APPENDIX A

INITIAL STUDY

PUBLIC REVIEW

Initial Study

1065 South Winchester Boulevard Mixed-Use Project

File Numbers: SP21-006 and T21-012

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

February 2022

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ACRONYMS AND ABBREVIATIONS

AB	Assembly Bill
BAAQMD	Bay Area Air Quality Management District
CalEEMod	California Emissions Estimator Model
CAP	Clean Air Plan
CARB	California Air Resources Board
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CMP	Congestion Management Plan
DMA	Drainage Management Area
EIR	Environmental Impact Report
EMFAC	Emissions Factor Model
EPA	United States Environmental Protection Agency
GHG	Greenhouse Gas
LOS	Level of Service
RWQCB	Regional Water Quality Control Board
SB	Senate Bill
TACs	Toxic Air Contaminants
USFWS	United States Fish and Wildlife Service
VTA	Santa Clara Valley Transportation Authority

SECTION 1.0 PURPOSE OF THE INITIAL STUDY

The City of San José (City), as the Lead Agency, has prepared this Initial Study (IS) for the proposed 1065 South Winchester Boulevard Mixed-Use project in compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations §15000 et. seq.) and the regulations and policies of the City of San José, California.

The proposed project is a six-story, mixed-use building with 70 residential units 20,410 square feet of commercial space. The project includes a condominium map for 70 residential condominiums and 20,410 square feet of commercial office space. A total of 105 vehicle parking spaces would be provided on-site on the ground floor and in the underground parking basement. The proposed project also includes several areas dedicated to motorcycles and bicycle parking in the underground parking basement and an additional area dedicated to motorcycle parking on the ground floor of the project site.

This IS concludes that implementation of the proposed project would result in a significant, adverse impact on the historic resources on site. Therefore, the purpose of this IS is to focus the EIR analysis on the effects determined to be significant. This IS focuses on aesthetics, agricultural resources, air quality, biological resources, energy, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, public services, recreation, transportation/traffic, utilities and service systems, and wildfire, and will be included in the Draft EIR as an appendix.

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SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

1065 South Winchester Boulevard Mixed-Use Project, File Nos. SP21-006 and T21-012

2.2 LEAD AGENCY

City of San José
Department of Planning, Building and Code Enforcement
Planning Division
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2.4 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. 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. The project site is currently developed with a residence, one dilapidated structure, two sheds, and a barn.

Figure 1, Location Map, presents the regional location of the project site. Figure 2, Aerial Photograph, identifies the specific project site location and surrounding land uses.

2.5 ASSESSOR'S PARCEL NUMBER

The project site consists of one parcel, Assessor's Parcel Number 299-25-037.

2.6 GENERAL PLAN DESIGNATION, ZONING DISTRICT, AND CITY GROWTH AREA

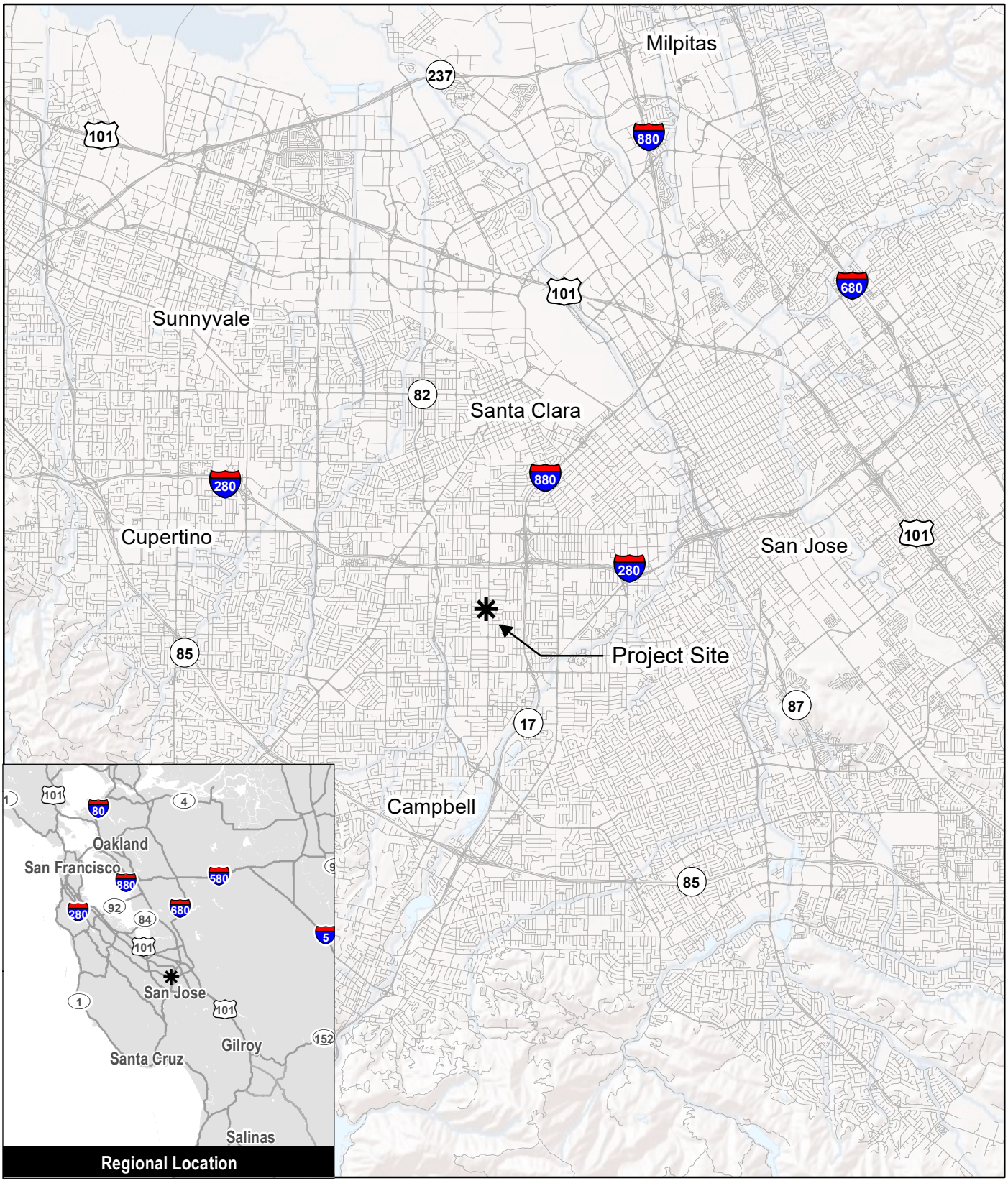
The project site has an *Envision San José 2040 General Plan* (General Plan) land use designation of Mixed-Use Commercial and is located in the Commercial Pedestrian (CP) Zoning District. The project site is within the West Valley Planning Area and in an area identified as the "Winchester Urban Village"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

General Plan Designation

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.



Source: ESRI 2019

Figure 1

Location Map

1065 South Winchester Boulevard Mixed Use IS

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0 100 feet

Project Site Boundary

Source: Santa Clara County GIS 2020, Google Earth 2020

Figure 2

Aerial Photograph

1065 South Winchester Boulevard Mixed Use IS

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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.

New development of a property with this designation should include commercial space equivalent to at least a 0.5 FAR for residential/commercial mixed-use projects. The land use designation supports a density up to 75 DU/AC for sites larger than 0.7 acres.

2.7 HABITAT PLAN DESIGNATION

Development Zone: Urban Development Equal to or Greater than Two Acres Covered

Land Cover Type: Urban - Suburban

Land Cover Fee Zone: Urban Areas (No Land Cover Fee)

Burrowing Owl Survey and Fee Zone: n/a

2.8 PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS

The City of San José is the lead agency with responsibility for approving the project. Discretionary approval from other public agencies is not necessary. The project would require the following discretionary approvals from the City of San José:

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

SECTION 3.0 PROJECT DESCRIPTION

3.1 PROJECT 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 one-story house, barn, tank house and fruit drying area and shed. The proposed project would demolish all existing buildings and 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 office space. The project also includes subdivision of the existing lot into residential condominiums and commercial office space.

Project Site Characteristics

The project site is currently developed with a single-story Italianate Victorian house, barn, tank house and fruit drying area and shed. Existing 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. Figure 3, Site Photographs, illustrates views of the existing development at the project site from South Winchester Boulevard.

The project site is designated Mixed-Use Commercial under the General Plan and is within the *Winchester Boulevard Urban Village Plan* (Urban Village Plan). The site is also located in the Commercial Pedestrian Zoning District. Building height on the site is limited by the Winchester Urban Village Plan's Building Height Diagram, Figure 5-2, which permits a maximum height of 65 feet. Up to ten additional feet in height is allowed beyond the maximum height for non-occupiable architectural features such as stairways, elevator shafts, etc.

The project site characteristics are summarized in Table 1, Site Characteristics, below.

Table 1 Site Characteristics

Project Site Characteristics	
Project Site	40,657.34 square feet (±0.93 acres)
General Plan Designation	Mixed-Use Commercial
Zoning District	Commercial Pedestrian
City Growth Area	Urban Village
Allowable Height	65 feet
Number of Existing Structures	Five structures (one residence, one dilapidated structure, two sheds, and a barn)
Surrounding Land Uses	Residential and Commercial

SOURCE: Carpira Design Group (2021)

3.2 PROPOSED DEVELOPMENT

The project proposes the demolition of a one-story house, barn, tank house and fruit drying area and shed, and the construction of a six-story, 65-foot-high, mixed-use building with 70 residential units (totaling approximately 130,840.1 square feet of residential area) and 20,410 square feet of commercial office space. The project includes a total of 105 parking spaces located on the ground floor of the proposed project and in the underground parking garage.

Figure 4, Site Plan, illustrates the site plan. Figure 5, Proposed Building Rendering, illustrates the view of the proposed building from South Winchester Boulevard. Figure 6, Bird's Eye View: Building Rendering, provides sky view of the proposed building. The full set of project plans (dated June 14, 2021) is located in Appendix A. Table 2, Proposed Project Components, provides a summary of key project components. These components are further described in the following sections.

Table 2 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.

3.3 SUBDIVISION

The proposed project includes a Tentative Map to develop 70 residential condominiums and 20,410 square feet of commercial office space.

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

Figure 3
Site Photographs

1065 South Winchester Boulevard Mixed Use IS

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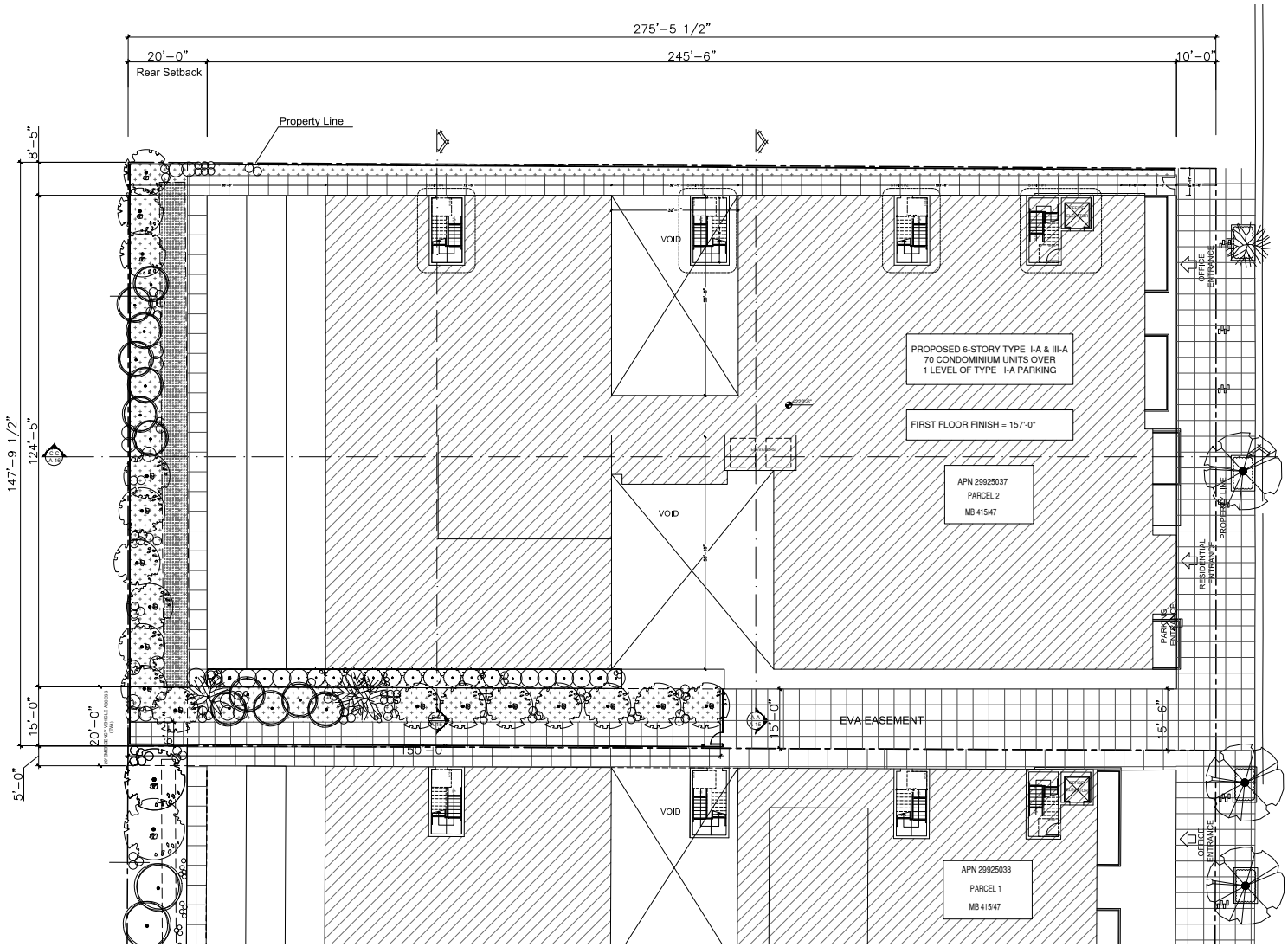

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Source: Carpira 2021

Figure 4
Proposed Site Plan

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Source: Carpira 2021

Figure 5

Proposed Building Rendering

1065 South Winchester Boulevard Mixed Use IS

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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 6

Bird's Eye View: Building Rendering

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3.4 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.

3.5 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.

3.6 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.

3.7 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.

3.8 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 this 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.

The TDM program includes an implementation and annual trip monitoring component for the life of the project. If it is determined that the 41 percent parking reduction is not being achieved (i.e., the on-site parking garage reaches full capacity), additional TDM measures would need to be introduced to ensure the project addresses parking demand.

3.9 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.

3.10 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.

SECTION 4.0 ENVIRONMENTAL CHECKLIST

4.1 AESTHETICS

4.1.1 Aesthetics Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					1,3,5,16, 17,26, 27
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒	
b) Substantially damage scenic resources, including but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☒	☐	1,3,5,16, 17,26
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage points.) If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	☐	☐	☒	☐	1,2,3,5, 10,20
d) Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?	☐	☐	☒	☐	1,2,3,4

4.1.2 Environmental Setting

The 0.93-acre project site is currently developed with a one-story house, barn, tank house and fruit drying area and shed. Existing access to the project site is by South Winchester Boulevard and the site is surrounded by two-story, single- and multi-family residences to the west, South Winchester Boulevard and two-story residences to the east, and one-story commercial uses to the north and south. A similar, but slightly smaller, project has been approved immediately to the south. Refer to Figure 6, Bird's Eye View: Building Rendering, presented earlier. Adjacent to the project site, South Winchester Boulevard has a sidewalk with landscaping, and additional landscaping is scattered across the project site.

The area surrounding the project site is primarily residential and suburban in character, with some very high-density residential development near the major roadway and corridors of Stevens Creek Boulevard, Saratoga Avenue, and Winchester Boulevard. Commercial development is concentrated along major roadway corridors in single-story strip commercial and larger shopping center developments with parking fronting roadways. Visual open space in the surrounding area is primarily provided by school sites and parks within residential areas. There are minimal to no views of surrounding mountain ranges (Santa Cruz Mountains to the south and Diablo Mountain Range to the northeast) from the project site (Google Earth 2021). As most of the City is relatively flat, prominent viewpoints (other than buildings) are limited.

4.1.3 Regulatory Setting

State

California Scenic Highway Program

Many state highways are located in areas of outstanding natural beauty. California's Scenic Highway Program was created by the Legislature in 1963. Its purpose is to protect and enhance the natural scenic beauty of California highways and adjacent corridors, through special conservation treatment. The state laws governing the Scenic Highway Program are found in the Streets and Highways Code, Sections 260 through 263. The nearest state highway listed on the California State Scenic Highway System Map is I-280 (considered an eligible state scenic highway), located approximately 0.66 miles south of the project site (Caltrans 2021).

Local

Envision San José 2040 General Plan

Scenic Vistas and Resources. The General Plan defines scenic vistas and resources in the City as views of and from the Santa Clara Valley, surrounding hillsides, and urban skyline. Scenic vistas of the natural and man-made environment can be viewed from roadways and freeways and public trails throughout the City. Most of these views are intermittent, interrupted by street trees, tall buildings (especially those built close the roadways) and utility infrastructure. Development and redevelopment allowed under the General Plan, especially along segments of major roadways that are either elevated, or are immediately adjacent to hillside areas could affect views of natural scenic vistas of hillside areas; although this is not the case for the proposed project. Key roadways with views of hillside areas include: SR 237, Tasman Drive, Montague Expressway, Stevens Creek Boulevard, Santa Clara/Alum Rock, Story Road, I-280, Capitol Expressway, SR 87, SR 85, and portions of US 101.

Scenic Corridors. Scenic urban corridors, such as segments of major highways that provide gateways into the City, can also be defined as scenic resources by the City. The designation of a scenic route applies to routes affording especially aesthetically pleasing views. The project site is not located within the vicinity of any scenic corridor identified on the City's *Scenic Corridors Diagram.*

The General Plan includes Community Design Goals, Policies, and Implementation Actions that guide the form of future development in San José and help tie individual projects to the vision for the surrounding area and the city as a whole. The following policies are specific to aesthetic resources and apply to the proposed project:

> **Policy CD-1.1** Require the highest standards of architecture and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
>
> **Policy CD-1.7** Require developers to provide pedestrian amenities, such as trees, lighting, recycling and refuse containers, seating, awnings, art, or other amenities, in pedestrian areas along project frontages. When funding is available, install pedestrian amenities in public rights-of-ways.

Policy CD-1.8 Create an attractive street presence with pedestrian-scaled building and landscape elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity throughout the City.

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

Policy CD-1.11 To create a more pleasing pedestrian-oriented environment, for new building frontages, include design elements with a human scale, varied and articulated facades using a variety of materials, and entries oriented to public sidewalks or pedestrian pathways. Provide windows or entries along sidewalks and pathways; avoid blank walls that do not enhance the pedestrian experience. Encourage inviting, transparent facades for ground-floor commercial spaces that attract customers by revealing active uses and merchandise displays.

Policy CD-1.12 Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.

Policy CD-1.13 Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.

Policy CD-1.16 Strongly discourage gates and fences at the frontage of commercial properties to maintain an open and inviting commercial character and avoid the inhospitable appearance of security barriers.

Policy CD-1.17 Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.

Policy CD-1.23 Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.

In addition to applicable General Plan policies, the project would be required to comply with the following City policies and guidelines, as applicable:

- San José Outdoor Lighting Policy (City Council Policy 4-3, as revised 6/20/2000);
- San José Residential Design Guidelines; and
- San José Commercial Design Guidelines.

Winchester Boulevard Urban Village Plan

The following standards from the Urban Village Plan are applicable to the proposed project:

Standard DS-1 Primary pedestrian entrances for both ground floor and upper story uses shall face Winchester Boulevard.

Standard DS-2 Ground floor building frontages shall have clear, untinted glass or other glazing material on at least 60% of the surface area of the facade between a height of two and seven feet above grade.

Standard DS-5 The minimum floor-to-ceiling height of the ground floor commercial space shall be a minimum of 15 feet and preferably 18 to 20 feet.

Standard DS-12 New projects proposed within the Urban Village Plan over 55 feet in height must provide detailed visualizations of their proposed project that show what the project would look like from the street level, from different perspectives and distances, within the context of the neighborhood including both current and proposed projects.

4.1.4 Impact Discussion

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

(**No Impact**)

The project site is developed with a residence, barn, and sheds in a highly urbanized area. The General Plan defines scenic vistas and resources as views of and from the Santa Clara Valley, surrounding hillsides, and urban skyline. The project site is not located within designated viewsheds or view corridors identified in either the General Plan or the City's *Scenic Corridors Diagram.* Therefore, the proposed project would not have a substantial adverse effect on a scenic vista.

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

(Less than Significant)

The California State Department of Transportation's State Scenic Highway System Map indicates I-280 as an eligible state scenic highway (Caltrans 2021). However, I-280 is approximately 0.66 miles north of the project site and development of the proposed project would not be seen from I-280 due to the existing urban development and trees between I-280 and the project site (Google Earth 2021). A sound barrier between I-280 and the project site would completely obstruct views of the proposed development from I-280 and, therefore, development of the project site would not significantly damage scenic resources or buildings within this eligible state scenic highway.

The project would involve the removal of 49 trees; however, as further discussed in the Section 4.4, Biological Resources, the trees would be required to be replaced in accordance with the City's tree replacement policy.

c) In non-urbanized areas, would the project substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage points.) If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

(Less than Significant)

The project site is designated by the General Plan as Mixed-Use Commercial and is located within a City growth area (Winchester Boulevard Urban Village). The *Winchester Boulevard Urban Village Plan* identifies the project site as a location intended to accommodate a mix of commercial and residential uses. Due to its location within this plan, the project site is subject to compliance with the Urban Village Plan development standards and design guidelines.

The proposed project complies with Urban Village Plan Standard DS-1, which states that primary pedestrian entrances for both ground flood and upper-story uses must face Winchester Boulevard; and with Standard DS-2, which states that ground floor building frontages must have clear, untinted glass or other glazing material on at least 60 percent of the surface area of the facade between a height of two and seven feet above grade. Urban Village Plan Figures 5-1 and 5-2 show the urban design framework and the height restriction, respectively, designated for the project site. The project site meets each of the requirements designated for the project site as it is proposed for mixed-use (as designated in Figure 5-1) and within the height restriction of 65 feet (as identified in Figure 5-2). The proposed project also conforms to the transitional height standards required for projects adjacent to residential development (see Figure 5-3 of the Urban Village Plan) and the requirement of a 20-foot sidewalk for new development fronting South Winchester Boulevard. Moreover, the proposed project is compliant with Urban Village Plan Standard DS-12, which requires that new projects over 55 feet in height must provide detailed visualizations that show what the project would look like from the street level, from different perspectives and distances, within the context of the neighborhood; the project plan's Sheets 018-A through 026-A illustrate compliance with this standard.

Design standards for streetscape and architectural improvements and landscaping are found throughout the Winchester Boulevard Urban Village Plan. The project is subject to compliance with these standards and performance measures. Project materials include materials such as exposed concrete in gray coloring for the exterior walls, wood panels within the residential units' balcony, and architectural glazing throughout the proposed exterior walls. Onsite landscaping and tree disposition are presented on Sheets 030-L through 034-L of the project plans. Street improvements are identified on the Grading, Drainage, and Sections Plan and the Utility Plan (Sheets 038-C and 039-C, respectively, of the project plans). Review of the project plans by Development Review Project Manager would ensure the proposed project complies with minimum requirements for heights, placement of parking areas, bicycle parking, and pedestrian access.

Impacts to aesthetic resources resulting from development of uses consistent with Urban Village Growth Areas were addressed in the General Plan EIR, Sections 3.1 and 3.12. The General Plan EIR analysis concluded that compliance with General Plan policies (such as Policy CD-7.3, which encourages new development in an Urban Village Area to be consistent with the Design Policies for Urban Villages) provides mitigation to aesthetic-related impacts. The proposed project would not conflict with the policies identified in the General Plan that govern scenic quality and is consistent with the policies and standards set forth in the Urban Village plan related to aesthetics in new development.

In addition, the proposed project would be required to comply with the development standards identified for sites within the Commercial Pedestrian Zoning designation. Section 20.40.560 requires screening, such as a fence or treescape, at a property line that abuts residential uses. The proposed project includes a tube-steel security fence at the northern and southern boundary of the project site; trees are also used for screening on the western border of the site from the adjacent residential uses. The proposed project also complies with the height restrictions of the Zoning District, which Section 20.40.200 states is the height established within an approved Urban Village Plan (i.e., 65 feet pursuant to the *Winchester Boulevard Urban Village Plan*). Section 20.40.540 discusses lighting adjacent to residential properties requiring that projects shield light and ensure that light is reflected away from adjacent residential uses; the project would be required to comply with this zoning requirement in order to ensure no impacts would occur.

The proposed project would comply with all applicable zoning and other regulations governing scenic quality, such as General Plan policies, the Urban Village Plan's standards, and the Commercial Pedestrian zoning requirements.

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

(Less Than Significant)

The project site is currently developed with a residence, one dilapidated structure, two sheds, and a barn. Therefore, the project site, in its current condition, produces minimal sources of light. In addition, existing sources of light in the vicinity of the project site are primarily from adjacent residences and commercial sites, streetlights, and headlights of vehicular traffic on South Winchester Boulevard.

The proposed project would introduce new sources of light and glare to the project site as the proposed project includes security lights and other nighttime lighting. The proposed project would be required to comply with the General Plan policies and regulations governing light and glare, City's adopted Lighting Policy 4-2, and Private Outdoor Lighting Policy 4-3 to control the amount and color of light shining on streets and sidewalks reducing impacts to a less-than-significant level. All outdoor lighting would be shielded to direct light downwards to ensure that lighting does not spill over onto nearby residential properties, consistent with the City's regulations.

The proposed project would comply with applicable policies set forth to reduce impacts related to light and glare generated by new development. Therefore, the proposed project's impacts on day and nighttime views would be less than significant with no mitigation is required.

4.2 AGRICULTURAL RESOURCES

4.2.1 Agricultural Resources Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to nonagricultural use?	☐	☐	☐	☒	1,2,3,5, 6
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒	1,2,3,5, 6
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	☐	☐	☐	☒	1,2,3,5, 6
d) Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒	1,2,3,5, 6
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to nonagricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒	1,2,3,5, 6

4.2.2 Environmental Setting

Although historically in agricultural production (orchard), the project site is currently developed with a residence, one dilapidated structure, two sheds, and a barn and is located in an urbanized area of the City surrounded by development that includes residential and commercial uses and roadways. The project site is zoned Commercial Pedestrian and designated in the General Plan as Mixed-Use Commercial.

The California Department of Conservation manages the Farmland Mapping and Monitoring Program to assess and record how suitable a particular tract of land is for agricultural purposes. In each county, the land is analyzed for soil and irrigation quality and the highest quality land is designated as Prime Farmland. Although historically in agricultural production, the project site and its vicinity are identified as Urban and Built-Up Land (California Department of Conservation 2021).

4.2.3 Regulatory Setting

State

The California Farmland Mapping and Monitoring Program produces maps and statistical data for analyzing impacts on California's agricultural resources. Agricultural land is rated according to soil quality and irrigation status, and the best quality land is categorized as Prime Farmland.

The California Land Conservation Act of 1965 (Williamson Act) enables local governments to enter into contracts with private landowners for the purpose of restricting specific parcels of land to agricultural or related open space use.

Local

Envision San José 2040 General Plan

The General Plan includes Land Use Goals, Policies, and Implementation Actions that guide the form of future development in the City and help tie individual projects to the vision for the surrounding area and City as a whole. The following policies are specific to agriculture and forest resources and apply to the proposed project:

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

4.2.4 Impact Discussion

a) Would the project convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to nonagricultural use?

(No Impact)

The project site is within a highly urbanized area and is designated as Urban and Built-up Land by the California Department of Conservation's California Important Farmland Finder (California Department of Conservation 2021).

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

(No Impact)

The project site is zoned Commercial Pedestrian and, therefore, would not conflict with zoning for agricultural use. Further, according to the City's Public GIS Viewer, the project site is not under a Williamson Act contract.

c) Would the project conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?

