

Draft EIR

1065 South Winchester Boulevard Mixed Use Project

State Clearinghouse Number 2021080419

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Prepared by



In Consultation with



EMC PLANNING GROUP INC.
A LAND USE PLANNING & DESIGN FIRM

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Summary

The approximately 0.93-acre project site is comprised of one parcel (APN: 299-25-037) located at 1065 South Winchester Boulevard, which is currently developed with a single-story Italianate Victorian house, a large barn, two smaller sheds, and a fruit drying shed and covered drying area. The proposed project would demolish all existing structures on site and construct a 6-story above grade, multi-family residential building totaling 70 residential condominium units and 20,410 square feet of commercial space. The project also includes a total of 105 parking spaces located on the ground floor of the proposed project and in the underground parking garage. Additionally, the project proposes 44 bicycle parking spaces and 24 motorcycle parking spaces. The proposed development would be constructed in compliance with the City's Council Policy 6-32 and the City's Green Building Ordinance.

The following is a summary of the significant impacts and mitigation measures addressed within this 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.

SUMMARY OF SIGNIFICANT IMPACTS AND MITIGATION MEASURES

IMPACTS IDENTIFIED IN THE EIR	
Cultural Resources	
Significant Impacts	Mitigation Measures
<p>Impact 3-1: Adverse Change to Historic Resources (Demolition of Historic Resources at 1065 South Winchester Boulevard, Candidates for the City of San José Historic Resources Inventory and the California Register of Historical Resources) (Project Level and Cumulative)</p>	<p>MM CUL 3-1a: Prior to issuance of any demolition permit, or permit to relocate the structures, a qualified architectural historian shall document the residence and barn at 1065 South Winchester Boulevard in accordance with the guidelines established for the Historic American Building Survey (HABS). Documentation shall consist of the following components:</p> <ol style="list-style-type: none"> 1. Drawings – Prepare sketch floor plans. 2. Photographs – Digital photographic documentation of the interior, exterior, and setting of the buildings in compliance with the National Register Photo Policy Fact Sheet. Photos must have a permanency rating of approximately 75 years. 3. Written Data – HABS written documentation in short form. <p>An architectural historian meeting the Secretary of the Interior’s Professional Qualification Standards shall oversee the preparation of the sketch plans, photographs and written data. The existing DPR forms shall fulfill the requirements for the written data report.</p> <p>The City of San José’s Historic Preservation Officer shall review the documentation, and then the applicant shall file the documentation with the San José Library’s California Room and the Northwest Information Center at Sonoma State University, the repository for the California Historical Resources Information System. All documentation shall be submitted on archival paper.</p> <p>MM CUL 3-1b: Prior to issuance of any demolition permits, the project applicant shall advertise the residence and barn at 1065 South Winchester Boulevard for relocation by a third party. The project applicant shall be required to advertise the availability of the structure for a period of no less than 30 days. The advertisements must include a newspaper of general circulation, a website, and notice on the project site. The project applicant must provide evidence (i.e., receipts, date and time stamped photographs, etc.) to the Director of Planning, Building and Code Enforcement or the Director’s designee that this condition has been met prior to the issuance of any demolition permits.</p> <p>If a third party does agree to relocate the residence and barn at 1065 South Winchester Boulevard, the following measures must be followed:</p> <ol style="list-style-type: none"> 1. The City’s Director of Planning, Building and Code Enforcement or the Director’s designee, based on consultation with the City’s Historic Preservation Officer, must determine that the receiver site is suitable for the building. 2. Prior to relocation, the project applicant or third party shall hire a qualified historic preservation architect and a qualified structural engineer to undertake an existing condition study. The purpose of the study shall be to establish the baseline condition of the building prior to relocation. The documentation shall take the form of written descriptions and visual illustrations, including those character-defining physical features of the resource that convey its historic significance and must be protected and preserved. The documentation shall be reviewed and approved by the City’s Historic Preservation Officer prior to the structure being moved. Documentation already completed shall be used to the extent possible to avoid repetition in work.

IMPACTS IDENTIFIED IN THE EIR	
	<p>3. To protect the building during relocation, the third party shall engage a building mover who has experience moving similar historic structures. A qualified structural engineer shall also be engaged to determine if the building needs to be reinforced/stabilized before the move.</p> <p>4. Once moved, the building shall be repaired and restored, as needed, by the project applicant or third party in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties. In particular, the character-defining features shall be restored in a manner that preserves the integrity of the features for the long-term preservation of these features.</p> <p>Upon completion of the repairs, a qualified architectural historian shall document and confirm that renovations of the structure were completed in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and that all character-defining features were preserved. The project applicant shall submit a report to the City's Historic Preservation Officer documenting the relocation.</p> <p>If no third party relocates the residence and barn at 1065 South Winchester Boulevard, the structure shall be made available for salvage-to-salvage companies facilitating the reuse of historic building materials. The time frame available for salvage shall be established by the Director of Planning, Building and Code Enforcement or the Director's designee, together with the City's Historic Preservation Officer.</p> <p>The project applicant must provide evidence to the Director of Planning, Building and Code Enforcement or the Director's designee, that this condition has been met prior to the issuance of any demolition permits.</p> <p>Significant Unavoidable Impact</p>
Impact 3-2: Potential Disturbance of Subsurface Historic Resources Associated with Late 19 th and Early 20 th Century Agricultural and Residential History of the Property.	<p>CUL 3-2a. Cultural Sensitivity Training. Prior to issuance of any grading permits, the project applicant shall be required to submit evidence that a Cultural Awareness Training will be provided to construction personnel prior to ground disturbances. The training shall be facilitated by the project archaeologist in collaboration with a Native American representative registered with the Native American Heritage Commissions 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.</p> <p>CUL3-2b Sub-Surface Monitoring. A qualified archeologist in collaboration with a Native American monitor, registered with the Native American Heritage Commission for the City of San Jose and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3, shall also be present during applicable earthmoving activities such as, but not limited to, trenching, initial or full grading, lifting of foundation, boring on site, or major landscaping.</p> <p>CUL 3-2c. Treatment Plan. A qualified archeologist in collaboration with a Native American monitor, registered with the Native American Heritage Commission for the City of San Jose and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3, shall prepare a treatment plan that reflects permit-level detail pertaining to depths and locations of excavation activities. The treatment plan shall be prepared and submitted to the Director of the City of San José 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:</p> <ol style="list-style-type: none"> 1. Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations. 2. Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found). 3. Monitoring schedules and individuals 4. Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information). 5. Detailed field strategy to record, recover, or avoid the finds and address research goals. 6. Analytical methods.

Summary

IMPACTS IDENTIFIED IN THE EIR	
	7. Report structure and outline of document contents. 8. Disposition of the artifacts. 9. Security approaches or protocols for finds. 10. Appendices: all site records, correspondence, and consultation with Native Americans, etc. 11. 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. Less Than Significant Impact with Mitigation Incorporated
Significant Impacts	Mitigation Measures
Impact 3-4: Disturb Native American Human Remains (During Grading Activities)	Mitigated by Standard Conditions. Potentially Significant
Tribal Cultural Resources	
Impact 3-5: Potential Adverse Change in Tribal Cultural Resource Listed or Eligible for Listing in the California Register of Historical Resources or Significant Pursuant to Public Resources Code Section 5024.1 (During Grading and Construction Activities)	Mitigated by mitigation measures 3.2a, 3.2b, and 3.2c above. Less Than Significant Impact with Mitigation Incorporated
IMPACTS IDENTIFIED IN THE INITIAL STUDY	
Air Quality	
Significant Impacts	Mitigation Measures
Impact AQ-1: The proposed project would expose sensitive receptors to construction dust and equipment exhaust emissions of DPM and	MM AQ-1 Prior to issuance of any demolition permit, grading permit, or building permit, whichever comes first, the project applicant shall prepare and submit a construction emissions reduction plan containing the measures listed below to the City of San Jose Planning Director or Director's designee for review and approval. The plan shall be accompanied by a letter signed by a qualified air quality specialist, verifying the equipment included in the plan meets the standards set forth in this mitigation measure. The emissions reduction plan shall include some or all of the following measures to achieve an 85 percent reduction in DPM emissions that corresponds with an infant/child cancer risk of 10 or fewer cases per million, and a reduction of PM2.5 emissions of 59 percent. During construction, the project contractor shall implement the measures listed in the approved construction emissions

IMPACTS IDENTIFIED IN THE EIR	
<p>PM2.5 that exceed BAAQMD single-source thresholds for infant/child cancer risks and PM2.5 concentrations.</p>	<p>reduction plan to reduce emissions of fugitive dust and engine exhaust DPM. These measures shall be included in the project plans, prior to issuance of any demolition permit, grading, or building permit:</p> <ol style="list-style-type: none"> a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered three (3) times per day and at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe prior to each watering to determine if the moisture content standard is maintained or a frequency greater than three (3) times per day is needed to maintain the standard. A daily compliance log for this measure shall be maintained on the site available for review by City staff; and b. All vehicle speeds on unpaved roads shall be limited to five (5) mph. c. At minimum, all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total (over the course of the full construction process) shall utilized diesel engines that are EPA certified "Tier 3 or better" emission standards for particulate matter and be equipped with CARB-certified Level 3 Diesel Particulate Filters as needed to meet the EPA Tier 4 emissions standard. Prior to the issuance of any demolition permits, the project applicant shall submit specifications of the equipment to be used during construction and confirmation this requirement is met; and/or d. Use alternatively fueled equipment or equipment with zero emissions (i.e. electrical equipment); and/or e. Provide line power to the site during the early phases of construction to minimize the use of diesel-powered stationary equipment, such as generators; and/or f. Other demonstrable measures that may reduce emissions and avoid or minimize exposures to the affected sensitive receptors. <p>Less Than Significant Impact with Mitigation Incorporated</p>
Biological Resources	
Significant Impacts	Mitigation Measures
<p>Impact BIO-1: The project removes trees and/or buildings that may provide roosting habitat for special-status bats</p>	<p>MM BIO-1 Pre-Construction Bat Survey. Prior to tree trimming/removal, demolition of buildings, or any other earth moving activities, the project applicant shall retain a qualified biologist to conduct a habitat assessment for bats and potential roosting sites in trees to be trimmed, and in trees and structures within 50 feet of the development footprint to the extent access to neighboring properties would be available. The survey shall be completed no more than 14 days prior to earthmoving activities. In the event that construction activities are suspended for 15 consecutive days or longer, these surveys shall be repeated.</p> <p>These surveys shall include, but are not limited to, a visual inspection of potential roosting features (bats need not be present) and a search for presence of guano within and 50 feet around the project site. Cavities, crevices, exfoliating bark, and bark fissures that could provide suitable potential nest or roost habitat for bats shall be surveyed. Potential roosting features found during the survey shall be flagged or marked. Locations off the site to which access is not available may be surveyed from within the site or from public areas.</p> <p>If no roosting sites or bats are found, a letter report confirming absence shall be submitted by the qualified biologist to the Director of Planning, Building and Code Enforcement, or the Director's designee prior to the commencement of tree trimming and construction activities and no further mitigation is required.</p>

IMPACTS IDENTIFIED IN THE EIR	
	<p>If bats or roosting sites are found, a letter report and supplemental documents shall be provided by the qualified biologist to the Director of Planning, Building and Code Enforcement, or the Director's designee prior to the commencement of tree trimming and construction activities and the following monitoring, exclusion, and habitat replacement measures shall be implemented:</p> <ol style="list-style-type: none"> a. Avoidance Outside of Nursery Season. If bats are found roosting outside of the nursery season (May 1 through October 1, inclusive), they shall be monitored to determine if the roost site is a maternal roost. This could occur by either visual inspection of the roost bat pups, if possible, or by monitoring the roost after the adults leave for the night to listen for bat pups. If the roost is determined to not be a maternal roost, then the bats shall be evicted as described under (b) below. b. Avoidance During Nursery Season. If bats are found roosting during the nursery season (May 1 through October 1, inclusive), a 50-foot buffer zone (or different size if determined in consultation with the California Department of Fish and Wildlife) shall be established around the roosting site within which no construction activities including tree removal or structure disturbance shall occur until after the nursery season. Monitoring of the roosting site(s) shall occur until the end of the nursery season. If bats continue to roost and require removal or exclusion, the bats shall be evicted as described under (b) below. c. Eviction Outside of Nursery Season. If a non-breeding bat hibernaculum is found in a tree or snag scheduled for removal or on any structures within 50 feet of project disturbance activities, the individuals shall be safely evicted, under the direction of a qualified bat biologist. If pre-construction surveys determine that there are bats present in any trees or structures to be removed, exclusion structures (e.g., one-way doors or similar methods) shall be installed by a qualified biologist. The exclusion structures shall not be placed until the time of year in which young are able to fly, outside of the nursery season. Information on placement of exclusion structures shall be provided to the CDFW prior to construction. If needed, other removal methods could include: carefully opening the roosting area in a tree or snag by hand to expose the cavity and opening doors/windows on structures, or creating openings in walls to allow light into the structures. Removal of any trees or snags and disturbance within 50 feet of any structures shall be conducted no earlier than the following day (i.e., at least one night shall be provided between initial roost eviction disturbance and tree removal/disturbance activities). This action shall allow bats to leave during dark hours, which increases their chance of finding new roosts with a minimum of potential predation. <p>MM BIO-2 Bat Mitigation and Monitoring Plan. If roosting habitat is identified, a Bat Mitigation and Monitoring plan shall be prepared by a qualified biologist and implemented to mitigate for the loss of roosting habitat. The plan shall include information pertaining to the species of bat and location of the roost, compensatory mitigation for permanent impacts, including specific mitigation ratios and a location of the proposed mitigation area, and monitoring to assess bat use of mitigation areas. The plan shall be submitted to CDFW for review and approval prior to the bat eviction activities or the removal of roosting habitat.</p> <p>Less Than Significant Impact with Mitigation Incorporated</p>
<p>Impact BIO-2: The project removes trees that may provide nesting bird habitat.</p>	<p>MM BIO-3 Avoidance: Prior to the issuance of demolition, grading, tree removal or building permits (whichever occurs first), the project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive).</p> <p>Nesting Bird Surveys: If demolition and construction cannot be scheduled to occur between September 1st and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests shall be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th inclusive) and no more than 30 days prior to the initiation of these activities during the late part of breeding season (May 1st through August 31st inclusive). During this survey the qualified ornithologist shall inspect all trees and other possible nesting habitats within 250 feet of the construction areas for nests.</p>

IMPACTS IDENTIFIED IN THE EIR	
	<p>Buffer Zones: If an active nest is found within 250 feet of the work areas to be disturbed by construction, the qualified ornithologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, (typically 250 feet for raptors and 100 feet for other birds), to ensure that raptor or migratory bird nests shall not be disturbed during project construction. The no-disturbance shall remain in place until the biologist determines the nest is no longer active or the nesting season ends. If construction ceases for two days or more then resumes again during the nesting season, an additional survey shall be necessary to avoid impacts to active bird nests that may be present.</p> <p>Reporting: Prior to any tree removal and construction activities or issuance of any demolition, grading or building permits (whichever occurs first), the qualified ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement or the Director's designee.</p> <p>Less Than Significant Impact with Mitigation Incorporated</p>
Noise	
Significant Impacts	Mitigation Measures
<p>Impact N-1: Construction of the proposed project would occur within 500 feet of residential land uses and within 200 feet of office uses and would last for more than 12 months, thereby resulting in a significant impact. The following mitigation measure is required in order to ensure temporary construction noise levels are less than significant.</p>	<p>MM N-1 Construction Noise Logistics Plan: Prior to the issuance of any grading or demolition permits, the project applicant shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. The noise logistic plan shall be submitted to the Director of Planning or Director's designee of the Department of Planning, Building, and Code Enforcement prior to the issuance of any grading or demolition permits.</p> <p>As a part of the noise logistic plan and project, construction activities for the proposed project shall include, but is not limited to, the following best management practices:</p> <ol style="list-style-type: none"> a. In accordance with Policy EC-1.7 of the City's General Plan, utilize the best available noise suppression devices and techniques during construction activities. b. 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. c. Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses. d. Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment. e. Prohibit unnecessary idling of internal combustion engines. f. Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses. g. Utilize "quiet" air compressors and other stationary noise sources where technology exists. h. Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.

