semi-consolidated sand, silt, clay, and gravel. The Santa Clara Valley is bounded by the Diablo Range to the east and the Santa Cruz Mountains to the west. The Valley was formed when sediments derived from both mountain ranges were exposed by tectonic uplift and regression of the inland sea which previously inundated this area.

On-Site Geologic Conditions

Soils and Topography

The project site is located in a relatively flat area on the floor of the Santa Clara Valley. The soils on-site consist of Urbanland-Elder complex, 0 to 2 percent slopes (approximately 84.5 percent of the site), Urbanland-Campbell complex, 0 to 2 percent slopes (approximately 8.4 percent of the site), and Urbanland-Elpaloalto complex, 0 to 2 percent slopes (approximately 7.1 percent of the site). The Urbanland-Elder complex consists of somewhat excessively drained fine sandy loam of low to medium plasticity. The Urbanland-Campbell complex consists of moderately well drained silt loam and silt clay. The Urbanland-Elpaloalto complex consists of well drained clay loam and silty clay loam. Both the Urbanland-Campbell and Urbanland-Elpaloalto complexes are of medium to high plasticity.[46]

[46] United States Department of Agriculture, Natural Resources Conservation Service. "Web Soil Survey". Accessed September 2, 2021. https://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx

The project site slopes gently uphill in an west-east direction at an average angle of two percent, with at-grade elevations ranging between 47 and 54 feet above sea level.[47]

Seismicity and Seismic Hazards

The project site is located within the seismically active San Francisco Bay region. The San Francisco Bay Area contains several faults that are capable of generating earthquakes of magnitude 7.0 or higher. The closest faults to the project site are the Hayward (approximately 7.8 miles northeast of the site), Calaveras (approximately 11 miles east of the site), the Monta Vista (approximately 15 miles southwest of the site), and San Andreas (approximately 21 miles southwest of the site) faults. The project site is not located within an Alquist-Priolo Earthquake Fault Zone or a Santa Clara County Fault Rupture Hazard Zone for any of the faults mentioned above.[48,49] Refer to Appendix E for a comprehensive list of regional fault segments and seismicity.

Liquefaction

Liquefaction is a temporary loss of shear strength as a result of increased pore pressure due to strong ground shaking or cyclic loading. Liquefaction is defined by saturation of soil and loss of cohesion. It is associated with loose, high-plasticity soils and near-surface groundwater levels. The project site is located in a Liquefaction Hazard Zone, as identified in maps prepared by the California Geological Survey, and soils on-site are of medium to high plasticity.[50,51]

Lateral spreading typically occurs as a form of horizontal displacement of relatively flat-lying soil toward an open or "free" face such as an open body of water, channel, or excavation. This movement is often associated with liquefaction and commonly occurs on gentle slopes in seismically active regions. Lateral spread presents a significant hazard to the integrity of buildings and other structures.

Landslides

The project site is located on the valley floor and is relatively flat (slopes on site range from zero to two percent), and is not mapped within a state-designated Landslide Hazard Zone.[52]

Groundwater

Groundwater has been documented to flow northwest at depths between 7 and 12 feet below ground surface (bgs) within the project vicinity. Groundwater levels can fluctuate temporally due to a variety of factors, including seasonal variations in precipitation and temperature, and rates of groundwater extraction in the surrounding area.

[47] Measurements taken using Google Earth Pro.
[48] California Geological Survey. "Earthquake Zones of Required Investigation." Accessed September 2, 2021. https://maps.conservation.ca.gov/cgs/EQZApp/app/
[49] County of Santa Clara Department of Planning and Development. "Geologic Maps and Data." Accessed September 2, 2021. https://www.sccgov.org/sites/dpd/OrdinancesCodes/GeoHazards/Pages/GeoMaps.aspx
[50] California Geological Survey. "Earthquake Zones of Required Investigation." Accessed September 2, 2021. https://maps.conservation.ca.gov/cgs/EQZApp/app/
[51] United States Department of Agriculture, Natural Resources Conservation Service. "Web Soil Survey". Accessed September 2, 2021. https://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx
[52] Ibid.

Paleontological Resources

Paleontological resources are the fossilized remains of organisms from prehistoric environments from in geologic strata. Most of the City is situated on alluvial fan deposits of Holocene age that have a low potential to contain significant nonrenewable paleontological resources; however, Pleistocene sediments present at or near the ground surface at some locations have high potential to contain these resources. These sediments have yielded the fossil remains of plants and extinct terrestrial Pleistocene vertebrates. Per the City's Paleontological Sensitivity Map, the project site is located in an area of high paleontological sensitivity at depth.[53]

3.7.2 Impact Discussion

For the purpose of determining the significance of the project's impact on geology and soils, would the project:

a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:
   - Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault (refer to Division of Mines and Geology Special Publication 42)?
   - Strong seismic ground shaking?
   - Seismic-related ground failure, including liquefaction?
   - Landslides?

b) Result in substantial soil erosion or the loss of topsoil?

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

d) Be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property?

e) 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?

f) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?

[53] C. Bruce Hanson. *Paleontological Evaluation Report for the Envision San José 2040 General Plan, Santa Clara County, California*. September 2010.

3.7.2.1 *Project Impacts*

a) Would the project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault; strong seismic ground shaking; seismic-related ground failure, including liquefaction; or landslides?

Fault Rupture

The project site is not located within an Alquist-Priolo Earthquake Fault Zone or a Santa Clara County Fault Rupture Hazard Zone, making fault rupture at the site unlikely. While existing faults are located in the region, the proposed project is outside of the fault zone for any regional fault systems, and loss, injury, or death from fault ruptures would not occur at the project site.

Seismic Ground Shaking

The project site is located within the seismically active San Francisco Bay region. The faults in this region are capable of generating earthquakes of magnitude 7.0 or higher. During an earthquake, very strong ground shaking could occur at the project site.

In accordance with the CBC, City's General Plan, and Municipal Code, and to avoid or minimize potential damage from seismic shaking, the project would be built using standard engineering and seismic safety design techniques. Consistent with City requirements, the following condition shall be implemented by the project to ensure all structures are designed to address seismic hazards.

Standard Permit Condition:

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

With implementation of the above standard permit condition, the project would not result in seismic hazards as it would be constructed in accordance with current design and engineering standards. The Geotechnical Report would also include, but not limited to foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation would be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). Therefore, the existing seismic hazards at the project site would not be exacerbated by the project such that it would impact (or worsen) on- or off-site conditions.

Liquefaction and Lateral Spreading

As mentioned in Section 3.7.1.2 Existing Conditions, the proposed project is located within a Liquefaction Hazard Zone. According to the City's Municipal Code, a Certificate of Geologic Hazard Clearance is required for the project due to its location within a Geologic Hazard Zone.

By subjecting the proposed project to review by the City of San Jose's geologist and requiring geologic hazard clearance from the Director of Public Works, and adhering to the standard permit conditions described above, adverse effects posed by seismically-induced liquefaction would be reduced to a less than significant level.

The proposed project is located in a Liquefaction Hazard Zone and is approximately 650 feet southwest of a channelized portion of Coyote Creek, which presents a lateral spreading hazard for development on the site. In accordance with City policy and the standard permit conditions discussed above, the proposed project would be designed in accordance with a site-specific geotechnical investigation to reduce the risk of geologic hazards at the site, including lateral spreading. By constructing the project in accordance with standard engineering practices and the recommendations of the geotechnical investigation, adverse effects associated with lateral spreading would be reduced to a less than significant level.

Landslides

As discussed under Section 3.7.1.2 Existing Conditions, the project site is located on the relatively flat valley floor with slopes ranging from zero to two percent. The project site is not within a state-designated Landslide Hazard Zone, and there are no hillsides or areas of differential elevation within the vicinity of the project site. The project would not change the topography of the site and surrounding area such that the likelihood of seismically-induced landsliding occurring would increase.

Conclusion for checklist question a): With implementation of standard permit conditions, the project would not directly or indirectly cause substantial adverse effects, including loss, injury, or death from fault rupture, seismic-related ground shaking or ground failure, or landsliding. **(Less than Significant Impact)**

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

The project site is developed and is located on flat terrain with slopes between zero and two percent, which limits the potential for substantial soil erosion. Ground disturbance of the project site is

expected to occur during demolition, grading and site preparation activities, and construction of the proposed project. These activities could increase the exposure of on-site soils to wind and water erosion. The City's National Pollutant Discharge Elimination System (NPDES) Municipal Permit, urban runoff policies, and the Municipal Code are the primary means of enforcing erosion control measures through the grading and building permit process. General Plan Action EC-4.5 requires an Erosion Control Plan for private development projects that have a soil disturbance of one acre or more, are adjacent to a creek/river, and/or are located in hillside areas. The proposed project would disturb approximately 19.7 acres on-site; accordingly, an Erosion Control Plan will be prepared for the project. In addition, the City shall require all phases of the project to comply with all applicable City regulatory programs pertaining to construction related erosion, including the following standard permit conditions

Standard Permit Conditions:

- All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
- Cover stockpiles and excavated soils with secured tarps or plastic sheeting.
- Ditches shall be installed to divert runoff around excavations and graded areas if necessary.

The General Plan FEIR concluded that with the regulatory programs currently in place, the possible impacts of accelerated erosion during construction would be less than significant.[54] Because the project would comply with the regulations identified in the General Plan FEIR and adhere to the standard permit conditions above, the project would not result in substantial soil erosion.

Conclusion for checklist question b): With implementation of standard permit conditions, the project would not result in substantial soil erosion or loss of topsoil. **(Less than Significant Impact)**

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

As discussed under Section 3.7.1.2 Existing Conditions, the project site is situated on soils of moderate to high plasticity, and is located within the seismically active San Francisco Bay region. Additionally, the project site is mapped within a Liquefaction Hazard Zone and is at risk of lateral spreading. However, as discussed under Geology & Soils checklist question a), the project would be constructed in accordance with a design-level geotechnical investigation to reduce any risk of landsliding, liquefaction, or other forms of ground failure. Additionally, the project shall implement the following standard permit condition requiring a grading permit. The purpose of the grading permit is to ensure that private property is graded so that it drains properly, not impacting adjacent properties and not creating erosion problems. Improper grading can result in localized flooding, landslides, and differential settlement. These problems not only affect the graded property, but can also impact adjacent properties.

[54] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report.* SCH: 2009072096. September 2011. Page 530.

Standard Permit Condition:

- The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.

The project would not result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse by employing standard design and engineering practices and adhering to the City's grading permit requirements that prevent on- and off-site flooding, landslides, and differential settlement.

Conclusion for checklist question c): With implementation of standard permit conditions, the project would not result in the project site becoming unstable. **(Less than Significant Impact)**

d) Would the project be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property?

The project site is situated on Urbanland-Campbell and Urbanland-Elpaloalto soil complexes with medium to high plasticity, which are considered expansive soils under the 2019 CBC. Expansive soils possess a "shrink-swell" characteristic. Shrink-swell is the cyclic change in volume (expansion and contraction) that occurs in fine-grained clay sediments from the process of wetting and drying. Structural damage may result over a long period of time, usually the result of inadequate soil and foundation engineering or the placement of structures directly on expansive soils.

As discussed in the General Plan FEIR, compliance with the City's General Plan policies regarding soil and landslide hazards would reduce hazards associated with expansive soils and new development and redevelopment to a less than significant level.[55] Consistent with the General Plan policies identified in Section 3.7.1.1 and as previously noted under checklist question a, the project would be required as a standard permit condition to prepare a design-level geotechnical report and implement recommendations regarding the structural design and engineering techniques to reduce impacts from expansive soils (as well as other geologic hazards). Consistent with the conclusions of the General Plan FEIR, by conforming with state and local regulations and the recommendations of the design-level geotechnical report, the project would not create substantial direct or indirect risks to life or property.

Conclusion for checklist question d): With implementation of standard permit conditions, the project would not create substantial direct or indirect risks to life or property. **(Less than Significant Impact)**

[55] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report*. SCH: 2009072096. September 2011. Page 528.

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

The proposed project would dispose of wastewater via lateral connections to the City's sewer system and would not require the use of septic tanks or alternative wastewater disposal systems.

Conclusion for checklist question e): Sewers are available for the disposal of wastewater and, therefore, the use of septic tanks or alternative wastewater disposal systems is not required for the project. **(No Impact)**

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

The proposed project does not involve any subsurface work beyond shallow excavation and grading necessary to prepare the site for construction of the office towers and aboveground structured parking. Therefore, since the City's Paleontological Sensitivity Map shows only a sensitivity for paleontological resources at depth, the project is unlikely to encounter such resources. Further, the General Plan FEIR recognized that while development allowed under the General Plan could directly impact paleontological resources, implementation of General Plan policies and existing regulations and programs would reduce potential impacts to a less than significant level.[56] As such, the following standard permit condition would be applied to the project to reduce and avoid impacts to unidentified paleontological resources.

Standard Permit Conditions:

- If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, 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 project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee.

Conclusion for checklist question f): With implementation of standard permit conditions, the project would not directly or indirectly destroy a unique paleontological resource or site or unique geological feature. **(Less than Significant Impact)**

[56] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report.* SCH: 2009072096. September 2011. Page 724.

3.7.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant cumulative geology and soils impact?

The geographic area for cumulative geology and soils impacts includes the project site and adjacent parcels because it is assumed that the effects of ground disturbing activities would be limited to the project site and surrounding area.

None of the cumulative projects identified in Table 3.0-1 are adjacent to the project site. Future cumulative development within the geographic study area would face similar, if not identical, geology and soils related hazards. No future cumulative development would be within an Alquist-Priolo Fault Zone. Future cumulative development would be constructed in accordance with the CBC and the City's General Plan and Municipal Code, and would be subject to the same standard permit conditions identified under Geology and Soils checklist questions a), b), and c). As such, cumulative development would not result in adverse effects due to seismic-induced ground failure, soil erosion or loss of topsoil, or site destabilization, and the proposed project would not contribute to a cumulative significant impact in these areas.

The project would have no impact related to the use of septic tanks or alternative wastewater disposal systems, and therefore would have no cumulative impact. Future cumulative development would also be subject to the standard permit condition identified under Geology and Soils checklist question f), thus protecting any undiscovered subsurface paleontological resources or unique geological features on these sites and ensuring that the project would not contribute to a cumulatively significant impact to these resources.

Conclusion to the Geology and Soils Cumulative Impacts discussion: With implementation of standard permit conditions, the project would have a less than significant cumulative geology and soils impact. **(Less than Significant Cumulative Impact)**

3.8 GREENHOUSE GAS EMISSIONS

The discussion in this section is based, in part, on an Air Quality and Greenhouse Gas Emissions Assessment prepared for the proposed project by Illingworth & Rodkin, Inc. A copy of the report dated August 10, 2021, is attached to this EIR as Appendix B.

3.8.1 Environmental Setting

3.8.1.1 *Background Information*

Gases that trap heat in the atmosphere, GHGs, regulate the earth's temperature. This phenomenon, known as the greenhouse effect, is responsible for maintaining a habitable climate. In GHG emission inventories, the weight of each gas is multiplied by its global warming potential (GWP) and is measured in units of CO_2 equivalents (CO_2e). The most common GHGs are carbon dioxide (CO_2) and water vapor but there are also several others, most importantly methane (CH_4), nitrous oxide (N_2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF_6). These are released into the earth's atmosphere through a variety of natural processes and human activities. Sources of GHGs are generally as follows:

- CO_2 and N_2O are byproducts of fossil fuel combustion.
- N_2O is associated with agricultural operations such as fertilization of crops.
- CH_4 is commonly created by off-gassing from agricultural practices (e.g., keeping livestock) and landfill operations.
- Chlorofluorocarbons (CFCs) were widely used as refrigerants, propellants, and cleaning solvents, but their production has been stopped by international treaty.
- HFCs are now used as a substitute for CFCs in refrigeration and cooling.
- PFCs and SF_6 emissions are commonly created by industries such as aluminum production and semiconductor manufacturing.

An expanding body of scientific research supports the theory that global climate change is currently causing changes in weather patterns, average sea level, ocean acidification, chemical reaction rates, and precipitation rates, and that it will increasingly do so in the future. The climate and several naturally occurring resources within California are adversely affected by the global warming trend. Increased precipitation and sea level rise will increase coastal flooding, saltwater intrusion, and degradation of wetlands. Mass migration and/or loss of plant and animal species could also occur. Potential effects of global climate change that could adversely affect human health include more extreme heat waves and heat-related stress; an increase in climate-sensitive diseases; more frequent and intense natural disasters such as flooding, hurricanes and drought; and increased levels of air pollution.

3.8.1.2 *Regulatory Framework*

Federal

Clean Air Act

The EPA is the federal agency responsible for implementing the Clean Air Act. The U.S. Supreme Court in its 2007 decision in Massachusetts et al. v. Environmental Protection Agency et al., ruled that CO2 is an air pollutant as defined under the Clean Air Act, and that EPA has the authority to regulate emissions of GHGs. Following the court decision, EPA has taken actions to regulate, monitor, and potentially reduce GHG emissions (primarily mobile emissions).

State

Assembly Bill 32

Under the California Global Warming Solutions Act, also known as AB 32, CARB established a statewide GHG emissions cap for 2020, adopted mandatory reporting rules for significant sources of GHGs, and adopted a comprehensive plan, known as the Climate Change Scoping Plan, identifying how emission reductions would be achieved from significant GHG sources.

In 2016, SB 32 was signed into law, amending the California Global Warming Solution Act. SB 32, and accompanying Executive Order B-30-15, require CARB to ensure that statewide GHG emissions are reduced to 40 percent below the 1990 level by 2030. CARB updated its Climate Change Scoping Plan in December of 2017 to express the 2030 statewide target in terms of million metric tons of CO_2E ($MMTCO_2e$). Based on the emissions reductions directed by SB 32, the annual 2030 statewide target emissions level for California is 260 $MMTCO_2e$.

Senate Bill 375

SB 375, known as the Sustainable Communities Strategy and Climate Protection Act, was signed into law in September 2008. SB 375 builds upon AB 32 by requiring CARB to develop regional GHG reduction targets for automobile and light truck sectors for 2020 and 2035. The per capita GHG emissions reduction targets for passenger vehicles in the San Francisco Bay Area include a seven percent reduction by 2020 and a 15 percent reduction by 2035.

Consistent with the requirements of SB 375, the Metropolitan Transportation Commission (MTC) partnered with the Association of Bay Area Governments (ABAG), BAAQMD, and the Bay Conservation and Development Commission to prepare the region's Sustainable Communities Strategy (SCS) as part of the Regional Transportation Plan process. The SCS is referred to as Plan Bay Area 2050. Plan Bay Area 2050 establishes a course for reducing per capita GHG emissions through the promotion of compact, high-density, mixed-use neighborhoods near transit, particularly within identified Priority Development Areas (PDAs).

Regional and Local

2017 Clean Air Plan

To protect the climate, the 2017 CAP (prepared by BAAQMD) includes control measures designed to reduce emissions of methane and other super-GHGs that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.

CEQA Air Quality Guidelines

The BAAQMD CEQA Air Quality Guidelines are intended to serve as a guide for those who prepare or evaluate air quality impact analyses for projects and plans in the San Francisco Bay Area. The jurisdictions in the San Francisco Bay Area Air Basin utilize the thresholds and methodology for assessing GHG impacts developed by BAAQMD within the CEQA Air Quality Guidelines. The guidelines include information on legal requirements, BAAQMD rules, methods of analyzing impacts, and recommended mitigation measures.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding greenhouse gas related impacts and are applicable to the project.

Policy	Description
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. 1. Design the street network for its safe shared use by pedestrians, bicyclists, and vehicles. Include elements that increase driver awareness. 2. 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. 3. 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 decoupled parking to ensure that the value and cost of parking are considered in real estate and business transactions.
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.
CD-2.11	Within the Downtown and Urban Village Overlay areas, consistent with the minimum density requirements of the pertaining Land Use/Transportation Diagram

Policy	Description
	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.
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.
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.
CD-5.1	Design areas to promote pedestrian and bicycle movements and to facilitate interaction between community members and to strengthen the sense of community.
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.
LU-5.4	Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections; and including secure and convenient bike storage.
MS-2.2	Encourage maximized use of on-site generation of renewable energy for all new and existing buildings.
MS-2.3	Encourage consideration of solar orientation, including building placement, landscaping, design and construction techniques for new construction to minimize energy consumption.
MS-2.7	Encourage the installation of solar panels or other clean energy power generation sources over parking areas.
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).
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

Policy	Description
	developer-installed residential development unless for recreation needs or other area functions.
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.
MS-14.4	Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy system, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.
MS-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.
MS-19.4	Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.
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.
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.
TR-2.8	Require new development to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.
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.
TR-8.5	Promote participation in car share programs to minimize the need for parking spaces in new and existing development.

City of San José Municipal Code

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

- Construction and Demolition Diversion Deposit Program (Chapter 9.10)
- Wood Burning Ordinance (Chapter 9.11)
- Transportation Demand Programs for employers with more than 100 employees (Chapter 11.105)
- Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.11)
- Green Building Regulations for Private Development (Chapter 17.84)

Climate Smart San José

Climate Smart San José is a plan to reduce air pollution, save water, and create a stronger and healthier community. Climate Smart San José is aligned with General Plan growth patterns and General Plan policies which prioritize automobile-alternative transportation modes, encourage denser development, and ensure energy-efficient features are included in new buildings. Approved in February 2018, Climate Smart San José ensures the City can substantially reduce GHG emissions through achieving the following goals and milestones:

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

2030 Greenhouse Gas Reduction Strategy

The 2030 GHGRS is the latest update to the City's previously adopted 2011 GHGRS and is designed to meet statewide GHG reduction targets for 2030 set by Senate Bill 32. As a qualified Climate Action Plan, the 2030 GHGRS allows for tiering and streamlining of GHG analyses under CEQA. The GHGRS identifies General Plan policies (including the policies identified in in the above table) and strategies to be implemented by development projects in the areas of green building/energy use, multimodal transportation, water conservation, and solid waste reduction. These seven strategies include:

1. San José Clean Energy – The City will implement the San José Clean Energy program to provide residents and businesses access to cleaner energy at competitive rates.
2. Zero Net Carbon Residential Construction – The City will implement its building reach code ordinance (adopted September 2019) and its prohibition of natural gas infrastructure ordinance (adopted October 2019) to guide the city's new construction toward zero net carbon (ZNC) buildings.

3. Renewable Energy Development – The City will expand development of rooftop solar energy through the provision of technical assistance and supportive financial incentives to make progress toward the Climate Smart San José goal of becoming a one-gigawatt solar city.
4. Natural Gas Building Retrofits – The City will support a transition to building decarbonization through increased efficiency improvements in the existing building stock and reduced use of natural gas appliances and equipment.
5. Zero Waste Goal – As an expansion to Climate Smart San José, the City will update its Zero Waste Strategic Plan and reassess zero waste strategies. Throughout the development of the update, the City will continue to divert 90 percent of waste away from landfills through source reduction, recycling, food recovery and composting, and other strategies.
6. Caltrain Modernization Project – The City will continue to be a partner in the Caltrain Modernization Project to enhance local transit opportunities while simultaneously improving the city's air quality.
7. Water Conservation – The City will expand its water conservation efforts to achieve and sustain long-term per capita reductions that ensure a reliable water supply with a changing climate, through regional partnerships, sustainable landscape designs, green infrastructure, and water-efficient technology and systems.

Projects that comply with the policies and strategies outlined in the 2030 GHGRS, and are constructed and operational prior to 2030, would have less than significant GHG impacts under CEQA.[57]

San José Reach Code

In 2019, the San José City Council approved Ordinance No. 30311 and adopted Reach Code Ordinance (Reach Code) to reduce energy-related GHG emissions consistent with the goals of Climate Smart San José. The Reach Code applies to new construction projects in San José. It requires new residential construction to be outfitted with entirely electric fixtures. Mixed-fuel buildings (i.e., use of natural gas) are required to demonstrate increased energy efficiency through a higher Energy Design Ratings and be electrification ready. In addition, the Reach Code requires EV charging infrastructure for all building types (above current CALGreen requirements), and solar readiness for non-residential buildings.

City of San José Private Sector Green Building Policy (6-32)

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

3.8.1.3 *Existing Conditions*

Unlike emissions of criteria and toxic air pollutants, which have regional and local impacts, emissions of GHGs have a broader, global impact. Global warming is a process whereby GHGs accumulating in the upper atmosphere contribute to an increase in the temperature of the earth and changes in the weather patterns.

[57] City of San José. *2030 Greenhouse Gas Reduction Strategy.* November 2020.

The project site is currently developed with a joint office and electronics superstore building (approximately 293,906 square feet) and a surface parking lot. The existing development generates GHGs through building heating and cooling, electricity use, solid waste disposal, and vehicle travel to and from the site, including freight deliveries.

3.8.2 Impact Discussion

For the purpose of determining the significance of the project's impact on greenhouse gas emissions, would the project:

a) Generate GHG 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 GHGs?

3.8.2.1 *Thresholds of Significance*

The BAAQMD's CEQA Air Quality Guidelines do not use quantified thresholds for projects that are in a jurisdiction with a qualified GHG reductions plan (i.e., a Climate Action Plan). The plan has to address emissions associated with the period that the project would operate (e.g., beyond year 2020). As discussed above, the City of San José has a qualified Climate Action Plan. The 2030 GHGRS is designed to meet statewide GHG reduction target for 2030 allows for tiering and streamlining of GHG analyses under CEQA. Projects that comply with the policies and strategies outlined in the 2030 GHGRS, would have less than significant GHG impacts under CEQA.[58]

For projects that cannot tier from the 2030 GHGRS, project-level GHG assessments are required. Development of the project would occur beyond 2030, however, BAAQMD has not published a quantified threshold for 2030 yet. BAAQMD's guidelines currently recommended a GHG threshold of 1,100 metric tons or 4.6 metric tons (MT) per capita. These thresholds were developed based on meeting the 2020 GHG targets set in the scoping plan that addressed AB 32. Development of the project would occur beyond 2020, so a threshold that addresses a future target is appropriate. This EIR uses an interpolated service population threshold based on the 2050 GHG reduction target (i.e. 80 percent below 1990 levels by 2050) as described in EO S-3-05 and a "Substantial Progress" efficiency metric of 2.6 MT CO_2e/year/service population, which was calculated for 2030 based on the 1990 inventory and the projected 2030 statewide population and employment levels. A 2050 service population threshold would be 0.9 metric tons per service population per year if the 2020 BAAQMD threshold was reduced by 80 percent. Based on both the 2030 and 2050 predicted service population efficiency metrics, a 2032[59] linearly interpolated threshold would be 2.4 metric tons per service population per year.

[58] City of San José. Greenhouse Gas Reduction Strategy. Accessed September 2, 2021. https://www.sanjoseca.gov/your-government/department-directory/planning-building-code-enforcement/planning-division/environmental-planning/greenhouse-gas-reduction-strategy.
[59] It is assumed that the proposed project would not be fully built-out and occupied until 2032

3.8.2.2 *Project Impacts*

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

As discussed in Section 3.8.1.2 Regulatory Framework, projects that comply with the policies and strategies outlined in the 2030 GHGRS would have a less than significant GHG impact and are assumed to have less than significant (direct or indirect) GHG emissions. However, the 2030 GHGRS only covers projects that are constructed and operational prior to 2030. Since the proposed project would not be fully built-out and occupied until 2032, the project's GHG emissions were calculated using CalEEMod and compared to the Substantial Progress service population threshold discussed under Section 3.8.2.1. GHG emissions associated with the existing development were subtracted from the GHG emissions associated with the project to calculate the net increase in GHG emissions. The methodology, data inputs, assumptions, and results are described further in Appendix B. Table 3.8-1 below shows the annual GHG emissions resulting from operation of the proposed project.

Table 3.8-1: Calculated GHG Emissions of Existing Development and Proposed Project

Source Category	Existing Development (2020)	Proposed Project (2032)
Area	0	0
Energy Consumption	1,561	0
Mobile	3,905	10,227
Solid Waste Generation	315	900
Water Usage	117	1,159
Metric Ton Total	5,898	12,286
Net Metric Tons[1]	-	6,388
Service Population Emissions[2] (metric tons of CO_2e/year/service population)	-	1.92
Significance Threshold (metric tons of CO_2e/ year/service population)	-	2.4
Exceed Threshold?	-	No

Source: Illingworth & Rodkin, Inc. *550 East Brokaw Road Air Quality and Greenhouse Gas Emission Assessment*. August 10, 2021.

Notes:

1 Net metric tons equals the metric ton total of the proposed project, minus the metric ton total of the existing development. 12,286 minus 5,898 equals 6,388 metric tons.

2 Based on a service population of 6,414 employees, which is greater than the projected 6,404 employees associated with the project; therefore project GHG emissions (and therefore the project's impact) would be slightly less than reported here.

As shown in Table 3.8-1, the proposed project would generate 1.92 metric tons of CO_2e/year/service population, which would not exceed the Substantial Progress service population threshold of 2.4 metric tons of CO_2e/ year/service population for year 2032.

Conclusion for checklist question a): The project would not generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment. **(Less than Significant Impact)**

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

AB 32, SB 32, BAAQMD CEQA Air Quality Guidelines, Envision San José 2040 General Plan, San José Greenhouse Gas Reduction Strategy

The City's original GHGRS was designed to meet the statewide GHG reduction targets for 2020 set by AB 32 and the City's latest update to the GHGRS is designed to meet the statewide GHG reduction targets for 2030 set by SB 32. As discussed under checklist question a), the project's GHG emissions would not exceed the interpolated threshold of 2.4 metric tons of CO_2e per service population per year, which is based on the targets established by BAAQMD in response to AB 32 and SB 32 (refer to Section 3.8.2.1). Accordingly, the project would not generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment, and therefore would not conflict with AB 32, SB 32, the BAAQMD CEQA Air Quality Guidelines, Envision San José 2040 General Plan, or the San José Greenhouse Gas Reduction Strategy.

2017 Clean Air Plan

As discussed in detail in Section 3.3 Air Quality under checklist question a), the project is consistent with the 2017 CAP.

City of San José Municipal Code

The project is consistent with the chapters of the Municipal Code identified in Section 3.8.1.2 Regulatory Framework, including:

- Chapter 9.10, which requires new development to participate in the City's CDD program. As discussed in Section 3.6 Energy, the project would participate in the CDD program and recover and recycle 75 percent of construction and demolition waste.
- Chapter 9.11, which only permits the installation of wood burning appliances that comply with the Environmental Protection Agency's requirements. The project does not propose the installation of wood burning appliances.
- Chapter 11.105, which requires employers with more than 100 employees to implement a TDM program; as discussed in Section 3.17 Transportation checklist question b), the project would be required through mitigation measure MM TRN-1.3 to implement a TDM plan.
- Chapter 15.11, which requires new construction projects with a total landscape area equal to or greater than five hundred square feet to meet the City's landscape installation requirements. As discussed under Section 3.10 Hydrology and Water Quality checklist

question a), the project would comply with Municipal Code Chapter 15.11 Part 3 and install water-efficient irrigation systems.

- Chapter 17.84, which requires new developments to meet the City's green building regulations for private development. The project is designed to achieve LEED Silver Certification, as required by the City's Private Sector Green Building Policy and the Green Building Ordinance.

Climate Smart San José

As discussed in Section 3.6 Energy, the project would be subject to the energy efficiency standards set forth in Title 24, CALGreen, and the City's Municipal Code. Further, the project would achieve LEED Silver Certification as required by the City's Private Sector Green Building Policy and the Green Building Ordinance. The project would participate in the SJCE program at the Total Green level (i.e., 100% carbon-free electricity), and therefore would be considered zero net energy. For these reasons, the project is consistent with the City's climate action goals as set forth in Climate Smart San José.

San José Reach Code

The Reach Code applies to new construction projects in San José. As discussed in Section 3.6 Energy, the project does not include natural gas infrastructure. The project would comply with the Reach Code by meeting the energy efficiency standards set forth in Title 24, CALGreen, and the California Building Energy Efficiency Standards. Electricity for the proposed project would be provided by SJCE and the project proposes to enroll in SJCE's Total Green program, which provides electricity from 100 percent carbon-free sources. For these reasons, the project is consistent with the City's goal to reduce energy-related GHG emissions as set forth in the Reach Code.

City of San José Private Sector Green Building Policy (6-32)

City Council Policy 6-32 requires commercial uses to be rated LEED Silver. As discussed under Section 3.6 Energy, the project would achieve LEED Silver Certification, and therefore the project would be consistent with City Council Policy 6-32.

Conclusion for checklist question b): With implementation of mitigation measure TRN-1.3, the project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs. **(Less than Significant Impact with Mitigation Incorporated)**

3.8.2.3 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant cumulative GHG emissions impact?

As discussed above in Section 3.8.1.1 Background Information, GHG emissions have a broader, global impact; therefore, if a project would result in a significant project-level GHG impact, it would also result in a significant cumulative GHG impact. The discussion above under checklist questions a) and b) show that the project would not have a significant GHG emissions impact. For these

reasons, the project would not result in a cumulatively considerable contribution to a significant cumulative GHG emissions impact.

Conclusion for Greenhouse Gas Emissions Cumulative Impacts discussion: With implementation of mitigation measure TRN-1.3, the project would not result in a cumulatively considerable contribution to a significant cumulative GHG emissions impact. **(Less than Significant Cumulative Impact with Mitigation Incorporated)**

3.9 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based, in part, on a Phase I Environmental Site Assessment (ESA) prepared for the project site by Farallon Consulting, LLC., dated January 24, 2020. A copy of this report is attached to this EIR as Appendix F.

3.9.1 Environmental Setting

3.9.1.1 *Regulatory Framework*

Overview

The storage, use, generation, transport, and disposal of hazardous materials and waste are highly regulated under federal and state laws. Federal regulations and policies related to development include the Comprehensive Environmental Response, Compensation, and Liability Act, commonly known as Superfund, and the Resource Conservation and Recovery Act. In California, the EPA has granted most enforcement authority over federal hazardous materials regulations to the California Environmental Protection Agency (CalEPA). In turn, local agencies have been granted responsibility for implementation and enforcement of many hazardous materials regulations under the Certified Unified Program Agency (CUPA) program.