(No Impact)

The project site is in the Commercial Pedestrian Zoning District and currently developed with a residence, one dilapidated structure, two sheds, and a barn. The site does not contain any forest land as defined in Public Resources Code section 12220(g), timberland as defined by Public Resources Code section 4526, or property zoned for Timberland Production as defined by Government Code section 51104(g). Therefore, the project would not conflict with zoning for forest land or timberland production.

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

(No Impact)

See c) above. The project would not result in the loss of forest land or conversion of forest land to non-forest use.

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

(No Impact)

The project is in an urbanized area and, therefore, the project would not involve changes that would result in the conversion of farmland to non-agricultural use.

4.3 AIR QUALITY

4.3.1 Air Quality Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					1, 33, 34, 35, 36
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☒	☐	☐	
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is nonattainment under an applicable federal or state ambient air quality standard?	☐	☐	☒	☐	1, 34, 35
c) Expose sensitive receptors to substantial pollutant concentrations?	☐	☒	☐	☐	35, 36
d) Result in other emissions (such as those leading to odors adversely affecting a substantial number of people)?	☐	☐	☒	☐	1, 34

4.3.2 Environmental Setting

The information used within this section of the IS is sourced from the results of criteria air pollutant and greenhouse gas (GHG) emissions modeling using the California Emissions Estimator Model (CalEEMod) that are summarized in *1065 South Winchester Boulevard Mixed Use Project – Criteria Air Pollutant Modeling Assessment* (Appendix B), the *1065 South Winchester Boulevard Mixed Use Project Health Risk Assessment* (health risk assessment) (Appendix C) and information from the Bay Area Air Quality Management District (BAAQMD) *2017 Clean Air Plan: Spare the Air, Cool the Climate* (2017a) and California Environmental Quality Act Air Quality Guidelines (2017b).

4.3.2.1 Regional Climate

The City of San José, including the project site, is located within the boundaries of the San Francisco Bay Area Air Basin (air basin). The air basin encompasses all of Alameda, Contra Costa, Santa Clara, San Francisco, San Mateo, Marin and Napa counties, and the southern portions of Solano and Sonoma counties. The air basin is characterized by complex terrain, consisting of coastal mountain ranges, inland valleys, and bays, which distort normal wind flow patterns. The climate in the air basin is dominated by the strength and location of a semi-permanent, subtropical high-pressure cell. During the summer, the Pacific high-pressure cell is centered over the northeastern Pacific Ocean resulting in stable meteorological conditions and a steady northwesterly wind flow. In the winter, the Pacific high-pressure cell weakens and shifts southward resulting in wind flow offshore, the absence of upwelling, and the occurrence of storms. Weak inversions coupled with moderate winds result in a low air pollution potential.

The Santa Clara Valley is bounded by the San Francisco Bay to the north and by mountains to the east, south and west. Temperatures are warm on summer days and cool on summer nights, and winter temperatures are fairly mild. A northwesterly sea breeze flows through the valley during the afternoon, and a light southeasterly drainage flow occurs during the evening and early morning. Wind speeds are greatest in the spring and summer and weakest in the fall and winter. Nighttime

and early morning hours frequently have calm winds in all seasons, while summer afternoons and evenings are quite breezy. Strong winds are rare, associated mostly with the occasional winter storm.

4.3.2.2 Criteria Air Pollutants

The six most common and widespread air pollutants of concern, or "criteria pollutants," are ground-level ozone, nitrogen dioxide, particulate matter, carbon monoxide, sulfur dioxide, and lead. In

addition, reactive organic gases are a key contributor to the criteria air pollutants because they react with other substances to form ground-level ozone. Health effects of criteria air pollutants include asthma, bronchitis, chest pain, coughing, and heart diseases.

4.3.2.3 Toxic Air Contaminants

Toxic air contaminants (TACs) are pollutants that may be expected to result in an increase in mortality or serious illness or may pose a present or potential hazard to human health. Health effects include cancer, birth defects, neurological damage, damage to the body's natural defense system, and diseases that lead to death. TACs are found in ambient air, especially in urban areas, and are caused by industry, agriculture, fuel combustion, and commercial operations (e.g., dry cleaners). Diesel exhaust is the predominant TAC in urban air and is estimated to represent about two-thirds of the cancer risk from TACs.

4.3.2.4 Sensitive Receptors

Although air pollution can affect all segments of the population, certain groups are more susceptible to its adverse effects than others. Children, the elderly, and the chronically or acutely ill are the most sensitive population groups. These sensitive receptors are commonly associated with specific land uses such as residential areas, schools, retirement homes, and hospitals. In addition, certain air pollutants, such as carbon monoxide, only have significant effects if they directly affect a sensitive population.

The closest sensitive receptors to the project site are single-family homes adjacent to the western and southwestern boundary of the project site. There are additional residences to east. In addition, the Caring Hearts Senior Care Home is located in the vicinity of the project site (approximately 390 feet northeast). The project would introduce new sensitive receptors (i.e., residents) to the area.

4.3.3 Regulatory Setting

Federal

United States Environmental Protection Agency/Federal Clean Air Act

At the federal level, the United States Environmental Protection Agency (EPA) is responsible for overseeing implementation of the Clean Air Act and its subsequent amendments. The federal Clean Air Act required the EPA to set National Ambient Air Quality Standards for several air pollutants on the basis of human health and welfare criteria. The Clean Air Act established two types of national air standards: primary and secondary standards. Primary standards set limits to protect public health, including the health of sensitive persons such as asthmatics, children, and the elderly.

Secondary standards set limits to protect public welfare, including protection against decreased visibility, damage to animals, crops, vegetation, and buildings.

State

California Air Resources Board

The California Air Resources Board (CARB) is a state agency responsible for coordination and oversight of federal, state, and local air pollution control programs in California and for implementing the requirements of the federal Clean Air Act and California Clean Air Act. CARB oversees regional or local air quality management or air pollution control districts that are charged with developing attainment plans for the areas over which they have jurisdiction. CARB grants these regional or local air districts the explicit statutory authority to adopt indirect source regulations, including implementation of Best Available Control Technology, and transportation control measures, including ridesharing or flexible work hours.

Regional

Bay Area Air Quality Management District

The Bay Area Air Quality Management District (BAAQMD) is the agency with the primary responsibility for assuring that national and state ambient air quality standards are attained and maintained in the air basin. Depending on whether or not the standards are met or exceeded, the air basin is classified as being in "attainment" or "nonattainment." Table 3, San Francisco Bay Area Air Basin Attainment Status, identifies the current attainment status within the air basin for each criteria pollutant.

Table 3 San Francisco Bay Area Air Basin Attainment Status

Criteria Air Pollutants	State Standards	National Standards
Ozone	Non-attainment	Non-attainment
Respirable Particulate Matter	Non-attainment	Unclassified
Fine Particulate Matter	Non-attainment	Non-attainment
Carbon Monoxide	Attainment	Attainment
Nitrogen Dioxide	Attainment	Unclassified/Attainment
Sulfur Dioxide	Attainment	Unclassified/Attainment
Lead	-	Attainment

SOURCE: Bay Area Air Quality Management District 2017a

The BAAQMD is charged with regulatory authority over stationary sources of air emissions, monitoring air quality within the air basin, providing guidelines for analysis of air quality impacts pursuant to CEQA, and preparing an air quality management plan to maintain or improve air quality in the air basin. The BAAQMD's 2017 CEQA Air Quality Guidelines (2017 CEQA Guidelines) contain instructions on how to evaluate, measure, and mitigate air quality impacts generated from land development construction and operation activities. The BAAQMD has adopted several plans in an attempt to achieve state and federal air quality standards. The BAAQMD's currently adopted plan is the *2017 Clean Air Plan: Spare the Air, Cool the Climate* (2017 CAP). The 2017 CAP

defines an integrated, multi-pollutant control strategy to reduce emissions of particulate matter, TACs, ozone precursors, and greenhouse gases.

Local

Envision San José 2040 General Plan

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

Policy MS-10.1 Assess projected air emissions from new development in conformance with the air district CEQA Guidelines and relative to state and federal standards. Identify and implement feasible air emission reduction measures.

Policy MS-10.2 Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and state law.

Policy MS-10.7 In order to reduce vehicle miles traveled and traffic congestion, require new development within 2,000 feet of an existing or planned transit station to encourage the use of public transit and minimize the dependence on the automobile through the application of site design guidelines and transit incentives.

Policy MS-11.1 Require completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution such as freeways and industrial uses. Require new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project designs or be located an adequate distance from sources of toxic air contaminants (TACs) to avoid significant risks to health and safety.

Policy MS-11.2 For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with air district-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.

Policy MS-11.4 Encourage the installation of appropriate air filtration at existing schools, residences, and other sensitive receptor uses adversely affected by pollution sources.

Policy MS-11.5 Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.

Policy MS-11.7 Consult with air district to identify stationary and mobile TAC sources and determine the need for and requirements of a health risk assessment for proposed developments.

Policy MS-13.1 Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures

recommended in the current air district CEQA Guidelines for the relevant project size and type.

Policy MS-13.2 Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxics control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

Policy CD-3.3 Within new development, create and maintain a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.

4.3.4 Impact Discussion

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

(Less than Significant)

The primary goals of the 2017 Clean Air Plan are to attain air quality standards; to reduce population exposure to pollutants and protect public health in the Bay Area; and to reduce greenhouse gas (GHG) emissions and protect the climate. This is considered to have been accomplished if there are no project-level significant impacts, or if significant impacts are mitigated to a less-than-significant level. The proposed project would generate less than significant criteria air pollutant emissions during construction and operations. During construction activity, the proposed project would generate and TAC emissions from equipment exhaust and dust, but not to the extent that impacts are not mitigated to a less-than-significant level. Therefore, the proposed project, as mitigated, would not result in significant air quality impacts. As a result, the proposed project supports the primary goals of the 2017 Clean Air Plan and would not conflict with or jeopardize its implementation.

Most of the 81 control measures in the 2017 Clean Air Plan are applicable to industrial stationary sources, or are implemented at a regional level, and not applicable to the proposed project. Control measures potentially applicable to the proposed project are included below in Table 4, Potentially Applicable Control Measures (2017 Clean Air Plan) along with a brief consistency analysis to determine how the project either does or does not implement the measure.

During its construction and operation, the proposed project would generate criteria air pollutant emissions that do not exceed the BAAQMD thresholds (see the discussion in item "b" below). The health risks from exposures to construction emissions were also analyzed. The proposed project's construction health risks impacts would be less than significant with implementation of mitigation measure AQ-1 (see the discussion in item "c" below). Therefore, the proposed project would not conflict with or obstruct the implementation of the 2017 CAP. Further, implementation of the project would not inhibit BAAQMD or partner agencies from continuing progress toward attaining state and federal air quality standards and eliminating health-risk disparities from exposure to air pollution among Bay Area communities, as described within the 2017 CAP.

Table 4 Potentially Applicable Control Measures (2017 Clean Air Plan)

Control Measure Number and Name	Consistency Analysis
SS30: Residential Fan Type Furnaces	This measure is intended to reduce NOx emissions from residential fan type central furnaces by reducing allowable NOx emission limits on new and replacement furnace installations through its Regulation 9, Rule 4 (Rule 9-4). The air district works with local jurisdictions to implement this rule. When it is not feasible to install a non-fossil fuel-based furnace, this control measure ensures that the furnace installed uses best available retrofit control technology (BARCT). The proposed project may qualify for this program. See the response to measure BL2.
SS32 Emergency Backup Generators	This policy reduces emissions of diesel PM and black carbon from BUGs through Draft Rule 11-18, resulting in reduced health risks to impacted individuals, and in climate protection benefits. The proposed project includes a backup generator (BUG) and is subject to compliance with this rule.
SS34: Wood Smoke	The proposed project is subject to compliance with the City's municipal code regulations prohibiting wood-burning fireplaces
SS36 – Particulate Matter from Trackout	The proposed project shall implement dust control measures, which are standard conditions of approval for the City. Implementation of this standard condition will address mud and dirt that could be "tracked out" from the project construction site.
SS38 – Fugitive Dust	See above regarding implementation of the city's standard condition of approval regarding dust control measures.
SS40 Odors	The proposed project is a residential use and would not be a source of substantial odors.
TR2 – Trip Reduction Programs	The project proposes TDM for the purpose of meeting the parking reduction requirements per the City's Municipal Code. Furthermore, the proposed project's transportation analysis completed a VMT analysis and identified potential impacts. The report identifies the use of car and/or ride-sharing programs, employee shuttle service, telecommuting/alternative work schedules commute trip reduction marketing/education, and employee parking "cash out" as mitigation to ensure trip reductions from the project.
TR7: Safe Routes to Schools and Safe Routes to Transit	This measure facilitates safe route to schools and transit by providing funds and working with transportation agencies, local governments, schools, and communities to implement safe access for pedestrians and cyclists. The nearest school to the project site is Castlemont Elementary School, about one half mile to the southeast. The proposed project would reconstruct sidewalks on the site frontages and would not preclude continued use of existing facilities. The nearest bus stops to the project site are for VTA bus route (Route 60) and are located along both sides of South Winchester Boulevard approximately 100 feet north and 400 feet southeast of the site. According to the traffic impact analysis, existing bus service is expected to have sufficient capacity to accommodate new riders generated by the project.
TR8 – Ridesharing and Last-Mile Connections	See TR2 response. Also, the project's transportation analysis identifies ride-sharing programs for the project to implement in order to promote the use of carpooling and reduce the number of drive-alone trips.
TR9 – Bicycle and Pedestrian Access and Facilities	The project provides onsite bicycle parking and includes protected bicycle lanes, wider sidewalks, and other pedestrian safety features along the project frontage. The proposed project would not preclude the continued use of existing bicycle and pedestrian facilities.
TR16: Indirect Source Review	This measure reduces emissions of key ozone precursors, ROG and NOx, particulate matter, toxic air contaminants and GHGs by reducing construction and operational emissions associated with new or modified land uses. On-road and off-road mobile emission sources are the main source categories targeted by this measure. However, space heating, landscape maintenance and wood burning emission source categories could also be included. This reduces region-wide population exposure to air pollutants and also reduces localized population exposure to air pollution. The proposed project would not emit operational emissions that would exceed air district standards. A health risk assessment was prepared to analyze sensitive receptor exposures to construction TAC emissions. Mitigation measures AQ-1 and AQ-2 discussed later in this

Control Measure Number and Name	Consistency Analysis
	section include emissions reduction measures to reduce construction emissions and minimize local exposures to air pollution (refer to Item c).
BL1 – Green Buildings	The proposed project would construct the structures in accordance with the California Building Code's Energy Efficiency Standards for Residential and Nonresidential Buildings (California Code of Regulations, Title 24, Part 6).
BL2 Decarbonize Buildings All Pollutants	This policy explores incentives for property owners to install ground source heat pumps and solar hot water heaters in multifamily buildings. See the response to Policy BL1. The proposed project is a condominium project that may qualify for this program.
NW2 – Urban Tree Planting	The project would be required to adhere to the City's tree replacement policy. Landscaping plans for the proposed project show 100 new trees of various species to be planted onsite. Additional screen shrubs and groundcover are also proposed throughout the project site.
WR2 – Support Water Conservation	This measure is intended to promote water conservation, including reduced water consumption and increased onsite water recycling, in industrial buildings for the purpose of reducing greenhouse gas (GHG) emissions. The project will utilize various stormwater control measures to comply with this measure.

SOURCE: BAAQMD 2017 (see Tables 5-1 through 5-10)

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

(Less than Significant)

The City of San José uses the thresholds of significance established by BAAQMD. The BAAQMD has developed thresholds of significance that are used to determine whether or not the proposed project would result in a cumulatively considerable net increase of criteria air pollutants during operations and/or construction. The thresholds of significance for determining air quality impacts are contained in the BAAQMD 2017 CEQA Guidelines and are presented in Table 5, Thresholds of Significance for Criteria Air Pollutants.

Table 5 Thresholds of Significance for Criteria Air Pollutants

Criteria Air Pollutants	Construction Thresholds	Operational Thresholds	
	Average Daily Emissions (lb/day)	Average Daily Emissions (lb/day)	Annual Emissions (tons/year)
Reactive Organic Gases (ROG)	54	54	10
Nitrogen Oxides (NO_X)	54	54	10
Respirable Particulate Matter (PM_{10})	82 (exhaust)[1]	82	15
Fine Particulate Matter ($PM_{2.5}$)	54 (exhaust)[1]	54	10

SOURCE: Bay Area Air Quality Management District 2017b

NOTE: The thresholds of significance for particulate matter emissions from project construction apply to exhaust emissions only. The BAAQMD recommends implementation of best management practices to reduce fugitive dust emissions.

Operational Emissions

Operation of the proposed mixed-use project would result in new mobile, area, and energy source criteria air pollutant emissions typically generated from mobile sources (burning fossil fuels), energy sources (cooling, heating, cooking), and area sources (landscaping and household products). The criteria air pollutant emissions generated by existing sources and by proposed project during operations were estimated using the California Emissions Estimator Model (CalEEMod) version 2016.3.2.

Refer to the CalEEMod results and memorandum, *1065 Winchester Boulevard Mixed Used Project – Criteria Air Pollutant Emissions Modeling Assessment Assumptions and Methodology* (June 28,2021) included as Appendix B.

The unmitigated operational emissions from buildout of the proposed project are summarized and reviewed against the BAAQMD thresholds in Table 6, Unmitigated Operational Criteria Air Pollutant Emissions.

Table 6 Unmitigated Operational Criteria Air Pollutant Emissions

Emissions	ROG	NO_X	PM_{10}	$PM_{2.5}$
Total Annual Emissions (tons/year)[1,2]	0.75	0.68	0.55	0.21
BAAQMD Threshold (tons/year)	10	10	15	10
Exceeds Annual Threshold?	*No*	*No*	*No*	*No*
Project Average Daily Emissions (pounds/day)[1,2,3]	4.11	3.73	3.01	1.15
BAAQMD Threshold (pounds per day)	54	54	82	54
Exceeds Daily Threshold?	*No*	*No*	*No*	*No*

SOURCE: EMC Planning Group 2021a

NOTES:

1. Results may vary due to rounding.
2. Net project emissions are reported (difference between existing emissions and proposed emissions).
3. CalEEMod estimates operational criteria air pollutant emissions in tons per year. A U.S. ton is equal to 2,000 pounds. The emissions estimates in ton per year are multiped by 2,000 pounds to arrive at emissions volume in pounds per year. Average daily emissions (in pounds per day) are computed by dividing the annual operational emissions (in pounds per year) by the number of operational days (conservatively assuming 365 days of operation).

As summarized in Table 6, the proposed project would generate operational criteria air pollutant emissions that do not exceed the BAAQMD thresholds, resulting in a less than significant impact to regional air quality; the project's contribution of operational criteria air pollutant emissions to regional air quality conditions are less than cumulatively considerable.

Construction Emissions

Construction emissions include mobile source exhaust emissions, emissions generated during the application of asphalt paving material and architectural coatings, as well as emissions of fugitive dust during demolition and grading. The criteria air pollutants generated during construction of the proposed project were estimated using CalEEMod. Refer to Appendix B for detailed model results.

Table 7, Construction Criteria Air Pollutant Emissions, summarizes unmitigated criteria air pollutant emissions resulting from project construction and compares them against the BAAQMD thresholds.

Table 7 Construction Criteria Air Pollutant Emissions

Emissions	ROG[1]	NO_X[1]	Exhaust PM_{10}[1,2]	Total PM_{10}[1]	Total $PM_{2.5}$[1]
Total Annual Emissions (tons/year)[1]	0.27	0.29	0.12	0.03	0.02
Average Daily Emissions (pounds/day)[1,3]	1.39	1.59	0.62	0.15	0.10
BAAQMD Threshold (average daily emissions in pounds/day)	54	54	-	82	54
Exceeds Daily Threshold?	*No*	*No*	*N/A*	*No*	*No*

SOURCE: EMC Planning Group 2021a

NOTES:

1. Results may vary due to rounding.
2. Included in Total PM_{10}.
3. CalEEMod estimates construction criteria air pollutant emissions in tons per year. A U.S. ton is equal to 2,000 pounds. The emissions estimates in ton per year are multiped by 2,000 pounds to arrive at emissions volume in pounds per year. CalEEMod estimates a total of 390 construction days (see Section 3.0 of the CalEEMod results in Appendix B). Average daily emissions (in pounds per day) are computed by dividing the annual construction emissions (in pounds per year) by the number of construction days.

As summarized in Table 7, construction of the proposed project would not result in criteria air emissions that exceed the BAAQMD thresholds for criteria air pollutants. BAAQMD determined that a significant air quality impact would occur if a project does not incorporated measures to control fugitive dust emissions during construction. In compliance with General Plan Policy MS-13.1, the project would implement the BAAQMD best management practices during all phase of construction and ground disturbance. Implementation of these measures, recommended by BAAQMD and listed below as Standard Permit Conditions would further minimize the less than significant impacts associated with the grading and construction activities.

Standard Permit Conditions

- Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- Remove visible mud or dirt track-out onto adjacent public roads by using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- Pave new or improved roadways, driveways, and sidewalks as soon as possible.
- Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- Replant vegetation in disturbed areas as quickly as possible.

- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.

- Minimize idling times either by shutting off equipment when not in use, or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.

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

- Post a publicly visible sign with the telephone number and person at the lead agency to contact regarding dust complaints.

As discussed above, the operational and construction impacts would not exceed BAAQMD thresholds of significance for criteria air pollutant emissions and implementation of the Standard Permit Conditions above for fugitive dust control would result in a less than significant air quality impact. The contribution of the project's construction criteria pollutant emissions to regional air quality conditions is less than cumulatively considerable.

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

(**Less than Significant with Mitigation**)

Construction equipment and associated heavy-duty truck traffic generates diesel exhaust and fugitive dust ($PM_{2.5}$) that poses health risks for sensitive receptors. Diesel Particulate Matter (DPM), which is a known toxic air contaminant (TAC), is a component of diesel exhaust. EMC Planning Group prepared a health risk assessment (2021b) to address project construction community impacts on the surrounding off-site sensitive receptors. The closest sensitive receptors to the project site are single-family homes adjacent to the western boundary of the project site (EMC Planning Group 2020b). There are additional residences to the north, east, and east of the project site. In addition, the Caring Hearts Senior Care Home is located in the vicinity of the project site (approximately 390 feet northeast). The health risk assessment is included as Appendix C. The locations of sensitive receptors are shown in the health risk assessment Figure 2-2. The impact of existing sources of TACs on existing sensitive receptors and new incoming sensitive receptors was also addressed.

Construction Health Risks

The primary health risk impact issues associated with construction emissions are cancer risk and exposure to $PM_{2.5}$. Construction risk impacts were addressed by predicting increased lifetime cancer risk, the increase in annual $PM_{2.5}$ concentrations, and computing the Hazard Index (HI) for non-cancer health risks.

CalEEMod was used to estimate PM_{10} exhaust emissions (assumed to be DPM) and $PM_{2.5}$ fugitive emissions from construction activities. The AERMOD dispersion model was used to predict concentrations of DPM and $PM_{2.5}$ concentrations at sensitive receptors (residences, senior care home) located within 1,000 feet from the project site. The maximum increased cancer risks were calculated using the modeled TAC concentrations combined with the Office

of Environmental Health Hazard Assessment guidance for age sensitivity factors and exposure parameters as recommended by the BAAQMD.

Construction of the proposed project would increase lifetime cancer risk (cancer risk) for sensitive receptors within 1,000 feet of the project site who are exposed to the project's temporary construction DPM and $PM_{2.5}$ emissions. Downwind concentrations of DPM were calculated using AERMOD. The maximum-modeled annual DPM and $PM_{2.5}$ concentrations, were used to identify the maximally exposed individuals (MEIs). According to the health risk assessment, the construction residential MEI for cancer risks is located at a residence adjoining the west property line of the site (refer to Figure 2-2 of the health risk assessment).

The maximum cancer risks, $PM_{2.5}$ concentrations, and HI for project-related construction activities affecting the residential MEI are summarized in Table 8, Unmitigated Diesel Exhaust Particulate Matter Cancer Risks, $PM_{2.5}$ Concentrations and the HI at the MEI. Detailed health risk calculations are included in the project health risk assessment appendices (Appendix C).

Table 8 Unmitigated Diesel Exhaust Particulate Matter Cancer Risks, $PM^{2.5}$ Concentrations and the Hazard Index at the MEI

Construction Year	DPM PM_{10} Concentration (ug/m^3) [1,2]	Infant Child Cancer Risk (per million) [1]	Adult Cancer Risk (per million)[1]	Hazard Index[1]	$PM_{2.5}$ Concentration (ug/m^3) [1]
2023[3] (0.25 years during pregnancy)	0.15	2	-	0.03	0.42
2023	0.15	25	0.43	0.03	0.42
2024	0.03	5	0.09	0.01	0.04
Total Project Cancer Risk	-	**32**	**0.52**	**0.03 max**	**0.42 max**
Air District Single-Source Threshold	-	10.0	10.0	1.0	0.3
Exceeds Thresholds?	-	*YES*	*NO*	*NO*	*YES*

SOURCES: EMC Planning Group 2021b and Bay Area Air Quality Management District 2017.
NOTES:
1. Results have been rounded, and may, therefore, vary slightly.
2. The MEI is located at a house located to the west and adjacent to the project site. The UTM coordinates are approximately 592931.30 meters Easting and 4129513.40 meters Northing (Refer to Figure 2-2).
3. Per OEHHA and air district direction, pregnancies are included in the first-year calculations.

Model results show that unmitigated cancer risk for adults at the MEI would be 0.52 cases per million and the unmitigated HI would be 0.03, both of which are below the BAAQMD threshold of significance and are less than significant. The unmitigated cancer risk for infants and children at the MEI it would be 32 cases per million and the maximum PM2.5 concentrations would be 0.42, both of which exceed BAAQMD single-source thresholds. This is a significant impact and emissions reductions are necessary to reduce the cancer and health risks from exposures to project construction DPM emissions and $PM_{2.5}$ concentrations.

Residents of the Caring Hearts assisted living facility, located 390 feet northeast of the site, would be exposed to project emissions during construction, but at a concentration lower than at the MEI, which adjoins the west property line of the site. The risks at the senior facility will be less than the risks at the MEI, as the senior facility is located a greater distance from the project

emissions allowing for more dispersion of emissions and lower concentrations in the air. A health risk assessment prepared for the adjacent project at 1073 South Winchester Boulevard (EMC Planning Group 2020) indicated an unmitigated cancer risk of 0.28 (adult) cases per million at the senior facility, which is far below the BAAQMD cancer risk threshold of 10 cases per million and therefore, the proposed project would not significantly increase cancer risks at the facility.

Compliance with the City's Standard Permit Conditions for the control of fugitive dust and construction equipment exhaust would reduce cancer risks and other health risks associated with exposures to DPM and PM2.5 emissions, but not to a less-than-significant level. To determine the extent of emissions reduction measures that would be required to reduce the MEI infant/child cancer risk below the BAAQMD threshold, the modeled construction equipment inputs were modified to EPA Tier 4 standards equipped with CARB-certified Level 3 Diesel Particulate Filters. Table 9, Mitigated Construction Health Risks at the MEI, illustrates the reduced cancer risks at the location of the MEI that would result from the use of the equipment emissions reduction strategy described above. The modeling results show that project construction exhaust DPM emissions would be reduced by 85 percent. $PM_{2.5}$ emissions would be reduced by about 59 percent. As a result, cancer risks and $PM_{2.5}$ concentrations would not exceed BAAQMD single-source thresholds of significant and the impacts would be less than significant with mitigation. CalEEMod results are included in Appendix B. AERMOD calculations are included in the health risk assessment appendices (Appendix C).