IMPACTS IDENTIFIED IN THE EIR	
	<ul style="list-style-type: none"> i. Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences. j. If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites. k. Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule. l. Limit construction to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses. <p>Less Than Significant with Mitigation Incorporated</p>
Transportation/Traffic	
Significant Impacts	Mitigation Measures
<p>Impact TR-1: The proposed project would generate 13.13 VMT per employee for the office component, which would exceed the established impact threshold of 12.21 VMT per employee.</p>	<p>MM TR-1: In addition to the final Transportation Demand Management (TDM) plan for reduced parking, the project applicant shall implement one of the following mitigation measures to reduce VMT impacts:</p> <p>Option A: Telecommuting and Alternative Work Schedules: Encourage 50 percent of the employees to telecommute, shift work schedules, or commute outside of peak congestion periods on a 4/40 schedule or 4 of 40 hours on alternative work schedule. This measure reduces commute vehicle trips; or</p> <p>Option B: Operate a Free Direct Shuttle: Provide shuttle service for at least 15 percent of the project employees that would serve the project site and areas with high concentrations of employed residents. This measure reduces drive-alone commute trips; or</p> <p>Option C: Provide Ride-Sharing Programs: Organize a program to match individuals interested in carpooling who have similar commutes for at least 15 percent of the project employees. This measure promotes the use of carpooling and reduces the number of drive-alone trips; or</p> <p>Option D:</p> <ol style="list-style-type: none"> 1. <i>Car Sharing Program</i>: Provide subsidies and promotions, as well as dedicated parking spaces, for carsharing services such as ZipCar, Car2Go, and GetAround, etc for 100 percent of the project employees; and 2. <i>Commute Trip Reduction Marketing/Education</i>: Implement marketing/educational campaigns that promote the use of transit, shared rides, and travel through active modes for 100 percent of the project employees. Strategies may include incorporation of alternative commute options into new employee orientations, event promotions, and publications; and 3. <i>Employee Parking "Cash Out" and on-site TDM coordinator</i>: Require Project employers to offer parking "cash-out" for 70 percent of the project employees. Providing a "cash-out" incentives gives employees the choice to forgo subsidized/free parking for a cash payment equivalent to the cost that the employer would otherwise pay for the parking space. Providing an alternative to subsidized/free parking encourages commuters to travel by walking, biking, carpooling, and transit.

IMPACTS IDENTIFIED IN THE EIR	
	<p>TR-2 On-site TDM Coordinator. The project applicant shall provide a draft TDM plan (including one or more options above) prior to issuance of Planning Permit for review and approval. Prior to issuance of any building permit, a first draft of the Plan shall be resubmitted and shall include an annual monitoring requirement establishing an average daily trip (ADT) cap of 42 AM peak-hour trips and 46 PM peak-hour trips. The annual monitoring shall be prepared by a traffic engineer and the 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 may add additional TDM measure 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, penalties will be assessed.</p> <p>Less Than Significant with Mitigation Incorporated</p>

SOURCE: EMC Planning Group 2022

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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 1065 South Winchester Mixed-Use Project in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines. The Initial Study (IS) prepared for this project, included as [Appendix A](#) of this EIR, concluded that implementation of the proposed project would result in a significant impact on a historical resource under CEQA; therefore, an EIR was prepared which focuses the analysis on Cultural Resources.

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.

1.2 EIR PROCESS

Notice of Preparation and Scoping

In accordance with Section 15082 of the CEQA Guidelines, the City prepared a Notice of Preparation (NOP) for this EIR. The NOP was circulated to local, state, and federal agencies on Tuesday August 24, 2021. The standard 30-day comment period concluded on Monday September 27, 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 also held a joint public scoping meeting and community meeting on Monday September 13, 2021 to discuss the project and solicit public input as to the scope and contents of this EIR. The meeting was held at 6:30 p.m. via Zoom. Comments were received from the following public agencies, businesses, and individuals:

1.0 Introduction

- Pacific Gas & Electric, August 26, 2021;
- Ginny Choi, September 13, 2021;
- Preservation Action Council of San Jose, September 27, 2021; and
- Santa Clara Valley Water District (Valley Water), September 28, 2021.

Appendix B of this EIR includes the NOP and comments received on the NOP.

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 Governor's 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:

Thai-Chau Le
Department of Planning, Building, and Code Enforcement
200 East Santa Clara Street, Third Floor, San José, California 95113
Thai-Chau.Le@sanjoseca.gov

Final EIR/Responses to Comments

Following the conclusion of the 45-day public review period, the City 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.

Notice of Determination

If the project is approved, the City 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)).

1.3 METHODOLOGY

General

This EIR has been prepared by EMC Planning Group in accordance with CEQA and its implementing guidelines, using an interdisciplinary approach. The City has the discretionary authority to review and approve the proposed project. This EIR is an informational document that is intended to inform the decision makers and their constituents, as well as responsible and trustee agencies of the environmental impacts of the proposed project and to identify feasible mitigation measures that would avoid or reduce the severity of the impacts. The lead agency is required to consider the information contained in this EIR prior to taking any discretionary action to approve the proposed project.

This EIR has been prepared using available information from private and public sources noted herein, as well as information generated through field investigation by EMC Planning Group and other technical experts.

The purpose of an EIR is to identify a project's significant environmental effects, to indicate the manner in which those significant effects can be mitigated or avoided, and to identify alternatives to the proposed project.

Emphasis

This Draft EIR focuses on the significant effects on the environment in accordance with CEQA Guidelines section 15143. The significant effects are discussed with emphasis in proportion to their severity and probability of occurrence. Effects dismissed in an initial study as clearly insignificant and unlikely to occur need not be discussed further in the EIR unless the lead agency subsequently receives information inconsistent with the finding in the initial study. A copy of the IS is included as [Appendix A](#) and provides the basis for limiting the impacts discussed in this Draft EIR.

Forecasting

In accordance with CEQA Guidelines section 15144, preparing this Draft EIR necessarily involved some degree of forecasting. While foreseeing the unforeseeable is not possible, the report preparers and technical experts used best available efforts to find out and disclose all that it reasonably can.

Technical Detail

The information contained in this Draft EIR includes summarized technical data, maps, plans, diagrams, and similar relevant information sufficient to permit full assessment of significant environmental impacts by reviewing agencies and members of the public, pursuant to CEQA Guidelines section 15147. Placement of highly technical and specialized analysis and data is included as appendices to the main body of the Draft EIR.

Citation

In accordance with CEQA Guidelines section 15148, preparation of this Draft EIR was dependent upon information from many sources, including engineering reports and scientific documents relating to environmental features. If the document was prepared specifically for the proposed project, the document is included in the technical appendices discussed above. Documents that were not prepared specifically for the proposed project, but contain information relevant to the environmental analysis of the proposed project, are cited but not included in this Draft EIR.

1.4 TERMINOLOGY

Characterization of Impacts

This EIR uses the following terminology to denote the significance of environmental impacts.

No Impact

“No impact” means that no change from existing conditions is expected to occur.

Adverse Impacts

A “less-than-significant impact” is an adverse impact, but would not cause a substantial adverse change in the physical environment, and no mitigation is required.

A “significant impact” or “potentially significant impact” would, or would potentially, cause a substantial adverse change in the physical environment, and mitigation is required.

A “less-than-significant impact with implementation of mitigation measures” means that the impact would cause no substantial adverse change in the physical environment if identified mitigation measures are implemented.

A “significant and unavoidable impact” would cause a substantial change in the physical environment and cannot be avoided if the project is implemented; mitigation may be recommended, but will not reduce the impact to less-than-significant levels.

Abbreviations and Acronyms

APN – Assessor’s Parcel Number

CEQA - California Environmental Quality Act

EIR - Environmental Impact Report

IS – Initial Study

NOP - Notice of Preparation

NOD - Notice of Determination

NHPA - National Historic Preservation Act

NRHP - National Register of Historic Places

CRHR - California Register of Historic Resources

NAHC - Native American Heritage Commission

HABS - Historic American Building Survey

MLD - Most Likely Descendant

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Project Information and Description

2.1 PROJECT LOCATION

The project site is located in the City of San José (City) approximately 41 miles southeast of San Francisco, 25 miles northeast of Santa Cruz, 56 miles southwest of Modesto, and 30 miles northwest of Gilroy. The project site is located approximately 0.5 mile west of State Route 17, approximately 0.66 mile south of Interstate 280 (I-280), and approximately three miles southwest of Norman Y. Mineta San José International Airport. The approximately 0.93-acre project site is located at 1065 South Winchester Boulevard (APN 299-25-037). The project site is located on the west side of South Winchester Boulevard and is within the Winchester Urban Village Plan, which extends from Interstate 280 in the north to Impala Drive to the south. [Figure 2-1, Location Map](#), presents the regional location of the project site.

The project site is currently developed with a one-story residence, two sheds, a fruit drying shed and covered drying area, and a barn. Existing site access is provided from South Winchester Boulevard. The project site is surrounded by residential uses to the west and east and by commercial uses to the north and south, as shown in [Figure 2-2, Aerial Photograph](#). [Figure 2-3, Site Photographs](#), illustrates views of the existing development at the project site from South Winchester Boulevard. Additional project site photos are included in the *Historic Evaluation of the Property at 1065 South Winchester Boulevard in the City of San José* included in [Appendix C](#).

2.2 PROJECT DESCRIPTION

The project includes demolition of all existing buildings and structures on site including a single-story Italianate Victorian house, barn, tank house and fruit drying area and shed, and construction of a six-story, 65-foot-high, mixed-use building with 70 residential units (totaling approximately 130,840.1 square feet) and commercial office space (totaling approximately 20,410 square feet). The first floor contains residential lobby, trash cans, residential common open space (GYM), commercial space and 25 parking spaces. The second floor contains both residential and commercial uses. Floors 3 through 6 are all residential apartment units. The project includes a total of 105 parking spaces located on the ground floor of the proposed project and in the underground parking garage.

2.0 Project Information and Description

The underground parking garage includes vehicle, motorcycle, and two bicycle parking spaces (including two bicycle work stations of 175 square feet and 100 square feet, respectively), and a mechanical and electric room. The ground floor of the proposed project includes vehicle, motorcycle, and bicycle parking spaces, a gym for building residents, a residential lobby, a commercial office lobby, and three commercial office spaces.

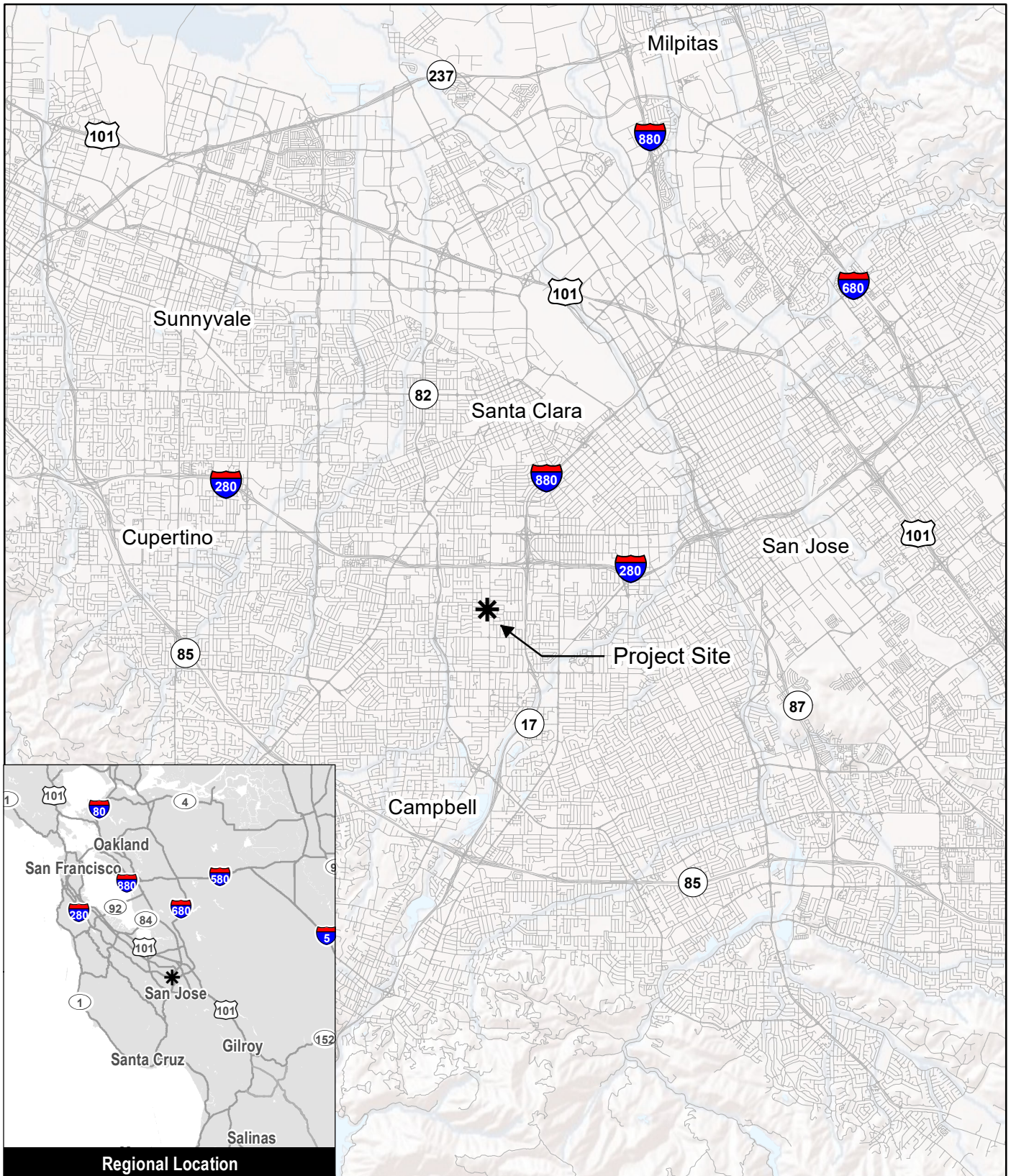
This project includes construction of a 20-foot sidewalk and tree wells along the South Winchester Boulevard project frontage, as required per the Winchester Boulevard Urban Village Plan. The project proposes removal of the existing driveway and construction of a new driveway entrance from South Winchester Boulevard into the site to access the surface parking spaces and underground parking garage. [Table 2-1, Proposed Project Components](#), presents project details.