Worker health and safety and public safety are key issues when dealing with hazardous materials. Proper handling and disposal of hazardous material is vital if it is disturbed during project construction. Cal/OSHA enforces state worker health and safety regulations related to construction activities. Regulations include exposure limits, requirements for protective clothing, and training requirements to prevent exposure to hazardous materials. Cal/OSHA also enforces occupational health and safety regulations specific to lead and asbestos investigations and abatement.

Federal and State

Federal Aviation Regulations Part 77

Federal Aviation Regulations, Part 77 Objects Affecting Navigable Airspace (FAR Part 77) sets forth standards and review requirements for protecting the airspace for safe aircraft operation, particularly by restricting the height of potential structures and minimizing other potential hazards (such as reflective surfaces, flashing lights, and electronic interference) to aircraft in flight. These regulations require that the Federal Aviation Administration (FAA) be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport's runways, or which would otherwise stand at least 200 feet in height above the ground.

Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act (RCRA), enacted in 1976, is the principal federal law in the United States governing the disposal of solid waste and hazardous waste. RCRA gives the EPA the authority to control hazardous waste from the "cradle to the grave." This includes the generation, transportation, treatment, storage, and disposal of hazardous waste. RCRA also sets forth a framework for the management of non-hazardous solid wastes.

The Federal Hazardous and Solid Waste Amendments (HSWA) are the 1984 amendments to RCRA that focused on waste minimization, phasing out land disposal of hazardous waste, and corrective action for releases. Some of the other mandates of this law include increased enforcement authority for the EPA, more stringent hazardous waste management standards, and a comprehensive underground storage tank program.[60]

Government Code Section 65962.5

Section 65962.5 of the Government Code requires CalEPA to develop and update a list of hazardous waste and substances sites, known as the Cortese List. The Cortese List is used by the state, local agencies, and developers to comply with CEQA requirements. The Cortese List includes hazardous substance release sites identified by the Department of Toxic Substances Control (DTSC), State Water Resources Control Board (SWRCB), and Santa Clara County. The project site is not on the Cortese List.[61]

Toxic Substances Control Act

The Toxic Substances Control Act (TSCA) of 1976 provides the EPA with authority to require reporting, record-keeping and testing requirements, and restrictions relating to chemical substances and/or mixtures. Certain substances are generally excluded from TSCA, including, among others, food, drugs, cosmetics, and pesticides. The TSCA addresses the production, importation, use, and disposal of specific chemicals including polychlorinated biphenyls (PCBs), asbestos, radon, and lead-based paint.

California Accidental Release Prevention Program

The California Accidental Release Prevention (CalARP) Program aims to prevent accidental releases of regulated hazardous materials that represent a potential hazard beyond the boundaries of property. Facilities that are required to participate in the CalARP program use or store specified quantities of toxic and flammable substances (hazardous materials) that can have off-site consequences if accidentally released. The County of Santa Clara Department of Environmental Health reviews CalARP risk management plans as the Certified Unified Program Agency (CUPA).

Asbestos-Containing Materials

Friable asbestos is any asbestos containing material (ACM) that, when dry, can easily be crumbled or pulverized to a powder by hand, allowing the asbestos particles to become airborne. Common examples of products that have been found to contain friable asbestos include acoustical ceilings, plaster, wallboard, and thermal insulation for water heaters and pipes. Common examples of non-friable ACMs are asphalt roofing shingles, vinyl floor tiles, and transite siding made with cement. The EPA phased out use of friable asbestos products between 1973 and 1978. National Emission Standards for Hazardous Air Pollutants guidelines require that potentially friable ACMs be removed prior to building demolition or remodeling that may disturb the ACMs.

[60] United States Environmental Protection Agency. "Summary of the Resource Conservation and Recovery Act." Accessed September 2, 2021. https://www.epa.gov/laws-regulations/summary-resource-conservation-and-recovery-act.
[61] CalEPA. "Cortese List Data Resources." Accessed September 2, 2021. https://calepa.ca.gov/sitecleanup/corteselist

CCR Title 8, Section 1532.1

The U.S. Consumer Product Safety Commission banned the use of lead-based paint in 1978. Removal of older structures with lead-based paint is subject to requirements outlined by Cal/OSHA Lead in Construction Standard, CCR Title 8, Section 1532.1 during demolition activities. Requirements include employee training, employee air monitoring, and dust control. If lead-based paint is peeling, flaking, or blistered, it is required to be removed prior to demolition.

Regional and Local

Municipal Regional Permit Provision C.12.f

Polychlorinated biphenyls (PCBs) were produced in the United States between 1955 and 1978 and used in hundreds of industrial and commercial applications, including building and structure materials such as plasticizers, paints, sealants, caulk, and wood floor finishes. In 1979, the EPA banned the production and use of PCBs due to their potential harmful health effects and persistence in the environment. PCBs can still be released to the environment today during demolition of buildings that contain legacy caulks, sealants, or other PCB-containing materials.

With the adoption of the San Francisco Bay Region Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit (MRP) by the San Francisco Bay Regional Water Quality Control Board on November 19, 2015, Provision C.12.f requires that permittees develop an assessment methodology for applicable structures planned for demolition to ensure PCBs do not enter municipal storm drain systems.[62] Municipalities throughout the Bay Area are currently modifying demolition permit processes and implementing PCB screening protocols to comply with Provision C.12.f. Buildings constructed between 1950 and 1980 that are proposed for demolition must be screened for the presence of PCBs prior to the issuance of a demolition permit. Single family homes and wood-frame structures are exempt from these requirements.

Envision San José 2040 General Plan

The following General Plan policies are specific to hazards and hazardous materials and are applicable to the proposed project:

Policy	Description
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.
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.
EC-7.1	For development and redevelopment projects, require evaluation of the proposed site's

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

Policy	Description
	historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.
EC-7.2	Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.
EC-7.4	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.
EC-7.5	In development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and State requirements.
EC-7.7	Determine for any development or redevelopment site that is within 1,000 feet of a known, suspected, or likely geographic ultramafic rock unit (as identified in maps developed by the Department of Conservation – Division of Mines and Geology) or any other known or suspected locations of serpentine or naturally occurring asbestos, if natural occurring asbestos exists and, if so, comply with the Bay Area Air Quality Management District's Asbestos Air Toxic Control Measure requirements.
EC 7.8	Where an environmental review process identifies the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce impacts to human health and safety and to the environment are required of or incorporated into the projects. This applies to hazardous materials found in the soil, groundwater, soil vapor, or in existing structures.
EC-7.9	Ensure coordination with the County of Santa Clara Department of Environmental Health, Regional Water Quality Control Board, Department of Toxic Substances Control or other applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists.
EC-7.10	Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.
EC-7.11	Require sampling for residual agricultural chemicals, based on the history of land use, on sites to be used for any development or redevelopment to account for worker and community safety during construction. Mitigation to meet appropriate end use such as residential or commercial/industrial shall be provided.
MS-13.2	Construction and/or demolition projects that have the potential to disturb asbestos (from

Policy	Description
	soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxics control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.
TR-14.3	For development in the vicinity of airports, take into consideration the safety and noise policies identified in the Santa Clara County Airport Land Use Commission comprehensive land use plans for Mineta San José International and Reid-Hillview airports.
TR-14.4	Require avigation and "no build" easement dedications, setting forth maximum elevation limits as well as for acceptance of noise or other aircraft related effects, as needed, as condition of approval of development in the vicinity.

City of San José Emergency Operations Plan

The City of San José Emergency Operations Plan (EOP) provides an overview of the jurisdiction's approach to emergency operations. It identifies emergency response policies, describes the response and recovery organization, and assigns specific roles and responsibilities to City departments, agencies, and community partners.

Norman Y. Mineta San José International Airport Comprehensive Land Use Plan

The Norman Y. Mineta San José International Airport Comprehensive Land Use Plan (CLUP) is intended to safeguard the general welfare of the inhabitants within the vicinity of the airport and aircraft occupants. The CLUP establishes an airport land use planning area, referred to as the Airport Influence Area (AIA). The AIA is a composite of areas surrounding the airport that are affected by noise, height, and safety considerations. The CLUP includes land use compatibility guidelines, with topics such as noise and building height, to ensure that surrounding land uses and development do not interfere with the airport's continuing operations.

3.9.1.2 *Existing Conditions*

Site History

Between the late 1880s and 1966, the project site was largely undeveloped or used for agricultural purposes. The project site is currently occupied by the Fry's Electronics store headquarters, which includes a retail component and 300,000-gallon aboveground storage tank (AST) for water. These structures were constructed in 1967, and an adjoining office component was constructed in 1984. The buildings were operated by Levi Strauss and Company between 1967 and 1979; by Tandem Computers, Inc. from 1981 to 1983; by TeleVideo Systems from 1985 to 1995; and by Fry's Electronics from 2002 through February 2021. There are also three diesel ASTs with 250-, 700-, and 800-gallon capacities on the western portion of the site that were installed on an unknown date.

On-Site Sources of Contamination

No environmental concerns or Recognized Environmental Concerns (RECs), including controlled (CREC) or historic RECs (HREC), were identified with respect to the site.[63]

During the site reconnaissance conducted by Farallon on January 21, 2020, the three diesel ASTs and two hydraulic elevators present on-site were examined. No evidence or reports of past releases were identified, and therefore their presence is considered a de minimis condition. Staining associated with a wave solder machine operated by TeleVideo Systems that was observed during previous Phase I assessments, and petroleum stains observed by Farallon during a site reconnaissance were also found to be de minimis conditions.

A Environmental Risk Information Services (ERIS) Database Report was prepared for the Phase I ESA that identified the project site in several environmental regulatory agency databases. The project site is identified as a generator and handler of hazardous materials, including polymeric resin waste, other inorganic waste, and halogenated solvents, with no reported violations as of 2014. Based on the information provided in these databases and the site's current regulatory status, these listings do not represent an REC, CREC, or HREC.

Fry's Electronics was also identified in the ERIS Database Report as a generator and handler of hazardous materials, including alkaline solution without metals, oil-containing waste, and other organic solids, with no reported violations as of 2017. Based on the information provided in the ERIS Report and its current regulatory status, these listings do not represent an REC, CREC, or HREC.

Agricultural Use

Due to the agricultural history, there is a potential that the shallow soil contains residual organochlorine pesticides and/or pesticide-based metals arsenic and lead from historic pesticide application. Any soil exported from the project site during construction may require further evaluation.

Asbestos-Containing Materials

Due to changes in federal regulations regarding the use of products containing asbestos, buildings constructed prior to the 1970s have a higher potential to contain asbestos in roof coatings, floor tiles, ceiling tiles, and cementitious products such as pipes or shingles.

The office component of the existing development was constructed in 1984, and therefore does not likely contain asbestos. However, the retail component of the existing development was constructed

[63] A REC is defined as the presence of likely presence of any hazardous substances or petroleum products in, on, or at a property: (1) due to release to the environment; (2) under conditions indicative of a release to the environment; or (3) under conditions that pose a material threat of a future release to the environment. A CREC is defined as a recognized environmental condition resulting from a past release of a hazardous substance or petroleum product that has been addressed to the satisfaction of the applicable regulatory authority, with hazardous substances or petroleum products allowed to remain in-place subject to implementation of required controls. A HREC is defined as a past release of any hazardous substance or petroleum product that has occurred in connection with the Site and has been addressed to the satisfaction of the applicable regulatory authority, without subjecting the Site to any required controls.

prior to 1970, and therefore likely contains asbestos. A Phase I investigation of the project site completed in 1997 recommended an operations and maintenance program be developed based on the historical identification of asbestos-containing materials.

Lead Based Paint

In 1978, the U.S. Consumer Product Safety Commission lowered the permissible levels of lead contained in paints and prohibited application of lead-based paint to housing constructed or rehabilitated with federal assistance. Lead-based paint is unlikely to be present at the office component of the existing development, but since the retail component was constructed in 1967, it is likely that lead based paint is present.

Polychlorinated Biphenyls

The site visit conducted by Farallon during preparation of the Phase I ESA did not identify any past or present use of PCBs at the project site.

Off-Site Sources of Contamination

A review of databases and files from federal, state, and local environmental regulatory agencies was used to identify use, generation, storage, treatment, or disposal of hazardous substances and chemicals, or release incidents of such materials at surrounding facilities that may have impacted the subject site. Based on distance, regulatory status, and/or apparent groundwater gradient, Farallon determined these sites were not of environmental concern.

Airport Operations

The Norman Y. Mineta San José International Airport is located approximately 1.35 miles southwest of the project site. As previously mentioned, FAR Part 77 requires that the FAA be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport's runways, or which would otherwise stand at least 200 feet in height above ground. For the project site, any structure exceeding approximately 75 feet in height above ground level (AGL) feet in height above mean sea level (AMSL)would require submittal to the FAA for airspace safety review. As the project site has a maximum site elevation of 54 feet and the proposed project would have a maximum height of 135 feet, notification to the FAA and mandatory airspace safety review is required to determine the potential for the project to create an aviation hazard.

Wildfires

The proposed project is located in an area of San José that is not within a wildland urban interface area or a very high fire hazard severity zone.[64]

[64] CALFIRE. "Wildland Hazard & Building Codes." Accessed September 2, 2021. https://egis.fire.ca.gov/FHSZ/

3.9.2 Impact Discussion

For the purpose of determining the significance of the project's impact on hazards and hazardous materials, would the project:

a) Create a significant hazard to the public or the environment through 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, 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?

3.9.2.1 *Project Impacts*

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

Construction of the proposed project does not involve the routine transport, use, or disposal of reportable quantities of hazardous materials besides gas and diesel fuel used by construction vehicles.

Once operational, small quantities of cleaning supplies, maintenance chemicals, and herbicides and pesticides for landscape maintenance would be routinely stored and used by the project. Operation of the project would also require the storage of diesel fuel associated with occasional testing and use of the project's emergency generators during power failures. Under Health and Safety Code 25507(a)(1)(A), the project would be required to establish and implement a Hazardous Materials Business Plan if the amount of diesel fuel stored on-site exceeds 55 gallons. No other hazardous materials would be used or stored on the project site. These materials would be managed in accordance with existing laws and regulations that ensure that the routine transport, storage, use, and disposal of these materials would not result in a significant hazard to the public or environment.

Conclusion for checklist question a): The project would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials. **(Less than Significant Impact)**

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?

Soil Contamination

As described in Section 3.9.1.2 Existing Conditions, the project site was historically used for agricultural purposes up until the 1960s. Due to the agricultural history, there is a potential that the shallow soil contains residual organochlorine pesticides and/or pesticide-based metals arsenic and lead from historic pesticide application. If pesticides are present and not mitigated, construction of the project could result in exposure of construction workers, adjacent properties and future site workers to pesticide contamination.

Impact HAZ-1: Due to the agricultural history, there is a potential that the shallow soil on-site contains residual organochlorine pesticides and/or pesticide-based metals arsenic and lead from historic pesticide application. If pesticides are present above commercial/industrial screening levels and not mitigated, construction of the project could result in exposure of construction workers, adjacent properties and future site workers to pesticide contamination.

Mitigation Measures:

MM HAZ-1.1: Prior to issuance of any demolition or grading permits, the project applicant shall take shallow soil samples in the near surface soil in the proposed project area and tested for organochlorine pesticides and pesticide-based metals arsenic and lead to determine if contaminants from previous agricultural operations occur at concentrations above established construction worker safety and commercial/industrial regulatory environmental screening levels. The result of soil sampling and testing shall be provided to the Director of Planning Building and Code Enforcement or director's designee and Municipal Compliance Officer.

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

With implementation of MM HAZ-1.1 above, contaminated soils on-site would be properly identified, characterized, removed and disposed of properly prior to ground-disturbing activities, thus

preventing exposure of construction workers, adjacent uses, and the environment to soil contaminants from construction of the project.

Above-Ground Storage Tanks

As discussed under Section 3.9.1.2 Existing Conditions, there are three diesel ASTs with 250-, 700-, and 800-gallon capacities present on-site. Prior to demolition of the existing development and surface parking lot (discussed below), the diesel ASTs would be removed in accordance with the City of San José Fire Department's *Closure Guidelines for Aboveground Hazardous Materials Storage Facilities*, which would ensure that the diesel ASTs are transported, disposed of, and/or reused in a manner which eliminates the need for further maintenance and any threat to public health and safety or the environment.

Demolition

Building demolition could result in the release of hazardous materials to the environment, if appropriate control measures are not implemented. Hazardous materials include ACMs, which are known to exist on-site. Additionally, based on the age of the existing buildings, lead based paint may also be present in building materials. The City of San José requires the implementation of the following standard permit conditions when ACMs and lead-based paint may be present.

Standard Permit Conditions:

- In conformance with state and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building(s) to determine the presence of asbestos-containing materials and/or lead-based paints.
- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with the California Division of Occupational Safety and Health Lead in Title 8, California Code of Regulations, 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 Hazardous Air Pollutants guidelines prior to demolition or renovation activities that may disturb asbestos-containing materials. All demolition activities shall be undertaken in accordance with the California Division of Occupational Safety and Health standards contained in Title 8, California Code of Regulations, 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 one-percent asbestos are also subject to Bay Area Air Quality Management District regulations. Removal of materials containing more than one-percent asbestos shall be completed in accordance with Bay Area Air Quality Management District requirements and notifications.
- Based on California Division of Occupational Safety and Health rules and regulations, the following conditions are required to limit impacts to construction workers.

- Prior to commencement of demolition activities, a building survey, including sampling and testing, shall be completed to identify and quantify building materials containing lead-based paint.
- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with the California Division of Occupational Safety and Health Lead in Construction Standard, Title 8, California Code of Regulations, Section 1532.1, including employee training, employee air monitoring and dust control.

Implementation of the above standard permit conditions would result in all ACMs and lead-based paint being properly identified and removed prior to demolition, thus preventing the exposure of these materials to construction workers, nearby sensitive receptors, and the environment.

Conclusion for checklist question b): With implementation of MM HAZ-1.1 and the City's standard permit conditions, the project would not create a significant hazard to the public or the environment through the release of hazardous materials into the environment. **(Less than Significant Impact 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?

The closest school to the project site is the Santa Clara County Special Education School, located approximately 0.3 mile to the northeast at 1290 Ridder Park Drive. There are no schools proposed within 0.25 mile of the project site. Therefore, the project would not emit hazardous emissions or handle hazardous materials, substances, or waste within 0.25 mile of an existing or proposed school.

Conclusion for checklist question c): The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. **(No Impact)**

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

As discussed in Section 3.10.1.2 Existing Conditions, the project site is not on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

Conclusion for checklist question d): The project is not on any lists of hazardous materials sites compiled pursuant to Government Code Section 65962.5. **(No Impact)**

e) If located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?

The project site is located outside the AIA of the Norman Y. Mineta San José International, which is 1.35 miles southwest, and therefore CLUP policies do not apply. As described previously, any structure exceeding approximately 75 feet in height above ground level (AGL) would require submittal to the FAA to determine the potential for the project to create an aviation hazard. As the project would have a maximum height of 135 feet notification to the FAA and mandatory airspace safety review is required to determine the potential for the project to create an aviation hazard.

The project is located outside the AIA, CLUP polices do not apply.

Conclusion for checklist question e): The project would not result in a safety hazard or excessive noise for people residing or working in the project area. **(No Impact)**

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

The City's EOP principally is designed to establish the foundational policies and procedures that define how the City will effectively prepare for, respond to, recover from, and mitigate against natural or human-caused disasters. This includes assigning City departmental roles and responsibilities during disaster response and recovery activities, establishing communication and coordination procedures, and the logistics for disseminating information and resources, among other similar items. Construction and operation of the project, which would be done in accordance with City building and fire codes and regulations, would not impair implementation of or physically interfere with the City's adopted EOP.

In addition, emergency vehicles would be able to access the project site via an EVA-only roadway accessible from Junction Road that would run between Towers 1 and 2. As discussed under checklist question d) in Section 3.17 Transportation, the project would meet the San José Fire Department (SJFD) requirements that all portions of the buildings be within 150 feet of a SJFD access road and a minimum of six feet clearance from the property line to all sides of the buildings is provided. Additionally, the project would be constructed in accordance with current state and local building and fire codes to ensure structural stability and safety. The SJFD would review the final site design for consistency with applicable fire department standards.

Conclusion for checklist question f): The project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. **(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?

As discussed in Section 3.9.1.2 Existing Conditions, the project site is located in an urbanized area of San José and is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones. Further, as described above under checklist question f), the project would be constructed in accordance with current state and local building and fire codes to ensure structural stability and safety and the final site design would be reviewed by SJFD for consistency with applicable fire department standards.

Conclusion for checklist question g): The project would not expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires. **(No Impact)**

3.9.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant cumulative hazards and hazardous materials impact?

The geographic area for cumulative hazards and hazardous materials impacts includes the project site and surrounding area.

None of the cumulative projects identified in Table 3.0-1 would involve the routine transport, use, or disposal of hazardous materials other than minor quantities required for emergency operations (e.g., diesel generators), cleaning, maintenance, or landscaping. Further, all future cumulative development be required to comply with all applicable standards and regulations put in place to minimize impacts from the transport, use, storage, and disposal of hazardous materials. Therefore, the cumulative projects would not result in a significant cumulative impact due to routine transport, use, or disposal of hazardous materials.

As discussed above under checklist question b), with the implementation of mitigation measure MM HAZ-1.1 and the standard permit conditions, the project would not create a significant hazard to the public or the environment through the release of hazardous materials (specifically contaminated soil, ACMs, and lead-based paint) into the environment. Many of the properties in San José were previously used for agricultural purposes prior to their development into urban uses. Additionally, cumulative projects may involve demolition of buildings that contain ACMs and lead-based paint. Accordingly, cumulative projects under consideration could result in significant releases of hazardous materials. However, all cumulative projects would be subject to federal and state regulations regarding hazardous materials in addition to local regulations, including the standard permit conditions identified under checklist question b) for the project. Furthermore, in accordance with General Plan Policy EC-7.2, cumulative projects would be required to mitigate any potential impacts to the public and environment due to soil contamination. Based on the above discussion, the project would not contribute to a cumulatively significant hazard to the public or the environment.

As discussed above under checklist questions c), e), and f), the project would not emit hazardous emissions or handle hazardous materials, substances, or waste within 0.25 mile of an existing or proposed school, result in a safety hazard or excessive noise for people residing or working in the project area, or impair implementation or physically interfere with an adopted emergency response plan or emergency evacuation plan. As discussed under checklist question d), the project site is not listed on a list compiled pursuant to Government Code Section 65962.5 and therefore would not create a significant hazard to the public or the environment. As such, the project would not contribute to a cumulatively significant impact in any of these areas.

Conclusion for Hazards and Hazardous Materials Cumulative Impacts discussion: With the implementation of MM HAZ-1.1 and the City's standard permit conditions, the project would have a less than significant cumulative hazards and hazardous materials impact. **(Less than Significant Cumulative Impact with Mitigation Incorporated)**

3.10 HYDROLOGY AND WATER QUALITY

3.10.1 Environmental Setting

3.10.1.1 *Regulatory Framework*

Federal and State

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

National Flood Insurance Program

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

Statewide Construction General Permit

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

Dam Safety

Since August 14, 1929, the State of California has regulated dams to prevent failure, safeguard life, and protect property. The California Water Code entrusts dam safety regulatory power to California Department of Water Resources, Division of Safety of Dams (DSOD). The DSOD provide oversight to the design, construction, and maintenance of over 1,200 jurisdictional sized dams in California.[65]

[65] California Department of Water Resources, Division of Safety of Dams. Accessed September 2, 2021. https://water.ca.gov/Programs/All-Programs/Division-of-Safety-of-Dams#:~:text=Since%20August%2014%2C%201929%2C%20the,Safety%20of%20Dams%20(DSOD).

As part of its comprehensive dam safety program, Valley Water routinely monitors and studies the condition of each of its 10 dams. Valley Water also has its own Emergency Operations Center and a response team that inspects dams after significant earthquakes. These regulatory inspection programs reduce the potential for dam failure.

Regional

San Francisco Bay Basin Plan

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

Municipal Regional Permit Provision C.3

The San Francisco Bay RWQCB re-issued the Municipal Regional Stormwater NPDES Permit (MRP) in 2015 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.[66] Under Provision C.3 of the MRP, new and redevelopment projects that create or replace 10,000 square feet or more of impervious surface area are required to implement site design, source control, and Low Impact Development (LID)-based stormwater treatment controls to treat post-construction stormwater runoff. LID-based treatment controls are intended to maintain or restore the site's natural hydrologic functions, maximizing opportunities for infiltration and evapotranspiration, and using stormwater as a resource (e.g. rainwater harvesting for non-potable uses). The MRP also requires that stormwater treatment measures are properly installed, operated, and maintained.

In addition to water quality controls, the MRP requires new development and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation, or other impacts to local rivers, streams, and creeks. Projects may be deemed exempt from these requirements if they do not meet the minimized size threshold, drain into tidally influenced areas or directly into the Bay, or drain into hardened channels, or if they are infill projects in subwatersheds or catchment areas that are greater than or equal to 65 percent impervious.

Municipal Regional Permit Provision C.12.f

Provision C.12.f of the MRP requires co-permittee agencies to implement a control program for PCBs that reduces PCB loads by a specified amount during the term of the permit, thereby making substantial progress toward achieving the urban runoff PCBs wasteload allocation in the Basin Plan

[66] MRP Number CAS612008

by March 2030.[67] Programs must include focused implementation of PCB control measures, such as source control, treatment control, and pollution prevention strategies. Municipalities throughout the Bay Area are updating their demolition permit processes to incorporate the management of PCBs in demolition building materials to ensure PCBs are not discharged to storm drains during demolition. Buildings constructed between 1955 and 1978 that are proposed for demolition must be screened for the presence of PCBs prior to the issuance of a demolition permit.

Water Resources Protection Ordinance and District Well Ordinance

Valley Water operates as the flood control agency for Santa Clara County. Their stewardship also includes creek restoration, pollution prevention efforts, and groundwater recharge. Permits for well construction and destruction work, most exploratory boring for groundwater exploration, and projects within Valley Water property or easements are required under Valley Water's Water Resources Protection Ordinance and District Well Ordinance.

Santa Clara and Llagas Subbasin Groundwater Management Plan

Valley Water prepared a Groundwater Management Plan (GMP) for the Santa Clara Plain and Llagas subbasins in 2016, describing its comprehensive groundwater management framework including objectives and strategies, programs and activities to support those objectives, and outcome measures to gauge performance. The GMP is the guiding document for how Valley Water will ensure groundwater basins within its jurisdiction are managed sustainably. The project site is located in the Santa Clara Plain subbasin, which has not been identified as a groundwater basin in a state of overdraft.

National Flood Insurance Program

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

[67] San Francisco Bay Regional Water Quality Control Board. *Municipal Regional Stormwater Permit, Provision C.12.* November 19, 2015.

Local

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to hydrology and water quality and are applicable to the project.

Policy	Description
EC-5.1	The City shall require evaluation of flood hazards prior to approval of development projects within a Federal Emergency Management Agency (FEMA) designated floodplain. Review new development and substantial improvements to existing structures to ensure it is designed to provide protection from flooding with a one percent annual chance of occurrence, commonly referred to as the "100-year" flood or whatever designated benchmark FEMA may adopt in the future. New development should also provide protection for less frequent flood events when required by the State.
EC-5.3	Preserve designated floodway areas for non-urban uses.
EC-5.7	Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.
ER-8.1	Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
ER-8.3	Ensure that private development in San José includes adequate measures to treat stormwater runoff.
ER-8.4	Assess the potential for surface water and groundwater contamination and require appropriate preventative measures when new development is proposed in areas where storm runoff will be directed into creeks upstream from groundwater recharge facilities.
ER-8.5	Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite.
ER-9.5	Protect groundwater recharge areas, particularly creeks and riparian corridors.
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 or tidal flooding.
MS-3.5	Minimize area dedicated to surface parking to reduce rainwater that comes into contact with pollutants.
MS-20.3	Protect groundwater as a water supply source through flood protection measures and the use of stormwater infiltration practices that protect groundwater quality. In the event percolation facilities are modified for infrastructure projects, replacement percolation capacity will be provided.
IN-1.1	Provide and maintain adequate water, wastewater, and stormwater services to areas in and currently receiving these services from the City.
IN-3.4	Maintain and implement the City's Sanitary Sewer Level of Service Policy and Sewer Capacity Impact Analysis (SCIA) Guidelines to:

Policy	Description
	• Prevent sanitary sewer overflows (SSOs) due to inadequate capacity so as to ensure that the City complies with all applicable requirements of the Federal Clean Water Act and State Water Board's General Waste Discharge Requirements for Sanitary Sewer Systems and National Pollutant Discharge Elimination System permit. SSOs may pollute surface or ground waters, threaten public health, adversely affect aquatic life, and impair the recreational use and aesthetic enjoyment of surface waters. • Maintain reasonable excess capacity in order to protect sewers from increased rate of hydrogen sulfide corrosion and minimize odor and potential maintenance problems. • Ensure adequate funding and timely completion of the most critically needed sewer capacity projects. • Promote clear guidance, consistency and predictability to developers regarding the necessary sewer improvements to support development within the City.
IN-3.7	Design new projects to minimize potential damage due to storm waters and flooding to the site and other properties.
IN-3.9	Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards.

Post-Construction Urban Runoff Management (City Council Policy 6-29)

City Council Policy 6-29 implements the stormwater treatment requirements of Provision C.3 of the MRP. City Council Policy 6-29 requires new development and redevelopment projects to implement post-construction Best Management Practices (BMPs) and Treatment Control Measures (TCMs). This policy also established specific design standards for post-construction TCMs for projects that create or replace 10,000 square feet or more of impervious surfaces.

Post-Construction Hydromodification Management (City Council Policy 8-14)

City Council Policy 8-14 implements the hydromodification management requirements of Provision C.3 of the MRP. Policy 8-14 requires new development and redevelopment projects that create or replace one acre or more of impervious surface area, and are located within a subwatershed that is less than 65 percent impervious, to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt generation, or other impacts to local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP). Projects that do not meet the minimum size threshold, drain into tidally influenced areas or directly into the Bay, or are infill projects in subwatersheds or catchment areas that are greater than or equal to 65 percent impervious would not be subject to the HMP requirement.

North San José Floodplain Management Policies

The City of San José has established policies that govern development within North San José as related to flood hazard mitigation and impact avoidance. The objective of the City is to provide consistent policies throughout the area to allow increased development density, protect new structures from flooding, minimize potential increases in flood depths, and ensure consistency with

FEMA requirements and the City's floodplain management ordinance. As the project site is mapped within an ineffective flow area, there are no restrictions on the project's blockage of flood flows.[68]

3.10.1.2 *Existing Conditions*

Hydrology and Drainage

The project site is located in the Coyote Creek Watershed, as identified in the General Plan FEIR (as amended).[69] The Coyote Creek Watershed drains approximately 320 square miles extending from the creek's headwaters in the Mt. Diablo range to the tidal sloughs entering the San Francisco Bay.[70]

The project site is occupied by a Fry's Electronic building and surface parking lot, with an impervious surface area of approximately 741,726 square feet and a pervious surface area of 116,465 square feet (858,191 total square feet), or 86 percent impervious and 14 percent pervious.

Surface runoff from the site currently flows untreated into either 27-inch reinforced concrete pipe (RCP) storm drains on Junction Avenue, or 12-, 18-, 36-, and 42-inch RCP storm drains on East Brokaw Road. Runoff in the area is collected by storm drain manholes and inlets in the adjacent parking lots and streets, where it is then conveyed to the Charcot drainage system, which serves 430 acres and drains to Coyote Creek through a flap gate.[71,72] The City's Storm Sewer Master Plan has proposed a pump station and additional storm drain improvements for the Charcot system.[73] Flows from Coyote Creek are ultimately discharged into the San Francisco Bay Area.

Surface Water Quality

The water quality of streams, creeks, ponds, and other surface water bodies can be greatly affected by pollution carried in contaminated surface runoff. 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. Surface runoff from the project site and surrounding area is collected by storm drains and discharged to Coyote Creek. The runoff often contains contaminants such as oil and grease, plant and animal debris (e.g., leaves, dust, and animal feces), pesticides, litter, and heavy metals. In sufficient concentration, these pollutants have been found to adversely affect the aquatic habitats to which they drain. Coyote Creek is currently listed on the 303(d)[74] list for diazinon, toxicity, and trash.[75]

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[68] City of San José. *North San José Area Development Policy*. June 2009.
[69] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report.* SCH: 2009072096. September 2011. Page 540, Figure 3.7-1.
[70] Santa Clara Valley Urban Runoff Pollution Prevention Program. *Monitoring and Assessment Summary Report: Coyote Creek and Lower Penitencia Creek.* September 15, 2008.
[71] City of San José, Spatial Team. "Public GIS Viewer". Accessed September 2, 2021. https://www.arcgis.com/apps/webappviewer/index.html?id=3c5516412b594e79bd25c49f10fc672f
[72] City of San José. *North San José Development Policies Update Program EIR*. March 2005.
[73] City of San José. *Storm Sewer System 2019-2023 Capital Improvement Program*. 2018.
[74] The Clean Water Act (CWA), Section 303, establishes water quality standards and Total Maximum Daily Load (TMDL) programs. The 303(d) list is a list of impaired water bodies.
[75] CalEPA, State Water Resources Control Board. "Impaired Water Bodies". Accessed September 2, 2021. https://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2014_2016.shtml

Groundwater

The project site is located in the Santa Clara Plain subbasin, which covers 280 square miles extending from the southern San Francisco Bay to the Coyote Narrows near Metcalf Road. Groundwater has been documented to flow northwest at depths between 7 and 12 feet bgs within the project vicinity, but groundwater elevations within the project vicinity are typically 60 feet bgs year-round.[76,77] Groundwater levels at the site may fluctuate with time due to seasonal conditions, rainfall, and irrigation practices.