Table 9 Mitigated Construction Health Risks at the MEI

Construction Year	DPM PM_{10} Concentration (ug/m^3) [1]	Infant Child Cancer Risk (per million)[1]	Adult Cancer Risk (per million)[1]	Hazard Index[1]	PM2.5 Concentration (ug/m^3)
2023[3] (0.25 years during pregnancy)[2]	0.03	0.45	0.10	0.01	0.25
2023	0.03	5.42	0.10	0.01	0.25
2024	0.03	4.18	0.07	0.01	0.03
Total Project Cancer Risk		**10.0**	0.17	**0.01 max**	**0.25 max**
Air District Single-Source Threshold	-	10.0	10.0	1.0	0.3
Exceeds Thresholds?	-	*NO*	*NO*	*NO*	*NO*

SOURCES: EMC Planning Group 2021b and Bay Area Air Quality Management District 2017.
NOTES:
1. Results have been rounded, and may, therefore, vary slightly.
2. Per OEHHA and air district direction, pregnancies are included in the first-year calculations.

IMPACT AQ-1: 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.

Mitigation Measures

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 $PM_{2.5}$ emissions of 59 percent. During construction, the project contractor shall implement the measures listed in the approved construction emissions 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:

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, or as determined by the qualified air specialist, 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; and

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.

Implementation of these mitigation measures in addition to the City's Standard Permit Conditions would reduce project construction health risks below the BAAQMD single-source thresholds.

Cumulative Health Risks

Health risk assessments typically look at all substantial sources of TACs that can affect sensitive receptors that are located within 1,000 feet of a project site (i.e., influence area). These sources include rail lines, highways, busy surface streets, and stationary sources

identified by the BAAQMD. Sources that contribute to the background for cumulative community health risks at the project site consist of high-volume roadways and existing stationary sources of TAC emissions.

The health risk assessment identified traffic on South Winchester Boulevard and Williams Road would exceed an average daily traffic of 10,000 vehicles. Other nearby streets are assumed to have less than 10,000 vehicles per day. The proposed project would contribute traffic to these roadways. The health risk assessment also identified one gas station about 250 feet from the site. In addition to these existing mobile and stationary sources of TACs, the health risk assessment analysis assumes that the project located at 1073 South Winchester Boulevard would be constructed concurrently with the proposed project. Therefore, construction emissions from the adjacent project are included in the analysis of cumulative health risks.

Health risks from exposures to existing mobile and stationary source TACs emissions sources and mitigated construction emissions from the adjacent project at 1073 South Winchester Boulevard (refer to Section 2.1 are summarized in Table 10, Cumulative Heath Risks at Construction MEIs.

Table 10 Cumulative Health Risks at Construction MEIs

Source	Cancer Risk (per million)[1]	Annual $PM_{2.5}$ Concentration ($\mu g/m^3$)[1]	Hazard Index[1]
Air District Cumulative-Source Threshold	100.0	0.80	10.0
S. Winchester Blvd. (24,470 ADT)	4.4	0.07	<0.01
Williams Road (10,820 ADT)	0.3	0.03	<0.01
Shell Gas Station (Facility ID: 112466)	0.01	0.0	-
1073 Winchester Blvd Construction Emissions (mitigated)	7.5 (infant)	0.18	<0.01
Cumulative Without the Project	12	0.28	<0.01
Project Construction (Unmitigated)	32 (infant)	0.42	0.03
Cumulative With Project (Unmitigated)[2]	42	0.70	0.03
Exceeds Thresholds? (Unmitigated)	NO	NO	NO

SOURCE: EMC Planning Group 2021b

NOTES:

1. Results have been rounded, and may, therefore, vary slightly.
2. Includes reductions due to implementation of mitigation measures AQ-1 and AQ-2.

The modeled cumulative community health risks would not exceed BAAQMD cumulative thresholds of significance with or without the project and are less than cumulatively considerable. The addition of unmitigated project emissions would not exceed the BAAQMD cumulative thresholds of significance. Therefore, the project's contribution to cumulative community health risks is less than cumulatively considerable.

Non-CEQA Impacts

For informational purposes only, the health risk assessment analyzed the impacts existing TAC sources would have on the new proposed sensitive receptors (i.e., residents) that the project would introduce. The health risk assessment found that none of the existing sources (Table 10) exceed the single-source thresholds of 10 cases per million cancer risk, a HI of 1.0 or $PM^{2.5}$ concentrations of 0.3 $\mu g/m^3$. As illustrated in Table 10, existing sources of TAC also would not exceed cumulative-source thresholds. Therefore, new sensitive receptors introduced by the project would not be exposed to unacceptable TACs from existing sources. No mitigation measures are required.

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

(**Less than Significant**)

The proposed project is a mixed-use development with residential and limited commercial space on the first two floors. While no tenants are identified in the commercial space at this time, the project is designed for commercial offices. Therefore, the proposed project would not result in any objectionable odors during the operational phase. During project construction, there may be nuisance diesel odors associated with operation of diesel construction equipment on-site, but this effect would be localized, sporadic, and short-term in nature. Therefore, temporary impacts from nuisance diesel odors on adjacent residential receptors would be less than significant.

4.4 BIOLOGICAL RESOURCES

4.4.1 Biological Resources Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?	☐	☒	☐	☐	1,3,8
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?	☐	☐	☐	☒	1,12
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.), through direct removal, filing, hydrological interruption, or other means?	☐	☐	☐	☒	1,5
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☒	☐	☐	1,5
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☒	☐	☐	1,3,4,5, 17,19
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☒	1,3,8,21

4.4.2 Environmental Setting

The project site is currently developed with a residence, one dilapidated structure, two sheds, a barn, and 54 existing trees, two of which front South Winchester Boulevard and would be retained. Additional ornamental landscaping is present throughout the site. An arborist report was prepared for the site, *1065 S Winchester Blvd Tree Recommendations* (Cord Associates Real Estate Services 2021), which included an inspection of the 54 trees found on the site and recommendations based on their health.

According to the Envision San José 2040 General Plan EIR, 13 special-status plants (p. 427) and over 50 special-status animals (p. 436) have the potential to occur in the City. However, due to the

disturbed/developed nature of the project site and because it is surrounded in all directions by densely developed properties, it has very low habitat value and is not expected to support special-status species, with the exception of special-status bats and nesting birds.

4.4.3 Regulatory Setting

Federal and State

Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act of 1989 prohibits killing, possessing, or trading in migratory birds, except in accordance with regulations prescribed by the Secretary of the Interior. This Act encompasses whole birds, parts of birds, bird nests, and eggs of over 800 native birds, including many common species.

California Endangered Species Act

Pursuant to the California Endangered Species Act and Section 2081 of the California Fish and Game Code, an Incidental Take Permit from the CDFW is required for projects that could result in the "take" of a state-listed Threatened or Endangered species. "Take" is defined under these laws as an activity that would directly or indirectly kill an individual of a species. If a project would result in the "take" of a state-listed species, then a CDFW Incidental Take Permit, including the preparation of a conservation plan, would be required.

Clean Water Act

Section 404 of the Clean Water Act of 1972 regulates the discharge of dredge and fill material into "Waters of the U.S." including wetlands. Certain natural drainage channels and wetlands are considered jurisdictional "Waters of the U.S." The U.S. Army Corps of Engineers (USACE) is responsible for administering the Section 404 permit program. The agency determines the extent of its jurisdiction as defined by ordinary high-water marks on channel banks. Wetlands are habitats with soils that are intermittently or permanently saturated, or inundated. The resulting anaerobic conditions naturally select for plant species known as hydrophytes that show a high degree of fidelity to such soils. Wetlands are identified by the presence of hydrophytic vegetation, hydric soils (soils intermittently or permanently saturated by water), and wetland hydrology according to methodologies outlined in the 1987 *Corps of Engineers Wetlands Delineation Manual* and the 2008 *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region (Version 2.0)*.

Activities that involve the discharge of fill into jurisdictional waters are subject to the permit requirements of the USACE. Discharge permits are typically issued on the condition that the project proponent agrees to provide compensatory mitigation which results in no net loss of wetland area, function, or value, either through wetland creation, restoration, or the purchase of wetland credits through an approved wetland mitigation bank. In addition to individual project discharge permits, the USACE also issues general nationwide permits applicable for certain activities.

Regional and Local

Santa Clara Valley Habitat Plan

The Santa Clara Valley Habitat Plan (Habitat Plan) covers an area of 519,506 acres, or approximately 62 percent of Santa Clara County. It was developed and adopted through a partnership between Santa Clara County; the Cities of San José, Morgan Hill, and Gilroy; the Santa Clara Valley Water District (Valley Water); the Santa Clara Valley Transportation Authority; the U.S. Fish and Wildlife Service; and the California Department of Fish and Wildlife. The Habitat Plan is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in southern Santa Clara County. The Santa Clara Valley Habitat Agency is responsible for implementing the plan, and implementing entities require a permit be obtained for covered projects.

City of San José Tree Ordinance

The City maintains the urban landscape partly by promoting the health, safety, and welfare of San José by controlling the removal of ordinance trees on private property (San José Municipal Code Section 13.32). Ordinance trees are defined as trees having a main stem or trunk which measures thirty-eight (38) inches or more in circumference (approximately 12 inches or more in diameter) at a height of fifty-four (54) inches above natural grade slope. Ordinance trees are generally mature trees that help beautify San José, slow erosion of topsoil, minimize flood hazards, minimize the risk of landslides, increase property values, and improve local air quality.

The City requires a permit for the removal of any live or dead ordinance tree. The City also requires a permit for the removal of any Unsuitable Tree from any private parcel of land unless a development permit or permit adjustment has been issued pursuant to Title 20 of the City's Municipal Code that allows the tree removal, or a tree removal permit that allows the removal of that Unsuitable Tree has first been issued and accepted by the applicant pursuant to the provisions of Municipal Code Section 13.32.

Envision San José 2040 General Plan

The City has policies to preserve, avoid, and mitigate impacts to biological resources in San José. The following General Plan goals and policies are applicable to the project (City of San José 2011):

> **Policy ER-5.1** Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance of activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.
>
> **Policy ER-5.2** Require that development projects incorporate measures to avoid impacts to nesting migratory birds.
>
> **Policy MS-21.4** Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.

Policy MS-21.5 As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse effect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.

Policy MS-21.6 As a condition of new development, require the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.

4.4.4 Impact Discussion

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

(**Less than Significant with Mitigation**)

The project site is currently developed with a residence, one dilapidated structure, two sheds, and a barn in a highly urbanized area of the City where biological resources are limited. Special-status plants are not expected to occur on the project site where there is urbanized development and removal of native plants, such as the project site. Except for roosting special-status bats and nesting birds, special-status animals are not expected to occur in urban areas of the City developed with structures and paving and that do not support natural plant communities since these areas do not meet habitat requirements for nesting, foraging, or cover.

Trees and/or buildings or structures on or adjacent to the project site could provide roosting habitat for state-listed species of special concern hoary bat (*Lasiurus cinereus*), pallid bat (*Antrozous pallidus*), and Townsend's big-eared bat (*Corynorhinus townsendii*). Hoary bat is a solitary species that generally prefers dense foliage of medium to large trees. Pallid bat prefers roosting in open, dry habitats with rocky areas. Townsend's big-eared bat prefers roosting and nesting found in caves, tunnels, mines, and buildings. These species have been identified as occurring within three miles to the north and south of the project site (CNDDB 2021). Construction activities at the project site could result in the disturbance of roost and natal sites occupied by special-status bats on or adjacent to the project site, if present. Implementation of mitigation measures BIO-1 and BIO-2would reduce this potentially significant impact to special-status bats to a less-than-significant level.

IMPACT BIO-1: The project removes trees and/or buildings that may provide roosting habitat for special-status bats.

Mitigation Measures

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.

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.

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.

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:

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 (c) 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.

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.

With implementation of the above mitigation measure, the project applicant would be required to obtain a qualified biologist prior to the commencement of construction activities to survey for special-status bats. If found, the qualified biologist would develop an appropriate plan to remove and/or mitigate for the loss of roosting habitat. This would reduce the potentially significant adverse impacts on roosting special-status bats to a less-than-significant level.

Mature trees and other ornamental landscaped vegetation within and adjacent to the project site may provide nesting habitat for migratory birds. Raptors and their nests are protected under the Migratory Bird Treaty Act of 1928 and California Fish and Game Code. The removal of trees that may provide nesting habitats would be a significant impact that requires the following mitigation measure to protect potentially occurring nesting birds and reduce the impact to a less-than-significant level.

IMPACT BIO-2: The project removes trees that may provide nesting bird habitat.

Mitigation Measure

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).

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.

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.

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.

With implementation of the above mitigation, the project developer would be required to obtain a qualified biologist prior to the commencement of construction activities if construction activities occur within the bird nesting season. The qualified biologist would be present during the bird nesting season if the project is under construction, conduct surveys and baseline monitoring, and designate buffers so as to protect any active nests within the project area. This would reduce the potentially significant adverse impacts on nesting birds to a less-than-significant level.

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

(No Impact)

The developed project site is located within an urban area and does not contain any sensitive natural communities. The nearest riparian habitats are the Los Gatos Creek, located approximately 1.2 miles southeast of the project site, and the San Tomas Aquino Creek, located approximately 0.75-mile west of the project site. Therefore, the City's Riparian Corridor Protection and Bird-Safe Design Policy (Council Policy 6-34), which is applicable to projects within 300 feet of a riparian corridor's top of bank or edge of vegetation (City of San José 2016), is not applicable to the proposed project. The project would not conflict with the Riparian Corridor Policy, or have an adverse effect on any riparian habitat, and would not result in a loss of sensitive habitat.

c) Would the project have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.), through direct removal, filing, hydrological interruption, or other means?

(No Impact)

According to the City's Public GIS Viewer, National Wetlands Inventory (USFWS 2021) and current aerial photographs, there are no wetlands or waterways present on, or adjacent to, the project site.

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

(Less than Significant with Mitigation)

Terrestrial species must navigate a habitat landscape that meets their needs for breeding, feeding and shelter. Natural and semi-natural components of the landscape must be large enough and connected enough to meet the needs of all species that use them. Wildlife movement corridors provide connectivity between habitat areas, enhancing species richness and diversity, and usually also provide cover, water, food, and breeding sites.

The project site is located within an urbanized area, not within any previously defined essential connectivity areas. The project site is not likely to facilitate major wildlife movement due to current active disturbance. However, the project site involves the removal of onsite buildings and trees that may provide roosting habitat for special-status bats and nesting habitat for migratory birds. Mitigation Measures BIO-1, BIO-2, and BIO-3 identified in question a) above, would be required in order to reduce this potential impact to less than significant.

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

(**Less than Significant with Mitigation**)

Pursuant to the *1065 S. Winchester Blvd Tree Recommendations* ("tree report") prepared in March 2021 for the proposed project, 54 trees are present on the site (Appendix E). According to Sheet 034-L "Tree Disposition" of the project plans, 49 of these trees would be removed by the project, and five (5) would be retained. Thirty (30) of the 49 existing trees proposed for removal are ordinance-sized trees (i.e., 12 inches or more in diameter).

The proposed project would be required to adhere to the City's tree removal permitting and tree replacement requirements, as outlined in the standard permit condition below.

Standard Permit Condition

Tree Replacement. The removed trees would be replaced according to tree replacement ratios required by the City, as provided in Table 11, Tree Replacement Ratio.

- If there is insufficient area on the project site to accommodate the required replacement trees, one or more of the following measures shall be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement, at the development permit stage. Changes to an approved landscape plan requires the issuance of a Permit Adjustment or Permit Amendment:
- The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the project site, at the development permit stage.
- Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of building permit(s), in accordance with the City Council approved Fee Resolution in effect at the time of payment. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

Table 11 Tree Replacement Ratio

Circumference of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or more	5:1	4:1	3:1	15-gallon
19 to 38 inches	3:1	2:1	None	15-gallon
Less than 19 inches	1:1	1:1	None	15-gallon

- SOURCE: Carpira Design Group 2021
- x:x = tree replacement to tree loss ratio
- NOTES:
- (1) Trees greater than 12" diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.
- (2) Trees greater than or equal to 38-inch circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For Multifamily Residential, Commercial, and Industrial properties, a permit is required for removal of trees of any size.
- (3) A 38-inch tree in circumference equals 12.1 inches in diameter.
- (4) A 24-inch box tree = two 15-gallon trees
- (5) Single Family and Two-dwelling properties may be mitigated at a 1:1 ratio.

According to the project plans, 30 ordinance-sized and 19 non-ordinance-sized trees will be removed. The applicant proposes to plant 86 new 24-inch box-sized trees and eight 15-gallon-sized trees, for a total of 180 trees. The species proposed for planting include, but are not limited to, Italian oak, western redbud, queen palm, and timber bamboo. The full list of species is identified on the project's proposed landscape plan (Sheets 030-L and 031-L). This meets the tree replacement requirements and no further mitigation is required.

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

(No Impact)

The project site is located within the Santa Clara Valley Habitat Plan boundaries. According to the *Habitat Agency Geobrowser* and current aerial photographs, the project site parcels are mapped as Urban-Suburban (developed) land cover and are surrounded by developed parcels. The site is not located in a land cover fee zone or any other special fee zone. No special-status plant or wildlife surveys are required, and the site is not in the Urban Reserve System Interface Zone. The proposed project would be required to adhere to the Habitat Plan, as outlined in the standard permit condition below.

Standard Permit Condition

Santa Clara Valley Habitat Plan. The project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant would be required to submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee for approval and payment of all applicable fee prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at www.scv-habitatplan.org.

4.5 CULTURAL RESOURCES

4.5.1 Cultural Resources Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Cause a substantial adverse change in the significance of a historical resource pursuant to section 15064.5?	☒	☐	☐	☐	1,14
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to section 15064.5?	☐	☒	☐	☐	1,3,5,55
c) Disturb any human remains, including those interred outside of dedicated cemeteries?	☐	☐	☒	☐	1,3,5

Cultural Resources checklist is addressed in the EIR.

4.6 ENERGY

4.6.1 Energy Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					1, 2, 35, 37, 38, 39, 49
a) Result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	☐	☐	☒	☐	
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	☐	☐	☐	☒	1, 48, 49

4.6.2 Environmental Setting

Pacific Gas and Electric, one of the five largest utilities in the state, is the primary purveyor of electricity and natural gas in the City of San José. Pacific Gas and Electric operates a major network of electricity and natural gas transmission lines within its service area, including San José. San José Clean Energy is the City's new electricity supplier, providing residents and businesses with cleaner, affordable energy, is operated by the City of San José's Community Energy Department.

For more than a decade, federal, state, and regional energy agencies and energy providers have been focused on reducing growth in fossil-fuel based energy demand, especially in the form of transportation fuels and electricity. Key environmental goals have been established to reduce air pollutants and GHGs. As a result, investments in a range of transportation technologies, alternative energy technologies, energy efficiency and energy conservation programs have been increasing, as has the focus on land use planning as a tool to reduce vehicle trips/lengths and transportation related energy use.

4.6.3 Regulatory Setting

Energy efficiency, energy conservation, and transportation fuel efficiency (through vehicle trip reduction and improved mileage) goals are embodied in many federal, state, and local statutes and policies. Representative state energy efficiency and conservation, and transportation energy demand guidance, regulations, and legislation are summarized below, as are those of the City of San José.

State

California Building Codes

California's Energy Efficiency Standards for Residential and Nonresidential Buildings (California Code of Regulations, Title 24, Part 6) (BEES), were first established in 1978 to reduce California's energy consumption. The California Energy Code is updated every three years by the California Energy Commission. Adopted by the California Energy Commission in May 2018, the 2019 BEES went into effect on January 1, 2020. The 2019 BEES are structured to achieve the state's goal that all new low-rise residential buildings of three stories or less (including single-family homes) be zero net energy. Low-rise residential buildings and non-residential buildings built to the 2019 BEES will

use about 30 percent less energy compared to the 2016 BEES (California Energy Commission 2018). The California Building Standards Code is enforceable at the project level.

The Green Building Standards Code (also known as CALGreen), which requires all new buildings in the state to be more energy efficient and environmentally responsible, was most recently updated in July 2019. These comprehensive regulations are intended to achieve major reductions in interior and exterior building energy consumption.

Assembly Bill 1493 (Pavley I Rule)

AB 1493 was enacted on July 22, 2002. It requires CARB to develop and adopt regulations that improve fuel efficiency of vehicles and light-duty trucks. Pavley I requirements apply to these vehicles in the model years 2009 to 2016.

Renewable Energy Legislation/Orders

The California Renewable Portfolio Standard Program, which requires electric utilities and other entities under the jurisdiction of the California Public Utilities Commission to meet 20 percent of their retail sales with renewable power by 2017, was established by SB 1078 in 2002. The program was subsequently expanded by the renewable electricity standard in September 2010, requiring all utilities to meet a 33 percent target by 2020. On September 10, 2018, former Governor Brown signed into law SB 100 and Executive Order B-55-18. SB 100 raises California's Renewable Portfolio Standard requirement to 50 percent by December 31, 2026, and to 60 percent by December 31, 2030. Executive Order B-55-18 establishes a carbon neutrality goal for California by 2045 and a goal to maintain net negative emissions thereafter.

Senate Bill 743

Effective July 1, 2020, SB 743 updates the way transportation impacts are measured in California for new development projects, making sure they are built in a way that allows Californians more options to drive less. SB 743 will help California achieve its climate commitments, preserve the environment, improve health and safety, and boost its economy by prioritizing co-located jobs, services, and housing. SB 743 will also reduce the time spent in vehicles to get to places, thereby reducing fuel consumption.

Local

City of San José REACH Codes

In September 2019, San José City Council approved a building reach code ordinance that encourages building electrification and energy efficiency, requires solar-readiness on nonresidential buildings, and requires electric vehicle (EV) readiness and EV equipment installation. In October 2019, the City Council approved an ordinance prohibiting natural gas infrastructure in new detached accessory dwelling units, single-family, and low-rise multi-family buildings that would supplement the reach code ordinance. Both of these ordinances started to apply to new construction on January 1, 2020. Reach codes are building codes that are more advanced than those required by the state. Every three years, cities and counties across California adopt new Building Standards Code (Standards) or Title 24 of the California Code of Regulations. Cities can also choose to adopt local reach codes, on top of these Standards, at any time.

Climate Smart San José

Approved by the City Council in February 2018, Climate Smart San José utilizes a people-focused approach, encouraging the entire San José community to join an ambitious campaign to reduce greenhouse gas emissions, save water and improve quality of life. The adoption of Climate Smart San José made San José one of the first U.S. cities to chart a path to achieving the greenhouse gas emissions reductions contained in the international Paris Agreement on climate change. Climate Smart San José focuses on three areas: energy, mobility, and water.

Envision San José 2040 General Plan

The General Plan includes the following energy conservation and renewable energy use policies that are also applicable to the proposed project:

> **Policy MS-1.6** Recognize the interconnected nature of green building systems, and, in the implementation of Green Building Policies, give priority to green building options that provide environmental benefit by reducing water and/or energy use and solid waste.
>
> **Policy MS-2.3** Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
>
> **Policy MS-2.4** Promote energy efficient construction industry practices.
>
> **Policy MS-2.6** Promote roofing design and surface treatments that reduce the heat island effect of new and existing development and support reduced energy use, reduced air pollution, and a healthy urban forest. Connect businesses and residents with cool roof rebate programs through City outreach efforts.
>
> **Policy MS-2.11** Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize the effectiveness of passive solar design).
>
> **Policy MS-14.4** Implement the City's Green Building Policies (see Green Building Section) so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.

Council Policy 6-32 Private Sector Green Building Policy

Council Policy 6-32 Private Sector Green Building Policy, adopted in October 2008, establishes baseline green building standards for private sector new construction and provides a framework for implementing these standards. It promotes practices in building design, construction, and maintenance that reduce energy, water and other resource use. Private developments are required to implement green building practices if they meet the applicable project type and size criteria defined

below in Table 12, Private Sector Green Building Policy Applicable Projects. For mixed-use projects, only the component(s) of the project that meet the project size threshold shown in the table are required to comply with the green building standards (City of San José 2008).

Table 12 Private Sector Green Building Policy Applicable Projects

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

SOURCES: City of San José 2008

NOTES:

1. The Leadership in Energy and Environmental Design (LEED) Green Building Rating System is a third-party certification program and the nationally accepted benchmark for the design, construction and operation of high-performance green buildings. The LEED system offers levels of certification for new construction referred to as Certified, Silver, Gold, and Platinum.
2. REACH CODE. In September 2019, San José City Council approved a building reach code ordinance that encourages building electrification and energy efficiency, requires solar-readiness on nonresidential buildings, and requires electric vehicle (EV)-readiness and EV equipment installation. In October 2019, Council approved an ordinance prohibiting natural gas infrastructure in new detached accessory dwelling units, single-family, and low-rise multi-family buildings that would supplement the reach code ordinance. Both of these ordinances have been required to be applied to new construction as of January 1, 2020.
3. Administered by Build It Green, GreenPoint Rated is a green building rating system which can be used to assess the environmental characteristics of a home. GreenPoint Rated assigns point values to recommended practices based on their benefits to the homeowner and the environment. If a home meets minimum point requirements in each category and scores more than 50 total points, it earns the right to bear the GreenPoint Rated label.

4.6.4 Impact Discussion

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

(**Less than Significant**)

Energy impacts are assessed based on the proposed project energy demand profile and on its relationship to the state's energy efficiency regulations and the City's land use planning policies and energy-related regulations as summarized below.

Existing Energy Demand

The existing structures on the project site (including a single-family residence, a dilapidated structure, two sheds, and a barn) consume minimal energy in the form of electricity, natural gas, and vehicles used by the residents consume minimal transportation fuel. Because existing energy use is nominal, it was not quantified or subtracted from projected project energy demand.

Projected Energy Demand

The proposed project would result in increased demand for electricity, natural gas and transportation fuel. A summary of projected energy demand is provided below.

Electricity. According to the California Energy Commission Energy Consumption Data Management System (2021a), in 2019, total electricity consumption in Santa Clara County was 16,664,460,569 kilowatt-hours (kWh). Section 5.3, Energy by Land Use – Electricity, in the CalEEMod results included in Appendix B show projected electricity demand would be approximately 881,064 kWh per year. Projected electricity demand would be less than 0.01 percent of the total 2019 Santa Clara County electricity demand.

Natural Gas. According to the California Energy Commission Energy Consumption Data Management System (2021b), in 2019, total natural gas consumption in total natural gas consumption in Santa Clara County was 459,720,764 therms. Section 5.2, Energy by Land Use – Natural Gas, in the CalEEMod results included in Appendix B show that projected natural gas demand would be about 1,217,928,000 British Thermal Unit (BTU) per year or 12,179 therms per year (1 therm = 100,000 BTU). Projected natural gas demand would be approximately 0.0026 percent of the total 2019 Santa Clara County natural gas demand.

Transportation Fuel. The proposed project would generate new traffic trips that would result in increased demand for and consumption of transportation fuel. Vehicle trips can be translated into vehicle miles traveled (VMT) for the purpose of projecting transportation fuel demand. CalEEMod results included in Appendix B show that the projected annual VMT would be 1,236,137 miles. The 2021 Emissions Factor Model (EMFAC) Version 1.01 was used to forecast annual transportation fuel use based on the projected annual VMT. The EMFAC results included as Appendix D show projected transportation total (from diesel, gas, and hybrid vehicles) fuel demand of about 49,760 gallons per year (EMC Planning Group 2021c).

A proposed project could be considered to result in significant environmental effects due to wasteful, inefficient, or unnecessary consumption of energy if its energy demand is extraordinary relative to common land use types, its gross energy demand is excessive relative to total demand in Santa Clara County and/or it fails to comply with California energy efficiency/conservation regulations that are within the applicant's control.

The proposed project is a redevelopment, infill, high-efficiency, mixed-use development in an urban environment with a diversity of complementary land uses and frequent transit services resulting in low VMT, and therefore, low transportation fuel demand.

Conclusion

The project is a common land use type whose electricity and natural gas demand would not be excessive. As presented above, projected electricity and natural gas demand would not be excessive relative to cumulative electricity and natural gas demand in Santa Clara County. Further, the City enforces the California Building Standards Code through the development review process. That enforcement is the primary mechanism through which the applicant would be required to implement energy efficiency/conservation measures. Furthermore, with implementation of the best management practices as required during construction, the short-term energy impacts associated with use of fuel or energy related to construction would not be

substantial. Required conformance with the Council Policy 6-32 green building requirements would also result in energy reduction benefits as would the required conformance with the City's REACH code.

The proposed project would consume energy, but it would not be inefficient, wasteful, or unnecessary. Therefore, the impact would be less than significant.