Table 1-1 Proposed Project Components

Project Component	Project Details
Site Coverage (Including Parking and Loading)	36,220.04 square feet (84.1 percent)
Pervious Coverage	4,437 square feet (10.9 percent)
Number of Residential Units	70 residential units (130,840.1 square feet residential area)
Commercial Square Footage	9 commercial units (20,410 square feet commercial area)
Building Height	65 feet
Vehicle Parking Spaces	105 spaces
Bicycle/Motorcycle Parking Spaces	44 bicycle spaces/24 motorcycle spaces
Number of Existing Trees On-site	54 trees
Number of Existing Trees to be Removed	49 trees
Number of Proposed Trees to be Planted	140 trees
Front Setback	---
North Side Yard Setback	8'-5"
Rear Setback	20'-0"
South Side Yard Setback	15'-0"

SOURCE: Carpira Design Group (August 25, 2021)

NOTE: The commercial square footage may be used for office space. [Figure 2-4, Proposed Site Plan](#), illustrates the site plan. [Figure 2-5, Proposed Building Rendering](#), illustrates the view of the proposed building from South Winchester Boulevard. [Figure 2-6, Bird’s Eye View: Building Rendering](#), provides sky view of the proposed building. All three of these figures show, to some degree, the adjacent, approved but not yet developed mixed-use project at 1073 S. Winchester Boulevard.



Source: ESRI 2019

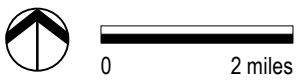
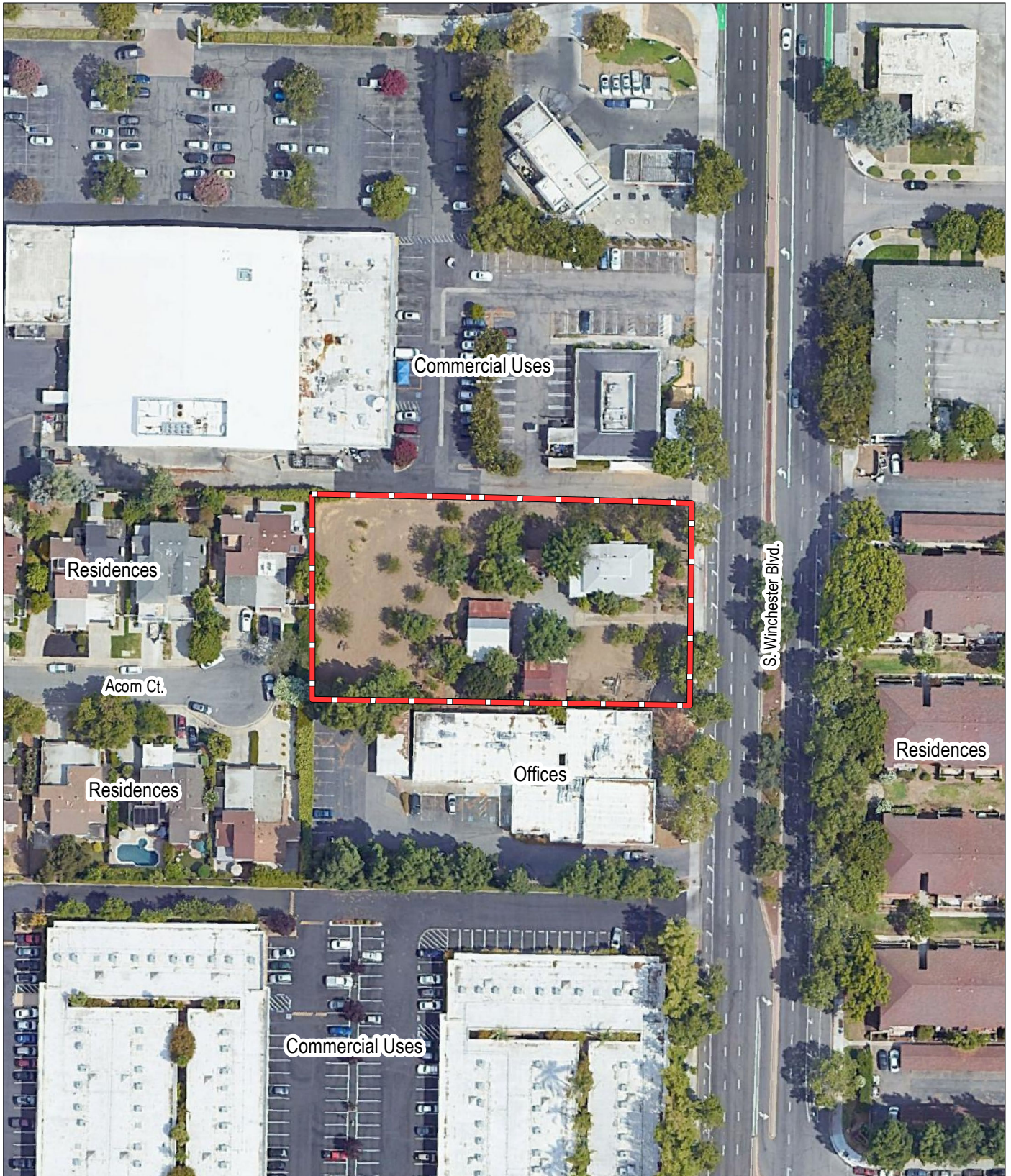


Figure 2-1

Location Map



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Source: Santa Clara County GIS 2020, Google Earth 2020

Figure 2-2

Aerial Photograph



1065 South Winchester Boulevard Mixed Use EIR

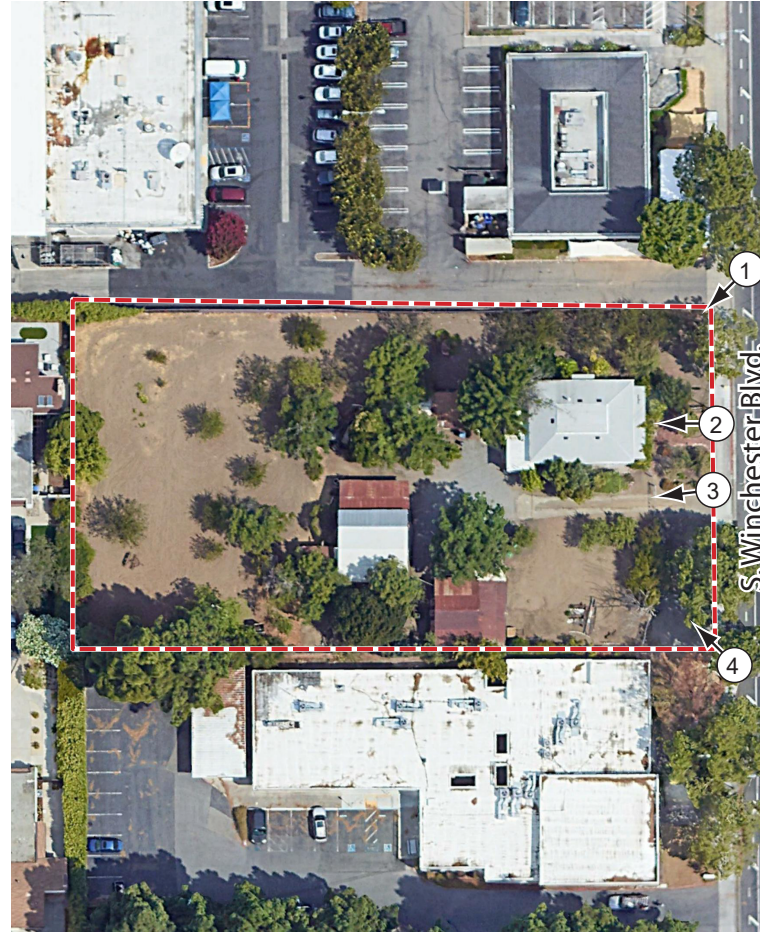
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① Northeast corner facing the site



② South Winchester Boulevard facing west across the site at the existing residence



 Project Site

Source: Google Earth 2020
Photographs: EMC Planning Group 2021

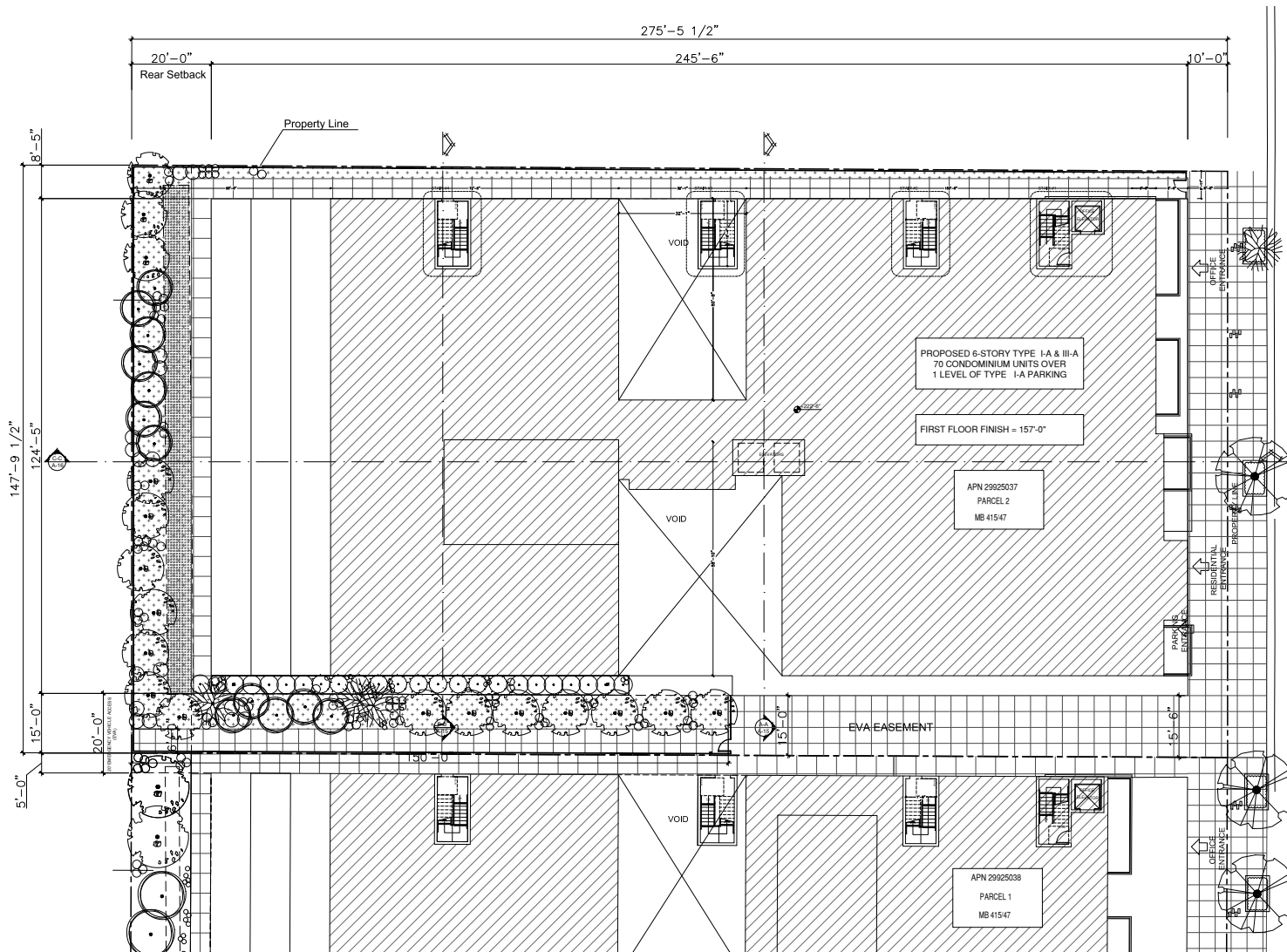


③ South Winchester Boulevard facing west across the site



④ Southeast corner facing the site

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Source: Carpira 2021

Figure 2-4
Proposed Site Plan



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Source: Carpira 2021


Figure 2-5
Proposed Building Rendering

1065 South Winchester Boulevard Mixed Use EIR

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 Proposed Project (1065 South Winchester Boulevard Mixed-Use Project)

 Not part of the proposed project (1073-1087 South Winchester Boulevard Mixed-Use Project, File Nos. SP20-002 & T20-003)

Source: Carpira 2021

Figure 2-6
Bird's Eye View: Building Rendering

1065 South Winchester Boulevard Mixed Use EIR

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Site Access, Circulation, and Parking

A total of 105 vehicle parking spaces are provided, 80 of which are located in the underground parking basement and 25 of which are on the ground floor. The proposed project also includes areas dedicated to motorcycles and bicycles in the underground parking basement and on the ground floor of the project site. Vehicular access to the facility is from the driveway on South Winchester Boulevard. The South Winchester Boulevard driveway would allow right in/right out movements only.

The underground parking garage includes vehicle, motorcycle, and bicycle parking spaces a mechanical and electric room, and two work space locations (as identified on the project plans: one work space is 175 square feet located in the center of the underground parking garage, and the other is 100 square feet located in the northeast corner). As identified on the project plans, the ground floor of the proposed project includes vehicle and motorcycle parking spaces, a gym for building residents, the residential lobby, the commercial office lobby, and two commercial office spaces.

This project includes construction of tree wells along South Winchester Boulevard project frontage per the Winchester Boulevard Urban Village Plan. The project proposes to remove the existing driveway and construct a new driveway entrance from South Winchester Boulevard into the site to access the surface parking spaces and the underground parking garage.

Tree Removal and Landscaping

There are 54 trees at the project site, two of which are street trees. The proposed project includes removing 49 of the existing trees (30 of which are ordinance-sized trees). Five trees would remain. The proposed project includes planting 140 trees, additional shrubs, grasses, groundcover, and vines. Refer to Sheet 032-L in Appendix A for tables listing the types of trees and landscaping proposed and Sheet 034-L for proposed tree disposition.

Utilities

The proposed project would connect to the existing sanitary sewer system and existing storm drain system located in South Winchester Boulevard. The project would connect to the City's existing water line system within the public right-of-way and the existing power and gas lines.

Demolition and Construction Activities

Project construction would include typical construction phases such as demolition, site preparation and grading, building construction, paving, and architectural coating.

During project construction, equipment anticipated to be used includes backhoes, dozers, pavers, concrete mixers, trucks, air compressors, saws, and hammers. Trucks providing

deliveries and hauling would access (enter and exit) the project site from South Winchester Boulevard. The entire 0.93-acre site would be disturbed. The proposed project includes an export volume of 14,144 cubic yards and an import volume of 600 cubic yards.

Demolition of all existing structures on site and the construction of the proposed development would take approximately 20 months. The proposed project is expected to be operational by 2024.

Transportation Demand Management Plan

The proposed project includes a Transportation Demand Management plan (Appendix H of the 1065 South Winchester Mixed-Use Development – Transportation Analysis, which is Appendix K of the IS), to reduce overall vehicles trips generated by the project and support the proposed parking reduction. The Transportation Demand Management plan includes the following measures:

- Online Kiosk;
- Unbundled Parking;
- Transit Subsidies; and
- Bicycle Programs.

Local Native American Commemorative Plaque

At the request of the Tamien Nation, the applicant has volunteered a commemorative plaque, designed in coordination with the Tamien Nation, to educate the public about local Native American tribes such as Tamien Nation.