Flooding and Other Hazards

The western portion of the project site is designated as Flood Zone X according to FEMA Flood Insurance Rate Maps. Areas within Flood Zone X have a 0.2 percent annual chance of flooding, with average depths of less than one foot or with drainage areas less than one square mile. The eastern portion of the project site is designated as Flood Zone D, which is used for areas where there are possible but undetermined flood hazards, as no analysis of flood hazards has been conducted.[78]

3.10.2 Impact Discussion

For the purpose of determining the significance of the project's impact on hydrology and water quality, would the project:

a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:
    - result in substantial erosion or siltation on- or off-site;
    - substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;
    - create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or
    - impede or redirect flood flows?
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?

[76] Rockridge Geotechnical. *Preliminary Geotechnical Paper Study for Proposed Office Development at 550 E Brokaw Road*. August 12, 2020.
[77] Santa Clara Valley Water District. *2016 Groundwater Management Plan for Santa Clara and Llagas Subbasins*. November 2016.
[78] Federal Emergency Management Agency. *Unmapped Areas on Flood Hazard Maps: Understanding Zone D.* August 2011.

3.10.2.1 *Project Impacts*

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

Construction Impacts

Construction activities, such as grading and excavation, have the potential to result in temporary impacts to surface water quality in local waterways. When disturbance to the soil occurs, sediments may be dislodged and discharged into the storm drainage system after surface runoff flows across the site. The project would disturb approximately 19.7 acres of soil, which is above the one-acre threshold requiring conformance with the Construction General Permit. As such, an NOI must be submitted to the RWQCB and a SWPPP must be developed to establish methods for controlling discharge associated with construction activities.

In addition to the Construction General Permit, development projects in San José are required to comply with the City's Grading Ordinance, which requires the use of erosion and sediment controls to protect water quality while a site is under construction. Prior to issuance of a permit for grading activity occurring during the rainy season (October 1 to April 30), the project applicant is required to submit an Erosion Control Plan for the project. The Erosion Control Plan would detail the BMPs to be implemented during the construction phase to prevent the discard of stormwater pollutants and minimize erosion (refer to Section 3.7 Geology and Soils for more information regarding the implementation and requirements of the City's Grading Ordinance and Erosion Control Plan).

Pursuant to City requirements, the following standard permit conditions are required of the project to reduce potential construction-related water quality impacts.

Standard Permit Conditions:

- Install burlap bags filled with drain rock around storm drains to route sediment and other debris away from the drains.
- Suspend earthmoving or other dust-producing activities during periods of high winds.
- Water all exposed or disturbed soil surfaces at least twice daily to control dust as necessary.
- Water or cover stockpiles of soil or other materials that can be blown by the wind.
- Cover all trucks hauling soil, sand, and other loose materials and maintain at least two feet of freeboard on all trucks.
- Sweep all paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites daily (with water sweepers).
- Replant vegetation in disturbed areas as quickly as possible.
- Fill with rock all unpaved entrances to the site to remove mud from tires prior to entering City streets. Install a tire wash system if requested by the City.
- Comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City's Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

Compliance with the requirements of the Construction General Permit, City's Grading Ordinance, and the City's standard permit conditions would ensure that non-significant quantities of soil and construction byproducts enters the storm drain system and local waterways as a result of the project.

Post-Construction Impacts

The project would replace and create more than 10,000 square feet of impervious surface therefore, it would be subject to Provision C.3 of the MRP. This requires the project to incorporate site design, source control and runoff treatment controls to reduce the rates, volumes and pollutant loads of runoff from the project. The project would reduce and treat surface runoff through the clustering of structures and pavement, landscape design measures, installation of media filters, and planting of approximately 508 trees. Source control measures include water-efficient irrigation systems and stenciling of on-site storm drain inlets.

In addition to the requirements of Provision C.3, the project would be subject to the San José Public Works Department standard permit conditions identified above, which mandate compliance with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29).

Conclusion for checklist question a): With implementation of the City's standard permit conditions, the project would not violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality. **(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?

As discussed under Section 3.10.1.2, groundwater within the project vicinity has been documented to flow northwest at depths as high as 7 and 12 feet bgs, but is typically 60 feet bgs year-round. As the project does not involve any excavation below ground beyond what is required to install utilities, the project would not encounter groundwater or require dewatering of subsurface groundwater.

The project would rely on existing sources of water and the City's existing water delivery system. Although the project would increase the demand for water within the City, this increase would not result in a substantial depletion of aquifers relied upon for local water supplies (see discussion under checklist question b) in Section 4.19 Utilities and Service Systems). The project site is not located on or adjacent to one of the SCVWD's 18 major groundwater recharge systems.[79] In addition, as discussed below under checklist question c), project implementation would result in a decrease in impervious surfaces in comparison with existing conditions. A decrease in impervious surfaces results in a corresponding decrease in surface runoff, thus resulting in an increase in infiltration on the project site. For these reasons, the project would not establish groundwater wells to supply the site, deplete groundwater supply, or interfere with groundwater recharge.

[79] SCVWD. *2016 Groundwater Management Plan*. Figure 1-3. 2016.

Conclusion for checklist question b): The project would not substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin. **(Less than Significant Impact)**

c) Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on- or off-site; substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site; create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or impede or redirect flood flows?

As discussed under Section 3.10.1.2 Existing Conditions, the project site is currently 86 percent impervious and 14 percent pervious. The project proposes to demolish the existing Fry's Electronics building and surface parking lot, and construct an office campus development consisting of seven office towers and two parking garages oriented around two east-west green belts and various open spaces and outdoor amenities. Post-construction, the project site would be covered by approximately 691,715 square feet of impervious surface and 184,448 square feet of pervious surface (876,163 total square feet), or 79 percent impervious and 21 percent pervious. This represents a net reduction in impervious surface in comparison with existing conditions.

Since the project would result in less impervious surface, the project would result in a corresponding reduction in the amount of surface runoff compared to existing conditions. Post-construction stormwater runoff from the project's impervious surfaces would be directed towards landscaped areas and bioretention throughout the project site for treatment. The project's stormwater treatment system would reduce the rate of stormwater runoff entering the City's storm drainage system. Because the project would result in reduced runoff volumes compared to the existing conditions, the project would not negatively impact the capacity of the existing storm drain system or cause off-site flooding.

With adherence to the requirements of Provision C.3 of the MRP, the Construction General Permit, and the City's standard permit conditions, the project would not create substantial new sources of polluted runoff. Additionally, the project would improve the quality of stormwater runoff leaving the project site and entering the City's storm drainage system. Finally, the project would be required to manage erosion and sedimentation during construction in accordance with the City's Municipal Code and the Construction General Permit.

Conclusion for checklist question c): With implementation of the City's standard permit conditions, the project would not substantially alter the drainage pattern of the project site or area in a manner which would result in on- or off-site erosion, flooding, or runoff impacts. **(Less than Significant Impact)**

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

As noted under Section 3.10.1.2 Existing Conditions, the western portion of the project site is within Flood Zone X where there is a 0.2 percent annual chance of flooding, while the eastern portion of the site is within Flood Zone D where there are possible but undetermined flood hazards. Due to the project site's inland location and distance from large bodies of water (i.e., the San Francisco Bay), it is not subject to seiche or tsunami hazards, or sea level rise.

As discussed under checklist question a) in Section 3.9 Hazards and Hazardous Materials, no hazardous materials besides cleaning supplies, maintenance chemicals, diesel fuel, and herbicides and pesticides for landscape maintenance would be routinely stored or used by the project. Additionally, the project would be required to comply with Post-Construction Urban Runoff Policy 6-29 and Provision C.3 of the RWQCB Municipal Regional NPDES Permit requirements to reduce the impacts of stormwater runoff on post-construction water quality (refer to checklist question a). For these reasons, the project would result in a less than significant risk for releasing pollutants due to inundation.

Conclusion for checklist question d): With implementation of the City's standard permit conditions, the project would not risk release of pollutants due to project inundation in flood hazard, tsunami, or seiche zones. **(Less than Significant Impact)**

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

Water Quality Control

As discussed in checklist question a), the project would comply with the City's Post-Construction Urban Runoff Policy 6-29 and Provision C.3 of the RWQCB Municipal Regional NPDES Permit requirements, and would implement the City's standard permit conditions addressing construction- and operational-related surface runoff quality. Thus, the project would not conflict with or obstruct implementation of the San Francisco Bay Basin Plan.

Santa Clara Plain and Llagas Subbasin Groundwater Management Plan

As discussed in Section 3.10.1.1 Regulatory Framework, the project site is within the Santa Clara Plain groundwater subbasin, and this subbasin has not been identified in the GMP as being overdrafted. Implementation of the project would not interfere with any actions set forth by Valley Water in its GMP in regards to groundwater recharge, transport of groundwater, and/or groundwater quality. In addition, as discussed under checklist question b), the project would not substantially decrease groundwater supplies or substantially interfere with groundwater recharge.

Conclusion for checklist question e): With implementation of the City's standard permit conditions, the project would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan. **(No Impact)**

3.10.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant cumulative hydrology and water quality impact?

The geographic study area for cumulative hydrology and water quality impacts is the Coyote Creek watershed, since the effects of the project would be limited to the watershed in which it is located.

All cumulative projects are required to adhere to state and local regulations, and implement the City's standard permit conditions (as identified under checklist question a), to comply with water quality standards and waste discharge requirements, thereby resulting in less than significant impacts to surface or ground water quality. These regulations are in place to ensure individual projects do not result in a significant cumulative impact. The General Plan FEIR concluded that adherence to these regulations by future projects would ensure associated impacts to water quality are less than significant. For these reasons, the project would not result in a cumulatively significant impact to water quality.

The impact of cumulative projects within the Coyote Creek Watershed on groundwater supplies and recharge is contingent on the condition of its associated groundwater basin, its water demand, project-specific information (e.g., any permanent dewatering requirements), and effects on recharge facilities. All cumulative projects within the Coyote Creek Watershed would be required to comply with Valley Water's Santa Clara and Llagas Subbasin GMP and state regulations (including those identified in Section 3.10.1.1 Regulatory Framework) protecting groundwater resources.

As discussed in Section 3.19 Utilities and Service Systems, existing water supplies are available to meet the demand of the project in addition to existing and projected demand during normal, dry, and multiple dry years. Because of this, and the fact that the project would not directly affect groundwater supplies or groundwater recharge and would result in an increase of previous surfaces on the project site compared to existing conditions (thereby resulting in a corresponding increase in surface infiltration), the project would not result in a cumulatively considerable decrease in groundwater supplies or interfere substantially with groundwater recharge such that the project would impede sustainable groundwater management of the basin.

All cumulative projects are also required to adhere to General Plan policies, standard permit conditions, and existing regulations (including the Construction General Permit and Provision C.3) to manage stormwater runoff and erosion and reduce impacts to a less than significant level. These regulations are in place to ensure individual projects do not result in a significant cumulative impact. The General Plan FEIR concluded that adherence to these regulations would ensure that future projects do not alter existing drainage patterns in a manner that would result in on- or off-site erosion or flooding. As discussed under checklist question c), the project would comply with existing regulations and result in a net reduction of impervious surface at the project site in comparison with existing conditions. Therefore, the project would not result in a cumulatively significant impact related to on- or off-site erosion or flooding.

Any risk of project inundation due to floods, dam failure, tsunamis, or seiches resulting in the release of pollutants would be reduced to a less than significant level by compliance with existing

regulations regarding the use, storage, transport, and disposal of hazardous materials, as well as requirements of the Post-Construction Urban Runoff Policy 6-29 and Provision C.3 of the RWQCB Municipal Regional NPDES Permit. The project would store its hazardous materials in compliance with existing regulations, and the project site is not within a 100-year floodplain or subject to tsunamis and seiches. Thus, the project would not result in a cumulatively significant risk of pollutant release due to inundation.

Lastly, the project would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan, and therefore would not contribute to a cumulatively significant impact in this regard.

Conclusion for Hydrology and Water Quality Cumulative Impacts discussion: With implementation of the City's standard permit conditions, the project would have a less than significant cumulative impact on hydrology and water quality. **(Less than Significant Cumulative Impact)**

3.11 LAND USE AND PLANNING

3.11.1 Environmental Setting

3.11.1.1 *Regulatory Framework*

Regional and Local

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigation impacts resulting from planned development projects in the City. The proposed project would be subject to the land use policies of the City's General Plan, including the following:

Policy	Description
IP-1.8	Consider and address potential land use compatibility issues, the form of surrounding development, and the availability and timing of infrastructure to support the proposed land use when reviewing rezoning or prezoning proposals.
TR-14.3	For development in the Airport Influence Area overlays, ensure that land uses and development are consistent with the height, safety and noise policies identified in the Santa Clara County Airport Land Use Commission (ALUC) comprehensive land use plans for Mineta San José International and Reid-Hillview airports, or find, by a two-thirds vote of the governing body, that the proposed action is consistent with the purposes of Article 3.5 of Chapter 4 of the State Aeronautics Act, Public Utilities Code Section 21670 et seq.

North San José Area Development Policy

The NSJADP provides for the development of up to 32,000 new residential dwelling units allowing for approximately 56,640 new residents within North San José, and up to 26.7 million square feet of new industrial/office/R&D building space beyond existing entitlements, allowing for 83,000 new employees. Any industrial land within the NSJADP area may be developed up to a maximum floor area ratio (FAR) of 0.35, which would utilize up to 6.7 million square feet of the Policy's industrial capacity. Development on sites located within 2,000 feet of a light rail station may develop up to a maximum FAR of 0.40 provided that the sites incorporate site design measures to facilitate pedestrian access to nearby transit facilities. The NSJADP reserves 16 million square feet of industrial development capacity for the Industrial Core Area of the NSJADP, which would result in an overall average 1.2 FAR.

Norman Y. Mineta San José International Airport Comprehensive Land Use Plan

The Norman Y. Mineta San José International Airport CLUP is intended to safeguard the general welfare of the inhabitants within the vicinity of the airport and aircraft occupants. The CLUP establishes an airport land use planning area, referred to as the AIA. The AIA is a composite of areas surrounding the airport that are affected by noise, height, and safety considerations. The CLUP includes land use compatibility guidelines, with topics such as noise and building height, to ensure that surrounding land uses and development do not interfere with the airport's continuing operations.

3.11.1.2 *Existing Conditions*

The site is designated as *Combined Industrial/Commercial (CIC)* under the City's Envision San José 2040 General Plan. Properties with a CIC land use designation are intended for commercial, office, or industrial developments or a compatible mix of these uses. A significant amount of flexibility in the mixture of compatible uses and in development intensity (up to 12.0 FAR, equivalent to 10,298,112 square feet at the project site[80]) is permitted on CIC-designated parcels.

This site has a *CIC Combined Industrial/Commercial* zoning designation, which allows for a mixture of industrial and commercial uses consistent with the project site's land use designation and proposed uses. Under San José Municipal Code Section 20.875.020(C)(1)(e), the proposed development would be subject to a maximum building height limit of 120 feet. Municipal Code Section 20.85.040 permits an additional 17 feet for elevator shafts, stairwells, and mechanical equipment (137 feet in total).

As documented in Section 3.4 Biological Resources, the project site is within the SCVHP study area, and is designated as Urban-Suburban land. As documented under checklist question e) in Section 3.9 Hazards and Hazardous Materials, the project site is within the AIA for the Norman Y. Mineta San José International Airport, but outside of the CLUP-defined safety zones and the 65 dBA aircraft noise contours.

To the northeast of the project site is the Brokaw Business Center, which has a General Plan *Combined Industrial/Commercial (CIC)* land use designation. The parcels west and southwest of the site are also designated as *Combined Industrial/Commercial (CIC)*. Parcels south of the project site are designated as Heavy Industrial (HI). As shown in Figure 2.2-3, the project site is bordered to the east by Interstate 880 (I-880); parcels east of I-880 are designated as *Combined Industrial/ Commercial (CIC)*, while the Coyote Creek trail is designated as Open Space, Parklands, and Habitat (OSPH).

3.11.2 Impact Discussion

For the purpose of determining the significance of the project's impact on land use and planning, would the project:

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?

3.11.2.1 *Project Impacts*

a) Would the project physically divide an established community?

A physical division of an established community typically refers to the construction of a physical feature (such as a wall, roadway, or railroad tracks) or the removal of a means of access (such as a

[80] Site gross/net area = 858,176 sq. ft.; 858,176 multiplied by 12 equals 10,298,112 sq. ft.

local roadway or bridge) that would impair mobility within an existing community or between communities.

The project proposes to demolish the existing Fry's Electronics building and surface parking lot, and construct an office campus development consisting of seven office towers and two parking garages. The project also includes two east-west green belts running through the interior of the office campus development and an EVA path accessible from Junction Road running between Towers 1 and 2, which would improve connectivity within the project vicinity. As described under Section 2.2.1 Site Access, Parking, and Circulation, the project would also create a new signalized intersection at the junction of East Brokaw Road and the Brokaw Business Center driveway and a number of improvements to the project frontage. Further, as described under Section 2.2.6 Transportation Demand Management Program, the project would complete several multimodal network improvements designed to increase access for transit users, bicyclists, and pedestrians. No construction of physical features or closures of an existing street that would impair mobility are proposed. For these reasons, the project would not physically divide an established community.

Conclusion for checklist question a): The project would not physically divide and established community. **(Less than Significant Impact)**

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

Consistency with General Plan and Municipal Code

The project, which proposes to construct an office campus development, is consistent with the project site's Combined Industrial/Commercial (CIC) General Plan land use and Municipal Code zoning designations, as described under Section 3.11.1.2 Existing Conditions.

Parcels designated as CIC in the General Plan are afforded a significant amount of flexibility in the mixture of compatible uses and in development intensity (up to 12.0 FAR, equivalent to 10,298,112 square feet at the project site[81]) is permitted on CIC-designated parcels. The project would construct seven office towers with a total gross floor area of 1,921,215 square feet and 1,646,220 square feet of structured parking on the 858,176 square foot site, equivalent to an FAR of 4.16, consistent with what is permitted on CIC-designated parcels. The proposed office towers would be 118 feet high and mounted with 17-foot-high mechanical penthouse on top (overall height of 135 feet). As Section 20.85.040(A)(3) of the Municipal Code provides a height exception for mechanical equipment and appurtenances, the project is consistent with the height restriction of 120 feet placed on the site by Municipal Code Section 20.875.020(C)(1)(e). As discussed under Hazards and Hazardous Materials checklist question e), the trigger for FAA height airspace safety review is 75 feet AGL and therefore the FAA must evaluate the project and issue a "Determination of No Hazard" as required per City General Plan requirement TR-14.2.

[81] Site gross/net area = 858,176 sq. ft.; 858,176 multiplied by 12 equals 10,298,112 sq. ft.

The project is consistent with General Plan Policy IP-1.8 of ensuring there is adequate infrastructure to support the proposed uses. As documented under Section 3.17 Transportation, transit, roadway, bicycle, and pedestrian facilities can serve the proposed project. As discussed under Section 3.19 Utilities and Service Systems, the project would connect to the existing utility service system, which has sufficient capacity to serve the proposed project while continuing to serve existing development. The project is also consistent with General Plan Policy TR-14.3, since as documented under checklist question e) in Section 3.9. Hazards and Hazardous Materials, the project would not conflict with the Norman Y. Mineta San José International CLUP.

The project's consistency with other General Plan policies and Municipal Code requirements pertaining to specific environmental impacts are discussed throughout this EIR in the relevant resource areas. For these reasons, the proposed project would not result in environmental impacts due to a conflict with the General Plan or Zoning Code.

North San José Area Development Policy

The NSJADP allows for a net total of 26.7 million square feet of new industrial/office/R&D development within the North San José area. The project would result in a maximum of 1,921,215 square feet of office development and would not exceed the development capacity allocated for office uses in the area. The proposed project would be required to pay relevant impact fees to fund measures needed to meet future traffic conditions resulting from development in the North San José area. Traffic Impact Fees will be collected at the time of building permit issuance.[82] Therefore, the proposed project would not conflict with the provisions of the NSJADP adopted to prevent or mitigate environmental impacts.

Santa Clara Valley Habitat Plan

As documented under checklist question f) in Section 3.4 Biological Resources, the proposed project is considered a covered activity under the Habitat Plan, and with implementation of the standard permit condition (i.e., conformance with applicable Habitat Plan conditions and fees), the project would not conflict with provisions of the Habitat Plan.

Conclusion for checklist question b): With implementation of SCVHP standard permit conditions, the project would not conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. **(Less than Significant Impact)**

3.11.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant cumulative land use and planning impact?

The geographic area for cumulative land use impacts is the City of San José. Land uses in the City are regulated through the General Plan. The General Plan FEIR concluded that buildout of the 2040 General Plan in accordance with its policies and actions would result in less than significant land use

[82] City of San José. *North San José Traffic Impact Fee Plan.* June 2005.

impacts.[83] As discussed under checklist questions a) and b), the proposed project is consistent with its General Plan land use designations and is consistent with all applicable General Plan policies, zoning, the Norman Y. Mineta San José International CLUP, the NSJADP, and the SCVHP.

Conclusion for Land Use and Planning Cumulative Impacts discussion: With the implementation of SCVHP standard permit conditions, the project have a less than significant cumulative land use impact. **(Less than Significant Cumulative Impact)**

[83] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report*. SCH: 2009072096. September 2011. Page 194.

3.12 MINERAL RESOURCES

3.12.1 Environmental Setting

3.12.1.1 *Regulatory Framework*

State

Surface Mining and Reclamation Act

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

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

3.12.1.2 *Existing Conditions*

The Communications Hill area in central San José is the only area within the City of San José that is designated by the State Mining and Geology Board as containing mineral deposits of regional significance. The project site is not on or adjacent to Communications Hill.

3.12.2 Impact Discussion

For the purpose of determining the significance of the project's impact on mineral resources, would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and 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?

3.12.2.1 *Project Impacts*

a) Would the project result in the loss of availability of a known mineral resource that would be of value to the region and residents of the state?

As discussed above in Section 3.12.1.2 Existing Conditions, the Communications Hill area is the only area within the City of San José that is designated as containing mineral deposits of regional significance. The project site is not on or adjacent to Communications Hill.

Conclusion for checklist question a): The 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)**

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?

The project site is not in an area of San José or Santa Clara County with known mineral resources.

Conclusion for checklist question b): The project would not result in the loss of availability of a locally important mineral resource recovery site. **(No Impact)**

3.12.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant cumulative mineral resources impact?

The geographic area for cumulative mineral resources impacts is an identified mineral recovery or resource area. As discussed above, the project site is not located in an area of San José or Santa Clara County with known mineral resources.

Conclusion for Mineral Resources Cumulative Impacts discussion: The project would have no cumulative impact. **(No Cumulative Impact)**

3.13 NOISE

The discussion in this section is based, in part, on a Noise and Vibration Assessment prepared for the proposed project by Illingworth & Rodkin, Inc. A copy of the report, dated July 7, 2021 is attached to this EIR as Appendix G.

3.13.1 Environmental Setting

3.13.1.1 *Background Information*

Noise

Factors that influence sound as it is perceived by the human ear, include the actual level of sound, period of exposure, frequencies involved, and fluctuation in the noise level during exposure. Noise is measured on a decibel scale, which serves as an index of loudness. The zero on the decibel scale is based on the lowest sound level that the healthy, unimpaired human ear can detect. Each 10 decibel increase in sound level is perceived as approximately a doubling of loudness. Because the human ear cannot hear all pitches or frequencies, sound levels are frequently adjusted or weighted to correspond to human hearing. This adjusted unit is known as the A-weighted decibel, or dBA.

Since excessive noise levels can adversely affect human activities and human health, federal, state, and local governmental agencies have set forth criteria or planning goals to minimize or avoid these effects. Noise guidelines are generally expressed using one of several noise averaging methods, including L_{eq}, DNL, or CNEL.[84] These descriptors are used to measure a location's overall noise exposure, given that there are times when noise levels are higher (e.g., when a jet is taking off from an airport or when a leaf blower is operating) and times when noise levels are lower (e.g., during lulls in traffic flows on freeways or in the middle of the night). L_{max} is the maximum A-weighted noise level during a measurement period.

Vibration

Ground vibration consists of rapidly fluctuating motions or waves with an average motion of zero. Vibration amplitude can be quantified using Peak Particle Velocity (PPV), which is defined as the maximum instantaneous positive or negative peak of the vibration wave. PPV has been routinely used to measure and assess ground-borne construction vibration. Studies have shown that the threshold of perception for average persons is in the range of 0.008 to 0.012 inches/second (in/sec) PPV.

Additional details about the fundamentals of noise and vibration are described in Appendix G.

[84] L_{eq} the average A-weighted noise level during the measurement period. DNL is the average A-weighted noise level during a 24-hour day, obtained after addition of 10 decibels to levels measured in the night between 10:00 pm and 7:00 am. CNEL is The average A-weighted noise level during a 24-hour day, obtained after addition of 5 decibels in the evening from 7:00 pm to 10:00 pm and after addition of 10 decibels to sound levels measured in the night between 10:00 pm and 7:00 am.

3.13.1.2 *Regulatory Framework*

State and Local

California Green Building Standards Code

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

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to noise and applicable to the project. The City's noise and land use compatibility guidelines are shown in Table 3.13-1, below.

Policy	Description
EC-1.1	Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include: Interior Noise Levels • The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected *Envision General Plan* traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan. Exterior Noise Levels • The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (refer to Table EC-1 in the General Plan or Table 3.13-1 in this Initial Study). Residential uses are considered "normally acceptable" with exterior noise exposures of up to 60 dBA DNL and "conditionally compatible" where the exterior noise exposure is between 60 and 75 dBA DNL such that the specified land use may be permitted only after detailed analysis of the noise reduction requirements and needed noise insulation features are included in the design.
EC-1.2	Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Land Use Categories 1, 2, 3 and 6 in Table EC-1 in the General Plan or Table 3.13-1 in this Initial Study) by limiting noise generation and by requiring use of

noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would:

- Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain "Normally Acceptable"; or
- Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.

EC-1.3 Mitigate noise generation of new nonresidential land uses to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.

EC-1.4 Include appropriate noise attenuation techniques in the design of all new General Plan streets projected to adversely impact noise sensitive uses.

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.

EC-1.7 Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would:

- Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months.

For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.

EC-2.3 Require new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, including ruins and ancient monuments or buildings that are documented to be structurally weakened, a continuous vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A continuous vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Avoid use of impact pile drivers within 25 feet of any buildings, and within 100 feet of a historical building, or building in poor condition. On a project-specific basis, this distance of 100 feet may be reduced to 50 feet 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.

HS-32 Encourage developers to mitigate ambient noise levels adjacent to major noise sources by incorporating acoustical site planning into their projects. Utilize the City's Building Code to implement mitigation measures, such as:

- Incorporating buffers and/or landscaped berms along high-noise roadways or railways;

- Incorporating traffic calming measures and alternative intersection design within and/or adjacent to the project;
- Using reduced-noise pavement (rubberized asphalt); and
- Incorporating state-of-the-art structural sound attenuation measures.

HS-33 Prevent the placement of new noise-sensitive uses unless adequate mitigation is provided. Establish insulation requirements as mitigation measures for all development, per the standards in Table 7-1.

HS-35 Require developers to comply with relevant noise insulation standards contained in Title 24 of the California Code of Regulations (Part 2, Appendix Chapter 12A).

Table 3.13-1: Land Use Compatibility Guidelines for Community Noise in San José

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

Normally Acceptable:
Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements.

Conditionally Acceptable:
Specified land use may be permitted only after detailed analysis of the noise reduction requirements and noise mitigation features included in the design.

Unacceptable:
New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies. Development would only be considered when technically feasible mitigation is identified that is also compatible with relevant design guidelines.

[1]Noise mitigation to reduce interior noise levels pursuant to Policy EC-1.1 is required.

City of San José Municipal Code

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.

The Zoning Ordinance limits noise levels to 55 dBA L_{eq} at any residential property line and 60 dBA L_{eq} at commercial property lines, unless otherwise expressly allowed in a Development Permit or other planning approval. The Zoning Ordinance also limits noise emitted by stand-by/backup and emergency generators to 60 dBA at the property line of nonresidential properties. The testing of generators is limited to 7:00 a.m. to 7:00 p.m., Monday through Friday.

Norman Y. Mineta San José International Airport Comprehensive Land Use Plan

The Norman Y. Mineta San José International Airport Comprehensive Land Use Plan (CLUP) is intended to safeguard the general welfare of the inhabitants within the vicinity of the airport and aircraft occupants. The CLUP establishes an airport land use planning area, referred to as the AIA. The AIA is a composite of areas surrounding the airport that are affected by noise, height, and safety considerations. The CLUP includes land use compatibility guidelines, with topics such as noise and building height, to ensure that surrounding land uses and development do not interfere with the airport's continuing operations.

3.13.1.3 *Existing Conditions*

The primary noise sources at the site are from vehicular traffic noise along I-880 and East Brokaw Road and, to a lesser extent, traffic along other local roadways, operation of surrounding commercial and light-industrial properties, and aircraft flyovers associated with the nearby Norman Y. Mineta San José International Airport.

The project site is located in an area of North San José heavily developed with industrial and commercial uses. Surrounding land uses in the immediate vicinity of the project site consist of a car dealership to the east, a commercial strip mall on the opposite side of East Brokaw Road to the north, light-industrial uses (auto services, door manufacturing, etc.) to the west, and home improvement stores and storage facilities to the south. The nearest noise-sensitive receptors are located approximately 1,600 feet east of the project site, across the freeway. Refer to Figure 2.2-3 for an aerial map of the project and surrounding land uses.

Due to Covid-19 related Shelter-in-Place restrictions implemented by state and local authorities at the time of the Noise and Vibration Assessment, traffic volumes along roadways within the vicinity of the project site were substantially lower and thus not representative of typical conditions. Based on General Plan noise contours and noise measurements completed in January 2019, the hourly average noise levels at the project site and surrounding parcels ranges between 65 and 75 dBA L_{eq} during the daytime and 55 to 65 dBA L_{eq} at nighttime. Future noise levels are estimated to increase by 1 dBA DNL throughout the project site between now and 2035 based on traffic volumes contained in the General Plan FEIR. More information on the data and past measurements used to determine baseline and future noise levels can be found in Appendix G.

3.13.2 Impact Discussion

For the purpose of determining the significance of the project's impact on noise, would the project result in:

a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?
b) Generation of excessive groundborne vibration or groundborne noise levels?
c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

The CEQA Guidelines state that a project would normally be considered to have a significant impact if noise levels conflict with adopted environmental standards or plans, or if noise levels generated by the project will substantially increase existing noise levels at noise-sensitive receivers on a permanent or temporary basis. CEQA does not define what noise level increase would be substantial. As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. For the purposes of this analysis, the City of San José relies on the following as CEQA thresholds of significance:

- Construction Noise – For temporary construction-related noise to be considered significant, construction noise levels would have to exceed ambient noise levels by five dBA L_{eq} or more and exceed the normally acceptable levels of 60 dBA L_{eq} at the nearest noise-sensitive land uses or 70 dBA L_{eq} at office or commercial land uses for a period of more than 12 months.[85]
- Operational Noise – Based on General Plan Policy EC-1.2, a significant noise impact would occur where existing noise sensitive land uses would be subject to permanent noise level increases of three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level, or five dBA DNL or more where noise levels would remain "Normally Acceptable," as shown previously in Table 3.13-1.
- Construction Vibration – Based on General Plan Policy EC-2.3, significant vibration impacts would occur if the project generates a continuous vibration limit of 0.2 inches/sec (5.0 mm/sec) PPV for buildings of normal conventional construction, and a continuous vibration limit of 0.08 inches/sec (2.0 mm/sec) PPV for buildings that are historic or documented to be structurally weakened.

[85] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report.* SCH: 2009072096. September 2011. Page 325.

3.13.2.1 *Project Impacts*

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

Construction Noise

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

Construction activities would generate considerable amounts of noise, especially during earth-moving activities when heavy equipment is used. During each stage of construction, there would be a different mix of equipment operating, and noise levels would vary by stage and vary within stages, based on the amount of equipment in operation and the location at which the equipment is operating.

Construction of the project is planned to occur between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, over four phases. Each phase is anticipated to last 23 months for a combined duration of 92 months, with construction projected to start in October 2023 and end in June 2031. Demolition of the existing building would occur in Stage One. Stages of construction for Phases One, Two, and Three would include site preparation, grading/excavation, trenching/foundations, building exterior, building interior/architectural coating, and paving. Phase Four would not include the demolition stage; however, the equipment expected to be used within each stage would be the same for all four phases.[86]

The Federal Highway Administration's Roadway Construction Noise Model was used to calculate the hourly average noise levels for each stage of construction, assuming every piece of equipment would operate simultaneously, which would represent the worst-case scenario. Table 3.13-2 below shows the calculated construction noise levels at the surrounding land uses described in Section 3.13.1.2 Existing Conditions. Additional information on the methodology and assumptions used to estimate the project's construction noise levels is available in Appendix G.

[86] A detailed list of equipment expected to be used during each phase of construction was provided by the applicant; refer to Appendix G.

Table 3.13-2: Calculated Construction Noise Levels at Surrounding Land Uses				
Stage of Construction	**Hourly Average Noise Levels (dBA L_{eq})**			
	South Commercial (305 feet)	**East Commercial (365 feet)**	**North Commercial (560 feet)**	**West Light-Industrial (610 feet)**
Demolition	69	67	64	63
Site Preparation	64	63	59	58
Grading/Excavation	69	67	63	63
Trenching/Foundation	66	64	61	60
Building – Exterior	66	64	61	60
Building – Interior/Architectural Coating	59	57	54	53
Paving	70	68	65	64
Source: Illingworth & Rodkin, Inc. *550 East Brokaw Noise and Vibration Assessment.* July 7, 2021. Note: Since surrounding land uses would be subject to the collective noise generated by all equipment operating on-site, distances and noise levels are calculated from the geometrical center of the project site.				