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

(**No Impact**)

As discussed in Regulatory Setting above, there are no regulations at the state or local level that would mandate that the proposed project must include on-site renewable energy sources. The California Building Standards Code would require the proposed project to be built to the Building Energy Efficiency Standards in effect at the time the building permit is issued. The 2019 BEES do not require on-site renewable energy for residential buildings of four stories or more. At the local level, the residential component of the project is required to comply to Council Policy 6-32. By incorporating energy efficient measures per the Building Energy Efficiency Standards and complying with local green building policies, the project would comply with existing State and local energy standards and would not conflict with or obstruct a state or local plan for energy efficiency, as would the required conformance with the REACH code.

4.7 GEOLOGY/SOILS

4.7.1 Geology/Soils Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:					
1. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42?	☐	☐	☐	☒	1,9
2. Strong seismic ground shaking?	☐	☐	☒	☐	1,9
3. Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐	1,9
4. Landslides?	☐	☐	☐	☒	1,9
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐	
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	☐	☐	☒	☐	1,9,54
d) Be located on expansive soil, creating substantial direct or indirect risks to life or property?	☐	☐	☒	☐	1,9
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒	1,5,11, 16
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☒	☐	1,3

4.7.2 Environmental Setting

A geotechnical feasibility study was not prepared for the proposed project. However, a *Geotechnical Feasibility Study* (geotechnical study) was prepared by Cornerstone Earth Group in November 2019 for the property adjacent to and south of the project site (1073 South Winchester Boulevard). As the two sites are adjacent to each other and the environmental condition of the site are similar, this section of the IS is prepared based upon the geotechnical study from the adjacent property, which can be found in Appendix F. As required by the City's standard conditions of approval, a soils investigation report will be submitted prior to the issuance of a grading permit.

Seismicity

The San Francisco Bay area is one of the most seismically active areas in Santa Clara County. The major earthquake faults in the region are the San Andreas, located near the Santa Cruz Mountains, and the Hayward and Calaveras fault system, located in the Diablo Mountain Range. Other potentially active faults within San José include the Berryessa, Crosley, Clayton, Quimby, Shannon, Evergreen, and Silver Creek faults (City of San José 2011). The site adjacent to the project site is not located within a currently designated Alquist-Priolo Earthquake Fault Zone (Cornerstone Earth Group 2019).

Liquefaction and Lateral Spreading

Seismic activity can also result in hazards from ground failure, such as liquefaction and lateral spreading. The majority of San José is located within the Santa Clara Valley, which is a broad alluvial plain with alluvial soils extending several hundred feet below the ground surface. During strong seismic shaking, loose, saturated sand and silt layers can soften, resulting in substantial ground deformation. Factors that influence liquefaction potential include geologic age of a soil deposit, soil type, soil cohesion, and ground water level. Along active stream channels, liquefaction susceptibility is typically high (City of San José 2011, p. 504).

Lateral spreading is a type of ground failure that can occur where an open slope face is present. It typically occurs as a form of horizontal displacement of relatively flat-lying material toward an open face such as an excavation (either temporary or permanent), channel, or body of water. This movement is generally due to failure along a weak plane in soils and may be associated with liquefaction. Areas of San José that are most prone to lateral spreading include lands are adjacent to the Guadalupe River and Coyote Creek, where liquefaction probability is greatest and in the marshland deposits of northernmost parts of San José (City of San José 2011, p. 504).

The project site is not located along stream channels. The nearest riparian habitats are the Los Gatos Creek, located approximately 1.2 miles southeast of the project site, and the San Tomas Aquino Creek, located approximately 0.75 miles west of the project site. The site is also not mapped within a California Seismic Hazard Zone for liquefaction (City of San José 2021).

Landslides

Landslides occur when the stability of a slope changes from a stable to an unstable condition. Most landslide activity has occurred in the Diablo Range on the east side of San José with lesser amounts in the Santa Teresa Hills and Santa Cruz Mountains to the southwest (City of San José 2011, p. 498). In hillside areas and along creeks, earthquakes can trigger landslides. Hazard areas extend into developable areas of the City at the edge of the East Foothills, in the Silver Creek Hills, the northern tip of the Santa Teresa Hills, and locations at the edge of the Almaden Valley. Figure 3.6-1 of the General Plan EIR illustrated areas considered susceptible to earthquake-induced landslides (City of San José 2011). The site is flat and not located within a California Seismic Hazard Zone for landslides (City of San José 2021).

Expansive and Weak Soils

Expansive soils have a high shrink-swell potential and occur where a sufficient percentage of certain clay materials are present in the soil. These soil conditions can impact the structural integrity

of buildings and other structures. Much of the soil in San José is moderately to highly expansive. Moderately to highly expansive soils are found both on the valley floor and in hillside areas. Expansive soils on sloping hillsides are subject to soil creep, which can induce lateral forces on foundations and retaining walls. The surficial soils on the property immediately south of the project site are anticipated to be moderately to highly expansive (Cornerstone Earth Group 2019, p. 4).

Erosion

Erosion typically occurs when bare soils are exposed to water or wind. Erosion can occur as a result of rainfall in areas where construction activities have exposed soils and bedrock. In San José, erosion occurs primarily from the concentration of water generated on hillsides where erosion potential is high to very high. In addition to erosion of hillsides, erosion occurs in stream and creek beds and banks during high flow periods.

Paleontological Resources

Paleontologic resources include fossils – the remains or traces of once-living organisms preserved in sediments or sedimentary rocks – and the geologic context in which they occur. Paleontologic sensitivity is defined as the potential for a geologic unit to produce scientifically significant fossils. This is determined by rock type, past history of the rock unit in producing significant fossils, and fossil localities that are recorded from that unit. Paleontologic sensitivity is derived from the fossil data collected from the entire geologic unit, not just from a specific survey. Potentially sensitive areas for the presence of paleontological resources within San José are identified on Figure 3.11-1 in the General Plan EIR, based on the underlying geologic formation. Areas with the highest sensitivity are those where geologic formations known to contain fossils are found close to the ground surface. According to Figure 3.11-1, the project site is located within an area of high sensitivity below ground level.

4.7.3 Regulatory Setting

State

Alquist-Priolo Act

The Alquist-Priolo Earthquake Fault Zoning Act was enacted in 1972 in the aftermath of the San Fernando earthquake. The Alquist-Priolo Act prohibits the siting of most structures for human occupancy across traces of active faults that constitute a potential hazard to structures from surface faulting or fault creep. Single family homes that are not part of a development project of four or more units are exempt. Under the Alquist-Priolo Act the State Geologist establishes earthquake fault regulatory zones and issues maps identifying those zones. Alquist-Priolo Zones are mapped on the eastern portions of San José boundaries, east of U.S. Highway 101.

Seismic Hazards Mapping Act

Under the Seismic Hazards Mapping Act the state designates seismic hazard zones to protect from the effects of strong ground shaking, earthquake- induced landslides, liquefaction, or other ground failures associated with seismic activity.

California Building Code

Every three years the California Building Standards Commission adopts an updated version of the building codes. The building codes are based on national model codes, amended by the State as the California Building Code, and often further amended by local jurisdictions. The 2016 California Building Standards Code (Cal. Code Regs., Title 24), the current version of the code, was published on July 1, 2019, with an effective date of January 1, 2020.

Local

Envision San José 2040 General Plan

The General Plan includes updated hazards policies that address geologic and seismic hazards. The following policies are specific to geologic resources and apply to the proposed project

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

Policy EC-4.1 All new or remodeled habitable structures shall be designed and built in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.

Policy EC-4.2 Development in areas subject to soils and geologic hazards, including un-engineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.

Policy EC-4.4 All new development shall conform to the City of San José's Geologic Hazard Ordinance.

Policy EC-4.5 Ensure that any development activity that requires grading does not impact adjacent properties, local creeks and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, are adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 15 and April 15.

Action EC-4.11 Require the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards, and require review and implementation of mitigation measures as part of the project approval process.

Action EC-4.12 Require review and approval of grading plans and erosion control plans (if applicable) prior to issuance of grading permits by the Director of Public Works

Policy ES-4.9 Permit development only in those areas where potential danger to the health, safety, and welfare of persons in that area can be mitigated to an acceptable level.

Policy ER-10.3 Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

City of San José Municipal Code – Title 24

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

4.7.4 Impact Discussion

a.1) Would the project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42?

a.2) Would the project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving strong seismic ground shaking?

a.3) Would the project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving seismic-related ground failure, including liquefaction?

a.4) Would the project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving landslides?

(Less Than Significant)

Fault Rupture. The project site not located within a designated Alquist-Priolo Earthquake Fault Zone and, therefore, fault rupture at the project site is not anticipated. Therefore, the proposed project would not directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault.

Seismic Ground Shaking. The project site is in a seismically active region of California and strong ground shaking would be expected during the life of the proposed project. The proposed project would be designed to meet current California Building Code standards in order to reduce the potential for substantial adverse effects related to ground shaking.

Seismic-related Liquefaction. The project site is not mapped within a California Seismic Hazard Zone for liquefaction (City of San José 2021) and due to the deep groundwater table in the vicinity (Cornerstone Earth Group 2019), the potential for liquefaction impacting site development is low. Compliance with the standard permit conditions identified below would ensure the potential, significant impact would be reduced to a less-than-significant level.

Landslides. The proposed project is not located within a California Seismic Hazard Zone for landslides and due to the flat topography of the project site (City of San José 2021), the potential for landslides at the project site is low.

Given that the project site is located within a seismically active region, the following Standard Permit Conditions are required to be implemented to reduce seismic-related impacts to a less than significant level.

Standard Permit Conditions

To avoid or minimize potential damage from seismic shaking, the project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved soils investigation. The soils investigation report must be submitted to and accepted by the Public Works Project Engineer in Development Services prior to the issuance of a grading permit. Foundation, earthwork, utility trenching, retaining and drainage recommendations should be included in the report. The report must be signed and stamped by a Registered Geotechnical/Civil Engineer. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.

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

(**Less Than Significant**)

The 0.93-acre project site is currently developed with a residence and outbuildings and includes minimal impervious surfaces. Ground disturbance would be required for the demolition of the existing buildings and hardscape, grading, and construction of the proposed development. Ground disturbance could expose soils and increase the potential for wind- or water-related erosion and sedimentation at the project site until construction is complete.

Prior to the issuance of a grading permit, the applicant would be required to submit an Erosion Control Plan to the Department of Public Works. The Erosion Control Plan may include BMPs as specified in Association of Bay Area Government's Manual of Standards Erosion & Sediment Control Measures for reducing impacts on soil erosion from construction activities. In addition, the following standard permit conditions would be required in order to reduce erosion impacts during construction to a less than significant level.

Standard Permit Conditions

- All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
- Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
- Ditches shall be installed to divert runoff around excavations and graded areas if necessary.
- The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.

Erosion impacts could also occur post-construction as well. Therefore, the project is required to comply with the specific Site Design, Pollutant Source Control, and Stormwater Treatment Control Measures demonstrating compliance with Provision C.3 of the MRP (NPDES Permit Number CAS612008) and would be included in the project design to the satisfaction of the Director of Planning, Building and Code Enforcement and Director of Public Works, the directors' designees.

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

(**Less Than Significant**)

Landslide. The proposed project is not located within a California Seismic Hazard Zone for landslides and due to the flat topography of the project site (City of San José 2021), the potential for landslides at the project site is low.

Lateral Spreading. There are no open faces within an appropriate distance of the site adjacent to the project site where lateral spreading could occur (Cornerstone Earth Group 2019); therefore, the potential for lateral spreading to affect the project site is low.

Subsidence. The Santa Clara Valley Water District began aquifer recharge effort in the mid-1930s by building dams, importing water, and implementing a pumping tax in 1964. These projects proved successful; as the groundwater levels began to recover, some long-dry wells started flowing again, and subsidence was halted (USGS 2021).

Liquefaction and Collapse. The project site is not mapped within a California Seismic Hazard Zone for liquefaction (City of San José 2021) and due to the deep groundwater table in the vicinity (Cornerstone Earth Group 2019), the potential for liquefaction impacting site development is low. Compliance with the standard permit conditions identified above would ensure the potential, significant impact would be reduced to a less-than-significant level.

This issue is addressed above in the response to checklist question a) and would be reduced to a less than significant level with implementation of standard permit conditions.

d) Would the project be located on expansive soil, creating substantial direct or indirect risks to life or property?

(Less Than Significant)

According to the geotechnical study, the soils in the vicinity are moderately to highly expansive (Cornerstone Earth Group 2019), which could create substantial direct or indirect risks to life or property as a result of development of the proposed project. This issue is addressed above in the response for checklist question a) and would be reduced to a less than significant level with standard permit conditions presented above.

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

(No Impact)

All sewage generated within the San José Water's service area, which includes the project site, is sent to the San José/Santa Clara Regional Wastewater Facility via the City and West Valley Sanitation District collection systems (San José Water Company 2021, p. 6-7). The proposed project would connect into the existing six-inch sanitary sewer line located in South Winchester Boulevard. There would be no septic tanks or alternative wastewater disposal systems.

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

(Less Than Significant)

The project site is flat and does not contain unique geologic features. Therefore, the proposed project would not have an impact on a unique geological feature.

According to the City's General Plan EIR's Figure 3.11-1, the project site is not in an area of high surface paleontological sensitivity; however, it is identified as being within an area of high sensitivity below ground level. The project site, if disturbed, is not known to contain any unique paleontological resources and the project is not expected to directly or indirectly destroy a unique paleontological resource or site or unique geologic feature; however, it is possible that unique paleontological resources may be encountered during construction activities. In accordance with General Plan Policy ER-10.3, the following standard permit condition would be implemented by the project to reduce and avoid potential impacts to as yet unidentified buried unique paleontological resources:

Standard Permit Condition

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

finds. The project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of PBCE or Director's designee.

4.8 GREENHOUSE GAS EMISSIONS

4.8.1 Greenhouse Gas Emissions Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☒	☐	1, 7
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☒	☐	1, 7

4.8.2 Environmental Setting

See also Appendix G for the proposed projects' greenhouse gas reduction strategy.

Causes and Effects of Climate Change

The greenhouse effect naturally regulates the Earth's temperature. However, human activity has increased the intensity of the greenhouse effect by releasing increasing amounts of greenhouse gases (GHG) emissions into the atmosphere. GHGs can remain in the atmosphere for decades or even hundreds of thousands of years (depending on the particular GHG). The GHG emissions that are already in the atmosphere will continue to cause climate change for years to come, just as the warming being experienced now is the result of emissions produced in the past.

Increased concentrations of GHGs in the atmosphere result in increased air, surface, and ocean temperatures. Many of the effects and impacts of climate change stem from resulting changes in temperature and meteorological responses to those changes. Effects of climate change include, but are not limited to: reduced snowpack, more frequent and extreme storm events, sea level rise, reduced water supply availability, diminished air quality, increased wildfire hazards, increased public health concerns, and ecosystem changes.

Greenhouse Gas Types

GHGs are emitted by natural processes and human activities. The human-produced GHGs most responsible for global warming are carbon dioxide, methane, nitrous oxide, and chlorofluorocarbons. In 2018, GHG emissions in the United States consisted of 81 percent of carbon dioxide, 10 percent of methane, 7 percent of nitrous oxide, and 3 percent of chlorofluorocarbons (United States Environmental Protection Agency 2020). While carbon dioxide represents the vast majority of the total volume of GHGs released into the atmosphere, the release of even small quantities of other types of GHGs can be significant for their contribution to climate change.

4.8.3 Regulatory Setting

The federal government has taken significant regulatory steps toward addressing climate change. Generally, California policy and regulations and regulations implemented at the regional and local levels are as or more comprehensive and stringent than federal actions; therefore, this section

focuses on state, regional, and local regulatory actions whose implementation would lessen the contribution of the proposed project to climate change.

State

Assembly Bill 32

In September 2006, the California State Legislature enacted the California Global Warming Solutions Act of 2006, also known as AB 32. AB 32 requires that statewide GHG emissions be reduced to 1990 levels by 2020.

Senate Bill 32

Effective January 1, 2017, SB 32 requires California to reduce its statewide GHG emissions by the year 2030 so that they are 40 percent below those that occurred in 1990.

California Renewables Portfolio Standard

In 2015, the Legislature enacted SB 350, which embodies a policy encouraging a substantial increase in the use of electric vehicles and increased the Renewable Portfolio Standard to require 50 percent of electricity generated to be from renewables by 2030.

On September 10, 2018, former Governor Brown signed into law SB 100 and Executive Order B-55-18. SB 100 raises California's Renewable Portfolio Standard requirement to 50 percent renewable resources target by December 31, 2026, and to achieve a 60 percent target by December 31, 2030. SB 100 also requires that retail sellers and local publicly owned electric utilities procure a minimum quantity of electricity products from eligible renewable energy resources so that the total kilowatt hours of those products sold to their retail end-use customers achieve 44 percent of retail sales by December 31, 2024, 52 percent by December 31, 2027, and 60 percent by December 31, 2030. Executive Order B-55-18 establishes a carbon neutrality goal for California by 2045; and sets a goal to maintain net negative emissions thereafter.

Assembly Bill 1493, Pavley Clean Cars Standards

In July 2002, the Legislature enacted AB 1493 (Pavley Bill), which requires the maximum feasible reduction of GHGs emitted by passenger vehicles and light-duty trucks beginning with model year 2009. In September 2009, CARB adopted amendments to the Pavley standards to reduce GHG emissions from new motor vehicles through the 2016 model year. These regulations created what are commonly known as the "Pavley II standards."

Advanced Clean Cars

In January 2012, CARB adopted an Advanced Clean Cars program aimed at reducing both smog-causing pollutants and GHG emissions for vehicles model years 2017-2025. The regulations focus on substantially increasing the number of plug-in hybrid cars and zero-emission vehicles in the vehicle fleet and on making fuels such as electricity and hydrogen readily available for these vehicle technologies. It is expected that the Advanced Clean Car regulations will reduce GHG emissions from California passenger vehicles by about 34 percent below 2016 levels by 2025, all while improving fuel efficiency and reducing motorists' costs.

Senate Bill 375, Sustainable Communities Strategy

SB 375, signed in August 2008, requires sustainable community strategies to be included in regional transportation plans to reduce emissions of GHGs. In 2013, the San Francisco Bay Metropolitan Transportation Commission and the Association of Bay Area Governments jointly approved Plan Bay Area, which includes the region's Sustainable Communities Strategy and the 2040 Regional Transportation Plan. Plan Bay Area includes a target of reducing GHGs to seven percent below 2005 emissions levels by 2020, and 15 percent below 2005 levels by 2035.

California Energy Code

The California Energy Code (California Code of Regulations, Title 24, Part 6), which is incorporated into the California Building Standards Code, was first established in 1978 in response to a legislative mandate to reduce California's energy consumption. The California Energy Code is updated every three years by the California Energy Commission as the BEES to allow consideration and possible incorporation of new energy efficiency technologies and construction methods. The current 2019 BEES went into effect on January 1, 2020. Residential and non-residential buildings permitted after January 1, 2020 are required to comply with the 2019 BEES. The 2019 BEES are structured to achieve the state's goal that all new low-rise residential buildings (single-family homes) be zero net energy. Multi-family homes and non-residential buildings will use about 30 percent less energy compared to the 2016 BEES (California Energy Commission 2018).

California Green Building Standards Code

The purpose of the California Green Building Standards, which became effective on January 1, 2011, is to improve building design and construction to reduce negative environmental impacts through sustainable construction practices. The 2019 California Green Building Standards instituted mandatory and voluntary environmental performance standards for all ground-up new construction of commercial, low-rise residential uses, and state-owned buildings, as well as schools and hospitals.

Regional

Bay Area Air Quality Management District

The BAAQMD's 2017 CEQA Guidelines include guidance on evaluating, determining significance of, and mitigating GHG impacts of projects and plans. The 2017 CEQA Guidelines include thresholds of significance that are based on AB 32 GHG emission reduction goals for the year 2020. The proposed project is expected to be operational by 2024. Therefore, the BAAQMD thresholds do not address GHG emissions reductions needed after 2020 to keep statewide emissions on a path toward meeting the 2030 SB 32 emissions reduction target.

The BAAQMD's 2017 CAP defines a vision for achieving ambitious GHG reduction targets for 2030 and 2050, and provides a regional climate protection strategy that will put the Bay Area on a pathway to achieve those GHG reduction targets. There are 85 control measures designed to decrease emissions of air pollutants and GHGs. The control measures that address GHG emissions include TR1: Clean Air Teleworking Initiative; TR 2: Trip Reduction Programs; TR19: Medium and Heavy-Duty Trucks; TR 22: Construction, Freight, and Farming Equipment; BL1: Green Buildings; BL2: Decarbonize Buildings; BL4: Urban Heat Island Mitigation; and SL1: Short-Lived Climate Pollutants.

Local

Envision San José 2040 General Plan

The General Plan includes the following policies related to GHG emissions that are applicable to the proposed project:

Policy MS-1.2 Continually increase the number and proportion of building within San José that make use of green building practices by incorporating those practices into both new construction and retrofit of existing structures.

Policy MS-2.3 Encourage consideration of solar orientation, including building placement, landscaping, design, and construction techniques for new construction to minimize energy consumption.

Policy MS-2.11 Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g. design to maximize cross ventilation and interior daylight) and through site design techniques (e.g. orienting buildings on sites to maximize the effectiveness of passive solar design).

Policy MS-5.5 Maximize recycling and composting from all residents, businesses, and institutions in the City.

Policy MS-6.8 Maximize reuse, recycling, and composting citywide.

Policy MS-14.4 Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.

Policy LU-5.4 Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections; and including secure and convenient bike storage.

Policy TR-2.18 Provide bicycle storage facilities as identified in the Bicycle Master Plan.

Policy CD-2.5 Integrate Green Building Goals and Policies of this Plan into site design to create healthful environments. Consider factors such as shaded parking areas, pedestrian connections, minimization of impervious surfaces, incorporation of stormwater treatment measures, appropriate building orientations, etc.

Policy CD-3.3 Within new development, create and maintain a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.

Policy CD-5.1 Design areas to promote pedestrian and bicycle movements and to facilitate interaction between community members and to strengthen the sense of community.

City of San José Municipal Code

The City of San José Municipal Code includes the following regulations that would reduce GHG emissions from future development:

- Green Building Ordinance (Chapter 17.84);
- Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.10);
- Transportation Demand Programs for employers with more than 100 employees (Chapter 11.105);
- Construction and Demolition Diversion Deposit Program (Chapter 9.10); and
- Wood Burning Ordinance (Chapter 9.10).

GHG Reduction Strategy

In 2020, the City adopted a Greenhouse Gas Reduction Strategy (GHGRS) that outlines the actions the City will undertake to achieve its proportional share of State greenhouse gas (GHG) emission reductions for the interim target year 2030. The 2030 GHGRS presents the City's comprehensive path to reduce GHG emissions to achieve the 2030 reduction target, based on SB 32, BAAQMD, and OPR. Additionally, the 2030 GHGRS leverages other important City plans and policies; including the General Plan, Climate Smart San José, and the City Municipal Code in identifying reductions strategies that achieve the City's target. CEQA Guidelines Section 15183.5 allows for public agencies to analyze and mitigate GHG emissions as part of a larger plan for the reduction of greenhouse gases. Accordingly, the City of San José's 2030 GHGRS represents San José's qualified climate action plan in compliance with CEQA. The City has prepared a Greenhouse Gas Reduction Strategy Compliance Checklist that, when completed, documents a project's consistency with the GHGRS. The purpose of the checklist is to:

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

Information regarding project consistency with the City's greenhouse gas reduction strategy is provided below.

Council Policy 6-32 Private Sector Green Building Policy

In October 2008, the City adopted Private Sector Green Building Policy 6-32, which identifies baseline green building standards for new private construction and provides a framework for implementing these standards. This policy requires that qualifying projects achieve minimum green building performance levels using the Council adopted standards (see Table 12 in Section 4.6, Energy).

4.8.4 Impact Discussion

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

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

(**Less than Significant**)

The City of San José 2030 Greenhouse Gas Reduction Strategy outlines the actions the City will undertake to achieve its proportional share of State GHG emission reductions for the interim target year 2030. Prior to project approval, the applicant is required to complete the Greenhouse Gas Reduction Strategy Compliance Checklist to demonstrate the project's compliance with the City of San José 2030 Greenhouse Gas Reduction Strategy. Compliance with the checklist is demonstrated by completing Section A (General Plan Policy Conformance) and Section B (Greenhouse Gas Reduction Strategies). Projects that propose alternative GHG mitigation measures must also complete Section C (Alternative Project Measures and Additional GHG Reductions). For this purpose, the City has implemented a Greenhouse Gas Reduction Strategy Compliance Checklist (Appendix G).

As discussed above, the project would be constructed in accordance with the latest California Building Code and green building regulations/CalGreen. The proposed development would be constructed in compliance with the City's Council Policy 6-32 and the City's Green Building Ordinance. The project would include a number of vehicle miles traveled (VMT) reduction strategies and reduced parking number to facilitate pedestrian oriented development. The proposed use is also consistent with the existing Zoning District and General Plan Land Use Designation. The project would be required to comply with zoning requirements and policies for design and use. Compliance to the strategies in the GHGRS are detailed below and in Appendix G.

1. GHGRS-1: The applicant would enroll City's Clean Energy Program at the 100 percent (TotalGreen) level. This supports renewable energy production and avoids GHG impacts related to project demand for electrical energy. To ensure compliance, the project would also reiterate the enrollment in the program as a condition of approval. This action is consistent with the City's strategy to implement the San Jose Clean Energy program.

   Condition of Approval: The applicant shall enroll in the City's Clean Energy Program at the 100 percent (TotalGreen) prior to the issuance of any Building Permits.

2. GHGRS-2: The proposed project would not include infrastructure for natural gas. This is a fundamental component of a project's consistency with the City's natural gas infrastructure ordinance.

3. GHGRS-3: The project does not propose rooftop solar, as greenhouse gas emissions from energy production will already be off-set by utilizing 100 percent renewable energy through the Clean Energy program. Nevertheless, the applicant also plans to construct the project to be solar ready. Therefore, the project would be consistent with the City's strategy to reduce greenhouse gas emissions through use of renewable energy.

4. GHGRS-4: The project would support the City's strategy of building decarbonization by eliminating natural gas as a source of building energy supply.

5. GHGRS-5: The project would comply with mandatory solid waste diversion goals of the City as evidenced by the solid/organic waste collection infrastructure included in the project design.

6. GHGRS-6: The City's strategy to enhance local transit opportunities is not directly applicable to the proposed project. However, the applicant is proposing to implement a TDM program to support a shift to non-vehicular modes of transportation, including transit. Therefore, the project is indirectly consistent with the intent of the enhanced transit strategy.

7. GHGRS-7: The project includes landscaping and irrigation features and storm water control features that would ensure consistency with the Water Efficient Landscape Ordinance, and applicable components of CALGreen and the City's Green Building Ordinance. Therefore, the project is consistent with the City's water conservation efforts.

The project is consistent with the 2030 GHGRS. Therefore, the project impacts from greenhouse gas emissions impacts would be less than significant.

4.9 HAZARDS AND HAZARDOUS MATERIALS

4.9.1 Hazards and Hazardous Materials Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☒	☐	1
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☒	☐	1,32,51
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒	1,5, 16
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code section 65962.5 and, as a result, create a significant hazard to the public or the environment?	☐	☐	☐	☒	1, 15,45, 46
e) For a project located within an airport land-use plan or, where such a plan has not been adopted, within two miles of a public airport or a public-use airport, result in a safety hazard or excessive noise for people residing or working in the project area?	☐	☐	☐	☒	1,3,5,16
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒	1
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	☐	☐	☐	☒	1,3,47

4.9.2 Environmental Setting

The information used within this section of the IS is sourced from the *Phase I Environmental Site Assessment* (environmental site assessment) (Appendix H) and the *Soil Sampling & Analysis Report, Sampling Former Agricultural Property at 1065 South Winchester Blvd. San Jose, CA 95129* (subsurface investigation) (Appendix I) prepared by Essel Environmental and Emergency Response on April 30, 2021 and Calinc Training, LLC. on August 10, 2021, respectively.