Green Building Measures

The project would be required to be built in accordance with the California Building Code requirements which includes design provisions intended to minimize wasteful energy consumption. The proposed development would be constructed in compliance with the City's Council Policy 6-32 and the City's Green Building Ordinance.

Envision San José 2040 General Plan and Zoning Designation

The project site has an *Envision San José 2040 General Plan* (General Plan) land use designation of Mixed-Use Commercial and is located in the Commercial Pedestrian (CP) Zoning District. The project site is within the West Valley Planning Area and an area identified as the "Winchester Urban Village" in the City's *Winchester Boulevard Urban Village Plan*.

The General Plan's Mixed-Use Commercial designation is intended to accommodate a mix of commercial and residential uses with an emphasis on commercial activity as the primary use and residential activity allowed in a secondary role. This designation is more commercially focused and allows for a greater intensity of use. Appropriate commercial uses include

neighborhood retail, mid-rise office, medium scale hospitals or other health care facilities, and medium scale private community gathering facilities.

City Growth Area

The *Winchester Boulevard Urban Village Plan* provides a framework to further the transition of the Winchester Urban Village area into complete neighborhood that is thoughtfully designed, pedestrian and bicyclist-friendly, and meets the needs of people of all ages and abilities.

Zoning District

The City's Municipal Code defines the Commercial Pedestrian (CP) Zoning District as a district intended to support pedestrian oriented retail activity at a scale compatible with surrounding residential neighborhoods. This district is designed to support the goals and policies of the General Plan related to neighborhood business districts. The CP Zoning District also encourages mixed residential/commercial development where appropriate. Refer to Section 4.11, Land Use and Planning, of the IS ([Appendix A](#)) for more detail on the project's consistency with the General Plan and Zoning designations.

Construction Schedule

If approved, construction of the proposed project would begin in January 2023 for a period of approximately 19 months.

2.3 PROJECT OBJECTIVES

The objectives of the project proponent are to:

1. Provide a project that meets the strategies and goals of the General Plan and Winchester Boulevard Urban Village criteria of creating a thoughtfully designed, pedestrian and bicyclist-friendly neighborhood that meets the needs of people of all ages and abilities.
2. Strengthen the Winchester Boulevard Urban Village area as a vibrant pedestrian friendly community.
3. Replace the existing residence and accessory structures with a mixed-use project that is designed to be more commercially focused and allows for a greater intensity of use, pursuant to the designation of the site.
4. Activate the South Winchester Boulevard with pedestrian friendly ground floor commercial uses.
5. Provide bicycle parking for residents and visitors to help support the goals of the General Plan in promoting San José as a great bicycling community.

2.0 Project Information and Description

6. Provide housing units in meeting the City goal for more housing opportunities by maximizing the number of units allowed on this site consistent with San Jose General Plan Designation and Zoning District.

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:

- Special Use Permit and Site Development Permit
- Public Works Clearances: Grading Permit
- Building Clearance: Demolition, Building, and Occupancy Permits

Cultural and Tribal Resources Setting, Impacts, and Mitigation

3.1 INTRODUCTION

The section of the EIR is based upon the following:

- *Historic Evaluation of the Property at 1065 South Winchester Boulevard in the City of San José* (“historic evaluation”) prepared by Archaeological Resource Management in August 2021 ([Appendix C](#));
- *Evaluation of Potential Historic Mitigation Options for the Proposed Project at 1065 South Winchester Boulevard in the City of San José* (“historic mitigation options evaluation”) prepared by Archaeological Resource Management in June 2021 ([Appendix D](#));
- *Cultural Resource Evaluation of the Proposed Project at 1065 Winchester Boulevard in the City of San Jose, California* (“archaeology report”) prepared by Archaeological Resource Management in July 2021; and
- The consultation process between the City of San Jose and California Tribes that have requested consultation pursuant to AB52.

This section includes the following subsections:

Regulatory Framework

This subsection provides a brief overview of relevant plans, policies, and regulations that compose the regulatory framework for tribal and cultural resources associated with the project.

Environmental Setting/Background and Existing Conditions

This subsection describes the historical setting and the existing, physical tribal and cultural resources 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).

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 the list of projects approach.

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?

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. The tribal and cultural resources associated with the proposed project considered the project site and vicinity.

3.2 REGULATORY FRAMEWORK

Federal

National Historic Preservation Act

Federal protection is legislated by the National Historic Preservation Act (NHPA) of 1966 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). The NRHP is a comprehensive inventory of known historic resources throughout the United States. The NRHP is administered by the National Park Service and includes buildings, structures, sites, objects, and districts that possess historic, architectural, engineering, archaeological or cultural significance at the national, state or local level. A historic resource listed in, or formally determined to be eligible for listing in, the NRHP is, by definition, included in the California Register of Historic Resources (CRHR).

National Register Bulletin Number 15, *How to Apply the National Register Criteria for Evaluation*, describes the Criteria for Evaluation as being composed of two factors. First, the property must be “associated with an important historic context.” The NRHP identifies four possible context types, of which at least one must be applicable at the national, state, or local level. As listed under Section 8, “Statement of Significance,” of the NRHP Registration Form, these are:

- a. Property is associated with events that have made a significant contribution to the broad patterns of our history.
- b. Property is associated with the lives of persons significant in our past.
- c. Property embodies the 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 and distinguishable entity whose components lack individual distinction.
- d. Property has yielded, or is likely to yield, information important to prehistory or history.

Second, for a property to qualify under the NRHP’s Criteria for Evaluation, it must also retain “historic integrity of those features necessary to convey its significance.” While a property’s significance relates to its role within a specific historic context, its integrity refers to “a property’s physical features and how they relate to its significance.” To determine if a property retains the physical characteristics corresponding to its historic context, the NRHP has identified seven aspects of integrity: 1) location, 2) design, 3) setting, 4) materials, 5) workmanship, 6) feeling, and 7) association.

State

California Register of Historical Resources

The CRHR is administered by the California 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.

The guidelines for identifying historic resources during the project review process under CEQA are set forth in Public Resources Code Section 21084.1 and CEQA Guidelines Section 15064.5(a). These provisions of CEQA create three categories of historical resources: mandatory historical resources; presumptive historical resources; and resources that may be found historical at the discretion of the lead agency. These categories are described below.

- a. **Mandatory Historical Resources.** A resource the State Historical Resources Commission lists on the CRHR of Historical Resources, or the State Historical Resources Commission determines to be eligible for listing in the CRHR is defined by CEQA to be “an historical resource.” Resources are formally listed or determined eligible for listing by the State Historical Resources Commission in accordance with the procedures set forth in the provisions of state law relating to listing of historical resources. If a resource has been listed on the State Register, or formally determined to be eligible for listing by the State Historical Resources Commission under these procedures, it is conclusively presumed to be an “historical resource” under CEQA.
- b. **Presumptive Historical Resources.** A resource included in a local register of historic resources as defined by state law or identified as significant in an historical resource survey meeting the requirements of state law, shall be presumed to be historically or culturally significant. The lead agency must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant.
- c. **Discretionary Historical Resources.** A resource that is not determined to be a significant historical resource under the criteria described above, may, in the discretion of the lead agency, be found to be a significant historical resource for purposes of CEQA, provided its determination is supported by substantial evidence in light of the whole record. The CEQA Guidelines further provide that generally, a lead agency should consider a resource historically significant if the resource is found to meet the criteria for listing on the CRHR, including the following:
 - i. **Criterion 1 (Events):** The resource is associated with events or patterns of events that have made a significant contribution to the broad patterns of local or regional history and cultural heritage of California or the United States;

- ii. Criterion 2 (Persons): The resource is associated with the lives of persons important to local, California, or national history;
- iii. Criterion 3 (Architecture): The resource 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; or
- iv. Criterion 4 (Information Potential): The resource has the potential to yield information important to the prehistory or history of the local area, California or the nation.

Historical resources eligible for listing in the CRHR must meet one of the criteria of significance described above 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 hence; in evaluating adverse changes to them. Integrity is defined as “the authenticity of an historical resource’s physical identity evidenced by the survival of characteristics that existed during the resource’s period of significance.” The process of determining integrity is similar for both the California and National Registers, 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.

Archaeological Resources and Human Remains

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.

California Health and Safety Code Section 7050.5 regulates the procedure to be followed in the event of human remains discovery. 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 coroner must notify the Native American Heritage Commission (NAHC). The NAHC then notifies those persons most likely to be related to the Native American remains. The Act stipulates the procedures that the descendants may follow for treating or disposing of the remains and associated grave goods.

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 NAHC as the authority to resolve disputes regarding disposition of such remains.

Assembly Bill 52

As of July 1, 2015, California Assembly Bill 52 of 2014 (AB 52) was enacted and expands CEQA by defining a new resource category, “tribal cultural resources.” AB 52 establishes that “A project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment” (PRC Section 21084.2). It further states that the lead agency shall establish measures to avoid impacts that would alter the significant characteristics of a tribal cultural resource, when feasible (PRC Section 21084.3).

PRC Section 21074 (a)(1)(A) and (B) defines tribal cultural resources as “sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe” and is:

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

AB 52 also establishes a formal consultation process for California tribes regarding those resources. The consultation process must be completed before a CEQA document can be certified. Under AB 52, lead agencies are required to “begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project.” Native American tribes to be included in the process are those that have requested notice of projects proposed within the jurisdiction of the lead agency.

California Environmental Quality Act (CEQA)

For purposes of CEQA, Public Resources Code Sections 21073 and 21074 define “California Native American tribe” and “tribal cultural resources.” A California Native American tribe is defined as a Native American tribe located in California that is on the contact list maintained by the Native American Heritage Commission.

(a) Tribal cultural resources are defined as:

1. Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either of the following:
 - a. Included or determined to be eligible for inclusion in the California Register of Historical Resources.
 - b. Included in a local register of historical resources as defined in subdivision (k) of Section 5020.1.
 2. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Section 5024.1. In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American tribe.
- (b) A cultural landscape that meets the criteria of subdivision (a) is a tribal cultural resource to the extent that the landscape is geographically defined in terms of the size and scope of the landscape.
- (c) A historical resource described in Section 21084.1, a unique archaeological resource as defined in subdivision (g) of Section 21083.2, or a “nonunique archaeological resource” as defined in subdivision (h) of Section 21083.2 may also be a tribal cultural resource if it conforms with the criteria of subdivision (a).

Public Resources Code § 21080.3.1 provides guidance for tribal consultation. Specifically, prior to the public release of a CEQA document, the lead agency must consult with any California Native American tribe if: (1) the California Native American tribe has submitted a written request to be informed by the lead agency through formal notification of proposed projects in the geographic area that is traditionally and culturally affiliated with the tribe; and (2) the California Native American tribe provides a written response requesting consultation within 30 days of receipt of the formal notification.

The Native American Heritage Commission would help the lead agency identify California Native American tribes that are traditionally and culturally affiliated with the project area. Within 14 days of determining that an application for a project is complete or a decision by a public agency to undertake a project, the lead agency shall provide formal notification to traditionally and culturally affiliated California Native American tribes that have requested notice. The written notice would include a brief description of the proposed project, project location, lead agency contacts information, and a 30-day notice for the California Native American tribe to request consultation. The tribal consultation process must begin within 30 days of receiving the written consultation request from the California Native American tribe.

California Environmental Quality Act (§ 15064.5. Determining the Significance of Impacts to Archaeological and Historical Resources)

- a. For purposes of this section, the term “historical resources” shall include the following:
 1. A resource listed in, or determined to be eligible by the State Historical Resources Commission, for listing in the California Register of Historical Resources (Pub. Res. Code §5024.1, Title 14 CCR, Section 4850 et seq.).
 2. A resource included in a local register of historical resources, as defined in section 5020.1(k) of the Public Resources Code or identified as significant in an historical resource survey meeting the requirements section 5024.1(g) of the Public Resources Code, shall be presumed to be historically or culturally significant. Public agencies must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant.
 3. Any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California may be considered to be an historical resource, provided the lead agency's determination is supported by substantial evidence in light of the whole record. Generally, a resource shall be considered by the lead agency to be “historically significant” if the resource meets the criteria for listing on the California Register of Historical Resources (Pub. Res. Code, § 5024.1, Title 14 CCR, Section 4852) including the following:
 - (a) Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
 - (b) Is associated with the lives of persons important in our past;
 - (c) Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or
 - (d) Has yielded, or may be likely to yield, information important in prehistory or history.
 4. The fact that a resource is not listed in, or determined to be eligible for listing in the California Register of Historical Resources, not included in a local register of historical resources (pursuant to section 5020.1(k) of the Public Resources Code), or identified in an historical resources survey (meeting the criteria in section 5024.1(g) of the Public Resources Code) does not preclude a lead agency from determining that the resource may be an historical resource as defined in Public Resources Code sections 5020.1(j) or 5024.1.

- b. A project with an effect that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment.
1. Substantial adverse change in the significance of an historical resource means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired.
 2. The significance of an historical resource is materially impaired when a project:
 - (a) Demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its inclusion in, or eligibility for, inclusion in the California Register of Historical Resources;
 - (b) Demolishes or materially alters in an adverse manner those physical characteristics that account for its inclusion in a local register of historical resources pursuant to section 5020.1(k) of the Public Resources Code or its identification in an historical resources survey meeting the requirements of section 5024.1(g) of the Public Resources Code, unless the public agency reviewing the effects of the project establishes by a preponderance of evidence that the resource is not historically or culturally significant; or
 - (c) Demolishes or materially alters in an adverse manner those physical characteristics of a historical resource that convey its historical significance and that justify its eligibility for inclusion in the California Register of Historical Resources as determined by a lead agency for purposes of CEQA.
 3. Generally, a project that follows the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings or the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (1995), Weeks and Grimmer, shall be considered as mitigated to a level of less than a significant impact on the historical resource.
 4. A lead agency shall identify potentially feasible measures to mitigate significant adverse changes in the significance of an historical resource. The lead agency shall ensure that any adopted measures to mitigate or avoid significant adverse changes are fully enforceable through permit conditions, agreements, or other measures.
 5. When a project will affect state-owned historical resources, as described in Public Resources Code Section 5024, and the lead agency is a state agency, the lead agency shall consult with the State Historic Preservation Officer as

provided in Public Resources Code Section 5024.5. Consultation should be coordinated in a timely fashion with the preparation of environmental documents.

- c. CEQA applies to effects on archaeological sites.
 1. When a project will impact an archaeological site, a lead agency shall first determine whether the site is an historical resource, as defined in subdivision (a).
 2. If a lead agency determines that the archaeological site is an historical resource, it shall refer to the provisions of Section 21084.1 of the Public Resources Code, and this section, Section 15126.4 of the Guidelines, and the limits contained in Section 21083.2 of the Public Resources Code do not apply.
 3. If an archaeological site does not meet the criteria defined in subdivision (a), but does meet the definition of a unique archeological resource in Section 21083.2 of the Public Resources Code, the site shall be treated in accordance with the provisions of section 21083.2. The time and cost limitations described in Public Resources Code Section 21083.2 (c-f) do not apply to surveys and site evaluation activities intended to determine whether the project location contains unique archaeological resources.
 4. If an archaeological resource is neither a unique archaeological nor an historical resource, the effects of the project on those resources shall not be considered a significant effect on the environment. It shall be sufficient that both the resource and the effect on it are noted in the Initial Study or EIR, if one is prepared to address impacts on other resources, but they need not be considered further in the CEQA process.
- d. When an initial study identifies the existence of, or the probable likelihood, of Native American human remains within the project, a lead agency shall work with the appropriate Native Americans as identified by the Native American Heritage Commission as provided in Public Resources Code section 5097.98. The applicant may develop an agreement for treating or disposing of, with appropriate dignity, the human remains and any items associated with Native American burials with the appropriate Native Americans as identified by the Native American Heritage Commission." Action implementing such an agreement is exempt from:
 1. The general prohibition on disinterring, disturbing, or removing human remains from any location other than a dedicated cemetery (Health and Safety Code Section 7050.5).
 2. The requirements of CEQA and the Coastal Act.