As shown in Table 3.13-2, hourly average noise levels at the surrounding land uses would not exceed the existing ambient noise level by more than five dBA L_{eq} (65-75 dBA L_{eq}, refer to Section 4.13.1.2 Existing Conditions) or 70 dBA Leq for a period of more than 12 months. Based on the calculated construction noise levels and assuming no attenuation from intervening buildings, noise levels at the nearest residences located 1,600 feet east of the project site would range between 42 to 52 dBA Leq, which would be below the City's construction noise threshold of 60 dBA L_{eq} for residential uses and the existing ambient noise level (61 to 67 dBA L_{eq}, refer to Appendix G). The project would also implement the following standard permit conditions.

Standard Permit Conditions:

- Limit construction hours to between 7:00 a.m. and 7:00 p.m., Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.
- Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Prohibit unnecessary idling of internal combustion engines.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.

- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences (if applicable).
- If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
- Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors (if applicable) regarding the construction schedule.

Since construction of the project would occur within 200 feet of commercial uses (as measured from the shared property lines of the project site and surrounding commercial structures) and involves substantial noise-generating activities continuing for more than 12 months, the following mitigation measures would be imposed on the project.

Impact NOI-1.1: Development of the project would involve substantial noise-generating activities which would exceed the ambient noise environment for more than 12 months within 200 feet of commercial uses.

Mitigation Measures:

MM NOI-1.1: Prior to issuance of any demolition or grading permits, a qualified acoustical consultant shall prepare a construction noise logistics plan specifying the hours of construction as well as the noise and vibration minimization measures to be implemented during the project's construction. Posting or notification of construction schedules is required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on surrounding uses. The construction noise logistics plan shall require, but not be limited to, the following:

- The contractor shall use "new technology" power construction equipment with state-of-the-art noise shielding and muffling devices.
- Commercial properties within 500 feet shall be notified in writing and provided a written schedule of "noisy" construction activities.
- Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g. bad muffler, etc.) and require that reasonable measures be implemented to correct the problem. The telephone number for the disturbance coordinator shall be conspicuously posted on the construction site and included in the notification sent to neighbors regarding the construction schedule.

Implementation of MM NOI-1.1 would ensure the project includes a construction noise logistics plan as required by General Plan Policy EC-1.7 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. Consistent with the findings of the General Plan FEIR, implementation of the construction noise logistics plan would reduce the impact of project construction to a less than significant level.

Operational Noise

Project-Generated Traffic

Pursuant to General Plan Policy EC-1.2, a significant impact would occur if the permanent noise level increase due to project-generated traffic was three dBA CNEL and equaled or exceeded the "normally acceptable" level of 60 dBA, or if the noise level increase from the project was five dBA CNEL or greater and remained within the "normally acceptable" range.

Based on a review of the Transportation Analysis prepared for the project (refer to Appendix H), the project would not double existing traffic volumes (which is the threshold where traffic would result in a three dBA noise increase), and at most would result in a noise level increase of two dBA DNL along roadway segments within the project vicinity. Since operation of the project would not result in a permanent three dBA DNL increase in ambient noise levels, the project would not substantially increase ambient noise levels as defined by General Plan Policy EC-1.2.

Mechanical Equipment

The project includes mechanical equipment that would be located within dedicated rooms on the first floor and rooftop of each office tower. Rooftop mechanical equipment would be surrounded by a 17-foot-tall parapet wall. A fire pump room would also be present on the ground floor of Garage 1. Assuming a minimum attenuation of 25 dBA provided by the building facades, noise generated by the project's electrical equipment, pumps, and transformers would be at or below the 60 dBA DNL Municipal Code threshold at the nearest property line (refer to Section 3.13.1.1 Regulatory Framework). Similarly, due to the attenuation provided by the parapet wall and the height of the proposed towers, noise generated by the rooftop mechanical equipment would not exceed 60 dBA DNL at the surrounding properties.

Additionally, seven 500 kW (equivalent to 671 horsepower) rated emergency diesel generators would be located on the first floor of every tower with the exception of Tower 2, and on the ground floor of Garage 1. Emergency generators of this caliber are typically tested monthly for a one-hour period between 7:00 a.m. and 7:00 p.m., Monday through Friday. The estimated hourly average noise levels and day-night average noise levels were calculated at the property lines of the nearest surrounding commercial uses during testing (refer to Appendix G for more information on the methodology and calculations). The hourly average noise levels and day-night average noise levels during testing of the emergency generators would be 55 dBA at maximum, below the 60 dBA nonresidential property line threshold.

Truck Deliveries

Loading zones for truck deliveries would be located along the southern facades of Towers 1 and 4 and the eastern facades of Towers 2 and 3. Heavy trucks used for incoming deliveries typically generate maximum instantaneous noise levels of 70 to 75 dBA L_{max} at a distance of 50 feet.

Based on the location of the loading zones for Towers 1, 2, and 4 and their orientation in relation to the other proposed buildings and surrounding commercial uses, loading and unloading activities would be shielded from the surrounding nonresidential land uses and would not generate noise levels exceeding 60 dBA DNL at the shared property lines. However, the loading zones for Tower 3 would only be partially shielded from the car dealership located 85 feet to the east. Assuming a conservative 5 dBA reduction provided by Tower 3, loading and unloading activities associated with the loading zones for Tower 3 would have a day-night average noise level of 56 dBA DNL, which would be below the 60 dBA nonresidential property line threshold (refer to Section 3.13.1.1 Regulatory Framework).

Amphitheatre

On the ground floor of the project site, the project proposes to construct an amphitheater in the northwest corner of the project site which may involve the periodic use of amplified noise. Since the nearest noise-sensitive receptors are located 1,600 feet east of the project site at the Orchard Park residential development, the project would not cause the DNL at noise-sensitive receptors to increase by 3 dBA or more.

Conclusion for checklist question a): With implementation of MM NOI-1.1, the project would not result in a temporary or permanent increase in ambient noise levels in the vicinity of the project site in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies. **(Less than Significant Impact with Mitigation Incorporated)**

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. As discussed under checklist question a), construction activities would include building demolition, site preparation work, foundation work, and new building framing and finishing. Impact pile driving (which generates substantial vibration) is not proposed as a method of construction.

According to the NRHP[87], CRHP[88], and City of San José Historic Resources Inventory, there are no historic buildings located within 200 feet of the project site.[89] There would be no risk of damage to any historic buildings resulting from project construction.

Based on typical vibration levels generated by construction equipment at a distance of 25 feet, the vibration levels from project construction were estimated from the boundary of the project site, which would represent the nearest location for use of vibration generating equipment, at the nearest building facades (refer to Appendix G for more information on the methodology used to calculate vibration levels). Table 3.13-3 below summarizes the vibration levels from construction levels at the nearest surrounding off-site buildings.

Table 3.13-3: Vibration Source Levels for Construction Equipment at Surrounding Buildings

Equipment		PPV (in/sec)				
		Reference (25 feet)	**South Commercial (30 feet)**	**West Light-Industrial (85 feet)**	**East Commercial (145 feet)**	**North Commercial (165 feet)**
Clam shovel drop		0.202	0.165	0.053	0.029	0.025
Hydromill (slurry wall)	in soil	0.008	0.007	0.002	0.001	0.001
	in rock	0.017	0.014	0.004	0.002	0.002
Vibratory Roller		0.210	0.172	0.055	0.030	0.026
Hoe Ram		0.089	0.073	0.023	0.013	0.011
Large bulldozer		0.089	0.073	0.023	0.013	0.011
Caisson drilling		0.089	0.073	0.023	0.013	0.011
Loaded trucks		0.076	0.062	0.020	0.011	0.010
Jackhammer		0.035	0.029	0.009	0.005	0.004
Small bulldozer		0.003	0.002	0.001	0.0004	0.0004

Source: Illingworth & Rodkin, Inc. *550 East Brokaw Noise and Vibration Assessment.* July 7, 2021.

As shown above in Table 3.13-3, vibration levels from project construction would not exceed the City's threshold of 0.2 in/sec PPV for buildings of normal conventional construction at the façade of adjacent buildings.

[87] National Register of Historic Places. "National Register Database and Research. Accessed September 2, 2021. https://www.nps.gov/subjects/nationalregister/database-research.htm
[88] California Register of Historic Places. "California Historical Resources". Accessed September 2, 2021. https://ohp.parks.ca.gov/listedresources/
[89] City of San José. "City of San José Historic Resources Inventory." Accessed September 2, 2021. https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/historic-preservation/historic-resources-inventory.

Conclusion for checklist question b): The project would not result in generation of excessive groundborne vibration or groundborne noise levels. **(Less than Significant Impact)**

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 outside the AIA of the Norman Y. Mineta San José International Airport, which is located 1.35 miles southwest of project site. The project site is located outside the City's Airport Master Plan 2037 60 dBA CNEL noise contours for the Mineta San José International Airport, and therefore noise associated with aircraft operations would be below the City's 60 dBA exterior noise standard. Noise insulation associated with the use of standard construction materials would ensure interior noise levels are below the 45 dBA DNL interior noise standard established in the City's General Plan.

Conclusion for checklist question c): The project would not expose people residing or working in the project area to excessive noise levels due to airport operations or aircraft. **(No Impact)**

3.13.2.2 *Cumulative Impacts*

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

Construction noise and vibration have the potential to add to construction noise occurring at other sites within approximately 500 feet from the source; therefore, the geographic area for cumulative construction noise impacts is identified as locations within 500 feet of the project site. Operational noise from the project has the potential to add to operational noises at other sites within approximately 300 feet from the source; therefore, the geographic area for cumulative operational noise impacts with the project is 300 feet from the project site. For traffic noise, the geographic area is identified as the surrounding roadway network.

No cumulative projects are located within 500 feet of the project site that would contribute to a cumulative construction or operational noise impact with the project (refer to Table 3.0-1). The nearest cumulative project, Supermicro, is located approximately 640 feet southeast of the project site, opposite I-880. This project is currently under construction. Therefore, construction of this project should be completed prior to construction of the proposed project. Additionally, the Supermicro project and the proposed project do share any receptors directly impacted by temporary construction. Therefore, the project would not contribute to a significant cumulative increase in temporary ambient noise levels.

As discussed under checklist question a), the project, on its own, would not result in a permanent three dBA DNL increase in ambient noise levels, and would therefore not substantially increase ambient noise levels as defined by General Plan Policy EC-1.2. Buildout under the General Plan would increase vehicular traffic on roadways in the city and over time traffic noise levels would

increase. According to the General Plan FEIR, noise levels would increase by less than three dBA DNL along Brokaw Road, between I-880 and Zanker Road, under buildout of the General Plan.[90] Therefore, the project would not contribute to a significant cumulative increase in traffic-generated noise.

As discussed above under checklist question c), the project would have no impact (and therefore, no cumulative impact) related to exposing people residing or working in the project area to excessive noise levels due to airport operations.

Conclusion to the Noise and Vibration Cumulative Impacts discussion: The project would have a less than significant cumulative noise impact. **(Less than Significant Cumulative Impact)**

3.13.3 Non-CEQA Effects

Per *California Building Industry Association v. Bay Area Air Quality Management District,* 62 Cal. 4th 369 *(BIA v. BAAQMD)*, effects of the environment on the project are not considered CEQA impacts. The following discussion is included for informational purposes only because the City of San José has policies that address existing noise conditions affecting a proposed project (General Plan Policy EC-1.1, which are summarized below:

- For the proposed common use outdoor areas, the City's "normally acceptable" exterior noise level standard is 70 dBA DNL or less and the "conditionally acceptable" exterior noise level standard is 80 dBA DNL or less.
- The California Building Code requires that interior noise levels within proposed commercial uses meet the 50 dBA $L_{eq(1\text{-}hr)}$ performance standard during operational hours.

Future Exterior Noise Environment

On the ground floor of the project site, the project proposes to construct three common use areas, including an amphitheater in the northwest corner, as well as a picnic/work area and a plaza located to the west and south of Tower 3B, respectively. Additionally, each tower includes terraces on floors two and seven. Exterior noise levels at these common use areas in comparison with the City's noise level standards are discussed below.

Amphitheater

The amphitheater would be located approximately 155 feet from the centerline of East Brokaw Road; based on the distance from the roadway and the shielding of the amphitheater by other towers from noise generated by I-880, the projected noise level would be up to 70 dBA DNL, which is within the City's normally acceptable range.

[90] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report.* SCH: 2009072096. September 2011. Page 338, Table 3.3-7.

Picnic/Work Area

The picnic/work area would be shielded by other towers from roadway noise generated by East Brokaw Road and I-880. As such, the projected noise level at the picnic/work area would be up to 62 dBA DNL, which is within the City's normally acceptable range.

Plaza

The plaza would be shielded by other towers from traffic noise generated by East Brokaw Road, and partially shielded from traffic noise generated by I-880, resulting in projected noise levels of up to 65 dBA DNL, which is within City's normally acceptable range.

Tower 1A Terraces

Tower 1A, which is located in the northwest corner of the project site, includes an entrance terrace on the eastern façade of floor two and terraces on the northern, eastern, and western facades of floor seven.

The entrance terrace would be approximately 360 feet from the centerline of East Brokaw Road and would be partially shielded by other towers, resulting in noise levels of up to 57 dBA DNL. On floor seven, the north terrace on floor seven would have a direct line of sight to East Brokaw Road, resulting in noise levels up to 65 dBA. The eastern terrace would be partially shielded from surrounding roadways and would have a noise level of 57 dBA. The western terrace would be partially shielded from East Brokaw Road traffic noise but exposed to traffic noise from Junction Avenue, resulting in noise levels of up to 64 dBA DNL. These noise levels are within the City's normally acceptable range.

Tower 1B Terraces

Tower 1B includes an entrance terrace on the northern façade of floor two and terraces on the northern, eastern, and southern facades of floor seven. As shown in Figure 2.2-4, Tower 1B is located on the interior of the project site; as such, its common use areas would be mostly shielded from traffic noise generated by surrounding roadways.

The entrance terrace would be set back approximately 335 feet from the centerline of East Brokaw Road, and projected noise levels would be up to 58 dBA DNL. Based on the height of the terraces on floor seven, their distance to surrounding roadways, and the degree of shielding provided by surrounding buildings, the northern, eastern, and southern facades would experience noise levels of up to 58, 61, and 61 dBA DNL, respectively. These noise levels are within the City's normally acceptable range.

Tower 2 Terraces

Tower 2 is located along the northern boundary of the project site and would have a direct line-of-sight to East Brokaw Road, with setbacks ranging from approximately 90 feet along the northern façade to 260 feet along the southern façade. Tower 2 includes an entrance terrace on floor two and terraces on the northern, western, and southern facades of floor seven.

Tower 2's entrance terrace on floor two runs along the southwest and southern façade of the building, which faces away from East Brokaw Road. Based on the distance from East Brokaw Road and the partial shielding provided by Tower 2, the noise level at the entrance terrace would be up to 66 dBA DNL. The northern terrace on floor seven, which would have a direct line of sight to East Brokaw Road, would have a noise level of up to 68 dBA DNL. The western terrace on floor seven would be partially shielded from surrounding roadways, and would have a noise level of up to 64 dBA DNL. The southern terrace on floor seven would be mostly shielded from surrounding roadways and would have a noise level of up to 57 dBA DNL. These noise levels are within the City's normally acceptable range.

Tower 3A Terraces

Tower 3A is located in the northeastern corner of the project site and would have direct line-of-sight to East Brokaw Road, with setbacks ranging from approximately 85 feet along the northern façade to 235 feet along the southern façade. Tower 3A includes an entrance terrace on the southern façade of floor two and terraces on the northern, western, and southern facades of floor seven.

As the entrance terrace is located on the southern façade, it would be mostly shielded from traffic noise generated by East Brokaw Road and I-880, resulting in a noise level of up to 63 dBA DNL. The northern terrace would have a direct line of sight to East Brokaw Road, and would have a projected noise level of up to 68 dBA DNL. The western façade, which would be partially shielded from East Brokaw Road and fully shielded from I-880, would have a noise level of up to 64 dBA DNL. The southern façade would be partially shielded from East Brokaw Road traffic noise but directly exposed to traffic noise from I-880, resulting in a noise level of up to 68 dBA DNL. These noise levels are within the City's normally acceptable range.

Tower 3B Terraces

Tower 3B is located along the eastern boundary of the project site and would have a direct line of sight to I-880, located approximately 415 feet from the centerline of the nearest through lane. Tower 3B includes an entrance terrace on the western façade and terraces on the eastern, western, and southern facades of floor seven.

The entrance terrace would be shielded by the building from traffic noise generated by East Brokaw Road and I-800, resulting in a noise level of up to 57 dBA DNL. While the eastern terrace on floor seven would be exposed to traffic noise from East Brokaw Road and I-880, noise levels are projected to be up to 69 dBA DNL. The western terrace would be mostly shielded from East Brokaw Road and I-880 but would have a direct line of sight with the entrance driveway, resulting in a noise level of up to 61 dBA DNL. The southern terrace would be shielded from East Brokaw Road but would have a direct line of sight with I-880, resulting in a noise level of up to 70 dBA DNL.

Tower 4A Terraces

Tower 4A includes an entrance terrace on the eastern façade of floor two and terraces on the northern, eastern, and western facades of floor seven. As shown in Figure 2.2-4, Tower 4A is located on the interior of the project site; as such, its common use areas would be mostly shielded from traffic noise generated by surrounding roadways.

The entrance terrace would be set back approximately 380 feet from the centerline of East Brokaw Road, and projected noise levels would be up to 64 dBA DNL. Based on the height of the terraces on floor seven, their distance to surrounding roadways, and the degree of shielding provided by surrounding buildings, the northern, eastern, and western facades would experience noise levels of up to 66, 69, and 53 dBA DNL, respectively. These noise levels are within the City's normally acceptable range.

Tower 4B Terraces

Tower 4B is located in the southeastern corner of the project site, and would have a direct line of sight to I-880, with the nearest façade set back approximately 115 feet from the centerline of the nearest through lane. Tower 4B includes an entrance terrace on the northern façade of floor two and terraces on the northern, eastern, and southern facades of floor seven.

The entrance terrace, which would be partially shielded from traffic noise generated by I-880, would have a noise level of up to 64 dBA DNL. The northern terrace on floor seven would be partially shielded from I-880, resulting in a noise level of up to 69 dBA DNL. Both the eastern and southern facades would be directly exposed to I-880, resulting in noise levels of up to 78 and 76 dBA DNL. Noise levels at the eastern and southern facades would exceed the City's normally acceptable range, but would be within the City's conditionally acceptable range.

Future Interior Noise Environment

As discussed in detail in Appendix G, based on noise measurements taken and the assumption of a 25 dBA exterior to interior noise level reduction provided by standard construction materials and forced-air mechanical ventilation, the future interior noise levels at each of the on-site office buildings would be at or below 50 dBA $L_{eq(1\text{-}hr)}$ CalGreen standard for commercial buildings. Additionally, the project would be required to implement the following standard permit condition.

Standard Permit Condition:

- A qualified acoustical specialist shall prepare a detailed analysis of interior commercial noise levels resulting from all exterior sources during the design phase pursuant to requirements set forth in the State Cal Green Code. The study will review the final site plan, building elevations, and floor plans prior to construction and recommend building treatments, where applicable, to reduce commercial interior noise levels to 50 dBA L_{eq}(1-hr) or lower. Treatments would include, but are not limited to, sound-rated windows and doors, sound-rated wall and window constructions, acoustical caulking, protected ventilation openings, etc. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the City, along with the building plans and approved design, prior to issuance of a building permit.

3.14 POPULATION AND HOUSING

3.14.1 Environmental Setting

3.14.1.1 *Regulatory Framework*

State

Housing-Element Law

State requirements mandating that housing be included as an element of each jurisdiction's general plan is known as housing-element law. The Regional Housing Need Allocation (RHNA) is the state-mandated process to identify the total number of housing units (by affordability level) that each jurisdiction must accommodate in its housing element. California housing-element law requires cities to: 1) zone adequate lands to accommodate its RHNA; 2) produce an inventory of sites that can accommodate its share of the RHNA; 3) identify governmental and non-governmental constraints to residential development; 4) develop strategies and a work plan to mitigate or eliminate those constraints; and 5) adopt a housing element and update it on a regular basis.[91] The City of San José Housing Element and related land use policies were last updated in 2014.

Regional and Local

Plan Bay Area 2050

Plan Bay Area 2050 is a long-range transportation, land-use, and housing plan intended support a growing economy, provide more housing and transportation choices, and reduce transportation-related pollution and GHG emissions in the Bay Area. Plan Bay Area 2050 promotes compact, mixed-use residential and commercial neighborhoods near transit, particularly within identified PDAs. PDAs are areas generally near existing job centers or frequent transit that are locally identified for housing and job growth.[92]

ABAG allocates regional housing needs to each city and county within the nine-county San Francisco Bay Area, based on statewide goals. These allocations are designed to lay the foundation for Plan Bay Area 2050's long-term envisioned growth pattern for the region. ABAG also develops forecasts for population, households, and economic activity in the Bay Area. ABAG, MTC, and local jurisdiction planning staff created the Regional Forecast of Jobs, Population, and Housing, which is an integrated land use and transportation plan through the year 2040 (upon which Plan Bay Area 2050 is based).

3.14.1.2 *Existing Conditions*

The population of San José was estimated to be 945,942 in May 2020 with an average of 3.10 persons per household.[93] Full build out of the General Plan includes 120,000 new dwelling units and

[91] California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements" Accessed September 2, 2021. http://hcd.ca.gov/community-development/housing-element/index.shtml.
[92] Association of Bay Area Governments and Metropolitan Transportation Commission. Plan Bay Area 2050. October 21, 2021. Page 20.
[93] State of California, Department of Finance. "E-5 Population and Housing Estimates for Cities, Counties, and the State, 2011-2020." Accessed September 2, 2021. http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/.

382,200 new jobs by 2040.[94] Development approved under the General Plan is projected to increase the City's residential population to 1,313,811.

The jobs/housing balance refers to the ratio of employed residents to jobs in a given community or area. When the ratio reaches 1.0, a balance is struck between the supply of local housing and jobs. The jobs/housing resident ratio is determined by dividing the number of local jobs by the number of employed residents that can be housed in local housing.

The City currently has a higher number of employed residents than jobs (approximately 0.8 jobs per employed resident), but this trend is projected to reverse with full build out under the General Plan. The General Plan assumptions, as amended in the first Four-Year Review in 2016, envision a Jobs/Employee Resident ratio of 1.1/1 or 382,200 new jobs by 2040.[95] To meet the current and projected housing needs in the City, the 2040 General Plan identifies areas for mixed-use and residential development to accommodate 120,000 new dwelling units by 2040.

The project site is occupied by the Fry's Electronic building and surface parking lots. Surrounding uses consist of commercial and industrial uses. The project site is located in the North San José area; expected growth in this area includes 26.7 million square feet of new industrial/office/R&D uses, 1.7 million square feet of new neighborhood serving commercial uses, and the addition of 32,000 new residential units.

3.14.2 Impact Discussion

For the purpose of determining the significance of the project's impact on population and housing, would the project:

a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

3.14.2.1 *Project Impacts*

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

A project can induce substantial population growth by: 1) proposing new housing beyond projected or planned development levels, 2) generating demand for housing as a result of new businesses, 3) extending roads or other infrastructure to previously undeveloped areas, or 4) removing obstacles to population growth (i.e., expanding capacity of a wastewater treatment plant beyond that necessary to serve planned growth).

[94] City of San Jose. *Envision San José 2040 General Plan*. November 2011.
[95] City of San José. *Addendum to the Envision San José 2040 General Plan Final Program Environmental Impact Report and Supplemental Program Environmental Impact Report*. November 2016. Page 16.

The project proposes to demolish the existing Fry's Electronics building and surface parking lot, and construct an office campus development consisting of seven office towers and two parking garages oriented around two east-west green belts and various open spaces and outdoor amenities. The project would not directly induce population growth, because it does not propose any residential uses. Nor does the project propose to extend a road or other infrastructure, or remove obstacles to population growth (refer to Section 3.19 Utilities and Service Systems) that would indirectly induce growth.

The project is, however, expected to provide approximately 6,404 new jobs to the North San José area, which could indirectly induce population growth.[96] As discussed in under checklist question b) in Section 3.11 Land Use and Planning, the project is consistent with the site's Combined Industrial/ Commercial (CIC) General Plan land use designation. Therefore, the project is consistent with the expected job growth in the North San José area and in the City as a whole, and would not result in unplanned population growth.

Conclusion for checklist question a): The project does not propose new housing beyond projected developments levels, extend roads or other infrastructure to previously undeveloped areas, or remove obstacles to population growth. **(Less than Significant 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 with a Fry's Electronics building and surface parking lot, and does not provide housing. For this reason, implementation of the project would not displace existing residents from the project site that would necessitate the construction of housing elsewhere.

Conclusion for checklist question b): The project would not displace existing residents, necessitating construction of replacement housing. **(No Impact)**

3.14.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant cumulative population and housing impact?

The geographic study area for cumulative population and housing projects is the City of San José.

As discussed above under checklist question a), the growth anticipated as a result of the project is within the planned growth of the General Plan and NSJADP, and the project does not include extending infrastructure or removing obstacles that would result in unplanned growth. Cumulative projects in the City could potentially remove housing and/or facilitate unplanned growth; however, the General Plan FEIR determined that planned build out to 2040 would utilize existing areas within

[96] Per the San José Market Overview and Employment Lands Analysis, offices typically employ one worker for every 300 square feet of office space. The project would provide approximately 1,921,215 square feet of office space, which divided by 300 equates to 6,404 employees. Source: Strategic Economics. *San Jose Market Overview and Employment Lands Analysis*. January 2016.

the City's Urban Growth Boundary to increase residential development. New housing developments as part of the General Plan buildout will focus on an intensification of land use in already developed areas. For these reasons, the project would not result in cumulatively significant unplanned population growth.

As discussed above under checklist question b), the project would not displace residents. For this reason, the project would not contribute to a cumulative significant displacement of residents necessitating the construction of replacement housing.

Conclusion to the Population and Housing Cumulative Impacts discussion: The project would not contribute to a significant cumulative population and housing impact. **(Less than Significant Cumulative Impact)**

3.15 PUBLIC SERVICES

3.15.1 Environmental Setting

3.15.1.1 *Regulatory Framework*

State

Government Code Section 66477

The Quimby Act (included within Government Code Section 66477) requires local governments to set aside parkland and open space for recreational purposes. It provides provisions for the dedication of parkland and/or payment of fees in lieu of parkland dedication to help mitigate the impacts from new residential developments. The Quimby Act authorizes local governments to establish ordinances requiring developers of new residential subdivisions to dedicate parks, pay a fee in lieu of parkland dedication, or perform a combination of the two.

Government Code Section 65995 through 65998

California Government Code Section 65996 specifies that an acceptable method of offsetting a project's effect on the adequacy of school facilities is the payment of a school impact fee prior to the issuance of a building permit. Government Code Sections 65995 through 65998 set forth provisions for the payment of school impact fees by new development by "mitigating impacts on school facilities that occur (as a result of the planning, use, or development of real property" (Section 65996[a]). The legislation states that the payment of school impact fees "are hereby deemed to provide full and complete school facilities mitigation" under CEQA (Section 65996[b]).

Developers are required to pay a school impact fee to the school district to offset the increased demands on school facilities caused by the proposed residential development project. The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code.

Regional and Local

Countywide Trails Master Plan

The Santa Clara County Trails Master Plan Update is a regional trails plan approved by the Santa Clara County Board of Supervisors. It provides a framework for implementing the County's vision of providing a contiguous trail network that connects cities to one another, cities to the county's regional open space resources, County parks to other County parks, and the northern and southern urbanized regions of the County. The plan identifies regional trail routes, sub-regional trail routes, connector trail routes, and historic trails.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to public services and are applicable to the project.

Policy	Description
PR-1.1	Provide 3.5 acres of per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
PR-1.2	Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
PR-1.3	Provide 500 square feet per 1,000 population of community center space.
ES-2.2	Construct and maintain architecturally attractive, durable, resource-efficient, and environmentally healthful library facilities to minimize operating costs, foster learning, and express in built form the significant civic functions and spaces that libraries provide for the San José community. Library design should anticipate and build in flexibility to accommodate evolving community needs and evolving methods for providing the community with access to information sources. Provide at least 0.59 square feet of space per capita in library facilities.
ES-3.1	Provide rapid and timely Level of Service response time to all emergencies: 1. For police protection, achieve a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls. 2. For fire protection, achieve a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents. 3. Enhance service delivery through the adoption and effective use of innovative, emerging techniques, technologies and operating models. 4. Measure service delivery to identify the degree to which services are meeting the needs of San José's community. 5. Ensure that development of police and fire service facilities and delivery of services keeps pace with development and growth in the city.
ES-3.8	Use the Land Use/Transportation Diagram to promote a mix of land uses that increase visibility, activity and access throughout the day and to separate land uses that foster unsafe conditions.
ES-3.9	Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly-visible and accessible spaces.
ES-3.10	Incorporate universal design measures in new construction, and retrofit existing development to include design measures and equipment that support public safety for people with diverse abilities and needs. Work in partnership with appropriate agencies to incorporate technology in public and private development to increase public and personal safety.
ES-3.11	Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.
ES-3.13	Maintain emergency traffic preemption controls for traffic signals.

Policy	Description
ES-3.15	Apply demand management principles to control hazards through enforcement of fire and life safety codes, ordinances, permits and field inspections.
ES-3.18	Maintain a program consistent with requirements of State law to inspect buildings not under authority of the Office of the State Fire Marshall.

San José Greenprint

To implement the park and recreation policies of the General Plan, the 2000 Greenprint was adopted by the San José City Council in September 2000 to provide staff and decision makers with a strategic plan for expanding recreation opportunities in the City. The 2000 Greenprint identified areas of the City that were underserved by park and recreation facilities and included policies and strategies to correct those deficiencies through the development of additional facilities in those locations. The City adopted the 2009 Greenprint as an update to the 2000 version.

ActivateSJ Strategic Plan

The ActivateSJ Strategic Plan is the City of San José's Department of Parks, Recreation and Neighborhood Services' plan to maintain, improve and expand facilities, programs and services. The plan guides how the City cares for and develops a diverse park systems, and an abundance of recreation programs and services for all in San José.

3.15.1.2 *Existing Conditions*

Fire Protection Services

Fire protection services in San José are provided by the SJFD. The SJFD responds to all fires, hazardous materials spills, and medical emergencies (including injury accidents) in the City. The SJFD protects 206 square miles and approximately 1.2 million residents in both City and county areas. There are 33 fire stations that service the residents of San José. The SJFD has established the goal of responding to Priority 1 incidents (emergencies) within eight minutes, 80 percent of the time, and Priority 2 incidents (non-emergencies) within 13 minutes, 80 percent of the time. For 2018-2019, the SJFD responded to Priority 1 incidents within the set time standard 74 percent of the time. [97]

The closest fire station to the project site is Fire Department Station 5, located approximately one mile southeast of the project site. According to Google Maps, the fire station is approximately five minutes driving distance from the site.

Police Protection Services

Police protection services for the project site are provided by the San José Police Department (SJPD), which is headquartered at 201 West Mission Street, approximately two miles south of the project site (nine-minute drive time per Google Maps). SJPD is divided into four geographic divisions: Central,

[97] City of San José. *Annual Report on City Services 2018-2019*. December 2019.

Western, Foothill, and Southern. The project site is directly served by the SJPD Central Division. The Central Division includes four patrol districts totaling approximately 39 square miles.[98]

The SJPD has established the goal of responding to Priority 1 calls (present or imminent dangers to life or major damage to/loss of property) within six minutes and responding to Priority 2 calls (involving injury or property damage, or the potential for either to occur) within 11 minutes. In 2018-2019, the citywide average response time for Priority 1 calls was 7.1 minutes, and the average response time for Priority 2 calls was 19.9 minutes.[99]

Schools

The project site is located within the attendance boundaries of the Orchard School District (which serves students from pre-kindergarten through eighth grade) and the East Side Union High School District (which serves students from grades nine through 12).[100] The project site is serviced by Orchard Elementary School (approximately 0.5 miles northwest of the site) and East Side Union High School (approximately 2.75 miles east of the site).

Parks

The Cities of San José and Santa Clara provide parklands, open space, and community facilities for public recreation and community services in the project area. The nearest park to the project site is Townsend Park, operated by the City of San José, located approximately 1.25 miles east of the site. Montague Park, operated by the City of Santa Clara, is located approximately two miles northwest of the project site.

The project site is also located adjacent to the Coyote Creek trail, which is one of two core trail systems within San José's trail network. The Coyote Creek trail is planned and partially developed as one of the network's longest trail systems, ultimately extending from the Bay to the City's southern boundary. At this time, you can access a northern portion of the trail system from Highway 237 Bikeway to Montague Expressway. A short downtown portion travels through Selma Olinder Park. The southern portion begins at Tully Road and extends southward through county jurisdiction and reaches Morgan Hill.

Libraries and Community Centers

The City of San José is served by the San José Public Library System. The San José Public Library System consists of one main library (Dr. Martin Luther King Jr.) and 23 branch libraries.[101] The nearest library to the site is the Northside Branch Library, located approximately 2 miles northwest of the site in the City of Santa Clara. The nearest City of San José library is the Joyce Ellington Branch Library, located approximately 2.25 miles southeast of the site. The City is currently meeting its service level objective of providing at least 0.59 square feet of library space per capita.

[98] San José Police Department. "SJPD Central Division". Accessed September 2, 2021. https://www.sjpd.org/about-us/organization/bureau-of-field-operations/central-division
[99] City of San José. *Annual Report on City Services 2018-2019*. December 2019.
[100] City of San José, Spatial Team. "Public GIS Viewer". Accessed September 2, 2021. https://www.arcgis.com/apps/webappviewer/index.html?id=3c5516412b594e79bd25c49f10fc672f
[101] City of San José Public Library. "Facts and Awards". Accessed September 2, 2021. https://www.sjpl.org/facts.

The City of San José operates 51 community centers within the City limits. The nearest community center to the site is the Grace Community Center, approximately 2.25 miles southeast of the site. The City is currently meeting its service level objective of providing 500 square feet of community center space per 1,000 population.