Historic and Current Uses of the Site and Surrounding Areas

According to the environmental site assessment, agricultural orchard operations occurred on the project site from as late as 1939 to at least 2016 (approximately 77 years).

Adjacent and surrounding properties were predominantly orchards from 1939 to 1950. From 1956 to 1968, a few orchards remained, but the surrounding areas in all directions were undergoing residential development. From 1974 to 1998, commercial development continued north and south of the project site while residential development (single-family dwellings and apartment buildings) continued to the east and west of the project site. This pattern continued to evolve, and by 2016 the project site surroundings were fully developed.

On-site Contamination

The environmental site assessment determined agricultural orchard operations having occurred on the project site from at least 1939 to 1963. Currently, there are some agricultural structures on-site that do not appear to be actively utilized for agricultural purposes. There is a potential that agricultural related chemicals, such as pesticides, herbicides, and fertilizers may have been used and/or stored on the project site. In addition, the existing structure on-site was constructed in 1900; therefore, asbestos-containing materials and lead-based paint are a concern.

Airports

The closest airport, the Norman Y. Mineta San José International Airport, is located approximately three miles northeast of the project site. The site is not located within the airport influence area nor the safety zones designated by the Comprehensive Land Use Plan (CLUP). Pursuant to Federal Aviation Regulations, Part 77, proposed structures on the project site higher than approximately 80 feet above ground would require filing with the Federal Aviation Administrations (FAA) for airspace safety review. However, the proposed project includes a height of approximately 65 feet and, therefore, this would not be required by the applicant.

4.9.3 Regulatory Setting

Federal

United States Environmental Protection Agency

The United States Environmental Protection Agency (EPA) was created in 1970 to serve as a single-source collection of all federal research, monitoring, standard-setting, and enforcement activities to make sure there is appropriate protection of the environment. The EPA's duty is to create and enforce regulations that protect the natural environment and apply the laws passed by Congress. The EPA is also accountable for establishing national criteria for various environmental programs and enforcing compliance.

Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act enacted in 1976 governs the disposal of solid waste and hazardous materials. The Resource Conservation and Recovery Act gives the EPA the power to control the generation, transportation, treatment, storage, and disposal of hazardous substances that cannot be disposed of in ordinary landfills. It also allows for each state to apply their own hazardous

waste programs instead of implementing the federal program on the condition that the state's program is just as strict in its requirements. This state program must be permitted by the EPA in order to be used.

Occupational Safety Health Administration

The Occupational Safety Health Administration (OSHA) provides safe and healthy working environments for employers and employees in the form of an enforced list of standards as well as training, outreach, education, and assistance from the public. This list of enforced standards are listed in 29 CFR Chapter 29, Sections 1910 (General Industry) and 1926 (Construction). These standards call out the preparation of Health and Safety Plans that determine possible hazards connected to a proposed land use and may offer applicable implementation of mitigation measures.

Federal Aviation Administration

Federal Aviation Regulations, Part 77, "Objects Affecting Navigable Airspace" (FAR Part 77) sets forth standards and review requirements for protecting the airspace for safe aircraft operation, particularly by restricting the height of potential structures and minimizing other potential hazards (such as reflective surfaces, flashing lights, and electronic interference) to aircraft in flight. These regulations require that the Federal Aviation Administration (FAA) be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport's runways. However, as indicated previously, the proposed project would not require submitting a notice to the Federal Aviation Administration as the project would not include heights over 80 feet.

State

California Environmental Protection Agency

The California Environmental Protection Agency (Cal/EPA) was established in 1991 and is comprised of: the California Air Resources Board, the State Water Resources Control Board, the Regional Water Quality Control Board, CalRecycle, the Department of Toxic Substances Control, the Office of Environmental Health Hazard Assessment, and the Department of Pesticide Regulation. This integrated group amalgamates all of California's environmental authority agencies into one and has led the state of California in developing and applying numerous progressive environmental policies in America. The primary goal of the Cal/EPA is to restore, protect, and enhance the environment.

Cortese List

The Cortese list was authorized by the state legislature in 1985. A list of several types of hazardous materials is gathered by a few agencies as directed by the statute.

Government Code Section 65962.5. (a) The Department of Toxic Substances Control shall compile and update as appropriate, but at least annually, and shall submit to the Secretary for Environmental Protection, a list of all of the following:

1. All hazardous waste facilities subject to corrective action pursuant to Section 25187.5 of the Health and Safety Code.

2. All land designated as hazardous waste property or border zone property pursuant to Article 11 (commencing with Section 25220) of Chapter 6.5 of Division 20 of the Health and Safety Code.

3. All information received by the Department of Toxic Substances Control pursuant to Section 25242 of the Health and Safety Code on hazardous waste disposals on public land.

4. All sites listed pursuant to Section 25356 of the Health and Safety Code.

All sites included in the Abandoned Site Assessment Program. Government Code Section 65962.5. (c) The State Water Resources Control Board shall compile and update as appropriate, but at least annually, and shall submit to the Secretary for Environmental Protection, a list of all of the following:

1. All underground storage tanks for which an unauthorized release report is filed pursuant to Section 25295 of the Health and Safety Code.

2. All solid waste disposal facilities from which there is a migration of hazardous waste and for which a California regional water quality control board has notified the Department of Toxic Substances Control pursuant to subdivision (e) of Section 13273 of the Water Code.

3. All cease-and-desist orders issued after January 1, 1986, pursuant to Section 13301 of the Water Code, and all cleanup or abatement orders issued after January 1, 1986, pursuant to Section 13304 of the Water Code, that concern the discharge of wastes that are hazardous materials.

The proposed project site is not on the Hazardous Waste and Substances Sites (Cortese) List (California Department of Toxic Substances Control 2021).

California Department of Toxic Control

The California Department of Toxic Control, a department of the Cal/EPA, is the primary agency in California for regulating hazardous waste, cleaning up existing contamination, and finding ways to reduce the amount of hazardous waste produced in California. The California Department of Toxic Control regulates hazardous waste primarily under the authority of the Federal Resource Conservation and Recovery Act and the California Health and Safety Code (primarily Division 20, Chapters 6.5 through 10.6, and Title 22, Division 4.5). Other laws that affect hazardous waste are specific to handling, storage, transportation, disposal, treatment, reduction, cleanup, and emergency planning.

California Office of Emergency Services

The California Office of Emergency Services was officially established in 1970. In 2013, it merged with the Office of Public Safety Communications where it is now operating as an agency that addresses the risks and threats to the public, property, economy, and environment. A broader mission of this office is to run multiple programs that assist the state's stakeholders and protect communities. One of the main responsibilities of the Office of Emergency Services is to regulate the statewide standards of hazardous materials. The office requires general information of how the hazardous materials are going to be handled, used, stored, or disposed of for the accessibility of

public safety officers and regulatory agencies. The regulations are discussed in Chapter 6.95 of the California Health and Safety Code, Article 1, Hazardous Materials Release Response and Inventory Program and Article 2, Hazardous Materials Management.

California Occupational Safety and Health Administration

The California Occupational Safety and Health Administration (Cal/OSHA) is the main agency in control of the safety of workers regarding the handling and use of hazardous pollutants in the workplace. Generally, the State's regulations are much stricter than the federal regulations. A comparison of Cal/OSHA and Federal OSHA programs is provided within a fact sheet provided by the California Department of Industrial Relations.

California Environmental Protection Agency Unified Program

The Cal/EPA Unified Program protects the residents of California from hazardous waste and materials through conditions, permits, inspections, and implementations. The Unified Program consists of 81 certified local government agencies, acknowledged as the Certified United Program Agencies, which implement governing criteria generated by five different state agencies.

Hazardous Materials Transportation Regulations

The State of California has adopted the U.S. Department of Transportation regulations for the transporting of hazardous materials within the boundary of the State. All hazardous waste transporters in the State are required to register with the Department of Toxic Substances Control and shall meet all regulations put forth by: the California Highway Patrol, the California State Fire Marshal, and the United States Department of Transportation. Furthermore, the hazardous waste transporters are required to meet the regulations set forth in the California Code of Regulations (Division 20, Chapter 6.5, Article 6 and 13).

California Accidental Release Prevention Program

A California Accidental Release Prevention Program is a program that the owner or operator of a stationary source develops, which provides information such as regulated pollutants held on the site, what the magnitude is if there is an accidental release of the regulated pollutant, what the emergency response program is for the stationary source, and a hazard analysis. Additional information is required and can be found in the California Health and Safety Code, Chapter 6.95, Article 2, Sections 25531 to 25543.3. The idea behind this program is to offer data that could be helpful to first responders as they actively stop the release of a hazardous substance in the area that would threaten the lives of the public or the surrounding environment.

Local

Emergency Operations and Evacuation Plans

The City of San José's Emergency Operations Plan includes standard operating procedures for flood events, heat waves, off-airport aviation accidents, power outages, terrorism, and urban/wildland interface fires. The Citywide Emergency Evacuation Plan sets forth the responsibilities of City personnel and coordination with other agencies to ensure the safety of San José citizens in the event of a fire, geologic, or other hazardous occurrence.

Envision San José 2040 General Plan

The General Plan contains goals and policies which seek to mitigate potential impacts from hazards and hazardous materials in the City. Applicable goals and policies include:

Policy EC-6.6 Environmental review for all proposals for new residential, park and recreation, school, day care, hospital, church or other uses that would place a sensitive population in close proximity to sites on which hazardous materials are or are likely to be located must address the likelihood of an accidental release, the risks posed to human health and for sensitive populations, and mitigation measures, if needed, to protect human health.

Policy EC-7.1 For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.

Policy EC-7.2 Identification of existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users shall be provided as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines, and standards.

Policy EC-7.4 On redevelopment sites, the presence of hazardous building materials shall be determined during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-paint and asbestos-containing materials, shall be implemented in accordance with state and federal laws and regulations.

Policy EC-7.5 On development and redevelopment sites, all sources of imported fill shall have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and state requirements.

Policy EC-7.11 Require sampling for residual agricultural chemicals, based on the history of land use, on sites to be used for any new development or redevelopment to account for worker and community safety during construction. Mitigation to meet appropriate end use such as residential or commercial/industrial shall be provided.

Policy CD-5.8 Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.

4.9.4 Impact Discussion

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

(Less than Significant)

The proposed project is a mixed-use residential/commercial development, which would not involve the routine transport, use, or disposal of hazardous materials or waste. The proposed development may use small quantities of miscellaneous household cleaning supplies and other chemicals but not to the amount that significant hazards to the public or environment would occur.

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

(**Less than Significant**)

The environmental site assessment concluded that agricultural orchard operations occurred on the project site from 1939 to 1963 and there are currently some agricultural structures on-site that do not appear to be actively utilized for agricultural purposes. However, there is a potential that agricultural-related chemicals, such as pesticides, herbicides, and fertilizers may have been used and/or stored on the project site. In compliance with the City's General Plan Policy EC-7.11, the preparation of a limited screen soil investigation occurred in July 2021 to determine if there is any contamination in the soil at the project site. According to the limited screen soil investigation, all results fell below the State of California regulatory residential levels (refer to Appendix I) and, therefore, no further environmental investigations at the project site related to soil contamination due to historic agricultural uses are necessary.

However, based on the date of construction of the existing building on the project site (1900), asbestos-containing materials and/or lead-based paint may be present in building materials. Demolition and construction of the proposed project could result in the release of the hazardous materials into the environment and, therefore, the following standard permit conditions would be required in order to reduce impacts to a less than significant level.

Standard Permit Conditions

- In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building(s) to determine the presence of asbestos-containing materials (ACMs) and/or lead-based paint (LBP).

- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Title 8, California Code of Regulations (CCR), Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.

- All potentially friable asbestos containing materials (ACMs) shall be removed in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines prior to demolition or renovation activities that may disturb ACMs. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.

- A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.

- Materials containing more than one-percent asbestos are also subject to Bay Area Air Quality Management District (BAAQMD) regulations. Removal of materials containing more than one-percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.

Conformance with the standard permit conditions listed above would ensure that hazardous building materials such as asbestos and lead-based paint associated with the on-site structures are treated, removed, and properly disposed of in accordance with state and federal regulatory requirements. Implementation of these measures would reduce this impact to a less than significant level.

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

(**No Impact)**

The nearest school, Monroe Middle School, is located approximately 0.24 miles east of the project site. However, the proposed project is a mixed-use residential/commercial development and would not emit significant amounts hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste that would significantly affect children at the school. Therefore, the proposed project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.

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

(No Impact)

The proposed project site is not on the Hazardous Waste and Substances Sites (Cortese) List (California Department of Toxic Substances Control 2021).

The State Water Resources Control Board's GeoTracker indicates two closed cases of leaking underground storage tank clean-up sites within 1,000 feet of the project site. One cleanup program site, also a closed case, is located within 1,000 feet north of the site. None of these abovementioned sites would create a significant impact to the public or the environment as a result of the development of the proposed project (State Water Resources Control Board 2021).

The project site is also not listed on the California Environmental Protection Agency's list of solid waste sites identified by the Water Board with waste constituents above hazardous waste levels outside the waste management unit (California Environmental Protection Agency 2021).

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

(**No Impact**)

The project site is not located within an airport land-use plan or within two miles of a public or public-use airport, nor would the project be subject to FAA airspace safety review pursuant to FAR Part 77. Therefore, the project would not result in a safety hazard or excessive noise for people residing or working in the project area.

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

(**No Impact**)

The project would be designed to incorporate all Fire and Building Code requirements. The proposed infill development would not create any barriers to emergency or other vehicle movement in the area. Development of the proposed project would not physically interfere with an adopted emergency response or evacuation plan.

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

(**No Impact**)

The project site is located within an urbanized area of San José and is surrounded by existing urban development. The project site is identified as not being within a very high fire hazard zone (Cal Fire 2021). Therefore, development of the proposed project would not expose people or structures to a significant risk of loss, injury, or death involving wildland fires.

4.10 HYDROLOGY AND WATER QUALITY

4.10.1 Hydrology and Water Quality Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	☐	☐	☒	☐	1,2,3,4, 5
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	☐	☐	☒	☐	1,3,11, 21
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:					
1. Result in substantial erosion or siltation on- or off-site;	☐	☐	☒	☐	1,3,9
2. Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;	☐	☐	☒	☐	1,3,9
3. Create or contribute run-off water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted run-off; or	☐	☐	☒	☐	1,3,9
4. Impede or redirect flood flows?	☐	☐	☒	☐	1,3,9
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	☐	☐	☒	☐	1,3,5,16
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	☐	☐	☐	☒	1,3,5, 11,16, 18,43

4.10.2 Environmental Setting

The Santa Clara Valley Groundwater Basin is the source for all groundwater in the County and is divided into two sub-basins: Santa Clara and Llagas. The project site is located within the Santa Clara sub-basin and the San Tomas watershed. The site is in FEMA Flood Zone D, which are areas where flood hazards are undetermined, but possible. The site is located within the Lenihan Dam on Lexington Reservoir failure inundation area, as identified on the General Plan EIR's Figure 3.7-5.

The site is flat and onsite stormwater either infiltrates the existing pervious areas of the project site or drains to the City's existing 18-inch storm drain system in South Winchester Boulevard.

4.10.3 Regulatory Setting

Federal/State

Clean Water Act

The federal Clean Water Act was established "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." The Clean Water Act regulates discharges of pollutants into the waters of the United States. It provides the United States Environmental Protection Agency the authority to implement pollution control programs. The Clean Water Act also sets water quality standards for contaminants in surface waters and makes it unlawful for any person to discharge any pollutant from a point source into navigable waters, unless a permit is obtained.

NPDES Waste Discharge Regulations

The federal Clean Water Act established the National Pollutant Discharge Elimination System (NPDES) program to protect water quality of receiving waters. Clean Water Act Section 402 prohibits discharge of pollutants to receiving waters unless the discharge is in compliance with an NPDES permit. The United States Environmental Protection Agency has determined that California's water pollution control program has sufficient authority to manage the NPDES program under California law in a manner consistent with the Clean Water Act. Therefore, implementation and enforcement of the NPDES program is conducted through the State Water Resources Control Board and the nine Regional Water Quality Control Boards (regional boards). Refer to the State and Regional regulatory setting.

Federal Emergency Management Agency Flood Insurance Program

The Federal Emergency Management Agency (FEMA) administers programs to address flood hazards. FEMA manages the National Flood Insurance Program for this purpose. The program provides federal flood insurance and federally financed loans for property owners in flood prone areas. For this purpose, FEMA produces Flood Insurance Rate Maps (FIRMs) that define areas subject to inundation by flooding. Protective controls that must be implemented by project applicants to reduce flood hazards and damage to projects they propose are generally incorporated onto a flood hazard management program and General Plan policies of local jurisdictions. These tools assist cities in mitigating flooding hazards through land use planning and building permit requirements that must be implemented by applicants for projects located in specific flood hazard areas.

Regional/Local

Valley Water (Santa Clara Valley Water District)

Valley Water operates as the flood control agency for Santa Clara County and as the wholesale water supplier for the County. Their stewardship also includes creek restoration, pollution prevention efforts, and groundwater recharge. Valley Water requires permits for all well construction and destruction work, most exploratory boring for groundwater exploration, and projects occurring on any Valley Water property or easement. Permits are required under the Valley Water's Water Resources Protection Ordinance and the District Well Ordinance. Valley Water along with 15 cities, the county and business, agriculture, streamside property owner and environmental interests set up the Water Resources Protection Collaborative, which has prepared and adopted Guidelines and Standards for Land Use Near Streams: A Manual of Tools, Standards, and Procedures to Protect Streams and Streamside Resource in Santa Clara County.

Santa Clara Basin Watershed Management Plan

The *Santa Clara Basin Watershed Management Plan* (watershed management plan) implements the basin plan in the Santa Clara Basin. The watershed management plan consists of three reports prepared by the Santa Clara Basin Watershed Management Initiative: Watershed Characteristics Report, Watershed Assessment Report, and Watershed Action Plan. The Santa Clara Basin Watershed Management Initiative vision includes contiguous habitat within and along creeks, undeveloped floodplains, protection of aquatic animals from pollutants, drainage systems that treat run-off, and efficient use and re-use of water. Two Watershed Action Plan objectives relevant to the proposed project are inclusion of the Santa Clara Basin Watershed Management Initiative visions in specific plans, and retention/detention/treatment of storm water run-off.

Hydromodification Management Plan

This report, prepared by the Santa Clara Valley Urban Runoff Pollution Prevention Program, provides background, methodologies, and standards for developing hydromodification plans. The Santa Clara Valley Urban Runoff Pollution Prevention Program maintains a set of maps that establish those areas for which a hydromodification plan is required for development projects. Hydromodification plans are incorporated as part of the other programs established to ensure water quality. The project site is not located in an area defined by the Santa Clara Valley Urban Runoff Pollution Prevention Program as being located where a hydromodification plan is required. According to the City's Public GIS Viewer, the project site is within the hydromodification management zone identified as Catchments Draining to Hardened Channel and/or Tidal Areas; therefore, the proposed project would not be required to comply with the hydromodification requirements of the Municipal Regional Stormwater NPDES Permit.

National Pollutant Discharge Elimination System General Permit for Construction Activities

The State Water Resources Control Board has implemented a National Pollutant Discharge Elimination System (NPDES) General Construction Permit for the State of California. Dischargers whose projects disturb one or more acres of soil or whose projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit – Order 2009-0009-DWQ, and as amended by 2010-0014-DWQ and 2012-0006-DWQ). Construction activity subject to this permit includes clearing, grading, and ground disturbances such as stockpiling or excavation. In order to obtain coverage under the Construction General Permit, a Notice of Intent must be filed with the Regional Water Quality Control Board, and Storm Water Pollution Prevention Plan must be developed by a certified Qualified Storm Water Pollution Prevention Plan Developer prior to commencement of construction.

Once grading begins, the Storm Water Pollution Prevention Plan must be kept on-site and updated as needed while construction progresses. The Storm Water Pollution Prevention Plan details the site-specific Best Management Practices to control erosion and sedimentation and maintain water quality during the construction phase. The Storm Water Pollution Prevention Plan also contains a summary of the structural and non-structural Best Management Practices to be implemented during the post-construction period, pursuant to the stormwater control practices and procedures encouraged by the City of San José and the Regional Water Quality Control Board.

California Green Building Standards Code

Mandatory measures under this code include preparation of a SWPPP for non-residential developments under one acre, and control of storm water run-off for residential developments under one acre (both required at a lower acreage threshold than the NPDES permit). Interior and landscape water efficiencies are required for all development.

Municipal Regional Storm Water Permit

Storm water in Santa Clara County is managed in accordance with the Municipal Regional Storm Water NPDES permit from the San Francisco Bay regional board (Permit Number R2-2009-0074, adopted on October 14, 2009, and revised on November 28, 2011). This permit regulates discharges from all municipal separate storm sewer systems in Santa Clara County, including the City. The urban runoff management program focuses on reducing pollutant transport through storm water drain systems into surface waters. In general, measures that will effectively limit storm drain pollutant discharge will also limit direct runoff of pollutants into creeks.

NPDES permit provision C.3.c requires development that creates or replaces 10,000 square feet or more of impervious surfaces to incorporate LID measures including source control measures, site design features, and treatment measures to manage storm water discharge run-off flows and reduce pollutant loads. Provision C.3.d of the NPDES permit requires that storm water treatment systems meet specific numeric sizing criteria.

NPDES permit provision C.3.g requires certain new development projects to implement hydro-modification measures to manage increases in storm water runoff flow and volume so post-project runoff does not exceed the pre-project runoff rates and durations. NPDES permit provision C.6 requires adoption of a construction site inspection and control program. Construction-site erosion control plans must be consistent with local requirements, including the appropriateness and adequacy of proposed Best Management Practices (BMPs) as well as verification that site operators/developers have complied with the Construction General Storm Water Permit before issuing the grading permit for a project. Inspections must be conducted to determine compliance with local grading and storm water requirements.

Provision C.14 of the NPDES permit details a control program for select contaminants to help determine whether urban runoff is a conveyance mechanism associated with impairment of San Francisco Bay by these pollutants and determine whether there are specific locations within urban watersheds where prior or current land uses contribute to discharges of these pollutants.

The Santa Clara Valley Urban Runoff Pollution Prevention Program, an association of 13 cities and towns in Santa Clara Valley, the County of Santa Clara, and Valley Water, is the local entity within Santa Clara County responsible for implementing compliance with the Municipal Regional Storm Water NPDES permit.

Green Stormwater Infrastructure Plan

The City of San José has developed a Green Stormwater Infrastructure Plan (GSI Plan) to lay out the approach, strategies, targets, and tasks needed to transition traditional "gray" infrastructure to include green stormwater infrastructure over the long term and to implement and institutionalize the concepts of GSI into standard municipal engineering, construction, and maintenance practices. The

GSI Plan is intended to serve as an implementation guide for reducing the adverse water quality impacts of urbanization and urban runoff on receiving waters over the long term, and a reporting tool to provide reasonable assurance that specific pollutant reductions from discharges to local creeks and San Francisco Bay will be met. The GSI Plan is required by the City's MRP for the discharge of stormwater runoff from the City's storm drain system.

City of San José Development Policy 6-29, Post-Construction Urban Runoff Management and Post-Construction Hydromodification Management, Policy 8-14

The City of San José's Development Policy 6-29 and Policy 8-14 implement the stormwater treatment requirements of Provision C3 of the Municipal Regional Stormwater NPDES Permit.

Envision San José 2040 General Plan

The General Plan contains goals and policies which seek to prevent flooding and improve water quality in the City. Applicable policies include:

> **Policy EC-5.1** The City shall require evaluation of flood hazards prior to approval of development projects within a Federal Emergency Management Agency (FEMA) designated floodplain. Review new development and substantial improvements to existing structures to ensure it is designed to provide protection from flooding with a one percent annual chance of occurrence, commonly referred to as the "100-year" flood or whatever designated benchmark FEMA may adopt in the future. New development should also provide protection for less frequent flood events when required by the State.
>
> **Policy EC-5.2** Allow development only when adequate mitigation measures are incorporated into the project design to prevent or minimize siltation of streams, flood protection ponds, and reservoirs.
>
> **Policy EC-5.7** Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.
>
> **Policy EC-5.11** Where possible, reduce the amount of impervious surfaces as a part of redevelopment and roadway improvements through the selection of materials, site planning, and street design.
>
> **Policy EC-5.16** Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.
>
> **Policy EC-5.17** Implement the Hydromodification Management requirements of the City's Municipal NPDES Permit to manage runoff flow and volume from project sites.
>
> **Policy MS-3.1** Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.

Policy MS-3.2 Promote use of green building technology or techniques that can help reduce the depletion of the City's potable water supply, as building codes permit. For example, promote the use of captured rainwater, graywater, or recycled water as the preferred source for non-potable water needs such as irrigation and building cooling, consistent with Building Codes or other regulations.

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

Policy MS-3.5 Minimize areas dedicated to surface parking to reduce rainwater that comes into contact with pollutants.

Policy MS-20.3 Protect groundwater as a water supply source through flood protection measures and the use of stormwater infiltration practices that protect groundwater quality. In the event percolation facilities are modified for infrastructure projects, replacement percolation capacity will be provided.

Policy ER-9.1 Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.

4.10.4 Impact Discussion

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

(Less Than Significant)

The proposed project has the potential to increase discharge of storm water pollutants during construction due to ground disturbance. Projects disturbing more than one acre of land during construction are required to file a notice of intent to be covered under the State NPDES Construction General Permit for discharges of storm water associated with construction activities. However, the project would only disturb the 0.93-acre site during development of the proposed project and, therefore, a Construction General Permit is not required.

However, all development projects in the City are required to comply with the City's Grading Ordinance whether or not the project is required to obtain a NPDES General Permit. Prior to the issuance of a permit for grading activity occurring during the rainy season (October 15th to April 15th), the project shall submit to the Director of Public Works an Erosion Control Plan detailing best management practices that shall prevent the discharge of stormwater pollutants. Pursuant to the Construction General Permit and City requirements, the standard permit conditions included in Section 4.7, Geology /Soils, checklist question b) would reduce potential construction-related water quality impacts.

The San Francisco Bay RWQCB issued a Municipal Regional Stormwater (MRP) NPDES Permit to standardize storm water management requirements. The MRP replaces the countywide municipal storm water permits with a regional permit for bay area municipalities, including the City of San José. This permit also regulates discharges from all municipal separate storm sewer systems in Santa Clara County. Projects that add and/or replace more than 10,000 square feet of impervious surface or 5,000 square feet of specified Special Land Use Categories must comply with the MRP. Projects subject to the provisions of the MRP,

which include the proposed project, must incorporate Low Impact Development (LID) storm water treatment controls (e.g., drainage management areas) to treat all post-construction storm water runoff.

In addition to water quality controls, the MRP also has hydromodification controls, which are defined in the Hydromodification Management Plan. Projects may be deemed exempt from the MRP hydromodification controls if they do not meet the MRP size threshold, drain into tidally influenced areas or directly into the San Francisco Bay, drain into hardened channels, or are infill projects in sub-watersheds that are 65 percent or more impervious as shown on the HM Control Area Map. According to the City's Public GIS Viewer, the project site is within the hydromodification management zone identified as Catchments Draining to Hardened Channel and/or Tidal Areas; therefore, the proposed project would not be required to comply with the hydromodification requirements of the MRP. However, the proposed project must comply with other MRP requirements to include appropriate source control, site design, and storm water treatment measures to address storm water runoff pollutant discharges and prevent increases in runoff flows.

The City requires that if a redevelopment project creates, adds or replaces more than 10,000 square feet of impervious surface that a Stormwater Management Plan must also be prepared. The purpose of the Stormwater Management Plan is to identify specific tasks and programs to reduce the discharge of pollutants in stormwater.

The City's Post-Construction Urban Runoff Management Policy 6-29 requires that all new and redevelopment projects implement post-construction BMPs and Treatment Control Measures. According to the City's Stormwater Evaluation Form completed by the applicant in February 2021, the proposed project would implement the following site design and source control measures and treatment systems in order to reduce impacts associated with post-construction stormwater runoff. The list is as follows, but is not limited to:

- Good housekeeping (e.g., sweep pavement and clean catch basin);
- Label storm drains;
- Cluster structures/pavement;
- Direct runoff from roofs, sidewalks, patios to landscaped areas;
- Beneficial landscaping and use of water efficient irrigation systems; and
- Drainage management areas and treatment control measures.