- e. In the event of the accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the following steps should be taken:
 1. There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:
 - (a) The coroner of the county in which the remains are discovered must be contacted to determine that no investigation of the cause of death is required, and
 - (b) If the coroner determines the remains to be Native American:
 1. The coroner shall contact the Native American Heritage Commission within 24 hours.
 2. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased Native American.
 3. The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code section 5097.98, or
 2. Where the following conditions occur, the landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance.
 - (a) The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission.
 - (b) The descendant identified fails to make a recommendation; or
 - (c) The landowner or his authorized representative rejects the recommendation of the descendant, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.
- f. As part of the objectives, criteria, and procedures required by Section 21082 of the Public Resources Code, a lead agency should make provisions for historical or unique archaeological resources accidentally discovered during construction. These provisions should include an immediate evaluation of the find by a qualified archaeologist. If the find is determined to be an historical or unique archaeological resource, contingency funding and a time allotment sufficient to allow for implementation of avoidance measures or appropriate mitigation should be available. Work could continue on other parts of the building site while historical or unique archaeological resource mitigation takes place.

California Health and Safety Code

The California Health and Safety Code (§ 7050.5) requires that in the event of discovery or recognition of human remains in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the coroner of the county in which the human remains are discovered has determined whether the remains are those of a Native American. If the remains are determined to be Native American, the coroner must contact the California Native American Heritage Commission by telephone within 24 hours.

Local

Historic Preservation Ordinance

The City of San José Historic Preservation Ordinance (Chapter 13.48 of the Municipal Code) is designed to identify, protect, and encourage the preservation of significant resources and foster civic pride in the City's cultural resources. The Historic Preservation Ordinance requires the City to establish a Historic Landmarks Commission, maintain a Historic Resources Inventory (HRI), preserve historic properties using a Landmark Designation process, require Historic Preservation Permits for alterations of properties designated as a Landmark or within a City historic district, and provide financial incentives, such as Mills Act Historical Property Contracts.

The City of San José's Historic Preservation Ordinance defines structures of historical value based on any of the following factors:

1. Its character, interest or value as 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; and
8. Its embodiment of elements of architectural or engineering design, detail, materials or craftsmanship which represents a significant architectural innovation or which is unique.

City Council’s Development Policy on the Preservation of Historic Landmarks

The City Council’s Development Policy on the Preservation of Historic Landmarks (as amended May 23, 2006) calls for preservation of any designated City Landmark structure, Contributing Structure in a City Landmark Historic District, structure listed on the National Register of Historic Places and/or the California Register of Historical Resources, a Contributing Structure in a National Register Historic District, or a structure that qualifies for any of the above (candidate), based on the applicable City, State, or National qualification criteria. This policy also affects new construction within designated City, State, and National Landmark districts for purposes of district integrity. The City also has historic design guidelines documents that suggest various methods for the restoration or rehabilitation of older/historic structures and establish a general framework for the evaluation of applications involving historic preservation issues. The City offers a number of historic preservation incentives, including use of the State Historic Building Code, Mills Act/Historical Property Contracts, and land use and zoning incentives.

Envision San José 2040 General Plan

Goals and policies in the City’s 2040 General Plan have been adopted for the purpose of reducing or avoiding impacts related to cultural resources, as listed in [Table 3-1, General Plan Policies](#).

Table 3-2 General Plan Policies

Cultural Resources	
Policy CD-7.1	Support intensive development and uses within Urban Villages, while ensuring an appropriate interface with lower-intensity development in surrounding areas and the protection of appropriate historic resources.
Policy ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
Policy ER-10.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.
Policy ER-10.3	Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.
Policy LU-13.2	Preserve candidate or designated landmarks 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.

Cultural Resources	
Policy LU-13.3	For landmark structures located within new development areas, incorporate the landmark structures within the new development as a means to create a sense of place, contribute to a vibrant economy, provide a connection to the past, and make more attractive employment, shopping and residential areas.
Policy LU-13.4	Require public and private development projects to confirm to the adopted City Council Policy on the Preservation of Historic Landmarks.
Policy LU-13.6	Ensure modifications to candidate or designated landmark buildings or structures conform to the Secretary of the Interior's Standards for Treatment of Historic Properties and/or appropriate State of California requirements regarding historic buildings and/or structures, including the California Historical Building Code.
Policy LU-13.9	Promote the preservation, conservation, rehabilitation, restoration, reuse, and/ or reconstruction, as appropriate, of contextual elements (e.g., structures, landscapes, street lamps, street trees, sidewalk design, signs) related to candidate and/or landmark buildings, structures, districts, or areas.
Policy LU-13.15	Implement City, State and Federal historic preservation laws, regulations and codes to ensure the adequate protection of historic resources.
Policy LU-13.22	Require the submittal of historic reports and surveys prepared as part of the environmental review process.
Policy IP-12.3	Use the Environmental Clearance process to identify potential impacts and to develop and incorporate environmentally beneficial actions, particularly those dealing with the avoidance of natural and human-made hazards and the preservation of natural, historical, archaeological and cultural resources.

SOURCE: City of San José 2011

3.3 ENVIRONMENTAL SETTING/BACKGROUND AND EXISTING CONDITIONS

Archival Search

As part of the archival research for the historic evaluation, the vicinity of the subject site was examined for buildings and structures currently listed on the City of San José Historic Resource Inventory. No properties listed on the City of San José Historic Resources Inventory are located on the site or within a 200-foot radius of the subject property. The area in which the subject property is situated is not a recognized designated or potential historic district. The surrounding neighborhood consists primarily of commercial and multi-family residential buildings, dating primarily to the mid-to-late 20th Century, intermixed with more recent structures.

An archival search was also prepared as part of the archaeology report to determine if any known archaeological resources were reported in or around the subject area. The archival search found that no previous studies have been carried out which included the proposed project area within their scope.

Historical Background

Prehistoric Period

Native Americans occupied Santa Clara Valley and the greater Bay Area for more than 5,000 years. The exact time period of the Ohlone (originally referred to as Costanoan) migration into the Bay Area is debated by scholars. Dates of the migration range between 3000 B.C. and 500 A.D. Regardless of the actual time frame of their initial occupation of the Bay Area and, in particular, Santa Clara Valley, it is known that the Ohlone had a well-established population of approximately 7,000 to 11,000 people with a territory that ranged from the San Francisco Peninsula and the East Bay, south through the Santa Clara Valley and down to Monterey and San Juan Bautista.

The Ohlone people were hunter/gatherers focused on hunting, fishing, and collecting seasonal plant and animal resources, including tidal and marine resources from San Francisco Bay. The customary way of living, or lifeway, of the Costanoan/Ohlone people disappeared by about 1810 due to disruption by introduced diseases, a declining birth rate, and the impact of the California mission system established by the Spanish in the area beginning in 1777.

Mission Period

Spanish explorers began coming to Santa Clara Valley in 1769. From 1769 to 1776 several expeditions were made to the area during which time the explorers encountered the Native American tribes who had occupied the area since prehistoric times. Expeditions in the Bay Area and throughout California lead to the establishment of the California Missions and, in 1777, the Pueblo de San José de Guadalupe.

The pueblo was originally located near the old San José City Hall. Because the location was prone to flooding, the pueblo was relocated in the late 1780's or early 1790's south to what is now downtown San José. The current intersection of Santa Clara Street and Market Street in downtown San José was the center of the second pueblo. The second pueblo is located approximately 3.75 miles northeast of the project site.

Post-Mission Period to Mid-20th Century

In the mid-1800's, San José began to be redeveloped as America took over the territory from Mexico and new settlers began to arrive in California as a result of the gold rush and the expansion of business opportunities in the west.

The project site was historically part of the 356-acre lands of David and Thomas Williams (Thompson and West Map, 1876), who came to Santa Clara County from New York in 1849. The Williams were farmers and stock raisers and in 1854 founded the W & W New Almaden Mineral Water in conjunction with Daniel Winslow. By 1886, the subject property was part of a 140-acre property owned by Archibald Farrington. His brother, Adam Farrington, was a prominent Santa Clara Valley rancher and farmer who owned an adjacent 225-acre property

known as the Golden State Ranch. The 140-acre property owned by Archibald Farrington is described in the 1886 Brainard Agricultural Atlas of Santa Clara County as containing “one fine grain field.” It is not known whether the existing house on the subject property was present at that time. Archibald Farrington also owned an 800-acre ranch on Silver Creek Road, which is described as containing a residence and barns (Brainard 1886). In the late 1880's Archibald Farrington sold off his Santa Clara County properties and started a ranching business in Mono and Inyo Counties, later moving to Smoky Valley, Nevada prior to his death in 1932 (San Jose Mercury Herald 1932).

In 1887, the property contained 10 acres (Book B of Maps, Page 50) and was identified as a portion of Lot 1 of the Archibald Farrington Subdivision. County of Santa Clara Appraiser's records indicate the existing house at 1065 South Winchester Boulevard was constructed in 1900; however, the stylistic and structural characteristics of the house indicate that it was constructed prior to 1900. It is not known who owned the property from the late 1880s to circa 1922. John Steven Ban born on March 21, 1880) and his wife Ana Josephine Cavaletto Ban (born on November 12, 1891) purchased the property circa 1922. They were from Orasac, Dalmatia, Yugoslavia. John Steven Ban emigrated to the United States in 1897 and Ana Josephine Cavaletto emigrated to the United States in 1911. They were married on February 4, 1912 and had four children: Anna, Mary, Anthony and Leo Ban. John Steven Ban was naturalized as a U.S. Citizen in 1944 (SJ Mercury Herald 1944) and his memorial page states that he “owned his land in Campbell, Santa Clara, CA and was a fruit farmer.” The property was annexed to the City of San Jose in 1959. John Steven Ban died in 1960, and his wife Ana Josephine passed away in 1963. The property was inherited by their sons Anthony and Leo, but it appears that Anthony and his family lived and worked on the property. Anthony Ban was born on July 1, 1924. He married Geraldine (born on March 3, 1931) and they had two daughters, Marrianna and Kathleen. Anthony and Geraldine appear to have continued the fruit farming and drying activities on the property until the recent past. The extant one-story residence, barn, tank house, and fruit drying shed and covered drying area represent that fruit farming and drying history. Geraldine Ban passed away on July 3, 2018, and Anthony Ban died December 4, 2019. The property was inherited by their daughters and sold in 2021 to the current owner.

Built Off-Site Historic Resources

As part of the archival research for this evaluation, the vicinity of the subject structure was examined for structures currently listed on the City of San Jose Historic Resource Inventory. No structures listed on the City of San Jose Historic Resources Inventory are located within a 200-foot radius of the subject property. The area in which the subject structure is situated is not a recognized historic district. The surrounding neighborhood consists primarily of commercial and multi-family residential buildings, dating primarily to the mid-to-late 20th Century, intermixed with more recent structures. According to the City's Public GIS Viewer, the nearest City Landmark (Winchester Mystery House located at 525 Winchester Boulevard) to the project site is approximately 0.75 miles north.

Built On-Site Historic Resources

The City has over 200 City Landmarks listed in the San Jose Historic Resources Inventory. The property located at 1065 South Winchester Boulevard contains a one-story Italianate style cottage. The house is roughly rectangular in shape, has a full-length front porch, a small extending bay on the northern facade, and two small rear additions. The roof is hipped and surfaced with composition shingles. The eaves are boxed and enclosed, and supported by decorative brackets. The exterior walls are surfaced with horizontal wooden siding in a shiplap configuration. Fenestration is primarily wooden framed, in a double-hung sash configuration. The front porch extends the length of the front facade, and is supported by turned wooden columns with decorative brackets. The front entrance is centrally placed, and flanked by large windows. The entry door is recessed, and topped with a transom window. The house has a full basement, portions of which are finished on the interior.

A large California style barn is located southwest of the house. The roof of the barn has a central front gable with lower shed roof extensions along either side. The exterior walls are surfaced with horizontal wooden siding on the front and side facades, with vertical wood siding on the rear. A small, partially enclosed shed roof addition is located near the rear of the barn. The front facade features a large, central sliding entry, with smaller flanking entries. Hay loft doors are located above this main entry. Pictures of the house and barn are presented in [Figure 3-1 Existing Historic Structures](#).

A tank house is located behind the house that has been converted to a shed. The tank house has a shed roof and tapered walls clad with horizontal wood siding. A rear addition is located on the rear of the structure that has a gabled roof a mixture of horizontal and vertical wood siding.

Also present on the property is a fruit drying shed and covered area. The roof of the covered drying area is clad with corrugated metal sheeting and supported by plain wooden beams. A raised platform is present near the rear of this structure. Behind the drying area is a small square drying shed.

San José City Landmark Evaluation

The project site consists of several existing structures that are not currently listed on the City's Historic Resources Inventory (City of San José 2021). However, a historic resources report was prepared for the project to document and evaluate the property for eligibility for listing in the National Register of Historic Places, California Register of Historical Resources and as a Candidate City Landmark (Archaeological Resource Management 2021). The historic report concluded the property is not individually eligible for listing on the National Register of Historic Places as it does not have significance under federal criteria. However, the historic report concluded that the property appears to be eligible as a Candidate City Landmark because it meets Criteria 4 and 6 of Municipal Code Section 13.48.110(H). The property portrays the agricultural/fruit drying heritage of the Santa Clara Valley and the house and barn embody the distinguishing characteristics of an Italianate style cottage and

California-style barn. Therefore, the property is considered a historical resource under Section 21084.1 of the Public Resources Code because it has been preliminarily determined by the Lead Agency to be eligible for listing in the Historic Resources Inventory as a Candidate City Landmark based on substantial and compelling evidence.

California Register of Historic Resources Evaluation

The CRHR interprets the integrity of a cultural resource based upon its physical authenticity. An historic cultural resource must retain its historic character or appearance and thus be recognizable as an historic resource. Integrity is evaluated by examining the subject's location, design, setting, materials, workmanship, feeling, and association. If the subject has retained these qualities, it may be said to have integrity. It is possible that a cultural resource may not retain sufficient integrity to be listed in the National Register of Historic Places yet still be eligible for listing in the CRHR. If a cultural resource retains the potential to convey significant historical/scientific data, it may be said to retain sufficient integrity for potential listing in the CRHR.

The property at 1065 South Winchester Boulevard is not currently listed on the California Register of Historic Resources (CRHR). However, the property does appear eligible for listing in the CRHR under Criterion 1, for its association with the agricultural history of the Santa Clara Valley, and under Criterion 3, as an example of an Italianate Victorian style residence and a California Style barn.

It is not closely associated with persons of historic significance; thus, it does not appear to be eligible for listing under criterion 2. In addition, the structure does not appear likely to yield important historical information; thus, it does not appear eligible for listing under criterion 4.