3.15.2 Impact Discussion

For the purpose of determining the significance of the project's impact on public services, would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:

a) Fire protection?
b) Police protection?
c) Schools?
d) Parks?
e) Other public facilities?

3.15.2.1 *Project Impacts*

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for fire protection services?

The project proposes to demolish the existing Fry's Electronics building and construct an office campus development that, when complete, would be occupied by approximately 6,404 employees. This project would intensify development at the project site, thus increasing the demand for fire protection services.

Although the site would increase demand for fire protection services in comparison with the existing development, the proposed development is consistent with the planned build-out analyzed in the General Plan FEIR and NSJADP FEIR, both of which concluded would not have a significant impact on fire department services. The General Plan also includes policies that address the provision of fire services within the City. Implementation of these policies provide mitigation for additional fire services required within the City as a result of implementation of the General Plan. Therefore, the project would not require the construction of new or expanded fire facilities.

In addition, Fire Department Station 5 is within five minutes driving distance from the project site, and therefore fire protection services can be provided to the project site without affecting response times. Emergency vehicles would be able to access the project site via an EVA-only roadway accessible from Junction Road that would run between Towers 1 and 2. As discussed under checklist question d) in Section 3.17 Transportation, the project would meet the SJFD requirements that all portions of the buildings be within 150 feet of a SJFD access road and a minimum of six feet

clearance from the property line to all sides of the buildings is provided. As required by General Plan Policy ES-3.11, the project would provide adequate fire suppression infrastructure. Further, the project would be constructed in accordance with current state and local building and fire codes to ensure structural stability and safety. The SJFD would review the final site design for consistency with applicable fire department standards.

Conclusion for checklist question a): The project would not result in a significant impact on fire protection facilities and services. **(Less than Significant Impact)**

b) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for police protection services?

As discussed under checklist question a), the project would intensify development at the project site; therefore, the project would increase the demand for police protection services. This increase in demand would be diminished with compliance with applicable City policies, such as General Plan Policy ES-3.9, that promote public and property safety. Furthermore, as the proposed development is consistent with the build-out analyzed in the City's General Plan FEIR and NSJADP FEIR, both of which concluded would not have a significant impact on police protection services, the project would not warrant new or expanded police facilities. The project's incremental increase in police protection services compared to existing conditions would not require new or expanded police protection facilities (the construction of which could cause significant environmental impacts) in order to maintain acceptable service ratios, response times or other performance objectives for police protection services. In addition, SJPD would review the final site design, including proposed landscaping, access, and lighting, to ensure that the project provides adequate safety and security measures.

Conclusion for checklist question b): The project would not result in a significant impact on police protection facilities or services. **(Less than Significant Impact)**

c) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for schools?

The proposed project does not include any residential development, and therefore no new students would be directly generated by implementation of the proposed project. While the project could encourage future employees to migrate to the North San José area, the project is consistent with the type and level of growth assessed in the General Plan FEIR and NSJADP DEIR, which concluded that full build-out would not significantly impact school facilities. Therefore, the proposed project would not result in an adverse physical impact due to the construction of new or physically altered school facilities.

Conclusion for checklist question c): The project would not result in a significant impact on schools. **(Less than Significant Impact)**

d) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for parks?

As mentioned under checklist question a), the project would intensify development at the project site, which would place more employees on-site during regular business hours in comparison with existing conditions. While employees may elect to use local parks and trails, this increase in usage would be minimal, since the proposed development includes a substantial amount of landscaped open space and on-site outdoor amenities. The physical impacts of these proposed private and public open spaces areas are evaluated as part of the project in this EIR. Furthermore, the project is consistent with the type and level of growth assessed in the General Plan FEIR and NSJADP FEIR, both of which concluded that full build-out would not significantly impact park facilities. Therefore, the proposed project would not result in an adverse physical impact due to new or physically altered park facilities.

Conclusion for checklist question d): The project with the implementation of the above standard permit condition would not result in a significant impact on park and recreational facilities. **(Less than Significant Impact)**

e) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for other public facilities?

The proposed project would construct an office campus development and would not include any residential uses. Therefore, in accordance with the conclusions of the General Plan FEIR and NSJADP FEIR, since the project does not include any residential uses, the project would have no impact on other public facilities such as libraries or community centers.

Conclusion for checklist question e): The project would not result in a significant impact on library or community facilities. **(No Impact)**

3.15.2.2 *Cumulative Impacts*

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

The geographic study area for cumulative public services impacts is the City of San José.

As discussed under checklist question a), both the General Plan FEIR and NSJADP FEIR concluded that build-out of their respective plans would not have a significant impact on fire department services. All the cumulative projects identified in Table 3.0-1 are consistent with the growth and development assumed in the General Plan. For these reasons, the cumulative projects would not result in significant cumulative impact to fire protection facilities and services. In addition, future cumulative development would be subject to General Plan Policy ES-3.11 that requires adequate fire suppression infrastructure and would be constructed in accordance with current building codes and reviewed by SJFD to ensure appropriate safety features are incorporated to reduce fire hazards.

As discussed under checklist question b), the NSJADP FEIR and General Plan FEIR concluded that build-out of the NSJADP would not have a significant impact on police protection services and would not result in the need for new standalone police facilities, but may require expansion of existing police facilities. All cumulative projects identified in Table 3.0-1 within the City of San José, including the project, are consistent with the growth assumed in the General Plan and therefore would not result in greater impacts than what was identified in the General Plan FEIR. All future cumulative development would be reviewed by SJPD to assess the potential for the project to increase demand for police protection services and to ensure that projects provide adequate safety and security measures. The construction of new or expanded police facilities in the future as a result of cumulative development would undergo environmental review and would not be anticipated to result in significant adverse environmental impacts. Therefore, the project in combination with other cumulative projects would not result in a cumulatively significant impact to police protection services.

As discussed under checklist question c), no new students would be directly generated by implementation of the project. All future cumulative development that includes residential uses, which would directly generate new students, would be subject to payment of school fees, as required by state law, to mitigate the increase in demand on schools generated by new development to a less than significant level. Therefore, the project would not result in a cumulatively significant impact to schools.

Similarly, future cumulative residential development would be subject to payment of the City's Parkland Dedication Ordinance (PDO, Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO, Municipal Code Chapter 14.25), which require new residential development to either dedicate sufficient land to serve new residents or pay fees to offset the increased costs of providing new park facilities for new development. Thus, the project, which does not include new residences, would only minimally increase usage of local parks and trails as future office tenants occasionally took advantage of nearby recreational facilities (refer to checklist question d) would not result in a cumulatively significant impact to parks.

Finally, the project, which does not include any residential uses, would have no impact on other public facilities (such as libraries and community centers) in accordance with the findings of the General Plan FEIR and NSJASP FEIR. As such, the project would have no cumulative impact on other public facilities.

Conclusion for Public Services Cumulative Impact discussion: The project would not result in a cumulatively significant public services impact. **(Less than Significant Cumulative Impact)**

3.16 RECREATION

3.16.1 Environmental Setting

3.16.1.1 *Regulatory Framework*

Regional

Countywide Trails Master Plan

The Santa Clara County Trails Master Plan Update is a regional trails plan approved by the Santa Clara County Board of Supervisors. It provides a framework for implementing the County's vision of providing a contiguous trail network that connects cities to one another, cities to the county's regional open space resources, County parks to other County parks, and the northern and southern urbanized regions of the County. The plan identifies regional trail routes, sub-regional trail routes, connector trail routes, and historic trails.

Local

Envision San José 2040 General Plan Policies

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding recreation-related impacts and are applicable to the project.

Policy	Description
PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
PR-1.2	Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
PR-1.3	Provide 500 SF per 1,000 population of community center space.

San José Greenprint

To implement the park and recreation policies of the General Plan, the 2000 Greenprint was adopted by the San José City Council in September 2000 to provide staff and decision makers with a strategic plan for expanding recreation opportunities in the City. The 2000 Greenprint identified areas of the City that were underserved by park and recreation facilities and included policies and strategies to correct those deficiencies through the development of additional facilities in those locations. The City adopted the 2009 Greenprint as an update to the 2000 version. The City is currently in the process of another revision to the plan known as Greenprint Update 2018.

ActivateSJ Strategic Plan

The ActivateSJ Strategic Plan is the City of San José's Department of Parks, Recreation and Neighborhood Services' plan to maintain, improve and expand facilities, programs and services. The

plan guides how the City cares for and develops a diverse park systems, and an abundance of recreation programs and services for all in San José.

3.16.1.2 *Existing Conditions*

The Cities of San José and Santa Clara provide parklands, open space, and community facilities for public recreation and community services in the project area. The nearest park to the project site is Townsend Park, operated by the City of San José, located approximately 1.25 miles east of the site. Montague Park, operated by the City of Santa Clara, is located approximately two miles northwest of the project site.

The project site is also located adjacent to the Coyote Creek trail, which is one of two core trail systems within San José's trail network. The Coyote Creek trail is planned and partially developed as one of the network's longest trail systems, ultimately extending from the Bay to the City's southern boundary. At this time, you can access a northern portion of the trail system from Highway 237 Bikeway to Montague Expressway. A short downtown portion travels through Selma Olinder Park. The southern portion begins at Tully Road and extends southward through county jurisdiction and reaches Morgan Hill.

3.16.2 Impact Discussion

For the purpose of determining the significance of the project's impact on recreation:

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

3.16.2.1 *Project Impacts*

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

The project proposes to demolish the existing Fry's Electronics building, and construct an office campus development that, when complete, would be occupied by approximately 6,404 employees. Future employees may elect to use nearby recreational facilities, however, this increase in usage would be minimal, since the proposed development includes a substantial amount of landscaped open space and on-site outdoor amenities. The project is also consistent with the type and level of growth assessed in the General Plan FEIR and NSJADP FEIR, which concluded that full build-out would not significantly impact recreational facilities. Furthermore, the project does not include residential development that could generate substantial demand for recreational facilities. Based on the above, the proposed project would not increase the usage of recreational facilities such that construction of new facilities or expansion of existing recreational facilities would be required.

Conclusion for checklist question a): The project would not result in a significant impact on recreational facilities. **(Less than Significant Impact)**

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

The proposed office campus development includes a substantial amount of landscaping and on-site outdoor amenities (refer to Section 2.2.3 Site Amenities and 2.2.4 Landscaping). Construction of these recreational facilities and their potential impact on the environment have been analyzed throughout this EIR in the context of the overall development proposed by the project. Additionally, as discussed under checklist question a), the recreational needs of future employees would be met by these proposed facilities, and thus the project would not require the construction or expansion of off-site recreational facilities that could have an adverse effect on the environment. Therefore, the recreational facilities proposed by the project would not have an adverse physical effect on the environment.

Conclusion for checklist question b): The project would not require the construction or expansion of recreational facilities. **(Less than Significant Impact)**

3.16.2.2 *Cumulative Impacts*

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

The geographic area for cumulative recreation impacts is the City of San José. Other projects in the City could increase the use of recreational facilities, such as neighborhood and regional parks, to the point of disrepair. In its General Plan FEIR (as amended), the City identified that with expected population growth through 2035, additional parks and community centers would be required to accommodate the increase in population.

Existing City policies and regulations, such as the Parkland Dedication Ordinance and Parkland Impact Ordinance, function to collect fees from new residential development (or require parkland to be dedicated) for the purpose of maintaining the City's service level objectives. By requiring projects to adhere to existing policies and regulations, the cumulative impact of future development on recreational facilities would be minimized. The project also includes a substantial amount of landscaping and on-site outdoor amenities that would meet the recreational needs of future site occupants. Furthermore, the proposed project does not include new residential development; therefore, its impact on recreational facilities in the project area would be minimal.

Conclusion for Recreation Cumulative Impacts discussion: The project would not result in a cumulatively significant impact to recreational facilities. **(Less than Significant Cumulative Impact)**

3.17 TRANSPORTATION

The following discussion is based, in part, on a Transportation Analysis (TA) prepared for the proposed project by Hexagon Transportation Consultants, Inc. The report, dated February 11, 2022, is attached to this EIR as Appendix H.

3.17.1 Environmental Setting

3.17.1.1 *Regulatory Framework*

State

Regional Transportation Plan

The Metropolitan Transportation Committee (MTC) is the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area, including Santa Clara County. MTC is charged with regularly updating the Regional Transportation Plan, a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle, and pedestrian facilities in the region. MTC and ABAG adopted Plan Bay Area 2050 in October 2021, which includes a Regional Transportation Plan to guide regional transportation investment for revenues from federal, state, regional and local sources through 2050.

Senate Bill 743

SB 743 establishes criteria for determining the significance of transportation impacts using a vehicle miles traveled (VMT) metric intended to promote the reduction of GHG emissions, the development of multimodal transportation networks, and a diversity of land uses. Specifically, SB 743 requires analysis of VMT in determining the significance of transportation impacts. Local jurisdictions were required by Governor's Office of Planning and Research (OPR) to implement a VMT policy by July 1, 2020.

Regional

Congestion Management Program

VTA oversees the Congestion Management Program (CMP), which is aimed at reducing regional traffic congestion. The relevant state legislation requires that urbanized counties in California prepare a CMP in order to obtain each county's share of gas tax revenues. State legislation requires that each CMP define traffic LOS standards, transit service standards, a trip reduction and transportation demand management plan, a land use impact analysis program, and a capital improvement element. VTA has review responsibility for proposed development projects that are expected to affect CMP-designated intersections.

Local

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding transportation-related impacts and are applicable to the project.

Policy	Description
TR-1.1	Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT).
TR-1.2	Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.
TR-1.4	Through the entitlement process for new development, fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand. 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 Public Resources Code 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 housing located within General Plan Urban Villages; (ii) commercial or industrial projects; and (iii) 100% 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. Area Development Policy. 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.
TR-1.6	Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.
TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute towards transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.
TR-5.3	Development projects' effects on the transportation network will be evaluated during the entitlement process and will be required to fund or construct improvements in

Policy	Description
	proportion to their impacts on the transportation system. Improvements will prioritize multimodal improvements that reduce VMT over automobile network improvements.
TR-8.4	Discourage, as part of the entitlement process, the provision of parking spaces significantly above the number of spaces required by code for a given use.
TR-8.6	Allow reduced parking requirements for mixed-use developments and for developments providing shared parking or a comprehensive TDM program, or developments located near major transit hubs or within Villages and Corridors and other growth areas.
TR-8.9	Consider adjacent on-street and City-owned off-street parking spaces in assessing need for additional parking required for a given land use or new development.
CD-3.3	Within new development, create and maintain a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.
IN-3.5	Require development which will have the potential to reduce downstream LOS to lower than "D", or development which would be served by downstream lines already operating at a LOS lower than "D", to provide mitigation measures to improve the LOS to "D" or better, either acting independently or jointly with other developments in the same area or in coordination with the City's Sanitary Sewer Capital Improvement Program.

Transportation Analysis Policy (City Council Policy 5-1)

As established in City Council Policy 5-1, Transportation Analysis Policy, the City of San José uses VMT as the metric to assess transportation impacts from new development. Screening criteria have been established to determine which projects require a detailed VMT analysis. If a project meets the relevant screening criteria, it is considered to a have a less than significant VMT impact. Under Policy 5-1, the screening criteria are:

1. Small infill projects;
2. Local-serving retail;
3. Local-serving public facilities;
4. Transit supportive projects in Planned Growth Areas with low VMT and high quality transit;
5. Restricted affordable, transit supportive residential projects in Planned Growth Areas with high quality transit;
6. Transportation projects that reduce or do not increase VMT.

For a project that does not meet the screening criteria, the project's VMT is calculated using the San José VMT Evaluation Tool and/or the City's Travel Demand Model and the project's impact is determined by comparing the project VMT to the appropriate thresholds of significance based on the type of development. The VMT thresholds of significance are established based on the existing citywide average VMT level for residential uses and the existing regional average VMT level for employment uses. For office uses, projects that result in a VMT per employee greater than 15 percent below existing regional VMT per employee would result in a significant VMT impact.

North San José Traffic Impact Fee Plan

The North San José Traffic Impact Fee establishes a mechanism to fund and implement the identified transportation improvements that will be needed to serve all of the anticipated development growth in North San José. Improvements to serve the projected growth were identified as part of the North San José Development Policy traffic study prepared in 2005 and amended in 2009. Development in North San José is required to contribute to improvements to the transportation system to serve increases in traffic volumes and transit use.[102]

U.S. 101/Oakland/Mabury Transportation Demand Policy

The U.S. 101/Oakland/Mabury Transportation Demand Policy (TDP) serves as the Area Development Policy for the U.S. 101/Oakland/Mabury area. The U.S. 101/Oakland/Mabury TDP provides for additional capacity in the immediate area of the U.S. 101/Oakland interchange and is intended to achieve the following goals:

- Management of traffic congestion generated by near-term new development in the vicinity of the U.S. 101/Oakland Road interchange
- Promotion of General Plan goals for economic development and housing; and
- Improvement of the U.S. 101/Oakland Road interchange and construction of the new U.S. 101/Mabury Road interchange to accommodate new development

The US-101/Oakland interchange serves as the primary access points to regional freeway facilities in the project area. As such, the Oakland Road and Commercial Street corridors that serve the U.S. 101/Oakland interchange currently experience traffic congestion during the peak commute hours. The TDP identified existing operations and the required improvements for future development along the U.S. 101/Oakland Road and U.S. 101/Mabury Road corridors. A key element of the TDP was the establishment of a traffic impact fee (TIF) program on new development in the area to fund the identified transportation network improvements.

San José Better Bike Plan 2025

The San José Better Bike Plan 2025, adopted in 2020, contains policies for guiding the creation of safe, direct, and connected citywide bike network within San José. This includes an assessment of the current biking environment and the network connections, projects, bikeway designs, and policies needed to improve biking in San José. In 2020, the City completed build-out of the 400-mile basic bike network identified in its previous bike plan, Bike Plan 2020, which was approved by the city Council in 2009.

[102] City of San José. "North San José Area Development Policy – Policy Documents." Accessed September 2, 2021. https://www.sanJoséca.gov/your-government/departments/planning-building-code-enforcement/planning-division/citywide-planning/area-plans/north-san-jos-area-development-policy/policy-documents

3.17.1.2 *Existing Conditions*

Roadway Network

Regional access to the project site is provided via I-880, U.S. 101, and SR 87. Local access to the project site is provided via East Brokaw Road, Oakland Road, Charcot Avenue, Junction Avenue, Zanker Road, First Street, Old Bayshore Highway, and Rogers Avenue/Queens Lane. These facilities are described below. Additional detail about the existing roadway network is provided in Appendix H.

I-880 is an eight-lane freeway (three mixed-flow lanes and one high-occupancy vehicle (HOV) lane in each direction) in the vicinity of the project area. It extends along the eastern side of San Francisco Bay from San José to Oakland. Access to the project site is provided via full interchanges at East Brokaw Road and Old Bayshore Highway.

U.S. 101 is an eight-lane freeway (three mixed-flow lanes and one HOV lane in each direction) in the vicinity of the project area. U.S. 101 extends northward through San Francisco and southward through Gilroy. Access to the project site is provided via off- and on-ramps for the northbound direction at Old Bayshore Highway, and full interchanges at I-880 and East Brokaw Road in conjunction with First Street.

SR 87 is primarily a six-lane freeway (two mixed-flow lanes and one HOV lane in each direction) that is aligned in a north-south orientation within the project vicinity. SR 87 begins at its interchange with SR 85 and extends northward, terminating at its junction with U.S. 101. Access to the project site is provided via Charcot Avenue and Skyport Drive.

East Brokaw Road, which is designated as a City Connector Street in the 2040 General Plan, is a six-lane arterial that extends eastward from U.S. 101 to Oakland Road. It provides regional access to the project site via its partial interchange with U.S. 101 and its full access ramps at I- 880. West of U.S. 101, East Brokaw Road becomes Airport Parkway and provides direct access to the San José Airport. East of Oakland Road, East Brokaw Road continues as Murphy Avenue and Hostetter Road. East Brokaw Road runs along the project's northern frontage and proposed to provide direct access to the project site via a full access signalized main driveway and a right-in/right-out only driveway.

Junction Avenue is a two-lane collector that runs parallel to and east of Zanker Road. It begins just south of Montague Expressway at its intersection with Zanker Road and extends southward past East Brokaw Road where it terminates at its intersection with Rogers Avenue. Junction Avenue runs along the project's western frontage and is proposed to provide direct access to the project via two full access driveways.

Oakland Road, which is designated as a City Connector Street, is a north-south arterial that begins at Hedding Street in the south as a transition from N. 13th Street and continues to Montague Expressway where it becomes S. Main Street to the north into Milpitas. North of U.S. 101, Oakland Road is primarily a six-lane roadway with a two-way center left-turn lane. South of U.S. 101, Oakland Road narrows to a four-lane arterial to its intersection with Hedding Street. Access to the project site from Oakland Road is provided via its intersections with East Brokaw Road and Old Bayshore Highway.

Charcot Avenue, which is designated as an On-Street Primary Bicycle Facility in the 2040 General Plan, is a two- to four-lane east-west roadway that begins at the U.S. 101/SR 87 junction as the SR 87 off- and on-ramps to/from North First Street and runs eastward to O'Toole Avenue, just west of I-880, where it terminates. West of North First Street, Charcot Avenue is a four-lane roadway that provides direct access to SR 87, while the segment east of North First Street functions as a two-lane collector roadway with a two-way center left-turn lane providing access to adjacent employment areas. Access to the project site is provided via its intersection with Junction Avenue.

Zanker Road, which is designated as a City Connector Street, is a four-lane arterial that extends from U.S. 101 northward past SR 237, where it transitions to Los Esteros Road. Zanker Road provides access to the project site via its intersection with East Brokaw Road.

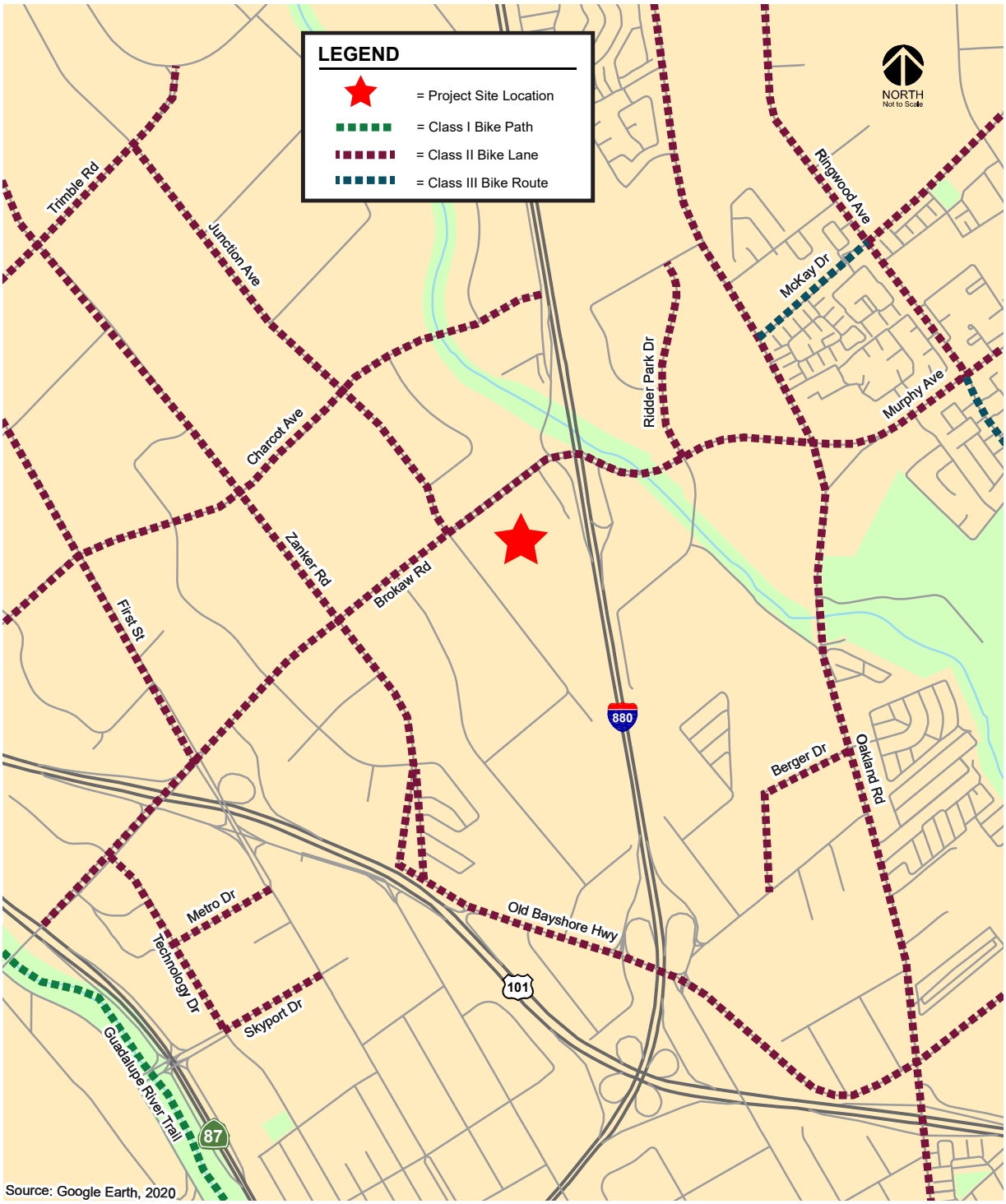
First Street, which is designated as a Grand Boulevard in the 2040 General Plan, is a north-south roadway that extends from the north San José area through downtown San José. The Green and Blue light rail transit (LRT) lines run along the middle of First Street from downtown San José to Tasman Drive in north San José. In the vicinity of the project area, First Street is a four-lane (plus LRT line) roadway. First Street, in conjunction with East Brokaw Road, provides full access to U.S. 101. First Street provides access to the project site via its intersection with East Brokaw Road.

Old Bayshore Highway, which is designated as a City Connector Street, is a two- to four-lane roadway that extends from Zanker Road eastward to just west of Oakland Road, where it transitions into Commercial Street. Old Bayshore Highway has a posted speed limit of 40 mph with bike lanes on both sides of the street. Old Bayshore Highway has a full interchange at I-880 and an off-ramp for northbound U.S. 101. Access to the project site is provided via Queens Lane/Rogers Avenue to Junction Avenue.

Rogers Avenue/Queens Lane is a two-lane north-south local roadway that provides a connection between Old Bayshore Highway and Junction Avenue.

Bicycle Facilities

Existing bicycle facilities within the project vicinity are shown below on Figure 3.17-1, and are described on the following page.



Source: Hexagon Transportation Consultants, Inc., June 15, 2021.

EXISTING BICYCLE FACILITIES | FIGURE 3.17-1

Class I Bicycle Facilities

The Guadalupe River multi-use trail system runs through the City of San José along the Guadalupe River and is shared by pedestrians and bicyclists that are separated from motor vehicle traffic. The Guadalupe River trail is an 11-mile continuous Class I bicycle facility that extends from Curtner Avenue south of the project site to Alviso Road north of the project site. This trail system can be accessed via the East Brokaw Road access point located approximately 1.3 miles southwest of the project site.

Class II Bicycle Facilities

Within the vicinity of the project site, Class II bicycle facilities are provided on the following roadway segments:

- Junction Avenue, between East Brokaw Road and Trimble Road
- East Brokaw Road, along the entire length of the street
- Charcot Avenue, along the entire length of the street
- Zanker Road, between U.S. 101 and SR 237
- First Street, north of East Brokaw Road
- Ridder Park Drive, between East Brokaw Road and Fox Lane
- Oakland Road, along the entire length of the street
- Berger Drive, along the entire length of the street
- McKay Drive, between Ringwood Avenue and Automation Parkway
- Ringwood Avenue, between East Brokaw Road and Trade Zone Boulevard

Class III Bicycle Facilities

Within the vicinity of the project site, the following roadway segments are designated as bike routes.

- McKay Drive, between Oakland Road and Ringwood Avenue
- Ringwood Avenue, south of East Brokaw Road

Pedestrian Facilities

Pedestrian facilities in the project vicinity consist of sidewalks along the surrounding streets, including the project site frontages along East Brokaw Road and Junction Avenue. Sidewalks are missing on the north side of East Brokaw Road, between Junction Avenue and I-880 and for some segments west of Junction Avenue. Overall, East Brokaw Road has sidewalks on at least one side of the street along the entire length of the street. Additionally, Junction Avenue, south of East Brokaw Road, only has sidewalks along the project's frontage. Pedestrian facilities are shown below in Figure 3.17-2.

Crosswalks and pedestrian signal heads are located at all signalized intersections within the project area, including the intersections of Junction Avenue/East Brokaw Road, I-880/East Brokaw Road.

Source: Hexagon Transportation Consultants, Inc., June 15, 2021.

EXISTING PEDESTRIAN FACILITIES | FIGURE 3.17-2

ADA-compliant ramps are located at all crosswalks at these three intersections with the exception of the northwest and northeast corners of the I-880/East Brokaw Road intersection.

Transit Services

Existing transit service to the project vicinity is provided by the Santa Clara VTA. Existing transit facilities within the project vicinity are shown in Figure 3.17-3.

VTA Bus Service

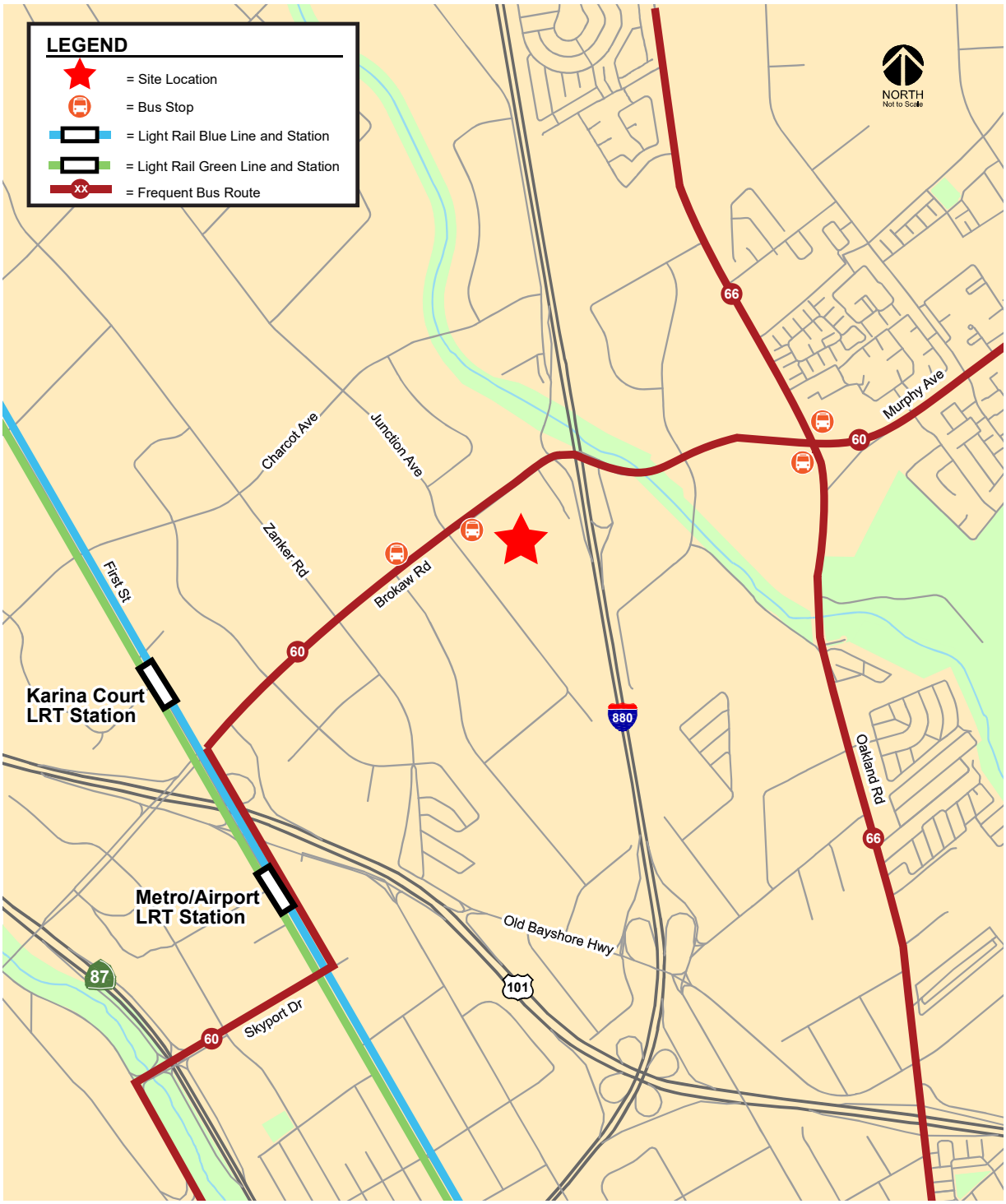
Bus service near the project site is provided by bus routes 60 and 66 which operate along East Brokaw Road and Oakland Road, respectively.

Route 60, which provides service between the Winchester Transit Center and the Milpitas Transit Center with approximately 20-minute headways during the commute periods, provides direct service to the project site. The nearest eastbound route 60 bus stop is located along the project's frontage on East Brokaw Road, just east of Junction Avenue. The nearest westbound route 60 bus stop is located on the opposite side of East Brokaw Road, 600 feet southwest of the project site near Rogers Avenue.

Route 66 provides service between North Milpitas and Kaiser San José Medical Center with approximately 20- to 30-minute headways during the commute periods. The nearest route 66 bus stops to the project site are located near the intersection of Oakland Road and East Brokaw Road.

VTA Light Rail Transit Service

VTA currently operates the 42.2-mile VTA light rail line system extending from south San José through downtown to the northern areas of San José, Santa Clara, Milpitas, Mountain View, and Sunnyvale. The Green (Old Ironsides – Winchester) and Blue (Baypointe – Santa Teresa) LRT lines operate along First Street. The Green and Blue LRT lines operate from 5:00 AM to 1:00 AM with approximately 20- to 30-minute headways during the commute periods. The Karina Court LRT station platforms on First Street are located approximately 0.75 mile west of the project site.