The City would review the Stormwater Management Plan and project plans for consistency with local requirements and the appropriateness and adequacy of proposed BMPs before issuance of grading permits as part of the building permit process. BMPs must include measures for soil stabilization, sediment control, sediment tracking control, wind erosion control, and non-storm water management, and waste management and disposal control. With the required preparation and implementation of a Stormwater Management Plan and the standard measures in conformance with the MRP, the proposed project would not violate any water quality standards or waste discharge requirements. Therefore, grading and construction activities do have the potential to impact water quality, however, with implementation of the site design and source control measures discussed above, the potential water quality impact would be less than significant and no mitigation is required.

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

(Less Than Significant)

Groundwater Supplies. Water service to the project site would be provided by San José Water Company, the retailer for the City. The Santa Clara Valley Water District (Valley Water) is the wholesale water supplier for Santa Clara County and receives its water supply from several locations including local groundwater, local surface water, and imported treated water. In addition, there is a fourth and growing source of supply, non-potable recycled water. Groundwater remains a major source of water supply for Valley Water. The proposed project does not propose any wells or groundwater pumping. Thus, the project would not decrease groundwater supplies such that the project may impede sustainable groundwater management of the basin.

Groundwater Recharge. The project site lies within the Santa Clara Subbasin, a subbasin of the Santa Clara Valley Groundwater Basin. Valley Water operates and maintains a complex and interconnected network of groundwater recharge facilities in the Santa Clara Valley and diverts water from local reservoirs and imported water to in-stream and off-stream percolation facilities to assist with groundwater recharge in the Santa Clara Valley. According to the General Plan EIR, development and redevelopment of new residential, commercial, or industrial uses allowed under the General Plan is not proposed to occur within any of Valley Water's percolation facilities for groundwater recharge nor will it otherwise affect the operation of the percolation or recharge facilities.

Development of the proposed project could potentially interfere with groundwater recharge by increasing the area covered by impervious surfaces. The proposed project includes one onsite drainage management area and one onsite treatment control measure to detain storm water runoff onsite and ultimately drain to the San Francisco Bay, thereby allowing for groundwater recharge.

Implementation of the policies listed under the Regulatory subsection under Regional/Local of this section would reduce adverse impacts to groundwater recharge areas. As a result of implementing the applicable General Plan policies supporting groundwater recharge, the proposed project would not contribute to a substantial depletion of groundwater supplies or interfere substantially with groundwater recharge. Impacts related to groundwater recharge would be less than significant.

c.1) Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on- or off-site?

c.2) …would the project substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?

c.3) … would the project exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?

c.4) … would the project impede or redirect flood flows?

(Less than Significant)

The project site does not contain any streams or rivers. The project site is within a highly urbanized and developed area. Construction of the project would require grading activities that could result in erosion impacts, as described below:

Erosion. Development of the proposed project may lead to significant siltation and/or erosion on- or off-site. However, by complying with the City's Grading Ordinance as discussed in the standard permit conditions identified in Section 4.7, Geology/Soils, in the response to checklist question b), the project would not result in substantial erosion or siltation on or off site.

Flooding. The Stormwater Control Plan (Sheets 040-C and 041-C in Appendix A) indicates that storm water from the proposed project would drain into the onsite drainage management area; two additional drainage management areas are proposed but are offsite abutting the eastern border of the project site in the South Winchester Boulevard right-of-way. The proposed stormwater drainage system intends to capture the onsite storm water within the flow-through planters or within the offsite landscaped areas along the project's frontage (i.e., public right-of-way). The storm water captured by the flow-through planters would be directed via storm drain pipes along the north, south, and western border of the project site to a storm drain manhole located at the southeast corner of the site and subsequently to the existing storm drain system located on South Winchester Boulevard. The overflow of storm water, in addition to the storm water collected on the project site, would be directed to the storm drain manhole at the southeast corner of the site in order to help reduce the occurrence of flooding. This storm drain manhole connects to the City's existing storm drain located in South Winchester Boulevard, which ultimately flows into the San Francisco Bay, further reducing the potentially significant impact related to flooding on- or off-site to a less than significant level.

Runoff. Similar to the description above, under "Flooding," the Stormwater Control Plan indicates that storm water from the proposed project would drain into the above-mentioned flow-through planters and be directed to the existing City storm drain system located in South Winchester Boulevard. The proposed project would use onsite best management practices for treatment and infiltration, and as mentioned previously, overflow would be directed to the City's existing storm drain system that ultimately ends up in the San Francisco Bay. Moreover, the Stormwater Control Plan includes a Treatment Control Measure Summary Table (Sheet 040-C), which illustrates that the onsite drainage management area incorporates low-impact development storm water treatment control measures. Consistent with the Standard Permit Conditions below, these identified best management practices and treatment control measures would reduce the potential for the project's contribution to runoff water that could exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff to a less than significant level.

Standard Permit Conditions

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

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

Flood flows. As discussed under checklist question d) below, the project site is located within an area where flood hazards have not been analyzed. Development of the proposed project would result in an increase in impervious features onsite, but would not impede or redirect flood flows to a significant level that isn't already being managed by the proposed storm water control and treatment measures proposed onsite. Therefore, impacts related to flood flows as a result of the proposed project would be less than significant.

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

(Less than Significant)

The site is in FEMA Flood Zone D, which are areas where flood hazards are undetermined, but possible. The project site is located a significant distance from the coast or any sizeable lakes or ponds, is not located near to steep hillsides, and its topography is flat. Therefore, the site is not located in an area subject to seiche or tsunami risk.

However, the site is located within the Lenihan Dam on Lexington Reservoir failure inundation area, as identified on the General Plan EIR's Figure 3.7-5. The actual extent and depth of inundation in the event of a failure would depend on the volume of storage in the reservoir at the time of failure. The risks of failure are reduced by several regulatory inspection programs, and risks to people and property in the inundation area are reduced by local hazard mitigation planning. The California Department of Water Resources, Division of Safety of Dams is responsible for regular inspection of dams in California. The California Department of

Water Resources and local agencies (e.g., Valley Water) are responsible for minimizing the risks of dam failure thus avoiding the release of pollutants due to project inundation.

Pollutants typical to be released during a storm event from a mixed-use project include small quantities of miscellaneous household cleaning supplies and other chemicals that could mix with the storm water. This would be considered a significant impact, but is reduced to a less-than-significant level with appropriate oversight via state and local agencies who are responsible for reducing the potential for the release of pollutants due to project inundation.

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

(**No Impact**)

The San Francisco Bay RWQCB regulates water quality in the area, including the City, in accordance with the Water Quality Control Plan or "Basin Plan". The Basin Plan lists the beneficial uses which the RWQCB has identified for local aquifers, streams, marshes, rivers, and the Bay, as well as the water quality objectives, and criteria that must be met to protect these uses. The RWQCB implements the Basin Plan by issuing and enforcing waste discharge requirements to control water quality and protect beneficial uses. These can include permits for "point sources" such as the San José/Santa Clara Water Pollution Control Plant or "non-point sources" such as the urban runoff discharged by a City's stormwater drainage system.

As discussed under checklist question a) above, the project developer is subject to the provisions of the MRP, as directed under the San Francisco Bay RWQCB, and must incorporate Low Impact Development (LID) storm water treatment controls (i.e., the proposed drainage management area) to treat all post-construction storm water runoff. By complying with the MRP requirements, the proposed project would not conflict with the Basin Plan.

The Sustainable Groundwater Management Act is a State law requiring groundwater basins to be sustainable. The act enables eligible local agencies to form groundwater sustainability agencies, develop groundwater sustainability plans for designated basins in their jurisdiction by 2020, and achieve groundwater sustainability within 20 years of plan implementation. Valley Water is the groundwater sustainability agency for Santa Clara groundwater basin. In July 2019, the Department of Water Resources approved Valley Water as the Groundwater Sustainability Agency for the Santa Clara Valley Subbasin, and also approved Valley Water's 2016 Groundwater Management Plan as an alternative for a Groundwater Sustainability Plan.

The proposed project would not conflict with the 2016 Groundwater Management Plan because its two onsite bioretention areas and two onsite treatment control measures would detain storm water runoff onsite and ultimately drain to the San Francisco Bay, thereby allowing for groundwater recharge and it would implement the policies listed under the Regulatory subsection under Regional/Local of this section in order to reduce adverse impacts to groundwater recharge areas. As concluded in the discussion under checklist question b), the proposed project would not contribute to a substantial depletion of groundwater supplies or interfere substantially with groundwater recharge, and, therefore, would not conflict with the sustainable groundwater management plan.

4.11 LAND USE AND PLANNING

4.11.1 Land Use and Planning Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Physically divide an established community?	☐	☐	☐	☒	1,2,3,5
b) Cause any significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☒	☐	1,2,3,4, 10

4.11.2 Environmental Setting

The project site is surrounded by residences to the west and east, and commercial development to the north and south. The project site is in the Commercial Pedestrian Zoning District, which is intended to support pedestrian oriented retail activity at a scale compatible with surrounding residential neighborhoods. This Zoning District is designed to support the goals and policies of the General Plan related to neighborhood business districts. The Commercial Pedestrian District also encourages mixed residential/commercial development where appropriate.

The General Plan designates the project site for Mixed-Use Commercial, which 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. The Winchester Boulevard Urban Village Plan identifies the project site as a location intended to accommodate a mix of commercial and residential uses. Due to its location within this plan, the project site is subject to compliance with the Urban Village Plan development standards and design guidelines

4.11.2 Regulatory Setting

Local

Envision San José 2040 General Plan

The General Plan includes Community Design Goals, Policies, and Implementation Actions that guide the form of future development in San José and help tie individual projects to the vision for the surrounding area and the city as a whole. The following policies are specific to land use and planning and apply to the proposed project:

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

Policy CD-1.12 Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.

Policy CD-4.5 For new development in transition areas between identified Growth Areas and nongrowth areas, use a combination of building setbacks, building step-backs, materials, building orientation, landscaping, and other design techniques to provide a consistent streetscape that buffers lower-intensity areas from higher-intensity areas and that reduces potential shade, shadow, massing, view shed, or other land use compatibility concerns.

Policy CD-4.9 For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).

Policy CD-5.8 Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.

Policy ES-6.1 Facilitate the development of new and promote the preservation and enhancement of existing health care facilities that meet all the needs of the entire San José community.

Policy ES-6.2 Maintain and update the Envision General Plan Land Use Transportation / Diagram as necessary to provide sufficient opportunities for hospitals and medical care facilities to locate in San José. Consider locating health care and medical service facilities, including hospitals, in residential, commercial, Urban Village, mixed use, Downtown, Transit Employment Center, Combined Industrial/Commercial, Industrial Park, and Public/Quasi-Public designations.

Policy ES-6.3 Recognizing that health care is a regional issue that crosses jurisdictional boundaries, work with the County, non-profits, and other governmental and non-governmental organizations to ensure that adequate, affordable health care facilities are available for all San José residents.

Policy ES-6.5 Encourage new health care facilities to locate in proximity to existing or planned public transit services. Coordinate with local transit providers as part of the development review process for new health care facilities, and encourage transit providers to provide new or enhance existing public transit services to the health care facility.

Policy ES-6.12 Consider strategies and incentives to attract hospitals and other health care and medical service facilities to areas of San José where a demand for those services is demonstrated in analyses prepared by county, state, or professional consultants.

Policy IP-1.6 Ensure that proposals to rezone and prezone properties conform to the Land Use/ Transportation Diagram, and enhance Envision General Plan Vision, goals, and policies.

Policy IP-8.2 Use the City's conventional zoning districts, contained in its Zoning Ordinance, to implement the Envision General Plan Land Use/Transportation Diagram. These districts include a range of allowed land uses, development intensities, and standards within major land use categories (residential, commercial and industrial) together with zoning districts for other land uses such as mixed-use and open space. The various ranges of allowed uses and development intensity correspond generally to the respective Envision General Plan land use designations, while providing greater detail as to the appropriate land uses and form of development.

Policy LU-5.2 To facilitate pedestrian access to a variety of commercial establishments and services that meet the daily needs of residents and employees, locate neighborhood-serving commercial uses throughout the city, including identified growth areas and areas where there is existing or future demand for such uses.

Policy LU-5.6 Encourage and facilitate the upgrading, beautifying, and revitalization of existing strip commercial areas and shopping centers. Minimize the visual impact of large parking lots by locating them away from public streets.

Policy LU-9.5 Require that new residential development be designed to protect residents from potential conflicts with adjacent land uses.

Winchester Boulevard Urban Village Plan Polices

The adopted Winchester Boulevard Urban Village Plan includes the following land use policy and design standards applicable to the proposed project:

Policy 3-9 Ensure that proposals for redevelopment or significant intensification of existing land uses on a property conform to the Land Use Plan. Because the Land Use Plan identifies the City's long-term planned land use for a property, non-conforming uses should transition to the planned use over the time. Allow improvements or minor expansion of existing, nonconforming land uses provided that such development will contribute to San José's and this Plan's employment growth goals or advance a significant number of other goals of this Plan.

DS-10 See Figure 5-2 for the Winchester Urban Village Height Limits.

DS-11 Non-occupiable architectural features such as roof forms, chimneys, stairwells and towers may project up to ten feet above the maximum height.

DS-12 New projects proposed within the Urban Village Plan over 55 feet in height must provide detailed visualizations of their proposed project that show what the project would look like from the street level, from different perspectives and distances, within the context of the neighborhood including both current and proposed projects.

4.11.3 Impact Discussion

a) Would the project physically divide an established community?

(No Impact)

The project site is an infill, redevelopment project that is consistent with the existing urban development of the area and would not divide connected neighborhoods or land uses. The proposed project does not include new roadways, infrastructure or development features that would divide an established community; therefore, there would be no impact related to physically dividing an established community.

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

(Less than Significant)

The project site is designated as Mixed-Use Commercial in the *Envision San José 2040 General Plan* and *Winchester Boulevard Urban Village Plan*. New development of a property with this designation should include commercial space equivalent to at least a 0.5 FAR for residential/commercial mixed-use projects. The land use designation supports a density up to 75 DU/AC for sites larger than 0.7 acres. This designation is intended to accommodate a mix of commercial and residential land uses with an emphasis on commercial activity.

The proposed project would conform with the General Plan and Winchester Boulevard Urban Village's Mixed-Use Commercial land use designation. The project has a density of 75 dwelling units per acre and provides a floor area ratio of 0.5 square feet of commercial square footage, which meets the maximum permitted residential density for the site and minimum commercial floor area ratio requirement. Additional discussion of the project's consistency with the Urban Village is located within the Aesthetics and Transportation Sections of this IS.

The project has a Commercial Pedestrian zoning district and the project would comply with the required development standards and parking standards set forth in the Zoning Ordinance of the Municipal Code.

Although the project site is considered urban development under the existing Habitat Plan, the proposed project is subject to the applicable Habitat Plan conditions and fees. As discussed in Section 4.4, Biological Resources, implementation of Mitigation Measures BIO-1, BIO-2, and BIO-3, along with the standard permit condition identified under checklist question a) and e), respectively, would reduce impacts to nesting bird and special-status bat habitats that may be impacted by the proposed project and ensure compliance with the City's tree removal permitting and tree replacement requirements. As a result, the proposed project's impacts on legally protected plant and wildlife species would be less than significant.

The design of the proposed project would align with the intent and purpose of the General Plan and the Commercial Pedestrian Zoning District, with the height of the proposed project at 65 feet, which is permitted in the zoning district per Section 20.40.200 of the City's Municipal Code. In addition, the proposed project would be required to comply with the zoning standards identified for sites within the Commercial Pedestrian zoning designation. Section 20.40.560

requires screening, such as a fence, at a property line that abuts residential uses; the proposed project includes a tube-steel security fence at the northern and southern boundary of the project

site and trees used for screening on the western border of the site. Additional policies within the General Plan and consistency with the *Winchester Boulevard Urban Village Plan* are identified in Section 4.1, Aesthetics, checklist question c).

The proposed project is also in compliance with the General Plan as follows: the project is within the Mixed-Use Commercial designation, which supports a mix of commercial and residential uses; General Plan Policy MS-13.1 because the project would implement the BAAQMD best management practices during all phases of construction and ground disturbance; and General Plan Policy ER-10.3, the standard permit condition identified in Section 4.7, Geology/Soils, checklist question f) would be implemented by the project to reduce and avoid potential impacts to as yet unidentified buried unique paleontological resources.

Based on the above discussion, the proposed project would not result in significant physical environmental impacts due to conflicts with land use plans, policies or regulations adopted for the purpose of avoiding or mitigating an environmental impact.

4.12 MINERAL RESOURCES

4.12.1 Mineral Resources Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Result in loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒	1,2,3
b) Result in the loss of availability of a locally important mineral resource recovery site delineated in a local general plan, specific plan, or other land-use plan?	☐	☐	☐	☒	1,2,3

4.12.2 Environmental Setting

According to the General Plan EIR, only one area of the City is designated by the State Mining and Geology Board under the Surface Mining and Reclamation of 1975 as containing mineral deposits. This area, called Communications Hill, is located over five miles east of the project site.

4.12.3 Regulatory Setting

Local

Envision San José 2040 General Plan

Chapter 3, Environmental Leadership, in the City's General Plan sets forth sustainability goals for the City through 2040. The following mineral resources-related policies are relevant to the project:

> **Policy ER-11.4** Carefully regulate the quarrying of commercially usable resources, including sand and gravel, to mitigate potential environmental effects such as dust, noise and erosion.
>
> **Policy ER-11.5** When approving quarrying operations, require the preparation and implementation of reclamation plans for the contouring and revegetation of sites after quarrying activities cease.

4.12.4 Impact Discussion

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

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

(**No Impact**)

The project site is not located in a portion of San José identified as containing mineral deposits by the City's General Plan and is located over five miles from the only city-designated location (Communications Hill). Therefore, the project would not result in the loss of any known mineral resources.

4.13 NOISE

4.13.1 Noise and Vibration Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project result in:					
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or in applicable standards of other agencies?	☐	☒	☐	☐	1,40
b) Generation of excessive ground-borne vibration or ground borne noise levels?	☐	☐	☒	☐	1,40
c) For a project located within the vicinity of a private airstrip or an airport land-use plan or, where such a plan has not been adopted, within two miles of a public airport or public-use airport, expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒	1,5,16 ,40

4.13.2 Noise Fundamentals

Noise is unwanted sound that disturbs human activity. Environmental noise levels typically fluctuate over time, and different types of noise descriptors are used to account for this variability. Noise level measurements include intensity, frequency, and duration, as well as time of occurrence. Noise level (or volume) is generally measured in decibels (dB) using the A-weighted sound pressure level (dBA). In terms of human perception, a 5 dB increase or decrease is considered to be a noticeable change in noise levels. Additionally, a 10 dB increase or decrease is perceived by the human ear as half as loud or twice as loud. In terms of perception, generally speaking, the human ear cannot perceive an increase (or decrease) in noise levels less than 3 dB (WJV Acoustics 2021, p. 2). Quiet suburban areas typically have noise levels in the range of 40-50 dBA, while arterial streets are in the 50-60+ dBA range. Normal conversational levels are in the 60-65 dBA range, and ambient noise levels greater than 65 dBA can interrupt conversations.

Typically, noise levels attenuate (drop off) at a rate of 6 dBA per doubling of distance from point sources (such as construction equipment). Noise from lightly traveled roads typically attenuates at a rate of approximately 4.5 dBA per doubling of distance. Largely, noise from heavily traveled roads attenuates at a rate of 3 dBA per doubling of distance; while usually noise from a point source attenuates at a rate of 6 dBA per doubling of distance. Noise levels may also be reduced by the introduction of intervening structures. For example, a single row of buildings between the receptor and the noise source reduces the noise level by about 5 dBA, while a solid wall or berm that breaks the line-of-sight reduces noise levels by 5 to 10 dBA.

In addition to the instantaneous measurement of sound levels, the duration of sound is important because sounds that occur over a long period of time are more likely to be an annoyance or cause direct physical damage or environmental stress. One of the most frequently used noise metrics that considers both duration and sound power level is the equivalent noise level (L_{eq}). The L_{eq} is defined

as the single steady A-weighted level that is equivalent to the same amount of energy as that contained in the actual fluctuating levels over a period of time (essentially, the average noise level). Typically, L_{eq} is summed over a one-hour period. L_{max} is the highest root mean squared sound pressure level within the measurement period, and L_{min} is the lowest root mean squared sound pressure level within the measurement period.

The time period during which noise occurs is also important since nighttime noise tends to disturb people more than daytime noise. Community noise is usually measured using a Day-Night Average Level (DNL), which is the 24-hour average noise level with a 10 dBA penalty for noise occurring during nighttime (10 p.m. to 7 a.m.) hours, or Community Noise Equivalent Level (CNEL), which is the 24-hour average noise level with a 5 dBA penalty for noise occurring from 7 p.m. to 10 p.m. and a 10 dBA penalty for noise occurring from 10 p.m. to 7 a.m. Noise levels described by DNL and CNEL usually do not differ by more than 1 dB and are used interchangeably in practice.

4.13.3 Vibration

Vibration is a unique form of noise because its energy is carried through buildings, structures, and the ground, whereas sound is simply carried through the air. Thus, vibration is generally felt rather than heard. Some vibration effects can be caused by noise (e.g., the rattling of windows from passing trucks). This phenomenon is caused by the coupling of the acoustic energy at frequencies that are close to the resonant frequency of the material being vibrated. Typically, ground-borne vibration generated by manmade activities attenuates rapidly as distance from the source of the vibration increases. The ground motion caused by vibration is measured as peak particle velocity (PPV) in inches per second (PPV [in/sec]) and is measured in vibration decibels (VdB).

Although PPV is appropriate for evaluating the potential for building damage, it is not always suitable for evaluating human response. It takes some time for the human body to respond to vibration signals. In a sense, the human body responds to average vibration amplitude/decibels. The vibration velocity level threshold of perception for humans is approximately 65 VdB. A vibration velocity of 75 VdB is the approximate dividing line between barely perceptible and distinctly perceptible levels for many people. Most perceptible indoor vibration is caused by sources inside buildings such as the operation of mechanical equipment, movement of people, or the slamming of doors. Typical outdoor sources of perceptible ground-borne vibration are construction equipment, steel-wheeled trains, and traffic on rough roads.

Construction vibration is generally assessed in terms of PPV. The relationship of PPV to VdB is expressed in terms of the "crest factor," defined as the ratio of the PPV amplitude to the VdB amplitude. Typically, PPV is a factor of 1.7 to 6 times greater than VdB.

4.13.4 Environmental Setting

The *Environmental Noise Assessment 1065 Winchester Boulevard Mixed-Use Development San Jose, California* (noise assessment) prepared for the proposed project on July 13, 2021 determined if significant noise impacts would be produced by the proposed project and described mitigation measures for noise if significant impacts were determined. The noise assessment was prepared by WJV Acoustics, Inc. and can be found in Appendix J.

Existing ambient noise levels in the project vicinity are dominated by traffic noise along South Winchester Boulevard and additional sources of noise during site inspection included aircraft overflights, birds, barking dogs, construction activities, and landscaping activities (WJV Acoustics 2021, p. 8).

WJV Acoustics conducted measurements of existing ambient noise levels in the project vicinity from a total of seven different locations; two sites, located at the rear of the adjacent office building to the south and near South Winchester Boulevard to the south, were measured for long-term ("LT," 24-hour) ambient noise levels. The remaining five sites, located adjacent to or in close proximity to South Winchester Boulevard, measured short-term ("ST," 15-minute) ambient noise levels. Figure 7, Project Vicinity and Ambient Noise Monitoring Sites, illustrates the project vicinity and ambient noise monitoring sites. As measured at these locations, existing ambient noise ranges from 54 dba dnl to 64 dba dnl.

Measured hourly energy average noise levels at LT-1 ranged from a low 45.7 dB between 1:00 AM and 2:00 AM to a high of 58.1 dB between 7:00 AM to 8:00 AM. The maximum hourly noise levels at this site ranged from 54.5 to 72.9 dB with residual noise levels (or background noise in the absence of identifiable single noise events such as traffic, aircraft, and other local noise sources) ranging from 42.8 to 55.3 dB. The measured hourly energy average noise levels at the long-term site located at LT-2, fronting South Winchester Boulevard, ranged from a low 51.6 dB between 1:00 AM to 2:00 AM to a high of 66.5 dBA between 3:00 PM and 4:00 PM. The maximum hourly noise levels at this site ranged from 71.0 to 90.7 dB with residual noise levels ranging from 40.0 to 57.3 dB. This information can be found in Figure 8, Summary of Short-Term Noise Measurement Data, and in Appendix J.

All five of the short-term monitoring sites were exposed to noise from traffic sources and aircraft overflights and other sources typical of an urban residential environment (i.e., barking dogs, birds, landscaping activities, etc.). The overall noise measurement data, according to the noise assessment, indicate that noise in the project vicinity is highly influenced by vehicular traffic on South Winchester Boulevard. The highest level of noise for the short-term measurement sites was the location just north of the project site fronting South Winchester Boulevard (identified as ST-4 in the noise assessment); the full short-term noise measurement data can be found in Figure 8.

4.13.5 Regulatory Setting

State

California Building Code

The California Building Code requires interior noise levels attributable to exterior environmental noise sources to be limited to a level not exceeding 45 dBA DNL/CNEL in any habitable room. The State of California established exterior sound transmission control standards for new nonresidential buildings as set forth in the 2019 California Green Building Standards Code (Section 5.507.4.1 and 5.507.4.2). These sections identify the standards, such as Sound Transmission Class ratings,19 that building materials and assemblies need to be in compliance with based on the noise environment. The performance method of the Green Building Standards Code (Section 5.507.4.2) states that buildings exposed to noise sources shall be constructed to minimize the interior noise levels, so they do not exceed an hourly equivalent noise level (L_{eq} (1-hr)) of 50 dBA in occupied areas during any hour of operation.

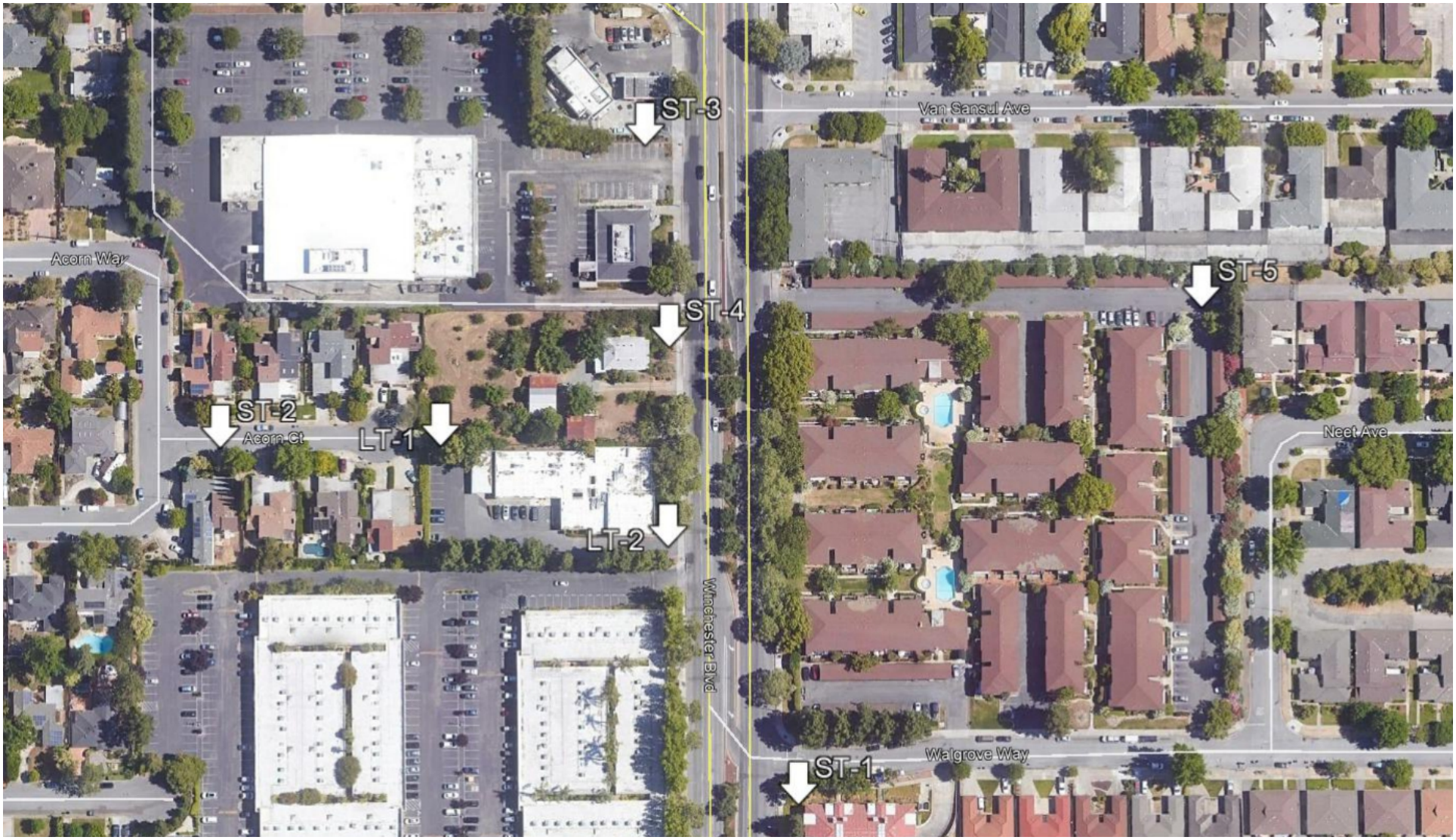
Regional/Local

General Plan

The General Plan includes goals and policies pertaining to noise and vibration. Community Noise Levels and Land Use Compatibility (commonly referred to as the Noise Element) of the General Plan utilizes the DNL descriptor and identifies interior and exterior noise standards for various land uses. The General Plan includes the following criteria (refer to Figure 9, Land Use Compatibility Guidelines for Community Noise in San José) for land use compatibility and acceptable exterior noise levels in the City based on land use types.