National Register of Historic Places Evaluation

The property at 1065 South Winchester Boulevard is not currently listed on the National Register of Historic Places (NRHP). In addition, the property does not appear to be potentially eligible for listing in this register. The structure is not associated with significant historical events. Thus, it does not appear to be potentially eligible for listing under criterion a. The structure is not associated with persons of historic significance; thus, it does not appear to be potentially eligible for listing under criterion b. Although the residence is an example of the Italianate Victorian Cottage style of architecture, and the barn is a good example of a California Style barn, they do not appear to be notable enough examples of these styles to qualify for criterion c. The structure does not appear to be likely to yield information important in prehistory or history; thus, it does not appear to qualify as potentially eligible under criterion d. In addition, the structure has been somewhat modified from its original form.



Historic Residence



Historic Barn

Source: Archaeological Resource Management 2021

Figure 3-1

Existing Historic Structures

1065 South Winchester Boulevard Mixed Use EIR

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Historic Evaluations Summary

As stated above, the historic resources evaluation determined that the property is not currently listed on the City of San José Historical Resources Inventory, the CRHR, or the NRHP. Nor is the property eligible for listing in the NRHP. However, the property appears eligible for listing in the CRHR, and as a Candidate City Landmark in the City of San José Historical Resources Inventory under Criterion 4 (for its association with the fruit growing and drying industry) and Criterion 6 (as a good example of an Italianate Style Victorian cottage and a California Style barn). As described above, the significance of the property is represented by all the buildings and structures on the property (house, barn, tank house, and covered fruit drying area and shed) that contribute to the understanding of its agricultural history.

Historic and/or Unique Archaeological Resources

As identified in the General Plan EIR, most prehistoric archaeological sites have been found along or very near fresh water sources such as creeks and springs, in valleys near both permanent and seasonal water sources including freshwater marshes once present throughout the valley, at the base of the hills, and along and adjacent to the major north/south Native American trails as well as at stone sources for tools in the foothills surrounding the valley. According to the General Plan EIR, the West Valley Planning Area, where the project site is located, is considered an archaeologically sensitive area.

Archaeological Resource Management prepared a report titled *Cultural Resource Evaluation of the Proposed Project at 1065 Winchester Boulevard in the City of San Jose, California* (“archaeological report”) (Archaeological Resource Management 2021) for the proposed project. This archaeological report was carried out to determine if there is any recorded or physical evidence of buried archaeological resources at the project site.

Tribal Cultural Resources

Native American resources in this part of Santa Clara County have been found near areas populated by oak, buckeye, laurel, and hazelnut, as well as near a variety of plant and animal resources. Typically, these sites are also found near watercourses and bodies of water. The project site is located on a flat terrace in an open area and approximately two miles from any major predevelopment watercourse. There are no known Native American resources within or adjacent to the proposed project area. On July 12, 2021, the City sent an Early Notice request for interest to consult on the project. On August 13, 2021, the City received a response to the City’s Early Notice Request for AB52 Consultation from Tamien Nation.

The project was discussed at the Tamien Nation and City of San José’s virtual bi-weekly meeting on October 14, 2021 and Tamien Nation’s representative indicated that the documents are still under review and recommendations are forthcoming. Staff followed up with Tamien Nation’s Chairwoman again at another bi-weekly meeting on October 28, 2021

and in November. Staff followed up via email with the needed information for review. On December 23, 2021, Tamien Nation's Chairwoman communicated to staff and indicate that the site is culturally sensitive with known Tribal cultural resources in the area and therefore recommends the Nation's involvement in preparation of a treatment plan, on-site Native American monitoring during ground disturbance, accidental discovery, tribal cultural sensitivity training, and a commemorative plaque to educate the public about the local Tamien Tribe.

As discussed in Section 2.2, Project Description, the applicant has agreed to provide a commemorative plaque, designed in coordination with the Tamien Nation, to educate the public about local Native American tribes such as Tamien Nation. Therefore, the applicant will be working in collaboration with the tribe for a commemorative plaque.

3.4 THRESHOLDS OF SIGNIFICANCE

CEQA Guidelines Appendix G is a sample IS checklist that includes a number of factual inquiries related to the subject of cultural resources and tribal cultural resources, as it does on a whole series of additional environmental topics. Lead agencies are under no obligation to use these inquiries in fashioning thresholds of significance on the subject of cultural and tribal cultural resources impacts, or on any subject addressed in the checklist. Rather, with few exceptions, CEQA grants agencies discretion to develop their own thresholds of significance. Even so, it is a common practice for lead agencies to take the language from the inquiries presented in Appendix G and to use that language in fashioning thresholds. The City of San José has done so here. Therefore, for purposes of this EIR, a significant impact would occur if implementation of the proposed project would:

Historic Resources, Unique Archaeological Resources, and Native American Remains

- Cause a substantial adverse change in the significance of a historical resource;
- Cause a substantial adverse change in significance of a (unique) archaeological resource; or
- Disturb any (Native American) human remains, including those interred outside of dedicated cemeteries.

Tribal Cultural Resources

- Cause a substantial adverse change in the significance of a tribal cultural resources as defined in Public Resources Code 21074 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)?
- Cause a substantial adverse change in the significance of a tribal cultural resources as defined in Public Resources Code 21074 that is 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?

3.5 ANALYSIS, IMPACTS AND MITIGATION MEASURES

IMPACT 3-1	Adverse Change to Historic Resources (Demolition of Historic Resources at 1065 South Winchester Boulevard, Candidates for the City of San José Historic Resources Inventory and the California Register of Historical Resources)	Significant and Unavoidable
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Pursuant to CEQA Guidelines section 15064.5, historic resources can be both above- and belowground.

Above Ground Historic Resources

The project site contains a one-story house, barn, tank house, and covered fruit drying area and shed. The property is not currently listed in the National Register of Historic Places, California Register of Historic Resources or on the City’s Historic Resource Inventory. The property is not eligible for listing in the National Register of Historic Places, but it appears to be eligible for listing on the California Register of Historical Resources. Additionally, the property appears to be eligible for listing as a Candidate City Landmark in the City’s Historic Resources Inventory under Criterion 4 (for its association with the fruit growing and drying industry) and Criterion 6 (as a good example of an Italianate Style Victorian cottage and a California Style barn). For these reasons, the project site is considered a potential CEQA Historic Resource.

The proposed project would demolish all the existing buildings and structures on site which would result in the loss of a historical resource under CEQA. Implementation of the following mitigation measure will provide some mitigation relief; however, there are no mitigation measures that would reduce the impact to a less than significant level. Therefore, even with implementation of the following mitigation measure, the impact would be significant and unavoidable.

Mitigation Measures

CUL 3-1a Prior to issuance of any demolition permit, a qualified architectural historian shall document the residence and barn at 1065 South Winchester Boulevard in accordance with the guidelines established for the Historic American Building Survey (HABS). Documentation shall consist of the following components:

1. Drawings – Prepare sketch floor plans.

2. Photographs – Digital photographic documentation of the interior, exterior, and setting of the buildings in compliance with the National Register Photo Policy Fact Sheet. Photos must have a permanency rating of approximately 75 years.
3. Written Data – HABS written documentation in short form.

An architectural historian meeting the Secretary of the Interior’s Professional Qualification Standards shall oversee the preparation of the sketch plans, photographs and written data. The existing DPR forms shall fulfill the requirements for the written data report.

The City of San José’s Historic Preservation Officer shall review the documentation, and then the applicant shall file the documentation with the San José Library’s California Room and the Northwest Information Center at Sonoma State University, the repository for the California Historical Resources Information System. All documentation shall be submitted on archival paper.

CUL 3-1b Prior to issuance of a demolition permit, the project applicant shall advertise the residence and barn at 1065 South Winchester Boulevard for relocation by a third party. The project applicant shall be required to advertise the availability of the structure for a period of no less than 30 days. The advertisements must include a newspaper of general circulation, a website, and notice on the project site. The project applicant must provide evidence (i.e., receipts, date and time stamped photographs, etc.) to the Director of Planning, Building and Code Enforcement or the Director’s designee that this condition has been met prior to the issuance of any demolition permits.

If a third party does agree to relocate the residence and barn at 1065 South Winchester Boulevard, the following measures must be followed:

1. The City’s Director of Planning, Building and Code Enforcement or the Director’s designee, based on consultation with the City’s Historic Preservation Officer, must determine that the receiver site is suitable for the building.
2. Prior to relocation, the project applicant or third party shall hire a qualified historic preservation architect and a qualified structural engineer to undertake an existing condition study. The purpose of the study shall be to establish the baseline condition of the building prior to relocation. The documentation shall take the form of written descriptions and visual illustrations, including those character-defining physical features of the resource that convey its historic significance and must be protected and

preserved. The documentation shall be reviewed and approved by the City's Historic Preservation Officer prior to the structure being moved. Documentation already completed shall be used to the extent possible to avoid repetition in work.

3. To protect the building during relocation, the third party shall engage a building mover who has experience moving similar historic structures. A qualified structural engineer shall also be engaged to determine if the building needs to be reinforced/stabilized before the move.
4. Once moved, the building shall be repaired and restored, as needed, by the project applicant or third party in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties. In particular, the character-defining features shall be restored in a manner that preserves the integrity of the features for the long-term preservation of these features.

Upon completion of the repairs, a qualified architectural historian shall document and confirm that renovations of the structure were completed in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and that all character-defining features were preserved. The project applicant shall submit a report to the City's Historic Preservation Officer documenting the relocation.

If no third party relocates the residence and barn at 1065 South Winchester Boulevard, the structure shall be made available for salvage-to-salvage companies facilitating the reuse of historic building materials. The time frame available for salvage shall be established by the Director of Planning, Building and Code Enforcement or the Director's designee, together with the City's Historic Preservation Officer.

The project applicant must provide evidence to the Director of Planning, Building and Code Enforcement or the Director's designee, that this condition has been met prior to the issuance of any demolition permits.

Even with implementation of the identified mitigation measures, demolition or salvage of the existing agricultural buildings and structures on site would remain a significant unavoidable impact because they would be permanently lost or moved. Relocation of the structures, while preserving them in a different location, would result in a loss of connection to their historical development of the Moreland District at the current location. Specifically, the property would no longer represent the agricultural and fruit production and drying heritage of the City of San José and the Santa Clara Valley.

Below Ground Historic Resources

There are no known below-ground historic resources present on the project site. However, the proposed project involves extensive excavation, which could result in the discovery of unknown below ground historic resources. Therefore, the mitigation measures and standard permit conditions presented under Impact 3-2 below would be required to ensure potential impacts to below-ground historic resources are reduced to a less-than-significant level.

IMPACT 3-2	Potential Disturbance of Subsurface Historic Resources Associated with Late 19th and Early 20th Century Agricultural and Residential History of the Property	Less Than Significant with Mitigation
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The archaeological report revealed that there are no previously recorded cultural resources within the proposed project area, or within a one-quarter mile radius of the proposed project area. The quarter mile radius is standard when conducting a records search for a project site that has not been previously identified in an archaeologically-sensitive area. No significant cultural materials, prehistoric or historic, were noted during surface cultural resource reconnaissance survey (Archaeological Resource Management 2021c) besides the existing above-ground buildings and structures on site representing the agricultural and fruit production and drying heritage of the City of San José and the Santa Clara Valley (refer to discussion under Impact 3-1). However, due to the documented late nineteenth and early twentieth century agricultural and residential history of the property, it is possible that subsurface archaeological deposits associated with these activities could be present on the project site that could be adversely impacted by implementation of the proposed project. This potential impact is considered significant. Implementation of the following mitigation measure and standard permit condition would reduce the significance of this potential impact to a less-than-significant level.

Mitigation Measures

CUL 3-2a. Cultural Sensitivity Training. Prior to issuance of any grading permits, the project applicant shall be required to submit evidence that a Cultural Awareness Training will be provided to construction personnel prior to ground disturbances. The training shall be facilitated by the project archaeologist in collaboration with a Native American representative registered with the Native American Heritage Commissions 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.

- **MM CUL 3-2b.** Sub-Surface Monitoring. A qualified archeologist in collaboration with a Native American monitor, registered with the Native American Heritage Commission for the City of San Jose and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section

21080.3, shall also be present during applicable earthmoving activities such as, but not limited to, trenching, initial or full grading, lifting of foundation, boring on site, or major landscaping.

- **CUL 3-2c.** Treatment Plan. A qualified archeologist in collaboration with a Native American monitor, registered with the Native American Heritage Commission for the City of San Jose and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3, shall prepare a treatment plan that reflects permit-level detail pertaining to depths and locations of excavation activities. The treatment plan shall be prepared and submitted to the Director of the City of San José 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:
 1. Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations.
 2. Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found).
 3. Monitoring schedules and individuals.
 4. Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information).
 5. Detailed field strategy to record, recover, or avoid the finds and address research goals.
 6. Analytical methods.
 7. Report structure and outline of document contents.
 8. Disposition of the artifacts.
 9. Security approaches or protocols for finds.
 10. Appendices: all site records, correspondence, and consultation with Native Americans, etc.

11. 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.

Standard Permit Conditions

In the event that archaeological resources (including human remains) are encountered during excavation and construction, the project would implement the following Standard Permit Conditions:

- a. **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 representative registered with the Native American Heritage Commission from 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, will examine the find. The archaeologist and Native American representative will 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. If the finds do not meet the definition of a historical or archaeological resource, no further study or protection is necessary prior to project implementation. If the find(s) does meet the definition of a historical or archaeological resource, then it should be avoided by project activities. Project personnel should not collect or move any cultural material. Fill soils that may be used for construction purposes should not contain archaeological materials.
- b. **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 any 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 or Code Enforcement or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner shall make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner shall contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC shall then designate a Most Likely Descendant (MLD). The MLD shall 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 the mediation by the NAHC fails to provide measures acceptable to the landowner.

IMPACT 3-3	Potential Adverse Change in the Significance of an Archaeological Resource Pursuant to CEQA Guidelines Section 15064.5	Less Than Significant with Mitigation
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The archaeological report revealed that there are no previously recorded cultural resources within the proposed project area, or within a one-quarter mile radius of the proposed project area. No significant cultural materials, prehistoric or historic, were noted during surface cultural resource reconnaissance survey (Archaeological Resource Management 2021c) besides the existing above-ground buildings and structures on site representing the agricultural and fruit production and drying heritage of the City of San José and the Santa Clara Valley (refer to discussion under Impact 3-1). However, due to the documented late nineteenth and early twentieth century agricultural and residential history of the property, it is possible that subsurface archaeological deposits associated with these activities could be present on the project site that could be adversely changed by implementation of the proposed project. This potential impact is considered significant. Implementation of the mitigation measures and standard permit conditions presented above for Impact 3-2 would reduce the significance of this potential impact to a less-than-significant level.

IMPACT 3-4	Disturb Native American Human Remains (During Grading Activities)	Less Than Significant
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The proposed project would include grading and excavation for the subgrade parking structure, which could accidentally disturb unknown human remains onsite. As part of the development approval by the City, the proposed project would be required to conform to the following standard permit conditions in order to ensure the project would not have significant impacts on Native American human remains. Refer to the standard permit conditions identified under Impact 3-2.