Source: Hexagon Transportation Consultants, Inc., June 15, 2021.

EXISTING TRANSIT FACILITIES | FIGURE 3.17-3

3.17.2 Impact Discussion

For the purpose of determining the significance of the project's impact on transportation, would the project:

a) Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities?
b) Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?
d) Result in inadequate emergency access?

3.17.2.1 *Project Impacts*

a) Would the project conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities?

Transit Facilities

Construction of the proposed office campus development would introduce 6,404 new employees to the project site, which would increase the use of transit facilities in the project vicinity, specifically VTA Bus Route 60. Assuming a conservative transit mode share estimate that three percent of project employees will use VTA bus services, there would be approximately 57 and 36 new bus riders during the peak AM and PM hours, respectively. This increase is consistent with both the General Plan FEIR, which concluded that implementation of the General Plan would increase transit ridership, and VTA operations reports, which indicate that bus routes in the project vicinity have available capacity to serve increases in ridership.

As described under checklist question b), the nearest westbound route 60 bus stop would be relocated from its current location to just west of Junction Avenue with implementation of MM TRN-1.1. The project applicant would be required to work with VTA to determine the specific placement of the relocated bus stop. Additionally, the VTA Better Bus Stops Program intends to improve the Route 60 bus stop located on East Brokaw Road just east of Junction Avenue with solar lighting, and the proposed project is not anticipated to interfere with this planned improvement. Further, in accordance with MM TRN-1.1, the project would also be required to relocate the bus stop for westbound Frequent Route 60 from its current location on East Brokaw Road just west of Rogers Avenue to just west of Junction Avenue, on the far side of westbound Brokaw Road, which would improve transit accessibility.

With implementation of MM TRN-1.1 (described below under checklist question b), and in consideration of the fact that the increase in transit ridership is consistent with VTA operational reports and the City's General Plan, the project would not conflict with any policies, plans, ordinances, or policies addressing the transit facilities.

Roadway Facilities

While a project's effect on automobile delay is no longer considered an impact under CEQA, local jurisdictions have roadway LOS standards. As described in Section 3.17.3 below, the results of the LOS analysis show that, measured against applicable municipal and CMP LOS standards, the added trips as a result of the proposed project would result in an adverse effect on intersection operations under background plus project conditions at six intersections; however, this would not be a significant impact under CEQA (pursuant to SB 743). As conditions of approval, the project would be required to work with City staff in determining an appropriate contribution toward multi-modal improvements at the six affected intersections. For this reason, the project would not conflict with applicable LOS standards and the CMP.

As described in Section 3.17.3 Non-CEQA Effects, the freeway segment analysis shows that the addition of traffic generated by the project would not result in the degradation of levels of service of any freeway segments to unacceptable LOS F. The project would not conflict with any planned or ongoing roadway improvements throughout the North San José area. The proposed project would be required to pay relevant impact fees to fund measures needed to meet future traffic conditions resulting from development in the North San José area, in accordance with the North San José Traffic Impact Fee Plan and the US-101/Oakland/Mabury Transportation Development Policy Traffic Impact Fee Plan. Traffic Impact Fees will be collected at the time of building permit issuance. Therefore, the proposed project would not conflict with any program, plan, ordinance or policy addressing roadways.

Bicycle and Pedestrian Facilities

Planned improvements to the existing bicycle and pedestrian circulation systems are identified in the City's General Plan and the 2025 Better Bike Plan. Various General Plan policies and actions have been adopted to implement planned improvements and ensure the City meets its objectives of enhancing the bikeway network, increasing the mode share of bicycle travelers, and promoting auto-alternative modes of transport.

As discussed under Section 3.17.1.2 Existing Conditions, Class I, Class II, and Class III bicycle facilities are located adjacent to the project site and within the project vicinity. The bicycle facilities within the vicinity of the project site would remain unchanged under project conditions. Currently, Brokaw Road has bicycle lanes that would provide connections to other bicycle facilities in the project vicinity. Accordingly, the project would not remove or inhibit access to any existing bicycle facilities or inhibit implementation of the proposed improvements outlined in the San José Better Bike Plan 2025. As documented in Section 3.17.3, the project would be consistent with the City's bicycle parking requirements.

The interior of the project site would be developed with two east-west pedestrian green belts as well as two-lane roads with sidewalks connected to existing sidewalks on East Brokaw Road and Junction Avenue. The width of sidewalks along East Brokaw Road and Junction Avenue would not be reduced or eliminated, and therefore pedestrian facilities would not be affected.

Additionally, as noted in Section 2.2.4, the project would implement the following improvements to bicycle and pedestrian facilities:

- Construct Class IV bike lanes per the Better Bike Plan 2025 along the Brokaw Road and Junction Avenue project frontages.
- Construct a sidewalk between the relocated bus stop (described under MM TRN-1.1 below) and the existing sidewalk on the north side of Brokaw Road to improve pedestrian connectivity to the Junction Avenue/Brokaw Road intersection; and
- The project will remove each of the pork chop islands at the East Brokaw Road/Junction Avenue intersection and modify the signal phasing on Junction Avenue from permitted to protected phasing to improve pedestrian safety and access (described under MM TRN-1.1).

Based on the above, the proposed project would not conflict with a program, plan, ordinance or policy regarding bicycle and/or pedestrian facilities.

Conclusion for checklist question a): With implementation of MM TRN-1.1 and the imposed condition of approval, the project would not conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities. **(Less than Significant Impact with Mitigation Incorporated)**

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

This question pertains specifically to VMT as the means of analyzing transportation impacts of a project. As described in Section 3.17.1.1 Regulatory Framework, the City's adopted Transportation Policy (City Council Policy 5-1) sets forth the thresholds of significance and methodology for analyzing the VMT impacts of development projects. The methodology used to determine existing and project VMT and the analysis of the project's VMT impacts are described below.

The City of San José's 2018 Transportation Analysis Handbook identifies screening criteria that determines whether a CEQA transportation analysis would be required for a particular development project. These criteria are based on the type of project, characteristics, and/or location. If a project meets the City's screening criteria, it is presumed that the project would result in a less-than-significant transportation impact and a detailed VMT analysis is not required. Per the City's VMT screening criteria, projects located in Planned Growth Areas with low VMT are exempt from a detailed, quantitative VMT analysis.[103] The City's CEQA significance threshold for general employment uses is 12.21 VMT per employee. The City's VMT Evaluation Tool indicates that the existing VMT within the project vicinity is 15.38 VMT per employee, and therefore the project site is not within a low-VMT area and is required to complete a VMT analysis as described below.

[103] A low VMT area is an area where the per capita VMT is than or equal to the CEQA significance threshold for the land use.

More information on the methodology used to determine the project's VMT impacts can be found in Appendix H of this EIR. The results of the VMT evaluation indicated that the project is projected to generate 15.0 VMT per employee, which would exceed the established significant threshold of 12.21 VMT per employee. Therefore, the project will result in a significant impact on the transportation system based on the City's VMT impact criteria.

Impact TRN-1: The project would generate 15.0 VMT per employee, which would exceed the City's significance threshold of 12.21 VMT per employee.

Mitigation Measures:

MM TRN-1.1: Prior to the issuance of any occupancy permits (temporary or final), the project applicant shall prepare and implement a Public Improvement Plan that includes multi-modal improvements to be implemented and schedules for completing the improvements. The plan shall be submitted to the Director of Public Works or Director's designee for review and approval. The plan shall include the following multi-modal improvements:

- Expand the Reach of Bike Access with Investment in Infrastructure (Tier 2): The project applicant shall implement bicycle facilities that close gaps in the bicycle network and/or improve the existing bicycle network (e.g. construct barrier or buffer for an existing bike lane). The project applicant shall also be required to implement protected/buffered bicycle lanes along Brokaw Road and Junction Avenue on the opposing side of or beyond the project frontages. At the intersection of Brokaw Road and Junction Avenue, the project applicant shall complete protected intersection signal modifications that include striped bike lanes adjacent to all crosswalks and installation of corner islands in addition to the removal of the pork chop islands (described in the next bullet, below).
- Increase Transit Accessibility to Improve Last-Mile Transit Connections (Tier 2): The project applicant shall improve transit accessibility for the project to shorten last-mile connections for pedestrians and bicyclists by enhancing access to transit, which shall facilitate the use of transit by people traveling to/from the project site, resulting in a mode shift. The project shall be required to remove the pork chop island at the northwest corner of the Junction Avenue/Brokaw Road intersection to allow for the relocation of the existing Route 60 stop from its current location east of Rogers Avenue to just west of Junction Avenue (on the far side of westbound Brokaw Road). This mitigation requires the construction of a sidewalk between the relocated bus stop and the existing sidewalk on the north side of Brokaw Road for pedestrian connectivity to the Junction Avenue/Brokaw Road intersection. The project applicant shall work with VTA staff to identify the specific placement of the re-located stop along Brokaw Road and improvement of the eastbound stop on its frontage.
- Provide Pedestrian Network Improvements for Active Transportation (Tier 2): The project applicant shall implement pedestrian improvements

both on-site and in the surrounding area. The project applicant shall be required to remove each of the pork chop islands at the Brokaw Road/Junction Avenue intersection and modify the signal phasing on Junction Avenue from permitted to protected phasing to improve pedestrian safety and access.

- Improve Network Connectivity/Design (Tier 2): The project applicant shall signalize its southern project driveway on Junction Avenue. The new signal provides an additional controlled crossing point along Junction Avenue, south of Brokaw Road for pedestrians and bicyclists.
- Provide Bike Parking/End of Trip Bike Facilities (Tier 3): The project applicant shall provide on-site shower facilities with lockers. In addition, the project applicant shall be required to provide bicycle parking that meets or exceeds the City's requirements for both short- and long-term bicycle parking.

Implementation of the Tier 2 and 3 measures described above would reduce project-generated VMT by:

- Improving bike access to the project promotes biking as an alternative to driving.
- Enhancing access to transit for the project will shorten last-mile[104] connections for pedestrians and bicyclists, which will facilitate the use of transit by people traveling to/from the project site, resulting in a mode shift.
- Improving the pedestrian connections encourages people to walk instead of drive. Under protected signal phasing, conflicts between vehicles and pedestrians are eliminated by providing a green arrow for left turning vehicles while stopping both on-coming traffic and pedestrian crossings.
- Improving street connections enhances neighborhood walkability, connectivity, and accessibility.
- End-of-trip facilities, such as bike parking, bicycle lockers, showers, and personal lockers, encourage bicycle use.

Implementation of the Tier 2 and 3 measures described above would reduce project-generated VMT to 13.27 VMT per employee, which would still exceed the City's significance threshold of 12.21 VMT per employee.

MM TRN-1.2: Prior to the issuance of any occupancy permits (temporary or final), the project applicant shall submit and implement a final TDM Plan, approved by the Director of Department of Public Works or Director's designee and the Director of Planning, Building and Code Enforcement, or Director's designee, that shall include implementation of one the following TDM measures to reduce the project's VMT.

- Telecommuting and Alternative Work Schedules: Encourage employees to telecommute from home when possible, or to shift work schedules such that

[104] The "last mile" refers to the general distance between a destination and nearby public transit stops.

travel occurs outside of peak congestion periods. At a minimum, the measure would require that 50 percent of employees work a 4/40 schedule (10-hour work days for four days a week) or an equivalent alternative work schedule.

- Operate a Free Direct Shuttle: Provide direct shuttle service to the project site from areas with high concentrations of employees. At a minimum, the measure would require at least 20 percent participation by employees.

- Subsidize Vanpool: Provide subsidies for individuals forming new vanpools for their commute. The project would be required to subsidize 100 percent of the cost of the vanpools with at least 15 percent employee participation.

MM TRN-1.3: **On-Site Coordinator and Annual Monitoring.** Prior to the issuance of any building permit, a first draft of the Transportation Demand Management Plan shall be submitted. The project applicant shall include an annual monitoring requirement establishing an average daily trip cap of 1,841 AM peak-hour trips and 1,825 PM peak hour trips or 15,463 daily trips. The annual monitoring shall be prepared by a traffic engineer and report must demonstrate the project is within 10% of the ADT cap. If the project is not in conformance with the trip cap, the project applicant shall implement additional TDM measures to meet the trip cap. A follow up report shall be required within six months of the last approved TDM if the project is still out of conformance, and penalties shall be assessed in accordance with Council Policy 5-1. The applicant shall identify a TDM coordinator for the project who would be responsible for resubmitting the annual monitoring reports to the Director of Planning, Building and Code Enforcement or the Director's Designee and the Director of Public Works or Director's Designee for the life of the project.

Using the City's VMT Evaluation Tool, implementation of MM TRN-1.1 through MM TRN-1.3 outlined above would achieve, at maximum, a project-generated VMT of 12.30 VMT per employee. Accordingly, as project-level VMT would still exceed the City's significance threshold of 12.21 VMT per employee, this constitutes a significant and unavoidable impact. Thus, in addition to the mitigation measures described above, the project would be required to pay a VMT impact fee to address the project's unmitigable VMT impact.

Conclusion for checklist question b): The project would result in a significant and unavoidable VMT impact. **(Significant and Unavoidable Impact)**

c) Would the project substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

Geometric Design

Sight Distance

The minimum acceptable sight distance is equivalent to the American Association of State Highway Transportation Officials (AASHTO) stopping sight distance, which vary depending on the roadway speeds. Junction Avenue and East Brokaw Road have posted speed limits of 35 and 40 miles per hour (mph), respectively. The AASHTO stopping sight distances for facilities with posted speed limits of 35 and 40 mph are 250 and 305 feet, respectively. Therefore, a driver exiting the proposed driveways on Junction Avenue must be able to see 250 feet to the south along Junction Avenue, and a driver exiting East Brokaw Road must be able to see 305 feet to the west. Construction of the project in accordance with the AASHTO minimum acceptable sight distance guidelines would ensure that the project does not substantially increase hazards related to sight distance along Junction Avenue and East Brokaw Road.

On-Site Circulation

The project would construct a two-way access road ("A" Circle) that would run centrally through the project site and along the southern and eastern project frontages, providing access to and from each of the East Brokaw Road driveways. Two east-west roadways ("B" Street and "C" Street) would connect each of the Junction Avenue driveways to the central roadway. In addition, the site plan indicates pedestrian drop-off areas along A Circle approximately 100 feet north of B Street. All proposed buildings and parking garages can be accessed from any of the site driveways. The on-site parking garage located along Junction Avenue will be served by one entrance along both B and C Streets. Access to the parking garage located at the southern end of the site will be provided by one entrance along A Circle. The proposed site layout will reduce unnecessary circulation of traffic through the site, and no circulation issues are anticipated for the proposed drop-off locations.

City of San José roadway design standards require two-way roadways to have a minimum width of 26 feet. A Circle would be approximately 26 feet wide, with the exception of the short 35-foot wide segment between the emergency fire access roadway and B Street. B Street would be approximately 26 feet wide. C Street would be approximately 32 feet wide between Junction Avenue and the garage entrance, then narrow to approximately 26 feet wide at A Circle. The design of all internal project roadways would adhere to the City of San José design standards and guidelines. The design of the site must include adequate corner radii along all internal roadways/drive aisles, as well as driveway width, drive aisle width, parking dimensions, and signage that satisfies the City of San José design standards. All curb returns along the on-site roadways shall be a minimum of 30 feet in length to accommodate service and emergency vehicle circulation.

The project also includes two parking garages that would provide 90-degree parking stalls. As discussed in Section 3.17.4, with implementation of the recommended improvements, vehicle queues would not inhibit ingress and egress from the garage entrances. The following project condition of approval would ensure bicycles and pedestrians are alerted of vehicles entering and exiting the parking garages.

Condition of Approval:

- Prior to issuance of building permits, the applicant shall provide appropriate visible and/or audible warning signs at the parking garage access points to alert pedestrians and bicyclists of vehicles exiting the garage.

With adherence to the condition of approval identified above, the project would not substantially increase hazards related to on-site vehicular circulation.

Incompatible Uses

As shown in Figure 2.2-3, the project site, which has a *Combined Industrial/Commercial (CIC)* General Plan land use designation, is adjacent to commercial properties to the east, north, west, and southwest, and heavy industrial uses to the south. As discussed under Section 3.11 Land Use and Planning, the proposed office campus development is consistent with the project site's land use designation and therefore has been found programmatically compatible by the General Plan EIR with the aforementioned surrounding developments. Thus, the project would not result in a significant impact due to land use incompatibilities.

Conclusion for checklist question c): With implementation of the imposed conditions of approval, the project would not substantially increase hazards due to a geometric design feature or incompatible uses. **(Less than Significant Impact)**

d) Would the project result in inadequate emergency access?

Primary access by emergency vehicles to the interior of the proposed development would be provided via an EVA-only path extending between Tower 1 and Tower 2, with connection points at Junction Avenue and Circle A. The SJFD requires that all portions of buildings be within 150 feet of a fire department access road and a minimum of six feet clearance from the property line to all sides of the buildings. The project would meet the SJFD 150-foot fire access requirement and six-foot clearance requirement. Emergency vehicles would also be able to access the proposed development via one full access signalized driveway and one right-turn only driveway along Junction Avenue and two right-turn only driveways along Brokaw Road.

Conclusion for checklist question d): The project would not result in inadequate emergency access. **(Less than Significant Impact)**

3.17.2.2 *Cumulative Impacts*

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

The geographic area for cumulative transportation resource impacts is the City of San José.

As discussed in detail in Section 3.17.3 Non-CEQA Effects, the results of the LOS analysis show that, measured against applicable municipal and CMP LOS standards, proposed project would result in an adverse effect on intersection operations under background plus project conditions at six intersections; however, this would not be a significant impact under CEQA (pursuant to SB 743). As conditions of approval, the project would be required to work with City staff in determining an appropriate contribution toward multi-modal improvements at the six affected intersections (described below in Section 3.17.3). For this reason, the project would not conflict with applicable LOS standards and the CMP. Future cumulative development, including the projects identified in Table 3.0-1, would be required to adhere to the programs, plans, ordinances, and policies identified in Section 3.17.1.1 Regulatory Framework. The City also requires cumulative projects to undergo a Transportation Analysis as outlined in the City's Transportation Analysis Handbook that evaluates the project's effect on the circulation system and provides mitigation measures, as feasible. Further, cumulative projects that contribute to traffic volumes to the NSJADP and/or U.S. 101/Oakland/Mabury TDP areas would be subject to payment of the associated TIF fees, which funds improvements to transportation facilities and would offset impacts to intersection LOS. For these reasons, the project would not contribute to a cumulatively significant conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities.

Projects must demonstrate consistency with the General Plan to address cumulative VMT impacts. Consistency with the City's General Plan is based on the project's density, design, and conformance to the General Plan goals and policies. The General Plan Circulation Element includes a set of long-range, multi-modal transportation goals and policies that provide for a transportation network that is safe, efficient, and sustainable (i.e., minimizes environmental, financial, and neighborhood impacts). These transportation goals and policies are intended to improve multi-modal accessibility to all land uses and create a city where people are less reliant on driving to meet their daily needs. As identified under Section 3.17.1.1 Regulatory Framework, the General Plan policies listed encourage the use of non-automobile transportation modes to minimize vehicle trip generation and reduce VMT. If a project is consistent with General Plan, it is considered as part of the cumulative solution to meet the General Plan's long-range transportation goals, and therefore, will result in a less than significant cumulative impact. If a project is determined to be inconsistent with the General Plan, a cumulative impact analysis is required per the City's Transportation Analysis Handbook.

The General Plan FEIR identified that implementation of the General Plan would result in significant, unavoidable VMT impacts. These impacts were determined to be cumulatively significant. The project is consistent with the General Plan and its policies because the proposed land uses are consistent with the existing General Plan land use designations on the project site; as a result the project would be considered part of the cumulative solution to meet the General Plan's long-range transportation goals. Further, as required by City Council Policy 5-1, the project would reduce its VMT to the maximum extent possible through implementation of mitigation measures MM TRN-1.1 through MM TRN-1.3 (refer to checklist question b), however project VMT would remain significant and unavoidable.

On its own, the project would not substantially increase hazards due to a geometric design feature or incompatible uses. Future cumulative projects would be subject to review by the City's Department of Transportation to ensure projects meet City standards regarding geometric design and sight distance. Similarly, cumulative projects would be reviewed by SJFD for consistency with applicable

fire department standards regarding emergency vehicle access. Therefore, the project would not result in a cumulatively significant impact related to geometric design, sight distance, or emergency vehicle access.

Conclusion for Transportation Cumulative Impact discussion: With implementation of MM TRN-1.1 through MM TRN-1.3, the project would result significant and unavoidable VMT and would contribute to a cumulatively significant transportation impact. **(Significant Cumulative Impact)**

3.17.3 Non-CEQA Effects

As described previously, pursuant to SB 743 the effect of a project on automobile delay is no longer considered an impact on the environment. Nonetheless, local agencies retain their right to assess and regulate a project's impact on the circulation system outside of the CEQA process. As set forth in City Council Policy 5-1, an LTA is required for development projects to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, site access and circulation, and neighborhood transportation issues such as pedestrian and bicycle access, and recommend needed transportation improvements. Thus, an LTA was completed for the proposed project which analyzed these issues. Each individual component of the LTA is described below.

Level of Service

Although a project's effects on LOS are no longer considered an impact on the environment, General Plan Policy IN-3.5 addresses LOS as a planning or growth management matter, outside the CEQA process. In the event a project causes an LOS deficiency, the City has discretion whether to require a project to address the deficiency by implementing roadway or other transportation improvements to restore or improve the level of service, and the relevant question under CEQA is whether those improvements would result in adverse physical changes to the environment, not whether LOS has degraded below the condition considered acceptable.

The magnitude of traffic produced by a new development and the locations where that traffic would appear are estimated using a three-step process: (1) trip generation, (2) trip distribution, and (3) trip assignment. In determining project trip generation, the magnitude of traffic entering and exiting the site is estimated for the AM and PM peak hours. Trips generated by the existing development are then subtracted from project-generated trips to determine the project's true effect on intersection LOS. More information on how project trip generation rates were calculated can be found in Appendix H. Project trip generation estimates are presented in Table 3.17-1.

Table 3.17-1: Summary of Project Trip Generation

Land Use	Daily Trips	AM Peak Hour			PM Peak Hour		
		In	Out	Total	In	Out	Total
A. Proposed Land Use							
General Office Building (2,000,000 sq. ft.)	17,922	1,835	299	2,134	339	1,777	2,116
B. Existing Land Uses							

Table 3.17-1: Summary of Project Trip Generation							
Land Use	**Daily Trips**	**AM Peak Hour**			**PM Peak Hour**		
		In	**Out**	**Total**	**In**	**Out**	**Total**
General Office Building (124,230 sq. ft.)	1,210	124	20	144	23	120	143
Electronics Superstore (169,906 sq. ft.)	6,965	35	19	54	354	369	723
Total Existing Trip Credit	8,175	159	39	198	377	489	866
Total Gross Net Project Trips (A minus B)	9,747	1,676	260	1,936	-38	1,288	1,250
Source: Hexagon Transportation Consultants, Inc. *550 East Brokaw Road Office Development Transportation Analysis*. February 11, 2022.							

In accordance with standard City practice and methodology, the project's effect on LOS was analyzed on 32 signalized intersections and four unsignalized intersections. Extensive detail about the Non-CEQA LOS analysis, including methodology, trip distribution, trip assignment, and City and County standards is included in Appendix H.

As shown in Table 3.17-2, the analysis found that, measured against applicable municipal and CMP LOS standards, the addition of trips from the project would have an adverse effect on intersection operations under background plus project conditions at the following four intersections, including one CMP intersections.

Table 3.17-2: Intersection LOS at Adversely Affected Intersections					
Intersection	**Peak Hour**	**Existing**		**Background Plus Project**	
		Avg. Delay	**LOS**	**Avg. Delay**	**LOS**
I-880/Old Bayshore Highway (West)	AM	28.8	C	32.0	C
	PM	43.3	D	62.2	E
Junction Avenue/ Charcot Avenue	AM	28.2	C	33.2	C
	PM	40.2	D	57.1	E
Trade Zone Boulevard/McCandless Drive/Montague Expressway*	AM	108.0	F	104.8	F
	PM	60.7	E	74.3	E
Commercial Street/Berryessa Road	AM	37.8	D	61.8	E
	PM	32.0	C	33.7	C
Notes: Avg. = Average					

Table 3.17-2: Intersection LOS at Adversely Affected Intersections					
Intersection	**Peak Hour**	**Existing**		**Background Plus Project**	
		Avg. Delay	**LOS**	**Avg. Delay**	**LOS**
* = CMP intersection Source: Hexagon Transportation Consultants, Inc. *550 East Brokaw Road Office Development Transportation Analysis*. February 11, 2022.					

Table Seven in Appendix H shows the full results of the intersection LOS analysis. The added trips as a result of the proposed project would not have an adverse effect on intersection operations at the remaining study intersections.

Conditions of Approval:

- **I-880 and Old Bayshore Highway (W) Improvements:** The applicant shall implement restriping the southbound through lane to a shared through and left-turn lane at the I-880 southbound off ramp. The project applicant shall provide an appropriate contribution towards implementation of possible pedestrian improvements at the I-880 and Old Bayshore Highway intersections that create a comfortable environment for people who walk and bike, consistent with the multi-modal transportation goals and policies outlined in the Envision San José 2040 General Plan. The payment of the NSJADP TIF described below may be used to implement multi-modal improvements in the North San José area.
- **Junction Avenue and Charcot Avenue Improvements:** The project shall provide an appropriate contribution towards implementation of possible pedestrian improvements, such as curb ramps at the northeast, southeast, and southwest corners, at the Junction Avenue and Charcot Avenue intersection that creates a comfortable environment for people who walk and bike. The improvement of pedestrian and bicycle facilities at the intersection would be consistent with the multi-modal transportation goals and policies outlined in the Envision San José 2040 General Plan that are intended to improve multi-modal accessibility to all land uses and encourage the use of non-automobile transportation modes to minimize vehicle trip generation and reduce VMT. The payment of the NSJADP TIF described below may be used to implement multi-modal improvements in the North San José area.
- **Trade Zone Boulevard/McCandless Drive/Montague Expressway * Improvements:** The project shall provide an appropriate contribution towards implementation of multi-modal improvements to the transportation system in the area surrounding the Trade Zone and Montague Expressway intersection. The improvement of pedestrian and bicycle facilities in the area would be consistent with the multi-modal transportation goals and policies outlined in the Envision San José 2040 General Plan that are intended to improve multi-modal accessibility to all land uses and encourage the use of non-automobile transportation modes to minimize vehicle trip generation and reduce VMT. The payment of the NSJADP TIF may be used to implement multi-modal improvements in the North San José area.
- **Commercial Street and Berryessa Road Improvements:** The project shall provide an appropriate contribution towards the implementation of possible pedestrian improvements, such as providing the missing sidewalks and protected bike lanes on Commercial Street and Berryessa Road, that create a comfortable environment for people who walk and bike. The improvement of

pedestrian and bicycle facilities at the intersection would be consistent with the multimodal transportation goals and policies outlined in the Envision San José 2040 General Plan that are intended to improve multi-modal accessibility to all land uses and encourage the use of non-automobile transportation modes to minimize vehicle trip generation and reduce VMT. The payment of the US-101/Oakland/Mabury TIF may be used to implement multi-modal improvements in the US- 101/Oakland/Mabury area.

Intersection Queues

An intersection queuing analysis was completed for informational purposes only, since the City of San José has not defined a policy related to queuing. Based on the results of the queuing analysis, as detailed in Appendix H, the following intersections would have queuing deficiencies as a result of the project:

- Northbound left-turn pocket at Junction Avenue and East Brokaw Road intersection
- Southbound left-turn pocket at the Zanker Road and East Brokaw Road intersection

As discussed in Section 2.2.4, the project would complete the following improvements to the roadway network, which would help alleviate intersection queuing issues.

- A 300-foot northbound left-turn pocket shall be provided at the East Brokaw Road and Junction Avenue intersection.
- A second westbound left-turn lane should be constructed at the intersection of Junction Avenue and Brokaw Road in order to accommodate the projected queues during the AM peak hour.

Freeway Effects

Freeway Segment Evaluation

The City of San José is required by the VTA to evaluate the transportation impacts of land use decisions on the designated CMP Roadway System. The VTA has yet to adopt and implement guidelines and standards for the evaluation of the CMP roadway system using VMT. Therefore, the effects of the proposed project on freeway segments in the vicinity of the project area following the current methodologies as outlined in the VTA Transportation Impact Analysis Guidelines, were completed. This analysis is presented for informational purposes only.

The results of the freeway segment analysis show that the addition of traffic generated by the project would not result in the degradation of levels of service of any freeway segments to unacceptable LOS F.

Freeway Ramp Analysis

An analysis of metered freeway ramps providing access to the project site was performed to identify the effect of the addition of project traffic on the queues at metered study freeway on-ramps. Freeway ramps in the vicinity of the project include:

- I-880 southbound on-ramp from Brokaw Road

- I-880 northbound on-ramp from Brokaw Road
- I-880 southbound on-ramp from Old Bayshore Highway
- US 101 northbound on-ramp from Brokaw Road

Evaluation of the project's effect on freeway ramps is not required by the City's Transportation Analysis Handbook and is included solely for informational purposes. The Freeway Ramp Analysis found that project-generated traffic would not lengthen the projected 15-minute interval queue lengths at the freeway ramps located within the project vicinity under background plus project conditions. Short vehicle queues of less than 15 vehicles currently occur at the ramps; however, the queues dissipate during the 15-minute intervals because the demand volume is less than the service rate of the freeway ramp meters. The freeway on-ramp queuing calculations are included in Appendix H.

Signal Warrant Analysis

The results indicate that the intersection of Queens Lane and Old Bayshore Highway currently has and is projected to have traffic volumes greater than the thresholds that warrant signalization during both the AM and PM peak hours. However, the City is not planning on signalizing this intersection. The project is proposing to signalize the southern project driveway along Junction Avenue. The signal warrant indicates that the project traffic volumes will meet the threshold that warrant signalization at the driveway during the PM peak hour.

Site Access Analysis

A review of the project site plan was performed to determine if the project would provide adequate and to identify any access or circulation issues that should be improved. Site access was evaluated to determine the adequacy of the site's access points with regard to the following: traffic volume, delays, vehicle queues, geometric design, and corner sight distance. This analysis included full traffic operations assessments for the full access signalized driveway and one right-turn in and out only driveway on Junction Avenue and the two right-turn in/right-turn out only driveway along Brokaw Road. The full Site Access Analysis can be found in Appendix H. Based on the results of the Site Access Analysis for the project, the following conditions of approval are required of the project to improve site access.

Conditions of Approval:

- The design of the site must include adequate corner radii along all internal roadways/drive aisles, as well as driveway width, drive aisle width, parking dimensions, and signage that satisfies City of San Jose design standards.
- All curb returns along the on-site roadways should be a minimum of 30-feet to accommodate service and emergency (such as a garbage truck or fire truck) vehicle circulation.
- The right-turn only project driveways along Brokaw Road and Junction Avenue should be free and clear of obstructions ensuring a minimum clear sight distance of 250 feet along Junction Avenue and 305 feet along Brokaw Road.
- The following improvements are recommended to improve access to the project site and on-site circulation from the Junction Avenue driveway:

- The two southbound left-turn lanes at the southern project driveway Junction Avenue will require two receiving lanes on C Street. One lane along C street would need to feed a left-turn lane into Garage 1 while the second lane would feed A Circle.
- The southbound left-turn pockets shall provide a minimum of 325 feet of queue storage capacity per lane.
- Construct a median along Junction Avenue that extends north from the southernmost driveway approximately 325 feet to accommodate the southbound left-turn pockets and restrict the northernmost project driveway to right-turns only.
- "Keep Clear" signage shall be installed at the garage entrance along C Street to maintain access to the garage.

Parking Assessment

Section 20.90.060 of the City's Municipal Code states that office uses are required to provide one vehicle parking space per 250 square feet of floor area. The project would have a total gross floor area of approximately 1,921,215 square feet of office space. For calculating parking requirements, the City defines floor area as 85 percent of the "total gross floor area" of the building (refer to Municipal Code Section 20.90.050), which equates to 1,633,033 square feet. Accordingly, the project would be required to provide 6,532 vehicle parking spaces.[105] However, the City applies a 20 percent reduction to parking requirements for projects that are within an area subject to an area development policy (e.g. the NSJADP) and satisfy the bicycle parking requirements outlined in Chapter 20.90, Table 20-210 of the City's Municipal Code, which requires one bicycle parking space per 4,000 square feet of floor area. Based on the project's floor area (1,633,033 square feet), the project would have to provide 409 bicycle parking spaces to satisfy the City's bicycle parking requirements.[106]

Vehicle Parking

The project site is located within the NSJADP, and as documented below under Bicycle Parking, would meet the City's bicycle parking requirements. Thus, a 20 percent reduction can be applied to the project's parking requirement, which equates to 5,226 vehicle parking spaces. Additionally, per the CBC, projects providing 1,001 and above parking spaces are required to provide two percent of ADA parking spaces for the first 1,000 provided parking spaces and one percent of ADA parking spaces for the amount over 1,000 provided parking spaces. The requirement also states that for every six or fraction of six required ADA parking spaces, at least one shall be a van-accessible parking space. Therefore, the project is required to provide 65 ADA parking spaces, including 11 ADA van-accessible parking spaces to comply with ADA requirements. Further, pursuant to Chapter 20.90, Table 20-250, the project would be required to provide one motorcycle space for every 50 vehicle spaces proposed, which equates to 105 motorcycle parking spaces.[107]

As discussed in Section 2.2.1 Site Access, Parking, and Circulation, the project would provide 5,356 structured parking spaces and 29 surface spaces (5,385 spaces total), which would satisfy the City's parking requirements with the 20 percent reduction applied. Of the combined 5,385 parking spaces proposed, approximately 113 spaces would be Americans with Disabilities Act (ADA) accessible

[105] 1,633,033 square feet divided by 250 square feet equals 6,532 parking spaces.
[106] 1,633,033 square feet divided by 4,000 square feet equals 409 bicycle spaces.
[107] 5,226 vehicle parking spaces divided by 50 equals 105 motorcycle spaces.

parking spaces, including 19 van-accessible spaces, which meets the ADA parking requirements of the CBC. The project proposes 107 motorcycle spaces, which exceeds the 105 motorcycle spaces required by the City's Municipal Code.