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

> **Policy EC-1.1** Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include:
>
> Interior Noise Levels
>
> - The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected Envision General Plan traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan.
>
> Exterior Noise Levels
>
> - The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (Table EC-1). The acceptable exterior noise level objective is established for the City, except in the environs of the San José International Airport and the Downtown, as described below:
>
> - For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. Some common use areas that meet the 60 dBA DNL exterior standard will be available to all residents. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. On sites subject to aircraft overflights or adjacent to elevated roadways, use noise attenuation techniques to achieve the 60 dBA DNL standard for noise from sources other than aircraft and elevated roadway segments.



Source: WJV Acoustics 2021

Figure 7

Project Vicinity and Ambient Noise Monitoring Sites

1065 South Winchester Boulevard Mixed Use IS

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1065 S. WINCHESTER BOULEVARD
SAN JOSE, CALIFORNIA
JANUARY 28 & 29, 2020

Site	Time	A-Weighted Decibels, dBA							Sources
		L_{eq}	L_{max}	L_2	L_8	L_{25}	L_{50}	L_{90}	
ST-1	8:35 a.m.	66.1	76.5	71.0	69.0	67.6	64.1	56.9	TR, AC
ST-1	3:45 p.m.	65.0	71.5	70.2	68.7	66.7	64.0	56.7	TR, V, D
ST-2	8:55 a.m.	55.9	71.0	63.3	60.5	56.8	52.1	47.9	TR, AC, V, L
ST-2	4:05 p.m.	56.8	65.6	64.1	60.3	57.1	54.8	51.2	TR, V, D
ST-3	9:15 a.m.	64.2	72.0	70.6	69.1	63.3	59.8	55.5	TR, AC, C
ST-3	4:35 p.m.	63.3	73.7	71.7	68.4	62.8	59.8	56.4	TR, V
ST-4	9:35 a.m.	59.8	81.2	75.6	73.0	68.5	62.2	54.8	TR, D
ST-4	4:55 p.m.	57.1	79.7	74.4	72.8	68.2	61.1	52.9	TR, AC
ST-5	9:55 a.m.	56.4	74.7	65.2	55.5	51.6	49.6	45.4	TR, C, B, D
ST-5	5:15 p.m.	54.1	71.3	63.7	53.9	51.1	49.2	46.9	TR, D, V

TR: Traffic AC: Aircraft V: Voices D: Dogs Barking B: Birds R: L: Landscaping Activities C: Construction

Source: WJV Acoustics 2021

Figure 8
Summary of Short-Term Noise Measurement Data

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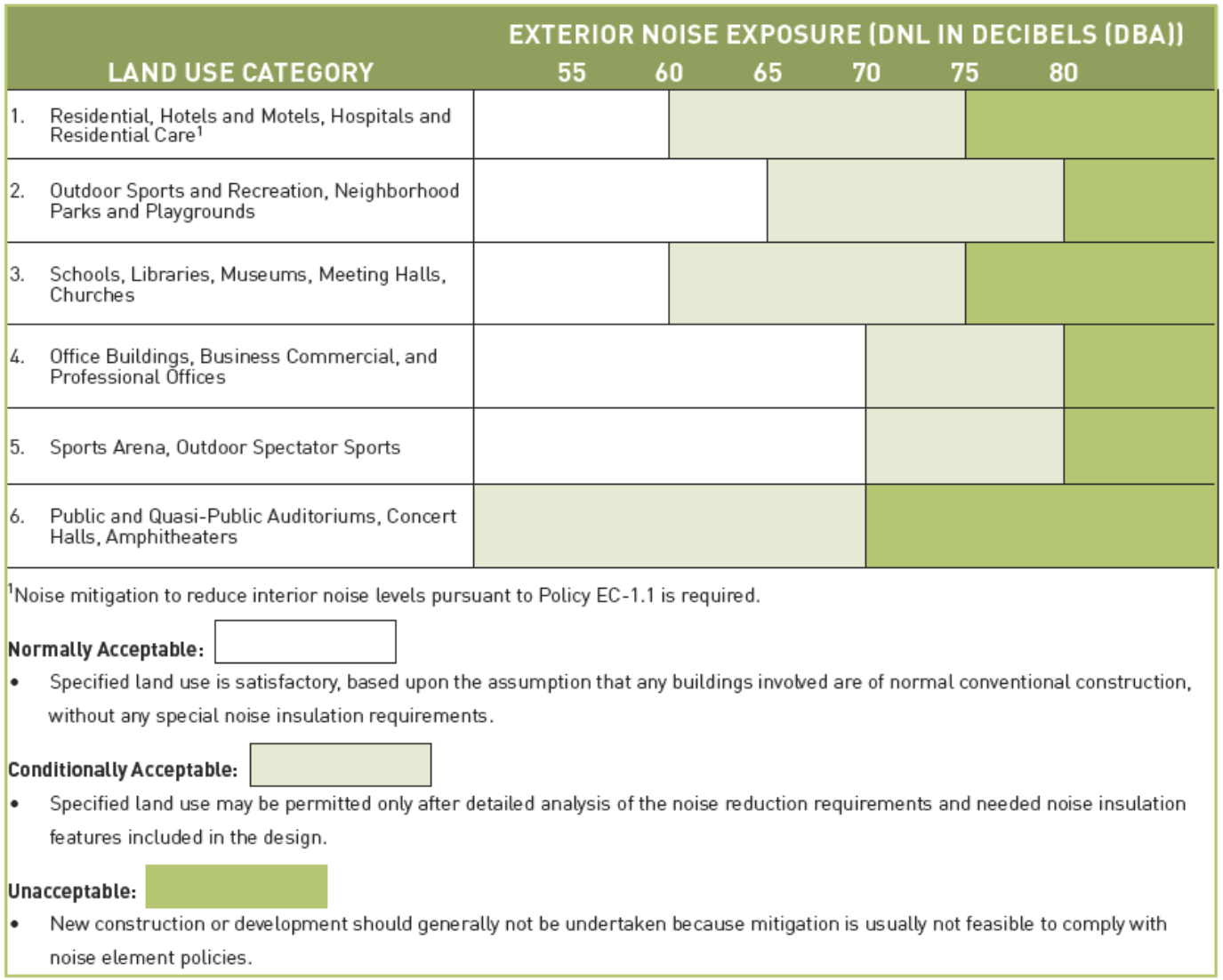

Source: WJV Acoustics 2021

Figure 9

Land Use Compatibility Guidelines for Community Noise in San José

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Policy EC-1.2 Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Categories 1, 2, 3 and 6 in Table EC-1) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would:

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

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

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

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

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

Policy E-2.3 Require new development to minimize vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, a vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction.

City Municipal Code

Table 13, Zoning Ordinance Noise Standards, which is from the San José Zoning Ordinance, presents the maximum noise levels allows for various land use types. The sound pressure level generated by any use or combination of uses on a property shall not exceed the decibel levels indicated in the table at any property line, except upon issuance and in compliance with a Special Use permit as provided in Chapter 20.100.

Table 13 Zoning Ordinance Noise Standards

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

SOURCE: City of San José Zoning Ordinance

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

4.13.6 Impact Discussion

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

(**Less Than Significant with Mitigation**)

The following addresses the permanent operational and temporary construction increase in ambient noise levels in excess of applicable standards in the project's vicinity. The noise and vibration effects associated with the project are described below and based on the noise study (see Appendix J).

Operational Noise Impacts (Permanent Noise Sources)

Project-related Traffic Noise (No Impact). As the proposed use is residential and commercial space, the primary noise generator for the propose project would be vehicles traveling in and out of the site. Project-related significant impacts would occur if an increase in traffic noise associated with the project would result in noise levels exceeding the City's applicable noise level standards at the locations of sensitive receptors (residences). A significant impact is also assumed to occur if traffic noise levels were to increase by three dBA DNL at sensitive receptor locations where noise levels already exceed the City's applicable noise level standards (without the project), as three dB generally represents the threshold of perception in change for the human ear.

The project's traffic noise analysis focused on residential land uses, as they represent the most restrictive noise level criteria by land use type provided in the General Plan. The City's exterior noise level standard for residential land uses is 60 dBA DNL. Traffic noise was modeled at eight receptor locations located at roadway setback distances representative of the sensitive receptors (residences) along each analyzed roadway segment.

WJVA utilized the FHWA Traffic Noise Model to quantify expected project-related increases in traffic noise exposure at representative noise-sensitive receptor locations in the project vicinity. Traffic noise exposure levels for Existing, Existing Plus Project, Background No Project and Background Plus Project traffic conditions were calculated based upon the FHWA Model and traffic volumes provided by Hexagon Transportation Consultants. Background traffic volumes were estimated by adding to existing peak hour volumes the projected volumes from approved but not yet completed developments. The day/night distribution of traffic and the percentages of trucks on the roadways used for modeling were obtained from previous studies WJVA has conducted along similar roadways. The receptor locations are shown on Figure 10, Locations of Modeled Traffic Noise Receptors.

Figure 11, Project-Related Increases in Traffic Noise, shows that project-related traffic is not expected to result in noise levels at any sensitive receptors to exceed the City's noise level standard, nor result in an increase of three (3) dB in any sensitive receptor locations where noise levels already exceed the City's noise level standard without the implementation of the project. Project-related traffic is not expected to increase traffic noise levels at any roadway. Therefore, there would be no impact associated with project-related increases in traffic noise exposure.

Project Noise Levels During Operation (No Impact). Sources of operational noise from the proposed project include parking lot vehicle movements, outdoor human activity, and mechanical/HVAC rooftop systems. The proposed project does not include loading docks or trash compactors. However, the project would include an off-street loading space for commercial and residential uses (WJV Acoustics 2021, p. 12) located adjacent to the ground-floor gym at the center of the project site.

Noise due to traffic in parking lots is typically limited by low speeds and is not usually considered to be significant. Human activity in parking lots that can produce noise includes voices, stereo systems, and the opening and closing of car doors and trunk lids. The noise levels associated with these activities cannot precisely defined due to variables such as the number of parking movements, time of day and other factors. It is typical for a passing car in a parking lot to produce a maximum noise level of 60 to 65 dBA at a distance of 50 feet, which is comparable to the level of a raised voice. However, all project parking spaces would be located within the structure of the proposed building, in the underground parking garage, and noise associated with vehicle movements would not be audible at any nearby sensitive receptor locations (WJV Acoustics 2021, p. 13).

Although not specifically shown on the applicant's project plans, noise levels for potential for roof-mounted HVAC units were assessed to be conservative. Noise related to roof-mounted HVAC units would be in the range of 45-50 dBA at the closest offsite sensitive receptor locations to the project site (residential land uses to the north and to the west). These levels would generally not be audible above existing ambient noise levels at adjacent land-uses and would not exceed any City noise level standards (p. 13). Furthermore, the project is subject to the following standard permit condition at the building permit stage:

Source: WJV Acoustics 2021

Figure 10

Locations of Modeled Traffic Noise Receptors

1065 South Winchester Boulevard Mixed Use IS

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PROJECT-RELATED INCREASES IN TRAFFIC NOISE, dB, L_{dn} 1065 S. WINCHESTER MIXED-USE DEVELOPMENT						
Modeled Receptor	Existing	Existing Plus Project	Cumulative	Cumulative Plus Project	Change (Maximum)	Significant Impact?
R-1	64	64	64	64	0	No
R-2	64	64	65	65	0	No
R-3	53	53	54	54	0	No
R-4	54	54	54	54	0	No
R-5	62	62	63	63	0	No
R-6	58	58	59	59	0	No
R-7	56	56	57	57	0	No
R-8	59	59	59	59	0	No

Source: WJV Acoustics 2021

Figure 11
Project-Related Increases in Traffic Noise

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Therefore, the proposed project would have no permanent onsite operational noise impact as noise levels would not be audible.

Recreational Noise Impacts. The General Plan establishes an exterior noise level standard of 60 dB L_{dn} for residential land uses; this standard applies to usable outdoor activity areas. The proposed project includes two common outdoor seating areas on the second floor that would be centrally located. Both of these seating areas would be surrounded by the building along the eastern and western sides and would be open to the north and south. Based upon the acoustical shielding provided by the buildings, noise levels would be expected to be approximately 45-50 dB L_{dn} within the seating areas. Therefore, the project would not result in an impact at any nearby sensitive receptor locations.

Project Noise Levels During Construction (Less than Significant with Mitigation)

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

Pursuant to General Plan Policy EC-1.7, significant construction noise impacts would occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months.

Construction of the proposed project would occur within 500 feet of residential land uses and within 200 feet of office uses. However, construction noise is typically not considered to be a significant impact if construction is limited to the daytime hours and construction equipment is adequately maintained and muffled. However, due to project construction lasting for approximately 20 months, the proposed project is determined to result in the generation of a substantial temporary increase in in the vicinity of the project in excess of standards established by the City's General Plan Policy EC-1.7; therefore, the following mitigation measure is required in order to ensure temporary construction noise levels are less than significant.

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.

Mitigation Measure

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 prepared by a qualified acoustics professional 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.

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:

a. Pile driving is prohibited.

b. 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.

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

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

e. Prohibit unnecessary idling of internal combustion engines.

f. Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.

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

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

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

j. If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.

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

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.

Implementation of Mitigation Measure N-1 identified above would reduce impacts related to temporary noise level increase due to the construction of the project. By requiring that a construction noise logistics plan be provided to minimize disruption and annoyance, limit hours, and reduce construction noise emanating from the site, the temporary noise increase in ambient levels would be less than significant. In addition, implementation of Mitigation Measure N-1, along with implementation of a similar construction noise logistics plan for the adjacent 1073-1087 S. Winchester Boulevard Mixed-Use Project, would reduce cumulative noise impacts to a less-than-significant level. This mitigation would be implemented by the applicant and would be required to be in place prior to issuance of any ground disturbing or grading permits.

b) Would the project result in generation of excessive ground-borne vibration or ground borne noise levels?

(**Less Than Significant**)

Construction

The dominant sources of man-made vibration are sonic booms, blasting, pile driving, pavement breaking, demolition, diesel locomotives, and rail-car coupling. The highest levels of construction-related vibrations are typically associated with pile driving and the use of vibratory rollers. While the project would include pavement breaking and demolition activities, project demolition and construction would not require pile driving or the use of a vibratory roller. Vibration from demolition and construction activities could be detected at the closest sensitive land uses, especially during demolition (pavement/concrete breaking), movements by heavy equipment or loaded trucks and during some paving activities.

Pile driving would be prohibited and the sources of vibration would be limited to pavement breaking and demolition activities. In addition, the project developer would be required to minimize continuous vibration impacts to adjacent uses during demolition and construction, pursuant to General Plan Policy EC-2.3. Typical vibration levels at distances of 25 feet, 100 feet, and 300 feet are shown in Figure 12, Typical Vibration Levels During Construction. The nearest conventional building is approximately 25 feet from the development boundary. With the typical equipment proposed for the project, the PPV to that building would be 0.035 PPV. The City's standards for nearby conventional buildings is 0.20 in/sec PPV. Therefore, the project would not result in continuous vibration levels exceeding the City's standards for cosmetic damage to conventional building.

Operational

After full project build out, it is not expected that ongoing operational activities would result in any vibration impacts at nearby sensitive uses as the proposal is residential with office space.

The primarily noise or vibration generator would be traffic trips in and out of the site. Activities involved in trash bin collection could result in minor onsite vibrations as the bin is placed back onto the ground. Such vibrations would not be expected to be felt at the closest off-site sensitive uses. Therefore, operation of the proposed project would not result in substantial ground-bourne vibration impacts. Mitigation is not required (WJV Acoustics 2021, p. 17).

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

(**No Impact**)

The proposed project is not within the vicinity of an airport land use plan nor is it within two miles of a public airport or public-use airport. The project site is also located outside the City of San José's projected 60+ dB CNEL aircraft noise impact area of the Airport.

Non-CEQA Effects

Per *California Building Industry Association v. Bay Area Air Quality Management District*, 62 Cal. 4th 369 (BIA v. BAAQMD), effects of the environment on the project are not considered CEQA impacts.

The following discussion is included for informational purposes only because the City of San José has policies that address existing noise conditions affecting a proposed project. The noise environment at the site and at nearby land uses is primarily from vehicular traffic on the surrounding roadways.

On-site Proposed Land Uses – Exterior Noise Levels. The proposed project includes two common use outdoor seating areas that would be centrally located at the second-floor level. The seating areas would be open-air, but located within the main two portions of the proposed building, and would therefore be acoustically shielded from South Winchester Boulevard traffic noise. Based upon the distance from the second-floor outdoor common use areas to South Winchester Boulevard, and the acoustical shielding provided by the buildings, noise levels would be expected to be approximately 45-50 dB within the seating areas (WJV Acoustics 2021, p. 18).

The General Plan establishes exterior noise level standard of 60 dB for residential land uses; therefore, the exterior noise levels from proposed onsite sensitive land uses would not exceed existing City standards.

On-site Proposed Land Uses – Interior Noise Levels. The General Plan establishes an interior noise level standard of 45 dB for residential land uses and the noise assessment indicates that worst-case scenario of noise exposure at the closest exterior facades to South Winchester Boulevard would be approximately 67 dB. Therefore, the noise assessment states that the proposed residential construction must be capable of providing a minimum outdoor-to-indoor noise level reduction of approximately 22 dB (67 dB - 45 dB = 22 dB) (p. 18).

The noise assessment assumes that residential construction methods complying with current building code requirements would reduce exterior noise levels by approximately 25 dB or more if

windows and doors are closed. This would be sufficient for compliance with the City's 45 dB interior standard at all proposed residential units. Requiring that it be possible for windows and doors to remain closed for sound insulation means that air conditioning or mechanical ventilation would be required. Therefore, the interior noise levels from proposed onsite sensitive land uses are not expected to exceed existing City standards so long as current building code requirements are met.

TYPICAL VIBRATION LEVELS DURING CONSTRUCTION			
	PPV (in/sec)		
Equipment	@ 25´	@ 100´	@ 300´
Bulldozer (Large)	0.089	0.019	0.006
Bulldozer (Small)	0.003	0.0006	0.0002
Loaded Truck	0.076	0.017	0.005
Jackhammer	0.035	0.008	0.002
Vibratory Roller	0.210	0.046	0.013
Caisson Drilling	0.089	0.019	0.006

Source: WJV Acoustics 2021

Figure 12

Typical Vibration Levels During Construction

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4.14 POPULATION AND HOUSING

4.14.1 Population and Housing Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Induce substantial unplanned population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?	☐	☐	☒	☐	1, 10
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒	1, 16

4.14.2 Environmental Setting

According to the California Department of Finance, the City has an estimated 2019 population of approximately 1,043,058 and an estimated 335,887 housing units. The City's housing stock has an average of 3.19 persons per household in 2020 (California Department of Finance 2021). Based on the City's General Plan EIR, the projected population in 2035 would be approximately 1.3 million persons occupying approximately 430,000 households. The proposed project would increase the current population by approximately 224 people (70 residential units x 3.2 persons per household).

According to the *2018 CMP Monitoring and Conformance Report* prepared by the Santa Clara Valley Transportation Authority, the estimated job density (jobs per 1,000 square feet) for an office use is 3.4. With 20,410 square feet of office space, the proposed project would generate an estimated 69 new employees (20,410 square feet of office space x 3.4 jobs / 1,000 square feet).

4.14.3 Regulatory Setting

Local

Association of Bay Area Governments (ABAG)

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

Envision San José 2040 General Plan

Chapter 4, Quality of Life, in the City's General Plan addresses how quality of life will be advanced as the City promotes economic development and continues to grow a safe, diverse, and thriving community with employment opportunities, well-maintained infrastructure, urban services, and cultural and entertainment options. The following policies are considered relevant to the proposed project (City of San José 2011):

Policy H-3.2 Design high density residential and mixed residential/commercial development, particularly development located in identified Growth Areas, to:

1. Create and maintain safe and pleasant walking environments to encourage pedestrian activity, particularly to the nearest transit stop and to retail, services, and amenities.

2. Maximize transit usage.

3. Allow residents to conduct routine errands close to their residence, especially by walking, biking, or transit.

4. Integrate with surrounding uses to become a part of the neighborhood rather than being an isolated project.

5. Use architectural elements or themes from the surrounding neighborhood when appropriate.

6. Provide residents with access to adequate on- or off-site open space.

7. Create a building scale that does not overwhelm the neighborhood.

8. Be usable by people of all ages, abilities, and needs to the greatest extent possible, without the need for adaptation or specialized design.

Policy H-4.1 Implement green building principles in the design and construction of housing and related infrastructure, in conformance with the Green Building Goals and Policies in the Envision General Plan and in conformance with the City's Green Building Ordinance.

Policy H-4.2 Minimize housing's contribution to greenhouse gas emissions, and locate housing, consistent with our City's land use and transportation goals and policies, to reduce vehicle miles traveled and auto dependency

4.14.4 Impact Discussion

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

(**Less than Significant**)

The proposed project does involve resident housing and would result in a population increase in San José of approximately 224 people (70 residential units x 3.2 persons per household). However, the proposed project is consistent with the uses allowed by the *Winchester Boulevard Urban Village Plan* and contributes to the vision of the area as being a transition into a more vibrant mixed-use place that supports and creates a thriving commercial corridor, including a variety of housing options. The increase in 224 residents represents a minor increase in the City's overall population and is consistent with the growth analyzed in the General Plan. Therefore, the proposed project would not substantially induce population growth that is not already planned for in the urban village plan.

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

(**No Impact**)

The project site is currently developed with a vacant residence, one dilapidated structure, two sheds, and a barn, which would be demolished with implementation of the proposed project, and 70 residential units would be constructed. Therefore, the proposed project would not displace substantial numbers of existing people or housing and would not necessitate the construction of replacement housing elsewhere.

4.15 PUBLIC SERVICES

4.15.1 Public Services Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Result in substantial adverse physical impacts associated with the provision of or need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the following public services:					1,2,3,4, 5,10, 30, 31, 44
- Fire Protection?	☐	☐	☒	☐	
- Police Protection?	☐	☐	☒	☐	
- Schools?	☐	☐	☒	☐	
- Parks?	☐	☐	☒	☐	
- Other Public Facilities?	☐	☐	☒	☐	

4.15.2 Environmental Setting

San José Fire Department

Fire protection services to the project site are provided by the San José Fire Department. The fire department responds to all fires, hazardous materials spills, and medical emergencies (including injury accidents) in San José. The fire department senior command structure consists of a fire chief, an assistant fire chief, three deputy chiefs, and three deputy directors. There are currently 33 active fire stations in San José. The fire station nearest to the project site is Station #10, approximately 0.85 miles north of the site.

San José Police Department

Police protection services for the project site are provided by the San José Police Department. The police department is divided into four geographic divisions: Central, Western, Foothill, and Southern. The project site is directly served by the San José Police Department Western Division. The officers are dispatched from the police headquarters located at 201 West Mission Street, located approximately 3.8 miles northeast of the project site.

Schools

According to the City's Public View GIS, the project site is within the Moreland Elementary School District and the Campbell Union High School District (City of San José 2020). The schools within these two districts nearest to the project site are:

- Payne Elementary School, approximately one mile southwest;
- Moreland Middle School, approximately two miles southwest; and
- Del Mar High School, approximately one mile east.

Parks and Trails

According to the City's General Plan EIR, the City provides and maintains developed parkland and open space to serve its residents. According to the City's Public GIS Viewer, the nearest parks to the project site are the Marijane Hamann Park, located approximately 0.4 miles southeast of the project site, Starbird Park, located approximately 0.75 miles west of the project site, and Frank M. Santana Park, located approximately 0.75 miles north of the project site.

According to the General Plan EIR Figure 3.9-4, the nearest trail to the project site is the Los Gatos Creek Trail, located approximately 2.5 miles east of the project site.

Libraries

San José is served by the San José Public Library System, which consists of one main library (Dr. Martin Luther King Jr.) and 23 branch libraries. The nearest public library is the Bascom Branch Library, approximately one mile east of the project site.

4.15.3 Regulatory Setting

State

California Government Code Section 65996 (School Facilities)

State law identifies the payment of school impact fees as an acceptable method of offsetting a project's impact on school facilities. The project applicant can either negotiate directly with the affected school districts or make a payment per square foot of multi-family units and commercial units (prior to the issuance of a building permit). The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code.

Local

Envision San José 2040 General Plan

Chapter 4, Quality of Life, in the City's General Plan includes goals, policies and implementation actions for various public services, including education, libraries, health care, public safety (police and fire), and code enforcement. In addition, the Parks, Open Space, and Recreation Subsection of the same chapter, provides the goals, policies, and actions related to parks, open space, and recreational facilities. The following policies within the City's General Plan are germane to the proposed project (City of San José 2011):

> **Policy CD-5.5** Include design elements during the development review process that address security, aesthetics and safety. Safety issues include, but are not limited to, minimum clearances around buildings, fire protection measures such as peak load water requirements, construction techniques, and minimum standards for vehicular and pedestrian facilities and other standards set forth in local, state, and federal regulations.
>
> **Policy ES-3.1** Provide rapid and timely Level of Service response time to all emergencies:

1. For police protection, use as a goal a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls.

2. For fire protection, use as a goal a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.

3. Enhance service delivery through the adoption and effective use of innovative, emerging techniques, technologies and operating models.

4. Measure service delivery to identify the degree to which services are meeting the needs of San José's community.

5. Ensure that development of police and fire service facilities and delivery of services keeps pace with development and growth in the city.

Policy ES-3.2 Strive to ensure that equipment and facilities are provided and maintained to meet reasonable standards of safety, dependability, and compatibility with law enforcement and fire service operations.

Policy ES-3.9 Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly-visible and accessible spaces.

Policy ES-3.10 Incorporate universal design measures in new construction, and retrofit existing development to include design measures and equipment that support public safety for people with diverse abilities and needs. Work in partnership with appropriate agencies to incorporate technology in public and private development to increase public and personal safety.

Policy ES-3.11 Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.

Policy ES-3.17 Promote installation of fire sprinkler systems for both commercial and residential use and in structures where sprinkler systems are not currently required by the City Municipal Code or Uniform Fire Code.