IMPACT 3-5	Potential Adverse Change in Tribal Cultural Resource Listed or Eligible for Listing in the California Register of Historical Resources or Significant Pursuant to Public Resources Code Section 5024.1 (During Grading and Construction Activities)	Less Than Significant with Mitigation Measure
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In compliance with AB 52, notification was conducted by the City in July 2021 with applicable Santa Clara County tribal representatives identified by the NAHC. At the time of preparation of this Initial Study, the Tamien Nation has requested consultation with the City for this project. The City met with the Tamien Nation’s Chairwoman two times and have followed up on consultation via email. Based on the information presented in past studies and during consultation, the site is in a sensitive area and future ground-disrupting activities within the project site could have the potential to uncover and damage or destroy unknown or undocumented resources. As stated above, Tamien Nation’s Chairwoman also concurred that the area is culturally sensitive with known Tribal cultural resources in the area and recommends the Nation’s involvement in preparation of a treatment plan, on-site Native American monitoring during ground disturbance, accidental discovery, tribal cultural sensitivity training, and a commemorative plaque to educate the public about the local Tamien Tribe. The commemorative plaque has been considered and has been incorporated as part of the project as a voluntary component. Furthermore, consistent with these recommendations and with impacts identified in Impact 3-2 above, with the implementation of Mitigation Measures 3.2a, 3.2b, 3.2c, and the standard permit conditions listed above in Impact 3-2, the project would reduce the proposed project’s impact to potentially uncover and damage or destroy unknown tribal cultural resources to less than significant.

While there is always the potential for unknown Tribal Cultural resources or human remains to be present in the project area, impacts would be less than significant with implementation of the City’s standard permit conditions related to discovery of archaeological resources or human remains (refer to the standard permit conditions under Impact 3-2).

Cumulative Impacts

IMPACT 3-6	Result in Cumulatively Considerable Contribution to a Significant Cultural Resources Impact (Demolition of the Historic Resources at 1065 South Winchester Boulevard, Candidates for the City of San José Historic Resources Inventory)	Significant and Unavoidable
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The City of San José has concluded that the existing buildings and structures at 1065 South Winchester Boulevard are eligible for listing as a Candidate City Landmark in the City of San José Historic Resources Inventory. The property as a whole is a good example of the agricultural/fruit drying heritage of the City of San José. Therefore, the demolition of the existing buildings and structures at 1065 South Winchester Boulevard would constitute a

cumulatively considerable impact to the finite historic properties associated with agricultural/fruit drying heritage in San José.

IMPACT 3-7	Result In Cumulatively Considerable Contribution to a Significant Cultural Resources Impact (Construction Activities Potentially Uncovering Subsurface Cultural Resources)	Not Cumulatively Considerable
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The potential impacts to subsurface cultural resources would occur as a result of construction of the proposed project. If artifacts are uncovered, the resource(s) would be documented, removed, and curated in accordance with City standards and state laws. As such, the recovery of subsurface resources on-site would not be cumulatively considerable.

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Growth Inducing Impacts

4.1 CEQA REQUIREMENTS

CEQA Guidelines section 15126.2 states that an EIR shall discuss the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. Included in this are projects which would remove obstacles to population growth (a major expansion of a waste water treatment plant might, for example, allow for more construction in service areas). Increases in the population may tax existing community service facilities, requiring construction of new facilities that could cause significant environmental effects. Also discuss the characteristic of some projects which may encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively. It must not be assumed that growth in any area is necessarily beneficial, detrimental, or of little significance to the environment.

4.2 IMPACT ANALYSIS

For the purposes of this project, a growth inducing impact is considered significant if the project would:

- Cumulatively exceed official regional or local population projections;
- Directly induce substantial growth or concentration of population. The determination of significance shall consider the following factors: the degree to which the project would cause growth (i.e., new housing or employment generators) or accelerate development in an undeveloped area that exceeds planned levels in local land use plans; or
- Indirectly induce substantial growth or concentration of population (i.e., introduction of an unplanned infrastructure project or expansion of a critical public facility (road or sewer line) necessitated by new development, either of which could result in the potential for new development not accounted for in local Envision San José 2040 General Plan).

4.0 Growth Inducing Impacts

The project proposes to increase residential and commercial development in the City of San José. Development of the proposed project would not require upgrades to the existing sanitary sewer and/or storm drain lines that directly serve the project site. In addition, the project does not require expansion of the existing infrastructure that would facilitate growth in the project area or other areas of the City of San José that are not already accounted for in local Envision San José 2040 General Plan.

The proposed project would place new condominiums and employees adjacent to existing commercial and residential developments. The proposed project would be compatible with the neighboring land uses and would not pressure adjacent properties to redevelop with new or different land uses in a manner inconsistent with the General Plan. Therefore, the proposed project would not be growth inducing.

Significant and Unavoidable Impacts

5.1 CEQA REQUIREMENTS

A significant adverse unavoidable environmental impact is a significant adverse impact that cannot be reduced to a less-than-significant level through the implementation of mitigation measures. CEQA Guidelines section 15093 requires that a lead agency make findings of overriding considerations for unavoidable significant adverse environmental impacts before approving a project.

CEQA Guidelines section 15093(a) requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.” CEQA Guidelines section 15093(b) states that when the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

5.2 IMPACT ANALYSIS

As presented in Section 3.0, Cultural Resources Setting, Impacts, and Mitigation, the proposed project would cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5. Mitigation measures are included in Section 3.0; however, even with implementation of these mitigation measures, the impact is still significant and unavoidable with approval of the project. All other significant impacts of the proposed project would be reduced to a less-than-significant level with the implementation of mitigation measures identified in this EIR.

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6.0 Alternatives

6.1 CEQA REQUIREMENTS

CEQA requires that an EIR identify and evaluate alternatives to a project as it is proposed. Two key provisions from the CEQA Guidelines pertaining to the discussion of alternatives are included below:

Section 15126.6(a). Consideration and Discussion of Alternatives to the Proposed Project. An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, 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, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason.

Section 15126.6(b). Purpose. Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or be more costly.

Other elements of the Guidelines state that alternatives should include enough information to allow a meaningful evaluation and comparison with the proposed project. The CEQA Guidelines state that if an alternative would cause one or more additional impacts, compared to the proposed project, the discussion should identify the additional impact, but in less detail than the significant effects of the proposed project.

The three critical factors to consider in selecting and evaluating alternatives are: (1) the significant impacts from the proposed project that could be reduced or avoided by an alternative, (2) consistency with the project's objectives, and (3) the feasibility of the alternatives available. Each of these factors is discussed below.

6.2 PROJECT OBJECTIVES

While CEQA does not require that alternatives be capable of meeting all of the project objectives, their ability to meet most of the objectives is considered relevant to their consideration. The objectives of the proposed project are to:

1. Provide a project that meets the strategies and goals of the General Plan and Winchester Boulevard Urban Village criteria of creating a thoughtfully designed, pedestrian and bicyclist-friendly neighborhood that meets the needs of people of all ages and abilities.
2. Strengthen the Winchester Boulevard Urban Village area as a vibrant pedestrian friendly community.
3. Replace the existing residence and accessory structures with a mixed-use project that is designed to be more commercially focused and allows for a greater intensity of use, pursuant to the designation of the site.
4. Activate the South Winchester Boulevard with pedestrian friendly ground floor commercial uses.
5. Provide bicycle parking for residents and visitors to help support the goals of the General Plan in promoting San José as a great bicycling community.
6. Provide housing units in meeting the City goal for more housing opportunities by maximizing the number of units allowed on this site consistent with San Jose General Plan Designation and Zoning District.

6.3 PROJECT SIGNIFICANT IMPACTS

The CEQA Guidelines advise that the alternatives analysis in an EIR should be limited to alternatives that would avoid or substantially lessen any of the significant effects of the project, and would achieve most of the project objectives. All of the proposed project impacts will be reduced to a less-than-significant level with implementation of the mitigation measures presented in the IS in [Appendix A](#) of this EIR. The only impact that cannot be mitigated to a less-than-significant level is the impact to historic resources.

Air Quality

The project could conflict with or obstruct implementation of the applicable air quality plan (Less than Significant with Mitigation Measure AQ-1, see [Appendix A](#))

The proposed project would expose sensitive receptors to construction dust and equipment exhaust emissions of DPM and PM^{2.5} that exceed BAAQMD single-source thresholds for infant/child cancer risks and PM^{2.5} concentrations (Less than Significant with Mitigation Measures AQ-1, see [Appendix A](#))

Biological Resources

The project removes trees and/or buildings that may provide roosting habitat for special-status bats (Less than Significant with Mitigation Measure BIO-1, see [Appendix A](#))

The project removes trees that may provide nesting bird habitat (Less than Significant with Mitigation Measure BIO-2, see [Appendix A](#))

Cultural Resources

Demolition of the existing buildings and structures at 1065 South Winchester Boulevard, a Candidate City Landmark, would be a significant impact (Significant Unavoidable Impact after implementation of Mitigation Measures CUL 3-1a and 3-1b)

The late nineteenth and early twentieth century historical agricultural and residential development of the property may result in the presence of subsurface archaeological deposits associated with these activities (Less than Significant with Mitigation Measure CUL 3-2a, 3-2b, and 3-2c).

Noise

Construction of the proposed project would occur within 500 feet of residential land uses and within 200 feet of office uses and would last for approximately 20 months, thereby resulting in a significant impact (Less than Significant with Mitigation Measure N-1, see [Appendix A](#))

Transportation/Traffic Impacts

The proposed project would generate 13.13 VMT per employee for the office component, which would exceed the established impact threshold of 12.21 VMT per employee (Less than Significant with Mitigation Measure TR-1, see [Appendix A](#))

6.4 ALTERNATIVES

There is no rule requiring an EIR to explore off-site project alternatives in every case. As stated in the Guidelines: "An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, 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, and evaluate the comparative merits of the alternatives." (Guidelines, § 15126.6, subd. (a), italics added.) As this implies, "an agency may evaluate on-site alternatives, off-site alternatives, or both." (Mira Mar, supra, 119 Cal.App.4th at p. 491.) The Guidelines thus do not require analysis of off-site alternatives in every case. Nor does any statutory provision in CEQA "expressly require a discussion of alternative project locations." (119 Cal.App.4th at p. 491 citing §§ 21001, subd. (g), 21002.1, subd. (a), 21061.)

The proposed project is consistent with the General Plan land use designation and the zoning designation and therefore, an alternative location was not considered in this EIR.

According to the *Historic Evaluation of the Property at 1065 South Winchester Boulevard in the City of San José* ("historic evaluation") prepared by Archaeological Resource Management in August 2021 (see [Appendix C](#)) and the *Evaluation of Potential Historic Mitigation Options for the Proposed Project at 1065 South Winchester Boulevard in the City of San José* ("historic mitigation options evaluation") prepared by Archaeological Resource Management in October 2021 (see [Appendix D](#)), the existing house and barn located on the project site meet the definition of a historical resource under CEQA as a Candidate City Landmark, and appears to be eligible for listing on the California Register of Historical Resources. Demolition of all the buildings and structures on site would result in a significant unavoidable impact, even with implementation of mitigation measures presented in Section 3, presented earlier.

Alternative 1 No Project – No Development Alternative

The CEQA Guidelines [§15126(d)4] require that an EIR specifically discuss a "No Project" alternative, which shall address both "the existing conditions, as well as what would be reasonably expected to occur in the foreseeable future if the project is not approved, based on current plans and consistent with available infrastructure and community services." The No Project – No Development Alternative would retain the existing land uses on-site as is. If allowed to remain as is, and no changes are made, the residence, barn, and accessory structures would remain. If the project site were to remain as is, the impacts of the project would not occur.

This alternative does not meet any of the project objectives. It does not:

1. Provide a project that meets the strategies and goals of the General Plan and Winchester Boulevard Urban Village criteria of creating a thoughtfully designed, pedestrian and bicyclist-friendly neighborhood that meets the needs of people of all ages and abilities;
2. Strengthen the Winchester Boulevard Urban Village area as a vibrant pedestrian friendly community;

3. Replace the existing residence and accessory structures with a mixed-use project that is designed to be more commercially focused and allows for a greater intensity of use, pursuant to the designation of the site;
4. Activate the South Winchester Boulevard with pedestrian friendly ground floor commercial uses;
5. Provide bicycle parking for residents and visitors to help support the goals of the General Plan in promoting San José as a great bicycling community; or
6. Provide housing units in meeting the City goal for more housing opportunities by maximizing the number of units allowed on this site consistent with San Jose General Plan Designation and Zoning District.

Alternative 2 Retain Existing Structures in Place and Redesign Proposed Project

This alternative includes retaining the Italianate style cottage and barn in their existing locations, as well as the trees on the eastern on-half of the site, but would demolish the tank house and fruit drying area and shed, and removal of the trees behind the structures. The project would then be redesigned on the western one-third of the project site behind the house and barn. [Figure 6-1, Retain Existing Structures in Place and Redesign Project](#), presents a pictorial aerial photo representing the possible layout and constraints.

According to the applicant, this alternative would require a reduction of about 70 percent of the residential units and commercial square footage, resulting in about 21 residential units (instead of 70) and about 6,123 square feet of commercial (instead of 20,410). Additional units would require increasing the height beyond the City's height limit of 65 feet.

This alternative could retain the property's eligibility for inclusion in the California Register of Historical Resources and in the City of San José Historic Resources Inventory as a Candidate City Landmark.

While this alternative would result in a smaller project, the construction impacts would be comparable to the existing project due to construction timeframe and specifications. However, an analysis would be required to determine if the construction vibration would have an adverse effect on the existing, historic structures. See the section below, Comparison of Alternatives, for additional detail.

This alternative would meet some, but not all, of the project objectives.

1. It would provide a project that meets the strategies and goals of the General Plan and Winchester Boulevard Urban Village criteria of creating a pedestrian and bicyclist-friendly neighborhood that meets the needs of people of all ages and abilities. It may not however, meet the strategy and goal of a thoughtfully-designed project.

2. Strengthen the Winchester Boulevard Urban Village area as a vibrant pedestrian friendly community.
3. Would not replace the existing residence and accessory structures, but would incorporate a mixed-use project for a greater intensity of use, pursuant to the designation of the site.
4. Activate the South Winchester Boulevard with pedestrian friendly ground floor commercial uses, although they commercial uses would be set back behind the existing house and farm structures and may not be easily accessible to the public.
5. Provide bicycle parking for residents and visitors to help support the goals of the General Plan in promoting San José as a great bicycling community.
6. Provide housing units in meeting the City goal for more housing but would not maximize the number of units allowed on this site consistent with San Jose General Plan Designation and Zoning District.