Bicycle Parking

As discussed in Section 2.2.1 Site Access, Parking, and Circulation, the project would provide 410 bicycle parking spaces in designated bike parking rooms located on the ground floor of the proposed office towers. Therefore, the proposed project exceeds the 409 bicycle parking spaces required by the City's Municipal Code.

3.18 TRIBAL CULTURAL RESOURCES

The following discussion is based, in part, on an Archaeological Literature Search prepared for the project by Holman & Associates. A copy of the report, dated October 6, 2020, is on file with the Department of Planning, Building and Code Enforcement.

3.18.1 Environmental Setting

3.18.1.1 *Regulatory Framework*

State

Assembly Bill 52

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

Under AB 52, TCRs are defined as follows:

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

3.18.1.2 *Existing Conditions*

There are no known TCRs on the project site. However, due to the project site's proximity to Coyote Creek, the project has a moderate to high sensitivity for subsurface resources.

- On July 9, 2018, a representative of the Ohlone Indian Tribe, Inc., requested notification of projects in accordance with Public Resources Code Section 21080.3.1 subd (b). In response to a more specific verbal request in a meeting with City staff and the representative on July 12, 2018, clarification was received that such notification be sent only for projects in the City of San José that involve ground disturbing activities in Downtown, and that such requests may be sent via e-mail only for future projects require a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report.

- On June 17, 2021, Chairwoman Geary of the Tamien Nation verbally requested AB 52 notification and the written notice received June 28, 2021, requesting notification of projects in accordance with Public Resources Code Section 21080.3.1 subd (b), for all proposed projects that require a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report.

- On July 15, 2021, Chairwoman Geary of the Tamien Nation formally requested tribal consultation in accordance with Public Resources Code Section 21080.3.1 subd (b), (d) and (e).

Accordingly, AB 52 notification was sent electronically and via mail to Tamien Nation on July 19, 2021. Additionally, notification of the project during the Notice of Preparation circulation was sent to all the City's tribal representative's contact information.

Both Chairwoman Kanyon Sayers-Rood on behalf of the Indian Band of Costonoan Ohlone People and Chairwoman Quirina Geary on behalf of Tamien Nation requested AB 52 consultation for this project.

3.18.2 Impact Discussion

For the purpose of determining the significance of the project's impact on tribal cultural resources, would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

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

3.18.2.1 *Project Impacts*

a) Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?

Native American archaeological sites have been identified adjacent to the Guadalupe River and Coyote Creek, the latter of which is located 650 feet northeast of the project site. As discussed under Section 3.18.1.2 Existing Conditions, there are no known tribal cultural resources on or near the project site. However, the Archaeological Literature Search identified a moderate to high potential for subsurface cultural resources to be discovered. Therefore, undiscovered tribal cultural resources, which could be eligible for listing in the CRHR, have the potential to be uncovered during project construction activities. While it is possible that tribal cultural resources would be unearthed during demolition, grading, and excavation at the project site, MM CUL-1.1 through MM CUL-1.3 and the standard permitting conditions included in Section 4.5 Cultural Resources would ensure any discovered resources are properly evaluated and necessary steps are taken to ensure they are not significantly impacted.

On June 21, 2021, in response to the NOP for this project, the City received a formal request for tribal consultation from and the Indian Canyon Band of Costanoan Ohlone People. On July 15, 2021, in response to the NOP for this project, the City received a formal request for tribal consultation from the Tamien Nation of Greater Santa Clara County. Accordingly, the City consulted with each nation separately to understand the project site and potential cultural resources on site.

The City met virtually with Chairwoman Kanyon Sayers-Rood on June 30, 2021 for the first AB 52 consultation meeting. During the consultation, the tribe requested to review any cultural studies for the site and City Staff provided the reports available for the project site. Staff followed up via email on July 7, 2021 with additional reports requested during the consultation and on February 15, 2022 requesting further feedback. To date, no further requests have been made from the Indian Canyon Band of Costonoan Ohlone People.

The City met virtually with Chairwoman Quirina Geary on behalf of Tamien Nation on October 14, 2021. The Chairwoman agreed the site was a high to moderate sensitivity for cultural resources and requested participation in the mechanical investigation of the site should archaeological finds be encountered. The project would implement MM CUL-1.1 through MM CUL-1.3 and the standard permit conditions under checklist question b) in Section 3.5 Cultural Resources, which would include the requirement that Native American monitors be present during the mechanical subsurface investigations. A request for Cultural Sensitivity Training was also made. Staff shared the proposed mitigation measure language with Tamien Nation on February 15, 2022 and the responded March 1, 2022 confirming the language met their request.

Impact TCR-1: Development of the proposed project could potentially result in impacts to undiscovered tribal cultural resources.

Mitigation Measures:

MM TCR-1.1: **Tribal Monitoring.** A qualified Native American Tribal monitor, 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 be present during applicable earthmoving activities such as, but not limited to, trenching, initial or full grading, lifting of foundation, or boring on site. Evidence of a monitoring agreement shall be provided to the Director of Planning, Building and Code Enforcement or Director's Designee.

MM TCR-1.2: **Cultural Sensitivity Training:** A qualified Native American Tribal representative, registered with the NAHC for the City of San José and that is traditionally and culturally affiliated with the geographic area, shall provide at least one cultural sensitivity training to construction personnel prior to the initial ground-breaking activities. Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest), evidence of the cultural sensitivity training shall be submitted to the Director of Planning, Building and Code Enforcement or Director's Designee.

Conclusion for checklist question a): With implementation of MM CUL-1.1 through MM CUL-1.3, MM TCR-1.1, MM TCR-1.2, and standard permit conditions, the project would not cause a substantial adverse change in the significance of a TCR. **(Less than Significant Impact with Mitigation Incorporated)**

b) Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1?

As discussed under Section 3.18.1.2 Existing Conditions, the project site does not contain any tribal cultural resources. Refer to the discussion under checklist question a).

Conclusion for checklist question b): With implementation of standard permit conditions, the project would not cause a substantial adverse change in the significance of a tribal cultural resource. **(Less than Significant Impact)**

3.18.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant cumulative tribal cultural resources impact?

The geographic area considered for tribal cultural resources is the project site and adjacent parcels (within 1,000 feet of the project site).

Future cumulative projects, including those identified in Table 3.0-1, may require excavation and grading or other activities that may affect undiscovered tribal cultural resources. No tribal cultural resources have been identified within the project area, although San José contains numerous Native American archaeological sites and the site was found to have a moderate to high sensitivity in the archaeological report prepared for the project site. Nevertheless, the project and other cumulative projects would be required to implement the City's standard permit conditions that would avoid impacts and/or reduce them to a less than significant level consistent with CEQA and AB 52 requirements. These projects would also be subject to the federal, state, and county laws regulating archaeological resources and human remains. Therefore, the project would not result in a cumulatively significant tribal cultural resources impact.

Conclusion to the Tribal Resources Cumulative Impacts discussion: With implementation of standard permit conditions, the project would not result in a cumulatively considerable contribution to a significant cumulative impact on tribal cultural resources. **(Less than Significant Cumulative Impact)**

3.19 UTILITIES AND SERVICE SYSTEMS

The following discussion is based, in part, on a Water Supply Assessment prepared for the project by the San José Water Company (SJWC). The report, dated July 2021, is attached to this EIR as Appendix I.

3.19.1 Environmental Setting

3.19.1.1 *Regulatory Framework*

State

State Water Code

Pursuant to the State Water Code, water suppliers providing water for municipal purposes to more than 3,000 customers or supplying more than 3,000 acre-feet (approximately 980 million gallons) of water annually must prepare and adopt an urban water management plan (UWMP) and update it every five years. As part of a UWMP, water agencies are required to evaluate and describe their water resource supplies and projected needs over a 20-year planning horizon, water conservation, water service reliability, water recycling, opportunities for water transfers, and contingency plans for drought events. The SJWC is the water provider to the site; the SJWC adopted its most recent UWMP in June 2016.

Assembly Bill 939

The California Integrated Waste Management Act of 1989, or AB 939, established the Integrated Waste Management Board, required the implementation of integrated waste management plans, and mandated that local jurisdictions divert at least 50 percent of solid waste generated (from 1990 levels), beginning January 1, 2000, and divert at least 75 percent by 2010. Projects that would have an adverse effect on waste diversion goals are required to include waste diversion mitigation measures.

Assembly Bill 341

AB 341 sets forth the requirements of the statewide mandatory commercial recycling program in the Public Resources Code. Businesses that generate four or more cubic yards of garbage per week and multi-family dwellings with five or more units in California are required to recycle. AB 341 sets a statewide goal for 75 percent disposal reduction by the year 2020.

Assembly Bill 1826

AB 1826 requires that local jurisdictions across the state implement an organic waste recycling program to divert organic waste generated by businesses, including multifamily residential dwellings that consist of five or more units. In San José, businesses are required to recycle food scraps and yard trimmings, and multi-family dwellings required to recycle yard trimmings.

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.

California Green Building Standards Code

In January 2010, the State of California adopted CALGreen, establishing mandatory green building standards for all buildings in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resource efficiency, and indoor environmental quality. These standards include the following mandatory set of measures, as well as more rigorous voluntary guidelines, for new construction projects to achieve specific green building performance levels:

- Reducing indoor water use by 20 percent;
- Reducing wastewater by 20 percent;
- Recycling and/or salvaging 65 percent of nonhazardous construction and demolition debris or meet a local construction and demolition waste management ordinance, whichever is more stringent.; and
- Providing readily accessible areas for recycling by occupants.

Regional and Local

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

The City of San José requires 75 percent diversion of nonhazardous construction and demolition debris for projects that quality under CALGreen (applies to all new construction and tenant improvement project over $200,000 value), which is more stringent than the state requirement of 65 percent (San José Municipal Code Section 9.10.2480).

Countywide Integrated Waste Management Plan

Pursuant to AB 939, solid waste facility compliance requires that each county prepare and adopt a Countywide Integrated Waste Management Plan. The Santa Clara County Integrated Waste Management Plan (CIWMP) was approved in 1996 and contains goals, policies, and objectives aimed to ensure an effective and efficient integrated waste management system. Public Resources Code Sections 41770 and 41822, and Title 24, California Code of Regulations Section 18788 require that each countywide or regional agency integrated waste management plan (CIWMP/RAIWMP), and elements thereof, be reviewed, revised (if necessary), and submitted to the CalRecycle every five years. The last such review was completed in 2016 and concluded that despite population growth,

solid waste diversion has increased, Santa Clara County has adequate disposal capacity (i.e., greater than 15 years), and no revisions to the CIWMP are warranted.[108]

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to utilities and service systems and are applicable to the project.

Policy	Description
MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.
MS-3.2	Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply as building codes permit.
MS-3.3	Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.
IN-3.1	Achieve minimum level of services: • For sanitary sewers, achieve a minimum level of service "D" or better as described in the Sanitary Sewer Level of Service Policy and determined based on the guidelines provided in the Sewer Capacity Impact Analysis (SCIA) Guidelines. • For storm drainage, to minimize flooding on public streets and to minimize the potential for property damage from stormwater, implement a 10-year return storm design standard throughout the City, and in compliance with all local, State and Federal regulatory requirements.
IN-3.3	Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.
IN-3.5	Require development which will have the potential to reduce downstream LOS to lower than "D", or development which would be served by downstream lines already operating at a LOS lower than "D", to provide mitigation measures to improve the LOS to "D" or better, either acting independently or jointly with other developments in the same area or in coordination with the City's Sanitary Sewer Capital Improvement Program.
IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.
IN-5.1	Monitor the continued availability of long-term collection, transfer, recycling and disposal capacity to ensure adequate solid waste capacity. Periodically assess infrastructure needs to support the City's waste diversion goals. Work with private MRF and Landfill operators to provide facility capacity to implement new

[108] California Department of Resources Recycling and Recovery. *Five-Year CIWMP/RAIWMP Review Report Template.* October 27, 2016.

	City programs to expand recycling, composting and other waste processing.
IN-5.3	Use solid waste reduction techniques, including source reduction, reuse, recycling, source separation, composting, energy recovery and transformation of solid wastes to extend the life span of existing landfills and to reduce the need for future landfill facilities and to achieve the City's Zero Waste goals.
IN-5.4	Support the expansion of infrastructure to provide increased capacity for Materials Recovery Facilities (MRF)/transfer, composting, and Construction and Demolition materials processing (C&D) at privately operated facilities and on lands under City control to provide increased long-term flexibility and certainty.

In addition to the above-listed General Plan policies, new development in San José is also required to comply with programs (outlined below) that mandate the use of water-conserving features and appliances and the CIWMP to minimize solid waste.

City of San José Municipal Code

The City's Municipal Code includes regulations associated with energy efficiency and energy use. City regulations include an Energy and Water Building Performance Ordinance (Chapter 17.85) to minimize the use and waste of energy, water and other resources in commercial and multi-family residential buildings, Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.10), requirements for Transportation Demand Programs for employers with more than 100 employees (Chapter 11.105), and a Construction & Demolition Diversion (CDD) Program that requires recycling of construction and demolition materials (Chapter 9.10).

San José Zero Waste Strategic Plan/Climate Smart San José

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

San José Reach Code

In 2019, the San José City Council approved Ordinance No. 30311 and adopted Reach Code Ordinance (Reach Code) to reduce energy-related GHG emissions consistent with the goals of Climate Smart San José. In December 2020, the City Council updated the Reach Code to prohibit all natural gas infrastructure in new construction. The Reach Code also requires EV charging infrastructure for all building types (above current CALGreen requirements), and solar readiness for non-residential buildings.

San José Sewer System Management Plan

The purpose of the Sewer System Management Plan (SSMP) is to provide guidance to the City in the operation, maintenance, and rehabilitation of the sewer assets of the City of San José. The SSMP

includes construction standards and specifications for the installation and repair of the collection system and its associated infrastructure.

Private Sector Green Building Policy [City Council Policy 6-32]

City Council Policy 6-32 encourages building owners, architects, developers, and contractors to incorporate meaningful sustainable building goals early in the design process. This policy establishes baseline green building standards for private sector construction and provides a framework for the implementation of these standards. It is also intended to enhance the public health, safety, and welfare of San José residents, workers, and visitors by fostering practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water, and other resources.

Construction and Demolition Diversion Deposit Program

The Construction and Demolition Diversion Deposit Program (CDDD) requires projects to divert at least 50% of total projected project waste to be refunded the deposit. Permit holders pay this fully refundable deposit upon application for the construction permit with the City if the project is a demolition, alteration, renovation, or a certain type of tenant improvement. The minimum project valuation for a deposit is $2,000 for an alteration-renovation residential project and $5,000 for a non-residential project. There is no minimum valuation for a demolition project and no square footage limit for the deposit applicability. The deposit is fully refundable if 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.

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

3.19.1.2 *Existing Conditions*

Water Service

Water service to the project site is provided by SJWC. The service area of SJWC is 139 square miles, including most of the cities of San José and Cupertino, the entire cities of Campbell, Monte Sereno, Saratoga, the Town of Los Gatos, and parts of unincorporated Santa Clara County. Potable water provided to the service area is sourced from groundwater, imported treated water, and local surface water. SJWC estimates that total system demand was 121,504 acre-feet per year (AFY) in 2020 and is projected to increase to 134,918 AFY by 2040. The water demand of the existing development is approximately 7,177 gallons per day, equivalent to eight AFY.

The South Bay Water Recycling's (SBWR) is the regional permit holder for recycled water in San José, Santa Clara and Milpitas, ensuring compliance with State regulations for recycled water quality and use. SBWR's recycled water system consists of over 150 miles of pipeline, five pump stations, and 10 million gallons of storage in reservoirs. Recycled water is used to irrigate large landscape areas and other non-potable applications.

Sanitary Sewer/Wastewater Treatment

Wastewater from the project site is treated at the San José/Santa Clara Regional Wastewater Facility (RWF), which is administered and operated by the City Department of Environmental Services. The RWF has the capacity to treat 167 million gallons of wastewater per day (mgd) during dry weather flow, with the City allocated 108.6 mgd of existing capacity. The City of San José generates approximately 69.8 mgd of dry weather average flow, leaving 38.8 mgd of excess treatment capacity at the RWF for the City's wastewater treatment demands.[109]

Existing sanitary sewer facilities in the project area include 15-inch vitrified clay pipe (VCP) sewer mains in Junction Avenue and 21- and 42-inch VCP sewer mains in East Brokaw Road. The existing development generates approximately 6,101 gpd of wastewater.[110]

Storm Drainage

The project site is located in the Coyote Creek Watershed.[111] The Coyote Creek Watershed drains approximately 320 square miles extending from the creek's headwaters in the Mt. Diablo range to the tidal sloughs entering the San Francisco Bay.[112]

The project site is currently developed with an impervious surface area of approximately 741,726 square feet and a pervious surface area of 116,465 square feet (858,191 total square feet), or 86 percent impervious and 14 percent pervious.

Surface runoff from the site currently flows untreated into either 27-inch RCP storm drains on Junction Avenue, or 12-, 18-, 36-, and 42-inch RCP storm drains on East Brokaw Road. Runoff in the area is collected by storm drain manholes and inlets in the adjacent parking lots and streets, where it is then conveyed to the Charcot drainage system, which serves 430 acres and drains to Coyote Creek through a flap gate.[113,114] The City's Storm Sewer Master Plan has proposed a pump station and additional storm drain improvements for the Charcot system.[115] Flows from Coyote Creek are ultimately discharged into the San Francisco Bay Area.

Solid Waste

The City has an existing contract with Newby Island Sanitary Landfill (NISL). The NISL has approximately 12.7 million tons of capacity remaining and an estimated closure date of 2041.[116] The

[109] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report.* SCH: 2009072096. September 2011. Page 648.
[110] Based upon the California Emissions Estimator Model (CalEEMod) standard wastewater generation rate of 85 percent of total water usage. 7,177 gallons water per day x 0.85 = 6,101 gallons wastewater per day
[111] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report.* SCH: 2009072096. September 2011. Page 540, Figure 3.7-1.
[112] Santa Clara Valley Urban Runoff Pollution Prevention Program. *Monitoring and Assessment Summary Report: Coyote Creek and Lower Penitencia Creek.* September 15, 2008.
[113] City of San José, Spatial Team. "Public GIS Viewer". Accessed September 2, 2021. https://www.arcgis.com/apps/webappviewer/index.html?id=3c5516412b594e79bd25c49f10fc672f
[114] City of San José. *North San José Development Policies Update Program EIR*. March 2005.
[115] City of San José. *Storm Sewer System 2019-2023 Capital Improvement Program*. 2018.
[116] North, Daniel. General Manager. Republic Services. Personal Communication. April 19, 2021.

City has an annual disposal allocation at NISL for 395,000 tons per year.[117]

In addition to NISL, other landfills within Santa Clara County include Guadalupe Mines, Kirby Canyon, Newby Island, and Zanker Road facilities. According to CIWMP, the County has adequate disposal capacity beyond 2030.[118] The total permitted landfill capacity of the five operating landfills in the County is approximately 5.3 million tons per year.[119]

The City of San José currently generates approximately 1.7 million tons of solid waste annually.[120] The existing development on the site generates approximately 626 tons of solid waste annually.[121]

Electricity, Natural Gas, and Telecommunications

Electricity in San José is sourced from SJCE and transported to businesses and residences via PG&E's existing utility infrastructure. PG&E distributes electric power primarily through underground systems extending from various high voltage transmission lines in the area. An existing electric substation is located on the west side of North First Street, on Component Drive. PG&E also sources and delivers natural gas to the North San José area through a series of gas distribution lines located within streets right-of-way. Telephone service infrastructure in the North San José area is provided by SBC Communications, Inc.

3.19.2 Impact Discussion

For the purpose of determining the significance of the project's impact on utilities and service systems, would the project:

a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?
b) Have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have 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?

[117] San Jose Environmental Services Department. Memorandum on the Amendment to the Agreement with International Disposal Corporation of California, Inc. for Disposal of Municipal Solid Waste and Related Services. June 2, 2009.
[118] Santa Clara County. *Five-Year CIWMP/RAIWMP Review Report.* June 2016.
[119] City of San José. *Assessment of Infrastructure for the Integrated Waste Management Zero Waste Strategic Plan Development*. November 3, 2008. Section 2-2.
[120] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report.* SCH: 2009072096. September 2011. Page 650.
[121] Illingworth & Rodkin, Inc. *550 East Brokaw Road Air Quality and Greenhouse Gas Emission Assessment*. August 10, 2021.

e) Be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste?

3.19.2.1 *Project Impacts*

a) Would the project require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

Water Facilities

The water demands of the project would be met by SJWC, as is discussed under checklist question b) below. The project would connect to the existing water lines in East Brokaw Road and Junction Avenue. The project would not require the construction or expansion of water delivery systems or the expansion of the boundaries of the SJWC service area. Therefore, the project would not result in significant environmental effects related to the relocation or construction of new or expanded water facilities.

Wastewater Treatment Facilities

The project would be served by the City's existing sanitary sewer system and connect to the existing sanitary sewer lines in East Brokaw Road and Junction Avenue. In order to connect to the existing sanitary sewer system, the project would install six- and eight-inch sanitary sewer laterals during grading of the site, which would result in minimal impacts. It is estimated that the project, which would have a water demand of 192,411 gpd (refer to checklist question b), would generate approximately 163,550 gpd of wastewater.[122] The City has confirmed there is sufficient capacity in the existing sewer lines serving the site and downstream to accommodate project wastewater flows.[123] Therefore, the project would not require the construction of any additional sewer mains or sewer lines that could cause significant environmental effects. Refer to checklist question c) for a discussion of the availability of treatment capacity at the RWF for the project.

Stormwater Drainage Facilities

As discussed in Section 3.10 Hydrology and Water Quality, the project would result in a net reduction of impervious surface at the project site. This net decrease in impervious surfaces would result in a corresponding decrease in stormwater runoff. As a result, the existing storm drainage system would continue to be able to accommodate runoff from the project site. To connect to the existing storm drainage system, the project would install 12-, 18-, 21-, and 27-inch storm drains. On-site storm drainage also includes manholes, catch basins, and bioretention areas and proprietary MFS which would be used to treat 100 percent of stormwater runoff prior to discharge into the existing 27-inch storm drain main in Junction Avenue. Installation of storm drains would occur during grading of the site and would result in minimal impacts. Therefore, the project would not require the construction of additional storm drainage facilities that could cause significant environmental effects.

[122] Based upon the California Emissions Estimator Model (CalEEMod) standard wastewater generation rate of 85 percent of total water usage. 192,411 gallons water per day x 0.85 = 163,550 gallons wastewater per day
[123] van der Zweep, Cassandra. Supervising Planner. City of San José. Email communication. August 17, 2021.

Electric Power, Natural Gas, and Telecommunication Facilities

Existing utility lines would be utilized by the project for electric power, natural gas, and telecommunications services. Connecting to the City's energy and communications grid would require trenching on the site, which would not require substantial excavation and would result in minimal impacts. The project would be required to detail the exact locations for all utility connections and utility plans would be subject to review by the City. The project would coordinate with the appropriate electric power, natural gas, and telecommunication providers, including PG&E, on providing service to the site. Therefore, the proposed project would not result in significant impacts from construction or relocation of new or expanded electric power, natural gas, or telecommunications utilities.

Conclusion for checklist question a): The project would not result in significant impacts from construction or relocation of new or expanded utilities. **(Less than Significant Impact)**

b) Would the project have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?

As discussed under Section 3.19.1.2 Existing Conditions, the existing development has a water demand of approximately 7,177 gallons per day, equivalent to eight AFY. The proposed project would have a water demand of approximately 192,411 gpd, equivalent to 216 AFY. Thus, the project would result in a net increase in water demand of 208 AFY. In comparison with SJWC's overall water demand of 121,504 AFY, the project would increase demand by 0.17 percent, which SJWC considers to be within normal growth projections for the system and would not require new or expanded water facilities.

For the project-specific WSA completed for the project (refer to Appendix I), SJWC modeled water supply and demand scenarios for every five years, beginning with 2025 and ending with 2045. For normal and single-dry years, SJWC anticipates that demands of the service area can be met through 2045 without the use of any conservation measures. SJWC has the capacity to serve the project through buildout based on current water supply capacity and future water supply projects. With implementation of voluntary and mandatory water demand management measures, SJWC anticipates that a 20 percent reduction in water consumption would be achieved, allowing SJWC to meet the water demand during a multiple dry-year scenario. Accordingly, the WSA for the project concluded there would be sufficient water supplies during normal, dry, and multiple-dry years to serve project demands.

Conclusion for checklist question b): The project would have sufficient water supplies available during normal, dry, and multiple-dry years. **(Less than Significant Impact)**

c) Would the project result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

The RWF currently has an excess capacity of 38.8 mgd of dry weather flow available to service the City of San José. Planned build out under the General Plan is estimated to result in a dry weather flow of 30.8 mgd, which would not exceed the capacity of the RWF.

It is estimated that the project, which would have a water demand of 192,411 gpd (refer to checklist question b), would generate approximately 163,550 gpd of wastewater, equivalent to 0.165 mgd.[124] In comparison with wastewater generated by the existing development (6,101 gpd; refer to Section 3.19.1.2 Existing Conditions), the net wastewater generated by the proposed project would be 157,449 gpd, equivalent to 0.158 mgd. Since the RWF can accommodate an additional 38.8 mgd of wastewater, the wastewater demands of the proposed project would not result in an exceedance of wastewater treatment capacity at the RWF. Further, increased demand at the RWF created by planned development under the General Plan is expected and accounted for in long-term infrastructural planning by the City of San José and its partner agencies. The proposed project is consistent with planned development analyzed in the General Plan FEIR (refer to Section 3.11 Land Use and Planning); therefore, the proposed project would not result in an unanticipated increase in wastewater treatment requirements at the RWF.

Conclusion for checklist question c): The project would not result in a determination by the wastewater treatment provider that it does not have adequate capacity to serve the project's projected demand. **(Less than Significant Impact)**

d) Would the project generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

The project is estimated to generate up to 1,790 tons of solid waste per year; in comparison with the solid waste generated by the existing development (626 tons; refer to Section 3.19.1.2 Existing Conditions), the net solid waste generated by the proposed project would be 1,164 tons.[125]

The proposed project would be required to conform to City plans and policies to reduce solid waste generation and increase waste diversion, such as the Zero Waste Strategic Plan and General Plan Policies IN-1.5, IN-5.1, IN-5.3, IN-5.4, and IP-3.8. The project would be required to meet the City's current diversion goal of 75 percent waste reduction and zero waste goal post-2022 by complying with the policies and strategies mandated in the City's Zero Waste Strategic Plan. In addition, the project would include provide organic waste collection containers within waste collection areas as required by AB 1826. Given the City's annual disposal allocation at NISL (395,000 tons per year), NISL's remaining capacity (12.7 million tons), and the project's net increase in solid waste

[124] Based upon the California Emissions Estimator Model (CalEEMod) standard wastewater generation rate of 85 percent of total water usage. 192,411 gallons water per day x 0.85 = 163,550 gallons wastewater per day
[125] Illingworth & Rodkin, Inc. *550 East Brokaw Road Air Quality and Greenhouse Gas Emission Assessment*. August 10, 2021.

generation (1,164 tons), there is sufficient capacity at NISL to serve the project. In addition, according to the CIWMP, the County has adequate disposal capacity beyond 2030.[126] The General Plan FEIR determined that the increase in waste generated by build out of the General Plan (which includes the development of the project) would not result in an exceedance of capacity at existing landfills or otherwise impair the attainment of solid waste reduction goals.[127]

Conclusion for checklist question d): The project would not 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. **(Less than Significant Impact)**

e) Would the project be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste?

The proposed project would support the goals of the Zero Waste Strategic Plan by complying with the City's Construction and Demolition Diversion Program (which ensures that at least 75 percent of this construction waste is recovered and diverted from landfills), providing readily accessible areas for recycling that serve all of the buildings on-site, and provide organic waste collection containers within waste collection areas. By adhering to the requirements of the Zero Waste Strategic Plan and General Plan policies, the project would not conflict with applicable statutes and regulations related to solid waste, including CALGreen, AB 939, AB 341, and local waste diversion requirements.

Conclusion for checklist question e): The project would be compliant with federal, state, or local management and reduction statues and regulations related to solid waste. **(Less than Significant Impact)**

3.19.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant cumulative utilities and service systems impact?

The geographic study area for cumulative impacts to utilities and service systems is citywide or within the applicable utility's service area, as noted below. On its own, the project would not require the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities. The General Plan FEIR found that buildout of the General Plan would not result in impacts related to water supply, wastewater treatment and storm drainage facilities, or solid waste infrastructure. Accordingly, since all of the cumulative projects identified in Table 3.0-1 are consistent with the buildout anticipated in the General Plan FEIR, none of these projects are anticipated to require the relocation or construction of new or existing facilities. Any proposed new or expanded facilities necessitated by future cumulative development would be subject to environmental review and is not anticipated to result in significant environmental effects. Therefore, the project would not result in cumulatively significant effects on the environment related to the relocation or construction of new or expanded facilities.

[126] Santa Clara County. *Five-Year CIWMP/RAIWMP Review Report.* June 2016.
[127] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report.* SCH: 2009072096. September 2011. Page 685.

The geographic area for cumulative water supply is the service area of the SJWC. The project would be within normal growth projections for the SJWC system. As described above, SJWC has determined that there is sufficient capacity to serve future development within the SJWC service area and the project. For these reasons, there is no significant cumulative water supply impact.
The geographic area for cumulative wastewater treatment is the service area of the RWF. As discussed under checklist question c), there is sufficient treatment capacity at the RWF for the buildout of the General Plan and the project. As such, the project would not result in a cumulatively significant impact on wastewater treatment facilities.

The geographic area for cumulative landfill capacity is the County. As discussed under checklist question d), the General Plan FEIR determined that the increase in waste generated by build out of the General Plan (which includes the project and future cumulative projects) would not result in an exceedance of capacity at existing landfills or otherwise impair the attainment of solid waste reduction goals. Cumulative projects in the City would be required to conform to City plans and policies to reduce solid waste generation and increase waste diversion, such as the Zero Waste Strategic Plan and General Plan Policies IN-1.5, IN-5.1, IN-5.3, IN-5.4, and IP-3.8. As such, the project would not result in a cumulatively significant solid waste impact.

All cumulative projects are required to adhere to the requirements of the Zero Waste Strategic Plan and General Plan policies, thereby complying with applicable statutes and regulations related to solid waste, including CALGreen, AB 939, AB 341, and local waste diversion requirements. Therefore, the project would not result in a cumulatively significant impact due to noncompliance with federal, state, or local management and reduction statues and regulations related to solid waste.

Conclusion for Utilities and Service Systems Cumulative Impact discussion: The project would not result in a cumulatively considerable contribution to a significant cumulative utilities and service systems impact. **(Less than Significant Cumulative Impact)**

3.20 WILDFIRE

3.20.1 Environmental Setting

3.20.1.1 *Regulatory Framework*

State

Fire Hazard Severity Zones

CAL FIRE is required by law to map areas of significant fire hazards based on fuels, terrain, weather, and other relevant factors. Referred to as Fire Hazard Severity Zones (FHSZs), these maps influence how people construct buildings and protect property to reduce risk associated with wildland fires. FHSZs are divided into areas where the state has financial responsibility for wildland fire protection, known as state responsibility areas (SRAs), and areas where local governments have financial responsibility for wildland fire protection, known as local responsibility areas (LRAs).

3.20.1.2 *Existing Conditions*

The proposed project is located in an urbanized area of San José which is not located in or near SRAs or lands classified as very high fire hazard severity zones.[128]

3.20.2 Impact Discussion

For the purpose of determining the significance of the project's impact on wildfire, if located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:

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?

3.20.2.1 *Project Impacts*

The project site is not located in or near SRAs or lands classified as very high fire hazard severity zones. Construction and operation of the project would be done in accordance with City building and fire codes and regulations. Emergency vehicles would be able to access the project site via an EVA-only roadway accessible from Junction Road that would run between Towers 1 and 2. The project would meet the SJFD requirements that all portions of the buildings be within 150 feet of a SJFD

[128] CalFire. "California Fire Hazard Severity Zone Map Update Project". Accessed September 2, 2021. http://www.fire.ca.gov/fire_prevention/fire_prevention_wildland_statewide

access road and a minimum of six feet clearance from the property line to all sides of the buildings is provided. Additionally, the project would be constructed in accordance with current state and local building and fire codes to ensure structural stability and safety. The SJFD would review the final site design for consistency with applicable fire department standards. Therefore, the project would not result in any impact related to emergency response or evacuation, exposure of project occupants to pollutant concentrations from or uncontrolled spread of wildfire, installation of infrastructure to combat wildfire, or exposure of people or structures to risks of flooding or landslides resulting from post-fire runoff, slope instability, or drainage changes.

Conclusion for Wildfire project-level impact discission: The project would not result in a significant wildfire impact. **(No Impact)**

3.20.2.2 *Cumulative Impacts*

The project would have no impact related to wildfires; therefore, the project would not contribute to a significant cumulative wildfire impact.

Conclusion for Wildfire Cumulative impact discission: The project would not contribute to a significant cumulative wildfire impact. **(No Cumulative Impact)**

SECTION 4.0 GROWTH-INDUCING IMPACTS

Would the project foster or stimulate significant economic or population growth in the surrounding environment?

The CEQA Guidelines require that an EIR identify the likelihood that a proposed project could "foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment" (Section 15126.2[d]). This section of the EIR is intended to evaluate the impacts of such growth in the surrounding environment. Examples of projects likely to have significant growth-inducing impacts include removing obstacles to population growth, for example by extending or expanding infrastructure beyond what is needed to serve the project. Other examples of growth inducement include increases in population that may tax existing community service facilities, requiring construction of new facilities that could cause significant environmental effects.