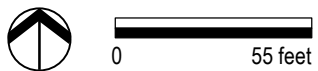
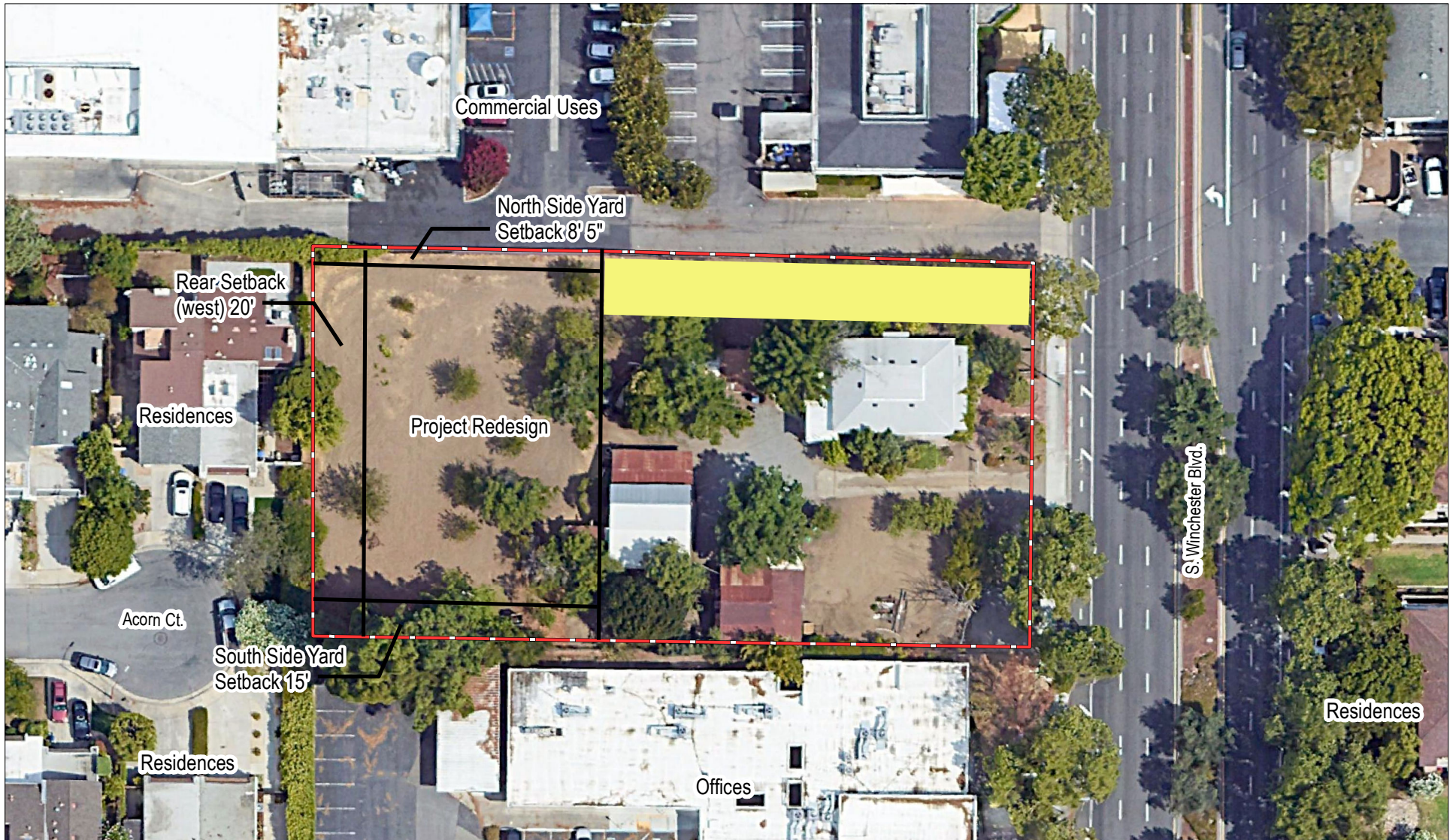
Alternative 3 Onsite Relocation of Barn and Redesign Project

This alternative includes retaining the Italianate style cottage, tank house, and fruit drying area and shed, and moving the barn to the south-eastern corner of the project site. The proposed project would be redesigned on the western half of the project site behind the existing structures. This alternative would retain the existing trees in the vicinity of the structures, but remove the trees on the western half. [Figure 6-2, On-Site Relocation of Barn and Project Design](#), presents a pictorial aerial photo representing the possible layout and constraints.

According to the applicant, this alternative would require a reduction of about 60 percent of the residential units and commercial square footage, resulting in about 36 residential units (instead of 70) and about 8,164 square feet of commercial (instead of 20,410). Additional units would require increasing the height beyond the City's height limit of 65 feet.

This alternative would retain the property's eligibility for inclusion in the California Register of Historical Resources and in the City of San José Historic Resources Inventory as a Candidate City Landmark.

While this alternative would result in a smaller project, the construction impacts would be comparable to the existing project due to construction timeframe and specifications. However, an analysis would be required to determine if the construction vibration would have an adverse effect on the existing, historic structures



-  Project Site Boundary
-  Project Redesign Site
-  New Driveway

Source: Google Earth 2021, Santa Clara County GIS 2021

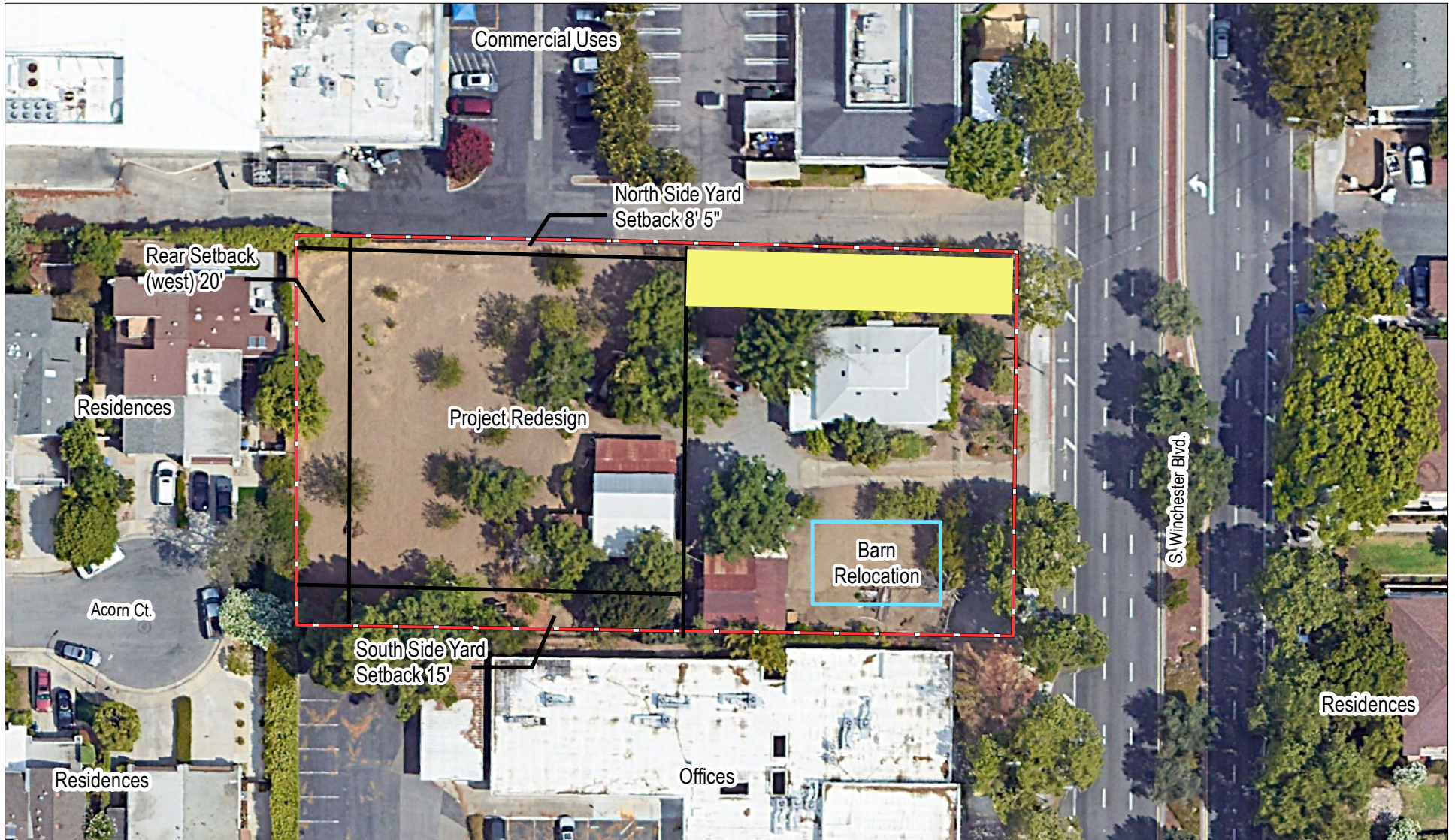


Retain Existing Structures in Place and Redesign Project

1065 South Winchester Boulevard Mixed Use EIR

Figure 6-1

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- Project Site Boundary
- Project Redesign
- New Driveway
- Barn Relocation

Source: Google Earth 2021, Santa Clara County GIS 2021



Figure 6-2
Onsite Relocation of Barn and Project Redesign

1065 South Winchester Boulevard Mixed Use EIR

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All other environmental impacts identified in this EIR and in the accompanying initial study would be similar, although somewhat reduced due to the reduced size of the project. See the section below, Comparison of Alternatives, for additional detail.

This alternative would meet some, but not all, of the project objectives.

1. It would provide a project that meets the strategies and goals of the General Plan and Winchester Boulevard Urban Village criteria of creating a pedestrian and bicyclist-friendly neighborhood that meets the needs of people of all ages and abilities. It may not however, meet the strategy and goal of a thoughtfully-designed project.
2. Strengthen the Winchester Boulevard Urban Village area as a vibrant pedestrian friendly community.
3. Would not replace the existing residence and accessory structures, but would incorporate a mixed-use project for a greater intensity of use, pursuant to the designation of the site.
4. Activate the South Winchester Boulevard with pedestrian friendly ground floor commercial uses, although they commercial uses would be set back behind the existing house and farm structures and may not be easily accessible to the public.
5. Provide bicycle parking for residents and visitors to help support the goals of the General Plan in promoting San José as a great bicycling community.
6. Provide housing units in meeting the City goal for more housing but would not maximize the number of units allowed on this site consistent with San Jose General Plan Designation and Zoning District.

Comparison of Alternatives

Table 6-1, [Comparison of Environmental Impacts for Alternatives to the Project](#), provides an outline of the resulting impacts for each alternative.

Environmentally Superior Alternative

The CEQA Guidelines state that an EIR shall identify an environmentally superior alternative. If the environmentally superior alternative is the “No Project” alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives (Section 15126.6(e)(2)).

Table 6-3 Comparison of Environmental Impacts for Alternatives to the Project

Significant Impacts of the Project	Proposed Project	Alternative 1 No Project	On-Site Preservation Alternatives	
			Alternative 2	Alternative 3
IMPACT AQ-1: The proposed project would expose sensitive receptors to construction dust and equipment exhaust emissions of DPM and PM2.5 that exceed BAAQMD single-source thresholds for infant/child cancer risks and PM2.5 concentrations.	LTSM	NI	LTSM	LTSM
IMPACT BIO-1: The project removes trees and/or buildings that may provide roosting habitat for special-status bats.	LTSM	NI	LTSM	LTSM
IMPACT BIO-2: The project removes trees that may provide nesting bird habitats.	LTSM	NI	LTSM	LTSM
IMPACT BIO-3: The project includes planting 140 new trees, which does not meet the City's tree replacement requirements.	LTSM	NI	LTSM	LTSM
IMPACT CUL 3-1: Adverse Change to Historic Resources (Demolition of the historic structures at 1065 South Winchester Boulevard, Candidates for the City of San José Historic Resources Inventory and the California Register of Historical Resources)	SU	NI	LTS	LTS
IMPACT CUL 3-2: Potential Disturbance of Subsurface Historic Resources Associated with Late 19th and Early 20th Century Agricultural and Residential History of the Property	LTSM	NI	LTSM	LTSM
IMPACT CUL 3-3: Potential Adverse Change in the Significance of an Archaeological Resource Pursuant to CEQA Guidelines Section 15064.5.	LTSM	NI	LTSM	LTSM
IMPACT CUL 3-4: Disturb Native American Human Remains (During Grading Activities).	LTSM	NI	LTSM	LTSM
IMPACT CUL 3-5: Potential Adverse Change in Tribal Cultural Resource Listed or Eligible for Listing in the California Register of Historical Resources or Significant Pursuant to Public Resources Code Section 5024.1 During Grading and Construction Activities	LTSM	NI	LTSM	LTSM
IMPACT CUL 3-6: Result in Cumulatively Considerable Contribution to a Significant Cultural Resources Impact (Demolition of the Historic Resources at 1065 South Winchester Boulevard, Candidates for the City of San José Historic Resources Inventory)	SU	NI	LTS	LTS
IMPACT CUL 3-7: Result in Cumulatively Considerable Contribution to a Significant Cultural Resources Impact (Construction Activities Potentially Uncovering Subsurface Cultural Resources)	LTSM	NI	LTSM	LTSM

Significant Impacts of the Project	Proposed Project	Alternative 1 No Project	On-Site Preservation Alternatives	
			Alternative 2	Alternative 3
IMPACT N-1: Construction of the proposed project would occur within 500 feet of residential land uses and within 200 feet of office uses and would last for approximately 20 months, thereby resulting in a significant impact.	LTSM	NI	LTSM	LTSM
IMPACT TR-1: The proposed project would generate 13.13 VMT per employee for the office component, which would exceed the establish impact threshold.	LTSM	NI	LTSM	LTSM
Physically Feasible	Yes	Yes	Yes	Yes
Financially Feasible	Yes	N/A	No	No
Meets Project Objectives?	Yes	No	Partially	Partially
Environmental Ranking in Superiority	4	1	2	3

SOURCE: (1065 South Winchester Mixed-Use Project's Public Review Draft Initial Study), (Archaeological Resource Management April 2021 (see [Appendix C](#))), (Archaeological Resource Management October 2021 (see [Appendix D](#)))

NOTES: NI = No Impact

LTS = Less than Significant

LTSSC = Less than Significant with Standard Conditions

LTSM = Less than Significant Impact with Mitigation

SU = Significant Unavoidable

Alternative 1 No Project – No Development. This alternative would avoid all project impacts, including the significant and unavoidable impact to historical resources and therefore, is considered to be environmentally superior. However, as explained above, when the No Project Alternative is the environmentally superior alternative, the EIR shall identify another environmentally superior alternative. This alternative does not meet any of the project objectives.

The next environmentally superior alternative would be Alternative 2, Retain Existing Structures in Place and Redesign Proposed Project. The alternative would retain all of the existing structures in place, as well as many of the on-site fruit trees, and include a project reduced by about 70 percent. The property would remain eligible for inclusion in the California Register of Historical Resources and in the City of San José Historic Resources Inventory as a Candidate City Landmark. This alternative is likely physically feasible; however, the applicant has indicated that this alternative would not be financially feasible. This alternative meets most of the project objectives, but would not meet Objective 6, as it would not maximize the number of units allowed on this site consistent with San Jose General Plan Designation and Zoning District.

Alternative 3, Onsite Relocation of Barn and Redesign Proposed Project, would also be environmental superior to the proposed project, and somewhat environmentally inferior to Alternative 2. While retaining all of the structures on site, as well as many of the on-site fruit trees, this Alternative includes relocating the barn from its original location, and reducing the project by about 60 percent. However, even with relocation of the barn, the property would still be eligible for inclusion in the California Register of Historical Resources and in the City of San José Historic Resources Inventory as a Candidate City Landmark. This alternative is likely physically feasible; however, the applicant has indicated that this alternative would not be financially feasible. This alternative meets most of the project objectives, but would not meet Objective 6, as it would not maximize the number of units allowed on this site consistent with San Jose General Plan Designation and Zoning District.

7.0 References

The analysis in this EIR 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:

- Archaeological Resource Management. April 2021a. *Historic Evaluation of the Property at 1065 South Winchester Boulevard in the City of San José*. San José, CA.
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