The project would result in direct economic growth as the proposed office uses would provide approximately 6,404 new jobs and would generate tax revenues for the City and public services. These jobs may indirectly induce population growth within the City. As discussed in Section 3.11 Land Use and Planning, the proposed land use and density is consistent with what is allowed under the General Plan for the project site and analyzed in the General Plan FEIR. Further, the project's job growth (and corresponding effect on population growth) is consistent with what was anticipated in the NSJADP FEIR, which provided for the development of up to 26.7 million square feet of new industrial/office/R&D building space and up to 83,000 new employees. As discussed in Section 3.15 Public Services and Section 3.19 Utilities and Service Systems, the existing fire and police protection services, schools, park and recreational facilities, libraries, and utility service system have sufficient capacity to serve the proposed project while continuing to serve existing and planned development.

Based on the above discussion, the project would not result in unplanned economic and population growth.

Conclusion to the Growth-Inducing Impacts discussion: The project would not result in significant, unplanned growth inducing impacts. **(Less than Significant Impact)**

SECTION 5.0 SIGNIFICANT AND IRREVERSIBLE ENVIRONMENTAL CHANGES

Pursuant to CEQA Guidelines Section 15126.2(d), an EIR must identify significant irreversible environmental changes that would be caused by the proposed project being analyzed. Significant irreversible changes include the 1) irreversible use of nonrenewable resources, 2) commitment of future generations to similar use, and 3) irreversible damage resulting from environmental accidents associated with the project.

5.1 IRREVERSIBLE USE OF NONRENEWABLE RESOURCES

During construction and operation of the project, nonrenewable resources would be consumed. Unlike renewable resources, nonrenewable resources cannot be regenerated over time. Nonrenewable resources include fossil fuels and metals. Renewable resources, such as lumber and other wood byproducts, could also be used.

The construction of the project would require the use of nonrenewable construction materials, such as concrete, metals, plastics, and glass. Nonrenewable resources and energy would also be consumed during the manufacturing and transportation of building materials, site preparation, and construction of the buildings. The City of San José encourages the use of building materials that include recycled materials. Additionally, the project would participate in the City's CDD program, which requires 75 percent of waste to be recovered and recycled.

Operation of the project would consume energy for multiple purposes including building heating and cooling, lighting, appliances, and electronics. The project would be built to current codes (Title 24, CALGreen, City Municipal Code) which require insulation and design to minimize wasteful energy consumption. The project would also be constructed to LEED Silver standards pursuant to the City's Private Sector Green Building Policy and would, as a result, use less energy for heat and light and less water than a standard design building. As required by Climate Smart San José and the City's Reach Code, the project would enroll in the SJCE TotalGreen program which provides 100 percent carbon-free energy, and would not include any natural gas infrastructure. As such, consumption of nonrenewable fossil fuels associated with the project would be limited to vehicle trips associated with employee travel. Vehicle trips per employee would be substantially reduced through the VMT-related mitigation measures outlined in Section 3.17 Transportation (MM TRN-1.1 through MM TRN-1.3). In addition, the project is an infill development which would make use of underutilized land in proximity to existing regional roadways, transit, and amenities.

For the reasons discussed above, the project would minimize the use of nonrenewable resources.

5.2 COMMITMENT OF FUTURE GENERATIONS TO SIMILAR USE

The project would redevelop the project site, which is currently occupied by a joint office-retail development and surface parking lot, into an office campus development consisting of seven office towers and two parking garages oriented around two east-west green belts and various open spaces and outdoor amenities. Accordingly, the project would commit resources to prepare the site and construct and operate the buildings, but it would not result in development of undeveloped land. Further, the project is an infill development that would make use of underutilized land by developing

the project site at a higher density than it is currently. This would limit commitment of the project site to these uses for the useful life of the buildings, consistent with the City's General Plan. Development of the project is not anticipated to result in other land use changes in the surrounding area. For these reasons, the project would not commit future generations to changes in land use.

5.3 IRREVERSIBLE DAMAGE RESULTING FROM ENVIRONMENTAL ACCIDENTS ASSOCIATED WITH THE PROJECT

The project does not propose hazardous uses, and its operation would not be expected to cause environmental accidents. As discussed in Section 3.9 Hazards and Hazardous Materials, there are no significant unmitigable hazards and hazardous materials conditions on-site or off-site that would substantially affect the public and surrounding environment. There are no significant unmitigable geology and soils impacts which would result from implementation of the project. For these reasons, the project would not result in irreversible damage that may result from environmental accidents.

Conclusion to the Significant and Irreversible Environmental Changes discussion: The project would not result in significant and irreversible environmental changes. **(Less than Significant Impact)**

SECTION 6.0 SIGNIFICANT AND UNAVOIDABLE IMPACTS

A significant unavoidable impact is an impact that cannot be mitigated to a less than significant level if the project is implemented as it is proposed. The following significant and unavoidable impacts have been identified as resulting from the proposed project:

- **Transportation and Traffic:** Project VMT would exceed the City's significance threshold of 12.21 VMT per employee, resulting in a significant VMT impact.
- **Transportation and Traffic:** The project would have a significant and unavoidable VMT impact, and therefore would result in a Cumulatively Significant Impact.

All other significant impacts of the proposed project would be reduced to a less than significant level with the implementation of mitigation measures and standard permit conditions identified in this EIR.

Conclusion to the Significant and Unavoidable Impacts discussion: The project would result in a significant and unavoidable project-level VMT impact. **(Significant and Unavoidable Impact)**

SECTION 7.0 ALTERNATIVES

CEQA requires that an EIR identify alternatives to a project as it is proposed. The CEQA Guidelines specify that the EIR should identify alternatives which "would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project." The purpose of the alternatives discussion is to determine whether there are alternatives of design, scope, or location which would substantially lessen the significant impacts, even if those alternatives "impede to some degree the attainment of the project objectives" or are more expensive (CEQA Guidelines Section 15126.6).

In order to comply with the purposes of CEQA, it is important to identify alternatives that reduce the significant impacts anticipated to occur if the project is implemented and try to meet as many of the project's objectives as possible. The CEQA Guidelines emphasize a common sense approach – the alternatives should be reasonable, "foster informed decision making and public participation," and focus on alternatives that avoid or substantially lessen the significant impacts. The range of alternatives selected for analysis is governed by the "rule of reason" which requires the EIR to discuss only those alternatives necessary to permit a reasoned choice. An EIR is not required to consider alternatives which are infeasible.

The three critical factors to consider in selecting and evaluating alternatives are, therefore: (1) the significant impacts from the proposed project which could be reduced or avoided by an alternative, (2) the project objectives, and (3) the feasibility of the alternatives available. These factors are discussed below.

7.1 FACTORS IN SELECTING AND EVALUATING ALTERNATIVES

7.1.1 Significant Impacts of the Project

As explained above, the CEQA Guidelines Section 15126.6 states that the alternatives analysis in an EIR should be limited to alternatives that are feasible and would avoid or substantially lessen any of the significant effects of the project and achieve most of the basic project objectives. As discussed in Section 3.17 Transportation and summarized in Section 6.0 Significant and Unavoidable Impacts, the project (with mitigation incorporated) would exceed the City's significance threshold of 12.21 VMT per employee resulting in a significant, unavoidable VMT impact **(Impact TRN-1)**, and therefore a cumulatively significant VMT impact. Additionally, the project would have the following impacts that would be less than significant with mitigation incorporated:

- **Impact BIO-1:** Development of the proposed project would result in impacts to nesting birds, if present on or adjacent to the project site at the time of construction.
- **Impact CUL-**1: Construction activities on the project site could result in the disturbance of archaeological resources pursuant to CEQA Guidelines Section 15064.5.
- **Impact HAZ-1:** Due to the agricultural history, there is a potential that the shallow soil on-site contains residual organochlorine pesticides and/or pesticide-based metals arsenic and lead from historic pesticide application. If pesticides are present above commercial/industrial screening levels and not mitigated, construction of the project could result in exposure of construction workers, adjacent properties and future site workers to pesticide contamination.

- **Impact NOI-1:** Development of the project would involve substantial noise-generating activities which would exceed the ambient noise environment for more than 12 months within 200 feet of commercial uses.
- **Impact TCR-**1: Development of the proposed project could potentially result in impacts to undiscovered tribal cultural resources.

7.1.2 Project Objectives

While CEQA does not require that alternatives must be capable of meeting all of the project objectives, their ability to meet most of the basic objectives is considered relevant to their consideration. As identified in Section 2.3 Project Objectives, the applicant's objectives for the project are as follows:

1. Provide an office development of approximately 1.9 million square feet, consistent with the Combined Industrial/Commercial land use designations of the Envision San José 2040 General Plan, in order to accommodate anticipated growth in North San José.
2. Develop the site with new, high-quality office buildings that will attract companies to the City of San José, both to create and retain local jobs and foster on-going job growth capacity.
3. Develop uses that are compatible with the surrounding land uses and further support and diversify the economic and employment goals of the greater North San José district.
4. Support San José's Environmental Stewardship goals by providing modern LEED buildings with sustainable energy and water usage, natural ventilation, and EV parking.

7.1.3 Feasibility of Alternatives

CEQA, the CEQA Guidelines, and case law interpreting CEQA and the CEQA Guidelines have found that feasibility can be based on a wide range of factors and influences. The CEQA Guidelines state that such factors can include (but are not necessarily limited to) the suitability of an alternate site, economic viability, availability of infrastructure, consistency with a general plan or with other plans or regulatory limitations, jurisdictional boundaries, and whether the project proponent can "reasonably acquire, control or otherwise have access to the alternative site (Section 15126.6[f][1])."

7.2 PROJECT ALTERNATIVES

7.2.1 Project Alternatives Considered But Rejected for Further Analysis

7.2.1.1 *Location Alternative*

Pursuant to CEQA Guidelines Section 15126.6(a), an EIR shall describe a range of reasonable alternatives to the project, or to the location of the project. An alternative site may be considered when impacts of the project might be avoided or substantially lessened, and the project proponent can feasibly attain control of the site. Only alternative locations that would avoid or substantially lessen any of the impacts of the project and meet most of the basic project objectives need to be considered for inclusion in the EIR (CEQA Guidelines Sections 15126.6[f] and 15126.6[f][2][A]).

In other words, an alternative location for the project would need to: avoid or substantially lessen the project's mitigated impacts; be of similar size to the project site; have the appropriate General Plan land use designation; and be under the control of, or capable of being controlled by, the applicant. Due to the scale of the proposed development, the project's construction-related noise, hazardous materials, and nesting bird impacts would be similar at any infill, urbanized location alternative. As the majority of suitably sized location alternatives within the City of San José were previously used for agricultural purposes and contain on- or off-site trees that provide nesting bird habitat, a location alternative is unlikely to avoid the project's construction-related impacts pertaining to hazardous material or nesting birds. While a location alternative may result in a less than significant VMT impact if the site is closer to transit and allows for shorter employee commute trips, the applicant would need to own or otherwise control a property of similar size and with the same General Plan designation in a mitigable VMT area. The project proponent is not a public agency capable of invoking eminent domain, therefore, any alternative location(s) would need to be sites which the applicant was capable of acquiring and which allow for office uses. The feasibility of the project proponent acquiring or controlling a similar property suitable for meeting the project objectives and capable of reducing impacts identified for the proposed project is unknown.

Based on the above reasons, an alternative location for the proposed project is not required or useful and this alternative is rejected from further consideration and analysis. Case law interpreting CEQA Guidelines Section 15126.6(a), supports the conclusion that an EIR need not include a potentially feasible alternative location in every instance, based on the rule of reason and considerations of feasibility.[129] In addition, no statutory provision in CEQA expressly require a discussion of alternative project locations. As noted above the CEQA Guidelines require that an EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, indicating a location alternative need not be presented in every EIR, but only when relevant and potentially feasible.

7.2.1.2 *Expedited Construction Alternative*

The purpose of the Expedited Construction Alternative would be to reduce the overall project construction schedule to 12 months or less. As discussed under Noise checklist question a), the proposed project would result in a mitigated construction-related noise impact related to the proposed duration of project construction, which would involve substantial noise-generating activities for a period of 92 months. In accordance with the General Plan FEIR, temporary construction-related noise in excess of 70 dBA Leq at office or commercial land uses for a period of more than 12 months is considered a significant impact. Therefore, constructing the project in 12 months or less would avoid the project's significant but mitigable construction noise impact. Under the Expedited Construction Alternative, the project would be constructed as proposed within a period of 12 months or less, instead of 92 months as proposed.

The Expedited Construction Alternative was considered but rejected for two reasons, specifically because 1) it would not be logistically feasible to construct a project of this size and scale within a 12-month period as it would require non-stop construction 24 hours a day, seven days a week, 365 days a year; and 2) constructing a project of this size and scale within a 12 month period would likely

[129] California Native Plant Society v. City of Santa Cruz (2009) 177 Cal.App. 4th 957; Mira Mar Mobile Community v. City of Oceanside (2004) 119 Cal.App.4th 477

result in significant and unavoidable construction-related air quality impacts associated with the generation of criteria air pollutants in exceedance of BAAQMD thresholds.[130]

7.2.1.3 *100 Percent Residential Development Alternative*

The purpose of the 100 Percent Residential Development Alternative would be to reduce the project's significant, unavoidable VMT impact. As discussed under Section 3.17 Transportation checklist question b), the project would exceed the City's significance threshold of 12.21 VMT per employee resulting in a significant and unavoidable VMT impact. There are two potential alternative uses of the site that would result in a less than significant or significant but mitigable VMT impact, including a 100 Percent Residential Development Alternative (discussed below) and an Industrial Development Alternative (discussed under Section 7.2.2.3 below).

Under the 100 Percent Residential Development Alternative, the project site would be developed with a residential use of similar size and scope to the proposed development (i.e., with a FAR of 4.16 or similar). Pursuant to City Council Policy 5-1, residential projects located within an area mapped with a VMT per resident that is 15 percent below the Citywide per resident VMT are considered to have a less than significant VMT impact. As shown in Figure 12 of the City's 2020 Transportation Analysis Handbook, the project site is located in a Threshold VMT Area where the VMT per resident is calculated to be 15 percent below the Citywide average.[131] Accordingly, the 100 Percent Residential Alternative would have a less than significant VMT impact.

The project site is designated as *Combined Industrial/Commercial (CIC)* in the City's General Plan and is zoned *CIC Combined Industrial/Commercial* in the City's Municipal Code. Under the site's existing land use designation and zoning, residential uses are not permitted (refer to Section 3.11.1.2). Therefore, the 100 Percent Residential Development was considered but rejected, since it would be inconsistent with the City's General Plan and Municipal Code and would not achieve any project objectives.

7.2.1.4 *Reduced Scale Alternative*

The purpose of a reduced scale alternative would be to reduce the project size, in the event the project's scale was resulting in significant impacts, whether due to the overall magnitude of the project's construction and/or operation impacts. As previously discussed, the project's construction-related noise, hazardous materials, and nesting bird impacts can all be reduced to less than significant with mitigation. Regardless of size, the Reduced Scale Alternative would still have the potential to remove trees that could serve as nesting bird habitat and disturb potentially contaminated soil, requiring mitigation comparable to what is already imposed on the proposed project. As described in Section 7.2.1.2, any alternative that would reduce construction-related noise impacts would need to limit the construction duration to a period of 12 months or less. Based on the size of the project site and the intensity of development allowed by the City's General Plan and Municipal Code, it is anticipated that a Reduced Scale Alternative would still be sufficiently large that construction would last longer than 12 months. It is estimated that a Reduced Scale Alternative that could be constructed

[130] Reyff, James. Illingworth & Rodkin, Inc. Personal Communication. September 23, 2021.
[131] City of San José. "Vehicle Miles Traveled Metric". VMT per capita map. Date accessed September 23, 2021. https://www.sanjoseca.gov/your-government/departments-offices/transportation/planning-policies/vehicle-miles-traveled-metric

in 12 months or less would develop the site with 266,940 square feet of office (equivalent to an FAR of 0.31, smaller than the existing development) and 214,728 square feet of parking.[132] This would result in the site being severely underutilized, since sites with a *Combined Industrial/ Commercial (CIC)* land use designation are permitted to have an FAR of up to 12.0 (equivalent to 10,298,112 square feet at the project site).

The Reduced Scale Alternative would not be able to reduce the project's significant and unavoidable VMT impact. The City uses a per employee significance threshold for general employment uses; therefore, the addition of a single employee at the project site would still result in a significant and unavoidable impact, since that employee would still generate 12.30 VMT, which exceeds the City's significance threshold of 12.21. As such, the Reduced Scale Alternative was considered but rejected from further analysis because it would not substantially lessen any significant effects of the project.

7.2.2 Selected Alternatives

7.2.2.1 *No Project, No New Development Alternative*

The CEQA Guidelines specifically require consideration of a "No Project" Alternative. The purpose of including a No Project Alternative is to allow decision makers to compare the impacts of approving the project with the impacts of not approving the project. The CEQA Guidelines specifically advise that the No Project Alternative shall address both the existing conditions and "what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and/ consistent with available infrastructure and community services" (Section 15126.6[e][3][B]). Under the No Project Alternative, therefore, the project site could remain as it currently exists or be redeveloped with uses consistent with the existing General Plan land use designation. For this reason, there are two logical No Project alternatives: 1) a No Project, No New Development Alternative (which is described below) and 2) a No Project Redevelopment Alternative (which is described under Section 7.2.2.2 below).

Under the No Project, No New Development Alternative, the project site would remain as it currently exists (i.e. developed with a 293,906 square foot joint office and electronics superstore building and a surface parking lot) with little or no change (e.g., minor tenant improvements or façade improvements). The existing development has been unoccupied since February 2021; under this alternative, it is assumed that the site would be reoccupied by a similar retail or office use as allowed by right under the City's General Plan and Municipal Code.

Comparison of Environmental Impacts

Since the No Project, No New Development Alternative would not result in a change to existing conditions, this alternative would avoid the project's mitigated impacts, as well as the project's significant and unavoidable VMT impact, assuming that reoccupation does not result in any increase in employees. A summary comparison of the environmental impacts of the project and the project alternatives is provided in Table 7.2-1.

[132] The project as is takes 92 months to construct seven towers totaling 2,046,530 square feet, and 1,646,220 square feet of structured parking. That equates to 22,245 square feet of office tower per month and 17,894 square feet of structured parking per month, or 266,940 square feet of office tower and 214,728 square feet of structured parking in 12 months.

Relationship to Project Objectives

The No Project, No New Development Alternative would not achieve any of the project objectives identified in Section 7.1.2 above. This alternative would not develop the site with 1.9 million square feet of high-quality office buildings, and therefore would not accommodate the anticipated growth of the North San José area or create local jobs and foster on-going job growth capacity. Although the existing development is compatible with the surrounding land uses, the site is currently underutilized with an FAR of 0.34 and thus would not support the City's economic and employment goals to the same extent as the project. Lastly, the existing building does not meet LEED standards or include green building design elements as proposed by the project (e.g. use of low e-glass that reduced energy consumption), and therefore does not support the City's Environmental Stewardship goals.

Conclusion

The No Project, No New Development Alternative would avoid the project's mitigated impacts and the project's significant and unavoidable VMT impact, but would not achieve any of the project objectives.

7.2.2.2 *No Project, Redevelopment Alternative*

It is reasonable to assume that if the proposed project were not approved, the unoccupied and underutilized project site would be redeveloped with an alternative development that is consistent with what is allowed under the City's General Plan and Municipal Code.

As discussed in Section 3.11.1.2 Existing Conditions, sites with a *Combined Industrial/Commercial (CIC)* land use designation are intended for commercial, office, or industrial developments or a compatible mix of these uses with a maximum 12.0 FAR, equivalent to 10,298,112 square feet at the project site.[133] The site's *CIC Combined Industrial/Commercial* zoning designation allows for a similar mix of uses with a height limitation of 120 feet. Based on this height limitation and other design restrictions, such as setbacks, architectural requirements, etc., developing up to the maximum allowable FAR is not achievable at the project site. Furthermore, the proposed office towers (120 feet in height) and structured parking garages (118 feet in height) are already constructed to the maximum height allowed under the City's Municipal Code. As such, it is likely that under the No Project, Redevelopment Alternative, the project site would be developed with a similar office development to what is already being proposed. A development with a greater FAR is possible under this alternative; however, this would require moving the proposed structured parking garages below ground in order to meet parking requirements established in the City's Municipal Code, likely making this option not environmentally superior due to the increased construction activity and increased operational impacts from more employees and vehicles. Therefore, for the purpose of this analysis, the No Project, Redevelopment Alternative is assumed to be comparable in size to the proposed project.

Comparison of Environmental Impacts

The No Project, Redevelopment Alternative would result in significant but mitigable impacts to nesting birds, since a similar or greater number of trees would be removed under this alternative. This alternative would also result in a similar hazardous materials impact as the proposed project,

[133] Site gross/net area = 858,176 sq. ft.; 858,176 multiplied by 12 equals 10,298,112 sq. ft.

since both projects would involve ground-disturbing activities affecting potentially contaminated soil. Since the No Project, Redevelopment Alternative would be comparable in scale to the proposed project, they would have similar construction scheduled and therefore similar construction noise impacts. The No Project, Redevelopment Alternative would also not reduce the proposed project's significant and unavoidable VMT impact, since VMT impacts for general employment uses are measured on a per employee basis. A summary comparison of the environmental impacts of the project and the project alternatives is provided in Table 7.2-1.

Relationship to Project Objectives

The No Project, Redevelopment Alternative would meet objectives one and two, since it would construct 1.9 million square feet or perhaps more of new high-quality office buildings. The No Project, Redevelopment Alternative would also meet objective three, since office uses are already present in the surrounding area and are an intended use of the site pursuant to the City's General Plan, Municipal Code, and the NSJADP. Accordingly, this alternative is consistent with the economic and employment goals of the greater North San José district. The project would also meet objective four, since it would be required by the City's Private Sector Green Building to be LEED Silver certified and would provide the requisite number of clean air and EVSE-charging stations as required by the City's Municipal Code.

Conclusion

The No Project, Redevelopment Alternative would be able to meet all project objectives and would result in a similar impact related to nesting birds, potentially contaminated soil, and VMT. This alternative would not be environmentally superior to the project.

7.2.2.3 *Industrial Development Alternative*

Pursuant to City Council Policy 5-1 and the City's 2018 Transportation Analysis Handbook, industrial developments located within a Mitigable VMT Area would have a significant but mitigable VMT impact. For this reason, an Industrial Development Alternative is considered. Under this alternative, the project site would be developed with an industrial development of approximately 300,400 square feet (equivalent to a FAR of 0.4, the maximum allowed by the NSJADP outside of the North First Street Corridor). Pursuant to Municipal Code Section 20.50.010, allowable uses under this alternative would range from industrial park (manufacturing, assembly, testing, and offices) to light industrial (warehousing, wholesaling, and light manufacturing). This alternative assumes that as required by the City's Private Sector Green Building Policy, any industrial development that occurs under this alternative would be certified LEED Silver.

Comparison of Environmental Impacts

As shown in the City's VMT per Industrial Job map, the project site is located within a Mitigable VMT Area for industrial uses.[134] Therefore, in comparison with the office uses currently proposed, which would have a significant and unavoidable VMT impact, industrial uses proposed under this alternative would have a significant but mitigable VMT impact and therefore a lesser VMT impact

[134] City of San José. "Vehicle Miles Traveled Metric" VMT per Industrial Job Map. Date accessed September 23, 2021. https://www.sanjoseca.gov/your-government/departments-offices/transportation/planning-policies/vehicle-miles-traveled-metric

consistent with Council Policy 5-1. Demolition of the existing development and construction of a 300,400 square foot industrial development would likely occur over a period of 13 months or longer, and therefore would result in a reduced construction-related noise impact (but still significant and requiring mitigation) compared to the proposed project. Similarly, since demolition and construction would affect trees that could provide nesting bird habitat and disturb potentially contaminated soil, the Industrial Development Alternative would require mitigation comparable to what is already imposed on the proposed project. Based on the scale of the Industrial Development Alternative, and assuming compliance with all requisite federal, state, and local requirements, this alternative would not result in any new significant impacts and would avoid the significant and unavoidable impacts that would occur under the proposed project.

Relationship to Project Objectives

Since the Industrial Development Alternative would result in the construction of a 300,400 square foot industrial development as opposed to a 1.9 million office development, this alternative would fail to meet objective one. Although this alternative would not develop the site with new high-quality office buildings, it would still partially meet objective two to a lesser extent, since it would create local jobs (ranging between approximately 463 to 859 employees) and foster on-going job growth capacity consistent with the 3,000 jobs anticipated in the NSJADP for the portion of North San José outside of the North First Street Corridor.[135] The industrial park and light-industrial uses that would be developed under the Industrial Development Alternative are consistent with the surrounding light- and heavy-industrial uses and the intended use of the site set forth in the General Plan and NSJADP; therefore this alternative would also be somewhat consistent with objective three, although not to the extent as the proposed project. As the Industrial Development Alternative would be certified LEED Silver and would be required to provide the requisite number of clean air and EVSE-charging stations required by the City's Municipal Code, this alternative would support the City's Environmental Stewardship goals and achieve objective four.

Conclusion

The Industrial Development Alternative would result in a reduced VMT impact in comparison with the proposed project, and comparable impacts related to nesting birds, disturbance of potentially contaminated soil, and construction duration. This alternative would not meet objective one, but would partially meet objective two and three, and fully meet objective four.

7.2.2.4 *Environmentally Superior Alternative*

The CEQA Guidelines state that an EIR shall identify an environmentally superior alternative. Based on the discussion of project alternatives, the environmentally superior alternative to the project is the No Project, No New Development Alternative because it would avoid all of the project's mitigated environmental impacts. CEQA Guidelines Section 15126.6(e)(2) states that "if the environmentally superior alternative is the No Project Alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives." In addition to the No Project, No New Development Alternative, the Industrial Development Alternative would be environmentally superior to the project, since it would result in a significant but mitigable VMT impact, whereas the proposed

[135] Industrial employment densities range between 1 employees per 650 square feet to 1 employee per 350 square feet.

project would result in a significant and unavoidable impact. Further, the Industrial Development Alternative would result in reduced impacts due to shorter construction schedule and reduced employee occupancy. However, the Industrial Development Alternative would not attain the project objectives to the same degree as the project.

Table 7.2-1: Comparison of Impacts from Alternatives to the Proposed Project

Scenario	Impacts						Meets Objectives ?
	BIO-1	CUL-1	HAZ-1	NOI-1	TRN-1	TCR-1	
Project	LTS/M	LTS/M	LTS/M	LTS/M	SU	LTS/M	Yes
No Project, No New Development Alternative	NI	NI	NI	NI	NI	NI	No
No Project, Redevelopment Alternative	LTS/M	LTS/M	LTS/M	LTS/M	SU	LTS/M	Yes
Industrial Development Alternative	LTS/M	LTS/M	LTS/M	LTS/M	LTS/M	LTS/M	Objective 1: No Objective 2: Partially Objective 3: Partially Objective 4: Yes

Notes:
NI = No Impact
LTS/M = Less than Significant Impact with Mitigation Incorporated
SU = Significant and Unavoidable Impact

SECTION 8.0 REFERENCES

The analysis in this Environmental Impact Report is based on the professional judgement and expertise of the environmental specialists preparing this document, based upon review of the site, surrounding conditions, site plans, and the following references:

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SECTION 9.0 LEAD AGENCY AND CONSULTANTS

9.1 LEAD AGENCY

City of San José
Department of Planning, Building and Code Enforcement
Christopher Burton, *Director*
Cassandra van der Zweep, *Supervising Planner*

9.2 CONSULTANTS

David J. Powers & Associates, Inc.
Environmental Consultants and Planners
Akoni Danielsen, *Principal Project Manager*
Natalie Noyes, *Senior Project Manager*
Matthew Moore, *Associate Project Manager*
Ryan Osako, *Graphic Artist*

Farallon Consulting
Hazards and Hazardous Materials Consultant
Scott Allin, R.E.P.A., *Principal Environmental Scientist*
Steffany Loeb, *Staff Geologist*

Hexagon Transportation Consultants, Inc.
Transportation Consultants
Robert Del Rio, *Vice President & Principal Associate*

Holman & Associates
Archaeological Resources Consultant
Sunshine Psota, *Senior Associate*

HortScience | Bartlett Consulting
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Maryellen Bell, *Certified Arborist*

Illingworth & Rodkin, Inc.
Acoustical and Air Quality Consultant
James Reyff, *Principal*
Michael Thill, *Principal*
Casey Divine, *Consultant*
Carrie Janello, *Consultant*

Rockridge Geotechnical
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San José Water Company
Water Supply Consultant
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Jake Walsh, P.E., *Assistant Chief Engineer, Planning*
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TreanorHL
Historic Resources Consultant
Aysem Kilinc, *Architectural Historian/Preservation Planner*

SECTION 10.0 ACRONYMS AND ABBREVIATIONS

ABAG	Association of Bay Area Governments
ACM	asbestos containing material
AFY	acre-feet per year
AIA	Airport Influence Area
APN	Assessor Parcel Number
BAAQMD	Bay Area Air Quality Management District
bgs	below ground surface
BMPs	Best Management Practices
Btu	British thermal units
CalARP	California Accidental Release Prevention
CalEEMod	California Emissions Estimator model
CALGreen	California Building Code
Cal/OSHA	California Department of Industrial Relations, Division of Occupational Safety and Health
Caltrans	California Department of Transportation
CalEPA	California Environmental Protection Agency
CAL FIRE	California Department of Forestry and Fire Protection
CARB	California Air Resources Board
CBC	California Building Code
CCR	California Code of Regulations
CDFW	California Department of Fish and Wildlife
CDD	Construction & Demolition Diversion Program
CEQA	California Environmental Quality Act
CFCs	Chlorofluorocarbons
CFR	Code of Federal Regulations
CG	Commercial General
CGS	California Geological Survey
CH_4	methane
CIP	Capital Improvement Program
CIWMP	Santa Clara County Integrated Waste Management Plan
CLUP	Comprehensive Land Use Plan

CMP	Congestion Management Program
CO_2	Carbon dioxide
CP	Commercial Pedestrian
CRHR	California Register of Historical Resources
CREC	Controlled Recognized Environmental Concern
CUPA	Certified Unified Program Agency
DPM	diesel particulate matter
DTSC	Department of Toxic Substances Control
EIR	Environmental Impact Report
EO	Executive Order
EPA	United States Environmental Protection Agency
FAA	Federal Aviation Administration
FAR	floor area ratio
FEMA	Federal Emergency Management Agency
FHSZ	Fire Hazard Severity Zones
FHWA	Federal Highway Administration
FMMP	Farmland Mapping and Monitoring Program
GHG	Greenhouse gas
GHGRS	Greenhouse Gas Reduction Strategy
GMP	Groundwater Management Plan
GWh	gigawatt hours
GWP	global warming potential
HI	Hazard Index
HFCs	hydrofluorocarbons
HMP	Hydromodification Management Plan
HOV	high occupancy vehicle
HREC	Historical Recognized Environmental Condition
HRI	Historic Resources Inventory
HSP	Health and Safety Plan
HSWA	Hazardous and Solid Waste Amendments
HVAC	heating, ventilation, and air conditioning systems
kBtu	Kilo-British thermal units
kWh	kilowatt-hours

LEED	Leadership in Energy and Environmental Design
LID	Low Impact Development
LRA	local responsibility areas
LOS	Level of service
LUST	leaking underground storage tank
MBTA	Migratory Bird Treaty Act
MEI	maximally exposed individual
mgd	million gallons per day
MLD	Most Likely Descendant
MND	Mitigated Negative Declaration
MTC	Metropolitan Transportation Commission
mpg	miles per gallon
N_2O	nitrous oxide
NAHC	Native American Heritage Commission
NCC	Neighborhood/Community Commercial
NFIP	National Flood Insurance Program
NHPA	National Historic Preservation Act
NISL	Newby Island Sanitary Landfill
NOD	Notice of Determination
NOI	Notice of Intent
NOP	Notice of Preparation
NO_2	Nitrogen Dioxide
NPDES	National Pollutant Discharge Elimination System
NRHP	National Register of Historic Places
O_3	Ozone
OITC	Outdoor-Indoor Transmission Class
PCB	polychlorinated biphenyl
PDA	Priority Development Area
PDO	Parkland Dedication Ordinance
PFCs	perfluorocarbons
PG&E	Pacific Gas and Electric Company
$PM_{2.5}$	Particulate Matter
PM_{10}	Particulate Matter

PD	Planned Development
PIO	Park Impact Ordinance
RC	Regional Commercial
RCRA	Resource Conservation and Recovery Act
REC	Recognized Environmental Concerns
RHNA	Regional Housing Need Allocation
ROG	reactive organic gases
RCNM	Roadway Construction Noise Model
RWF	Regional Wastewater Facility
RWQCB	Regional Water Quality Control Board
SF_6	sulfur hexafluoride
SFHA	Special Flood Hazard Area
SHMA	Seismic Hazards Mapping Act
SMARA	Surface Mining and Reclamation Act
SMGB	State Mining and Geology Board
SMP	Site Management Plan
SJCE	San José Clean Energy
SJFD	San José Fire Department
SJPD	San José Police Department
SJWC	San José Water Company
SB	Senate Bill
SR	State Route
SRA	state responsibility areas
SSMP	Sewer System Management Plan
STC	Sound Transmission Class
SWPPP	Storm Water Pollution Prevention Plan
SWRCB	State Water Resources Control Board
TAC	Toxic Air Contaminants
TAZ	Transportation Analysis Zone
TCMs	Treatment Control Measures
TCR	Tribal Cultural Resource
TDM	Transportation Demand Management
TSCA	Toxic Substances Control Act

USACE	United States Army Corps of Engineers
USFWS	United States Fish and Wildlife Service
UWMP	urban water management plan
VMT	vehicle miles traveled
VTA	Valley Transit Authority
WSA	Water Supply Assessment
ZNE	Zero Net Carbon Emissions