Policy ES-4.9 Permit development only in those areas where potential danger to the health, safety, and welfare of persons in that area can be mitigated to an acceptable level.

City Municipal Code - Chapter 19.38, Parkland Dedication Ordinance and Chapter 14.25, Park Impact Ordinance

The City of San José has adopted the Parkland Dedication Ordinance (PDO, Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO, Municipal Code Chapter 14.25) requiring new residential development to either dedicate sufficient land to serve new residents, or pay fees to offset the increased costs of providing new park facilities for new development. These ordinances are intended to reduce the extent to which new development would exacerbate the existing shortfall of park and recreational facilities. Under the PDO and PIO, a project can satisfy half of its total parkland obligation by providing private recreational facilities on-site. For projects over 50 units, it is the City's decision as to whether the project would dedicate land for a new public park site or accept a fee in-lieu of land dedication.

4.15.4 Impact Discussion

a.1) Would the project result in substantial adverse physical impacts associated with the provision of or need for new or physically altered fire protection facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives?

(Less than Significant)

The proposed project would replace the existing structures onsite with 70 residential condominium units and 20,410 square feet of commercial space. Therefore, the proposed project would increase fire protection needs at the project site.

As reported in the General Plan EIR, according to Fire Department protocols, fires in structures four stories or taller in height will require responses from more than one fire station. Fire Station #10 is located approximately 0.85 miles north of the project site and Fire Station #4 is located approximately 1.5 miles northeast of the project site. Construction of the proposed project would be required to comply with applicable Fire Code standards.

The General Plan EIR evaluated the need for new fire stations with buildout of the General Plan and concluded that implementation of the general plan would result in an increase in calls for fire protection services but would not result in the need for construction of fire stations in excess of those currently planned. The proposed project is consistent with the General Plan densities for the project site and, therefore, would not result in the need for construction of fire stations in excess of those currently planned.

a.2) Would the project result in substantial adverse physical impacts associated with the provision of or need for new or physically altered police protection facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives?

(Less than Significant)

The proposed project would replace the existing structures onsite with 70 residential condominium units and commercial office space. Therefore, the proposed project would increase police protection needs at the project site.

The police department headquarters that currently serve the project site is located approximately 3.8 miles northeast. As reported in the General Plan EIR, police services would continue to be dispatched from police headquarters and no additional stand-alone police facilities are anticipated. The General Plan EIR evaluated the need for new police stations with buildout of the General Plan and concluded that implementation of the general plan would result in an increase in calls for police protection services and may require the need for expansion of existing police facilities or the location of new facilities within planned growth areas. Construction of new police facilities would require supplemental environmental review, but is not anticipated by the General Plan EIR to have significant adverse environmental impacts.

The proposed project would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies to promote public and property safety. The increase in police service needs by the proposed development

represents a small fraction of the total growth identified in the General Plan, which anticipated the type of development proposed at this location. The proposed project, by itself, would not preclude the police department from meeting their service goals and would not require the construction of new or expanded police facilities. Therefore, the proposed project would not significantly impact police protection services requiring the construction of new or remodeled facilities.

a.3) Would the project result in substantial adverse physical impacts associated with the provision of or need for new or physically altered school facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives?

(Less than Significant)

Two school districts serve the project site: the Moreland Elementary School District, which serves kindergarten through eighth grade, and the Campbell Union High School District, which serves grades nine through twelve.

The proposed project would result in the generation of new students. The Moreland Elementary School District uses a student generation rate of 0.33 students per multi-family dwelling unit (Evangeline Reyes, email message, December 9, 2019) and the Campbell Union High School District uses a student generation rate of 0.0906 students per multi-family dwelling unit (Cooperative Strategies 2018, p. 11). The director of fiscal services for the Campbell Union High School District confirmed that the 2018 study with student generation information is the most recent information (Rory Cox, email message, January 27, 2020).

Table 14, Student Generation, presents an estimate of the number of students that would be generated by the proposed project.

Table 14 Student Generation

Proposed Project	Moreland Elementary School District (K-8)	Campbell Union High School District (9-12)	Total Students
70 residential units	0.33 x 70 units = 24	0.0906 x 70 units = 7	31

SOURCES: Cooperative Strategies 2018; Evangeline Reyes, email message, December 9, 2019; Rory Cox, email message, January 27, 2020
NOTE: Numbers are rounded up

The proposed project would generate approximately 31 students for the two applicable school districts which would not require construction of a new school. However, cumulative development within the school districts' boundaries could result in the need for new schools or expansion of existing schools. In accordance with Senate Bill 50, the project developer would be required to pay development impact fees to each affected school district at the time of the building permit issuance. The school districts would use collected funds towards new facilities to offset any impacts associated with new the development. Pursuant to California Government Code Section 65996, payment of these fees is deemed to fully mitigate cumulative CEQA impacts of new development on school facilities. Therefore, payment of state-mandated impact fees would reduce the project project's potentially cumulatively considerable environmental impacts on school facilities to a less-than-significant level. No additional mitigation is required.

a.4 and a.5) Would the project result in substantial adverse physical impacts associated with the provision of or need for new or physically altered park or other governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives?

(Less than Significant)

Due to the proposed project's increase in population, an increase in the use of nearby parks may occur. The project would be required to comply with the City's park ordinances, which would offset impacts to park/recreation facilities. Therefore, the proposed project is responsible for the payment of impact fees as calculated by the City. Payment of the applicable park and recreation impact fees would reduce the proposed project's impact on existing neighborhood and regional parks to a less than significant level. Please refer to Section 4.16, Recreation, for information related to the proposed project's potential impacts on the City's parks and recreational facilities.

4.16 RECREATION

4.16.1 Recreation Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☒	☐	1,3,4
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?	☐	☐	☒	☐	1,3,4

4.16.2 Environmental Setting

According to the *Activate SJ Strategic Plan (2020-2040)*, the City currently has more than 3,500 acres of parkland; 206 parks, approximately 558,000 square feet of community center space, and 61 trail miles.

According to the City's General Plan EIR, the City provides and maintains developed parkland and open space to serve its residents. The City's Departments of Parks, Recreation, and Neighborhood Services are responsible for the development, operation, and maintenance of all City park facilities. According to the City's Public GIS Viewer, the nearest parks to the project site are the Marijane Hamann Park, located approximately 0.4 miles southeast of the project site, Starbird Park, located approximately 0.75 miles west of the project site, and Frank M. Santana Park, located approximately 0.75 miles north of the project site.

According to the General Plan EIR Figure 3.9-4, the nearest trail to the project site is the Los Gatos Creek Trail, located approximately 1.2 miles east of the project site.

4.16.3 Regulatory Setting

Local

Envision San José 2040 General Plan

The following General Plan policies are germane to the proposed project:

> **Policy PR-1.2** Provide 7.5 acres per 1,000 population of citywide /regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
>
> **Policy PR-2.4** To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/ tot-lots, basketball courts, etc.) within a 3/4 mile radius of the project site that generates the funds.

4.16.4 Impact Discussion

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?

(**Less than Significant**)

The proposed project includes the development of a new mixed-use building, with an increase in the population of approximately 224 people based on the 70 proposed dwelling units and an average of 3.19 persons per household (70 residential units x 3.2 persons per household).

The proposed project would be required to provide approximately 1.7 acres of public parkland, according to the General Plan goal of 7.5 acres per 1,000 population for citywide/regional parklands within the City's boundaries. The City of San José has adopted the Parkland Dedication Ordinance and Park Impact Ordinance, which requires residential developers to dedicate public park land or pay in-lieu fees (or both) to compensate for the increase in demand for neighborhood parks. The project would be required to comply with the City's park ordinances, which would offset impacts to park/recreation facilities. Therefore, the proposed project is responsible for the payment of impact fees as calculated by the City. Payment of the applicable park and recreation impact fees would reduce the proposed project's impact on existing neighborhood and regional parks to a less-than-significant level.

4.17 TRANSPORTATION/TRAFFIC

4.17.1 Transportation/Traffic Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	☐	☒	☐	☐	1,50
b) Conflict or be inconsistent with CEQA guidelines section 15064.3, subdivision (b)?	☐	☒	☐	☐	1,50
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☒	1,50
d) Result in inadequate emergency access?	☐	☐	☒	☐	1,50

4.17.2 Environmental Setting

The *1065 South Winchester Mixed-Use Development – Draft Transportation Analysis* (transportation analysis) conducted for this project was to determine the potential traffic impacts related to the project based on the standards and methodologies set forth by the cities of San José and Campbell and the Santa Clara Valley Transportation Authority (VTA). The VTA administers the County's Congestion Management Program. The project's transportation analysis prepared by Hexagon Transportation Consultants, Inc., dated November 12, 2021 is included in Appendix K.

The project site is located within the adopted *Winchester Boulevard Urban Village Plan* (Urban Village Plan). According to the General Plan, the Urban Village Plan strategy fosters:

- Mixed residential and employment activities attractive to an innovative work force;
- Revitalization of underutilized properties that have access to existing infrastructure;
- Densities that support transit use, bicycling, and walking; and
- High-quality urban design.

Existing Roadway Network

Regional access to the project site is provided via State Rout (SR) 17 and I-280. These facilities are described below:

- SR 17 is a six-lane freeway in the vicinity of the site. It extends from Santa Cruz to I-280 in San José, at which point it makes a transition to I-880 to Oakland. Access to the site is provided via its interchange with Hamilton Avenue.

- I-280 is an eight-lane freeway in the vicinity of the site. It extends northwest to San Francisco and east to King Road in San José, at which point it makes a transition to I-680 to Oakland. North of I-880, I-280 has high occupancy vehicle (HOV) lanes in both directions. Access to and from northbound I-280 to the site is provided via its interchange with Winchester Boulevard and via SR 17 to Hamilton Avenue.

Local access to the site is provided by Winchester Boulevard, Moorpark Avenue, Williams Road, Payne Avenue, Hamilton Avenue, San Tomas Expressway, and Eden Avenue. These roadways are described below:

- Winchester Boulevard is generally a six-lane roadway; however, the segment between Payne Avenue and Williams Avenue provides only five travel lanes (two northbound and three southbound). The north-south roadway runs from Los Gatos to Lincoln Street in Santa Clara. In the project vicinity, Winchester Boulevard has a posted speed limit of 35 mph with sidewalks on both sides of the street and on-street bike lanes between I-280 and Stevens Creek Boulevard. Direct access to and from the project site is provided via a right-in/right-out-only driveway along Winchester Boulevard.

- Moorpark Avenue is a four-lane east-west roadway that runs from Lawrence Expressway to Bascom Avenue. East of Bascom Avenue, Moorpark Avenue makes a transition into a three-lane one-way roadway to Leigh Avenue. Moorpark Avenue provides access to the project site via Winchester Boulevard.

- Williams Road is a two-lane east-west roadway in the vicinity of the project site. It extends east from Moorpark Avenue to South Daniel Way, just east of Winchester Boulevard. Williams Road provides access to the project site via Winchester Boulevard.

- Payne Avenue is a two-lane east-west roadway in the vicinity of the project site. It extends east from Saratoga Avenue to Almarida Drive, just east of Winchester Boulevard. Payne Avenue provides access to the project site via Winchester Boulevard.

- Hamilton Avenue is a six-lane east-west roadway between Marathon Drive and Leigh Avenue. West of Marathon Drive, Hamilton Avenue narrows to a four-lane roadway and extends west to Campbell Avenue. East of Leigh Avenue, Hamilton Avenue narrows to a four-lane roadway and extends west to Meridian Avenue. Hamilton Avenue provides access to the project site via Winchester Boulevard.

- San Tomas Expressway is a north-south expressway that begins at its interchange with US 101 and extends southward through Santa Clara and San Jose and into Campbell, where it transitions into Camden Avenue at SR 17. San Tomas Expressway provides access to and from the project site via Williams Road and Payne Avenue.

- Eden Avenue is a two-lane north-south roadway in the vicinity of the project site. It extends north from Hamilton Avenue to Moorpark Avenue. Eden Avenue provides access to the project site via Williams Road and Payne Avenue.

Existing Bicycle and Pedestrian Facilities

Class II Bikeway (Bike Lane). Class II bikeways are striped bike lanes on roadways that are marked by signage and pavement markings. Within the vicinity of the project site, striped bike lanes are present on the following roadway segments:

- Winchester Boulevard, between Hamilton Avenue and Payne Avenue;
- Winchester Boulevard, between Tisch Way and Stevens Creek Boulevard;
- Hamilton Avenue, west of SR 17;
- Payne Avenue, west of Winchester Boulevard;
- Williams Road, west of Baywood Avenue;
- Moopark Avenue, west of Thornton Way; and
- Monroe Street, between Tisch Way and Stevens Creek Boulevard.

Class III Bikeway (Bike Route). Class III bikeways are bike routes and only have signs to help guide bicyclists on recommended routes to certain locations. In the vicinity of the project site, the following roadway segments are designated as bike routes;

- Payne Avenue, between Winchester Boulevard and Greenbriar Avenue;
- Eden Avenue, between Impala Drive and Hamilton Avenue;
- Milton Avenue, south of Hamilton Avenue;
- Darryl Drive, between Hamilton Avenue and Payne Avenue;
- Monroe Street, between Moopark Avenue and Williams Road;
- Williams Road, between Baywood Avenue and Daniel Way;
- Daniel Way, between Williams Road and Westfield Avenue;
- Thornton Way, between Moorpark Avenue and Downing Avenue;
- Central Avenue, between Hamilton Avenue and Westfield Avenue; and
- Downing Avenue, east of SR 17.

Although none of the residential streets near the project site provide bike lanes or are designated as bike routes, due to their low traffic volumes, many of them are conducive to bicycle usage. Existing bicycle facilities are shown in Figure 13, Existing Bicycle Facilities.

The locations of three pedestrian footbridge crossings over freeways in vicinity of the project site are listed below.

- SR 17 pedestrian footbridge connecting Westfield Avenue and Downing Avenue;
- I-280 pedestrian footbridge connecting Moorpark Avenue and Cypress Avenue; and
- I-280 pedestrian footbridge connecting Moopark Avenue and Tisch Way.

Controlled crosswalks across Winchester Boulevard are provided near the project site at the signalized Williams Road and Payne Avenue intersections with Winchester Boulevard. Overall, the existing network of sidewalks and crosswalks provides good connectivity and provides pedestrians with safe routes to transit services and other points of interest in the area.

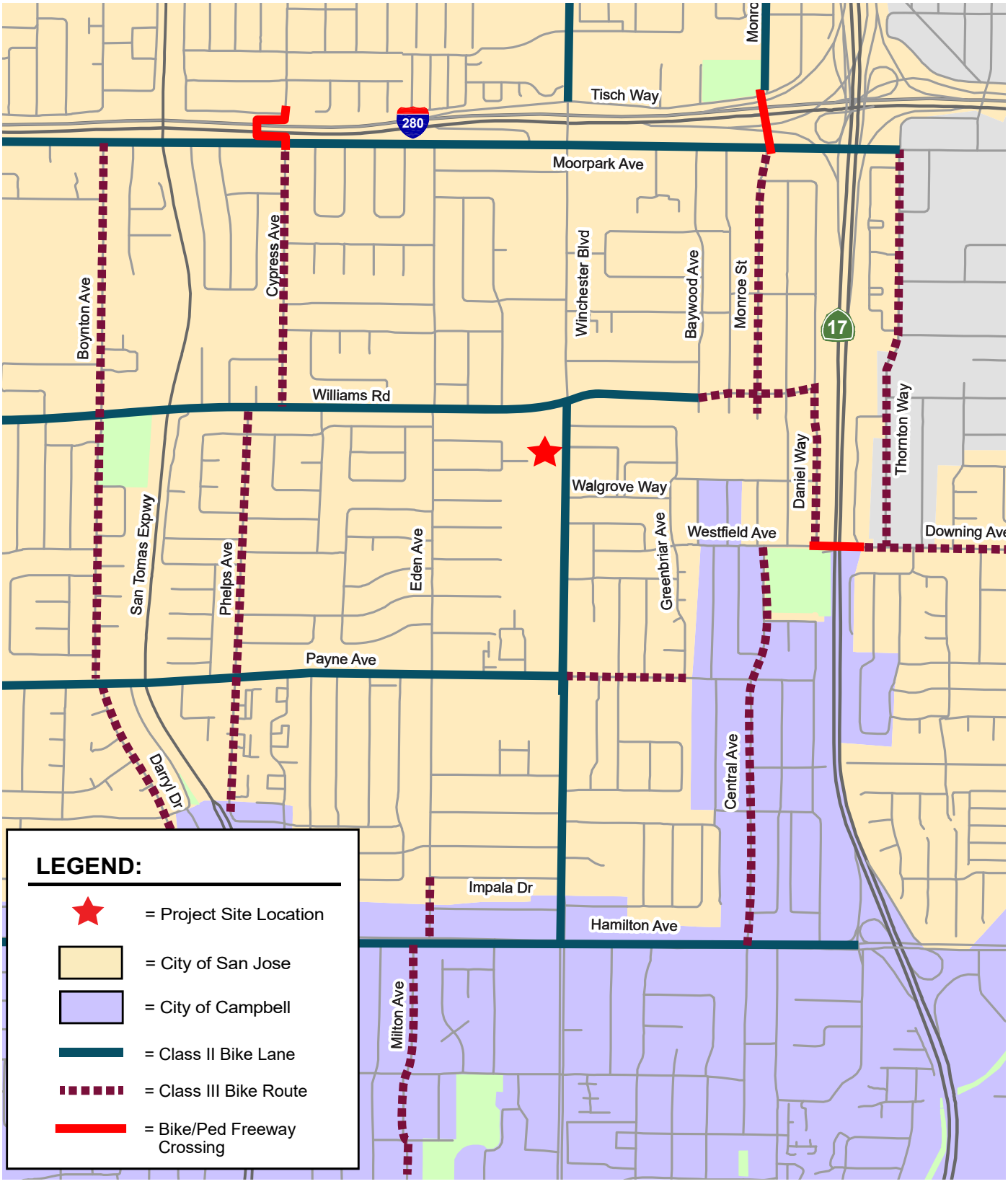
Existing Transit Services

Existing transit service to the study area is provided by the VTA. The VTA transit services are described below and shown on Figure 8 of the transportation analysis.

VTA Bus Services. The project site is served directly by the following VTA bus routes.

- Frequent Route 25 runs from the De Anza College to Alum Rock Transit Center and operates from 5:00 AM to 12:30 AM on weekdays with 15- to 30-minute headways during commute periods. Route 25 operates along Winchester Boulevard and Williams Road in the project area. The closest bus stop is located approximately 600 north of the project site at the intersection of Winchester Boulevard and Williams Road.
- Local Route 56 runs from Lockheed Martin to Tamien Station and operates from 5:00 AM to 10:30 PM on weekdays with 30-minute headways during commute periods. The closest bus stop is located approximately 0.9 mile from the project site at the intersection of Winchester Boulevard and Hamilton Avenue.
- Frequent Route 60 runs from the BART Station in Milpitas to Winchester Station via SJC Airport and operates from 5:00 AM to 12:30 AM on weekdays with 15-minute headways during commute periods. Route 60 operates along Winchester Boulevard in the project area. The closest southbound and northbound bus stops to the project site are located at most approximately 300 feet away from the project site along Winchester Boulevard.
- Express Route 101 runs from the Camden Avenue near Highway 85 to Stanford Research Park in Palo Alto and operates two northbound trips during the morning commute period and two southbound trips during the afternoon commute period with 50- to 60-minute headways. The closest bus stop is located approximately 0.9 mile from the project site at the intersection of Winchester Boulevard and Hamilton Avenue.

VTA Light Rail Transit (LRT) Service. LRT Green Line runs from the Winchester Transit Center in Campbell to Old Ironsides in Santa Clara and operates from 5:00 AM to 1:00 AM with 15-minute headways during the peak commute periods. The closest LRT station is located approximately 1.4 miles from the project site at the interchange of SR 17 and Hamilton Avenue.



Source: WJV Acoustics 2021

Figure 13

Existing Bicycle Facilities

1065 South Winchester Boulevard Mixed Use IS

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4.17.3 Regulatory Setting

State

State Senate Bill 743

Senate Bill (SB) 743 was signed into law by Governor Brown in 2013 and tasked the State Office of Planning and Research (OPR) with establishing new criteria for determining the significance of transportation impacts under the California Environmental Quality Act (CEQA). SB 743 requires the new criteria to "promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses." It also states that alternative measures of transportation impacts may include "vehicle miles traveled, vehicle miles traveled per capita, automobile trip generation rates, or automobile trips generated."

With the adoption of SB 743 legislation, public agencies are now required to base the determination of transportation impacts on Vehicle Miles Traveled (VMT) rather than level of service. In adherence to SB 743, the City has adopted a new Transportation Analysis Policy, Council Policy 5-1. The policy replaces its predecessor (Policy 5-3) and establishes the thresholds for transportation impacts under the CEQA based on vehicle miles traveled (VMT) instead of levels of service (LOS). The intent of this change is to shift the focus of transportation analysis under CEQA from vehicle delay and roadway auto capacity to a reduction in vehicle emissions, and the creation of robust multimodal networks that support integrated land uses. The new transportation policy aligns with the currently adopted General Plan which seeks to focus new development growth within Planned Growth Areas, bringing together office, residential, and supporting service land uses to internalize trips and reduce VMT. All new development projects are required to analyze transportation impacts using the VMT metric and conform to Council Policy 5-1.

Regional/Local

Regional Transportation Plan/Sustainable Communities Strategy

The Metropolitan Transportation Commission (MTC) is the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area, including Santa Clara County. MTC is charged with regularly updating the Regional Transportation Plan, a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle, and pedestrian facilities in the region. MTC and the Association of Bay Area Governments adopted Plan Bay Area 2040 in July 2017, which includes the region's Sustainable Communities Strategy (integrating transportation, land use, and housing to meet GHG reduction targets set by CARB) and Regional Transportation Plan (including a regional transportation investment strategy for revenues from federal, state, regional and local sources over the next 24 years).

Congestion Management Program

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

Congestion management agencies are required by the state statute to monitor roadway traffic congestion and the impact of land use and transportation decisions on a countywide level, at least every two years. VTA conducts CMP monitoring and produces the CMP Monitoring & Conformance Report annually for freeways, rural highways, and CMP-designated intersections. Legislation requires that each CMP contain the following five mandatory elements: 1) a system definition and traffic level of service standard element; 2) a transit service and standards element; 3) a trip reduction and transportation demand management element; 4) a land use impact analysis program element; and 5) a capital improvement element. The Santa Clara County CMP includes the five mandatory elements and three other elements: a county-wide transportation model and data base element, an annual monitoring and conformance element, and a deficiency plan element. The VTA has review responsibility for proposed development projects expected to affect CMP designated intersections. According to the County's CMP Figure 2.3, there are several CMP designated intersections near to the project site.

I-280/Winchester Boulevard Transportation Development Policy

The project is located within the Winchester Boulevard Urban Village Plan (2017). As part of the Envision San José 2040 General Plan, the City has identified historically underutilized locations within San José that will be developed as "Urban Villages." These urban villages are intended to promote the development of active, walkable, bicycle friendly, transit-oriented, mixed-use urban settings for new housing and job growth. The I-280/Winchester Boulevard interchange area Transportation Development Policy (TDP), adopted in September 2016, provides for additional capacity in the immediate area of the I-880/Stevens Creek Boulevard and I-280/Winchester Boulevard interchanges. The TDP provides partial funding, via a traffic impact fee imposed on proposed development, for the implementation of a new westbound offramp from I-280 to Winchester Boulevard to reduce traffic congestion at the I-880/Stevens Creek and Stevens Creek Boulevard corridors.

Envision San José 2040 General Plan

Chapter 6, Land Use and Transportation, of the City's General Plan includes the Circulation Element, which defines a set of balanced, long-range, multi-modal transportation goals and policies that provide for a safe, efficient, and sustainable transportation network. The following polices related to transportation are germane to the proposed project:

> **Policy TR-1.1** Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT).
>
> **Policy TR-1.2** Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.
>
> **Policy TR-1.4** Through the entitlement process for new development fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.
>
> **Policy TR-1.5** Design, construct, operate, and maintain public streets to enable safe, comfortable, and attractive access and travel for motorists and for pedestrians, bicyclists, and transit users of all ages, abilities, and preferences.

Policy TR-1.6 Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.

PolicyTR-2.8 Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.

Policy TR-3.3 As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute towards transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

Policy TR-5.3 The minimum overall roadway performance during peak travel periods should be level of service "D" except for designated areas.

Policy TR-9.1 Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.

City Council Policy 5.1 – Transportation Analysis Policy

This Council Policy 5-1, "Transportation Analysis Policy" (Policy), will replace the existing Council Policy 5-3, "Transportation Impact Policy" as the Policy for transportation development review in the City of San Jose. This Policy aligns the City's transportation analysis with California Senate Bill 743 (SB 743) and the City's goals as set forth in the City's Envision San Jose 2040 General Plan. This Policy establishes the thresholds for transportation impacts under the California Environmental Quality Act, removing transportation Level of Service (LOS) and replacing it with Vehicle Miles Traveled.

The City's General Plan sets forth a vision and comprehensive road map to guide the City's continued growth through the year 2040. The General Plan strategically links land use and transportation to reduce the environmental impacts of growth by promoting compact mixed-use development that supports walking, biking, and transit use. The General Plan seeks to focus new developments in Planned Growth Areas, bringing together office, residential, and service land uses to internalize trips and reduce VMT. The General Plan also encourages the development and use of non-automobile transportation modes to minimize vehicle trip generation and reduce VMT.

4.17.4 Impact Discussion

a) Would the project conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?

(**Less Than Significant with Mitigation**)

The Local Transportation Analysis of the Appendix _K was completed to assess compliance with any program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities.

Pedestrian Facilities

Existing sidewalks along Winchester Boulevard provide a pedestrian connection between the project site and pedestrian destinations in the project vicinity. Pedestrian traffic primarily would consist of residents and employees of the proposed project walking to and from surrounding retail establishments, as well as bus stops on Winchester Boulevard. Crosswalks with pedestrian signal heads are located at the signalized intersection of Winchester Boulevard and Williams Road. The proposed project proposes to install a 20-foot sidewalk along its frontage on Winchester Boulevard, meeting City requirements.

Bicycle Facilities

The bikeways within the vicinity of the project site would remain unchanged under project conditions. Currently, no bike facilities exist on Winchester Boulevard between Williams Road and Moorpark Avenue that would provide connections to other bicycle facilities in the project vicinity.

Transit Services

The project site is adequately served by the existing VTA transit services. The nearest bus stops to the project site are located near the Winchester Boulevard/Williams Road intersection approximately 100 feet from the project site and are served by Route 60. The new transit trips generated by the project are not expected to create demand in excess of the transit service that is currently provided.

Freeway Segment Evaluation

Pursuant to the Congestion Management Plan technical guidelines, freeway segment level of service analysis shall be conducted on all segments to which the project is projected to add one percent or more to the segment capacity. Since the project is not projected to add one percent or higher to any freeway segments in the area, freeway analysis for the CMP was not required.

Therefore, Implementation of the proposed project would not interfere with the construction of planned transit facilities and increased transit usage resulting from the project would not exceed the capacity of the existing system.

b) Would the project conflict or be inconsistent with CEQA guidelines section 15064.3, subdivision (b)?

(**Less than Significant with Mitigation**)

The City of San José Council Policy 5-3 "Transportation Impact Policy" was the adopted threshold for CEQA traffic impacts at the onset of the transportation study for the project. The City has subsequently adopted a Council Policy 5-1 that is based on vehicle miles traveled (VMT) and establishes the current thresholds for transportation impacts under CEQA based on VMT rather than intersection level of service (also known as LOS). The policy has pipeline provisions (under the Applicability of the Policy) that state only development projects with a complete application on file with the City on or after the effective date are required to comply with Council Policy 5-1. The proposed project is subject to Policy 5-1 and, therefore, the transportation analysis was prepared to provide the project-level VMT analysis.

The City's Transportation Policy identifies an impact threshold of 15 percent below the citywide average per capita VMT of 11.91 and regional average per employee VMT of 14.37. Therefore, the proposed project would result in a significant impact if it results in VMT that exceeds per capita VMT of 10.12 and per employee VMT of 12.21.

The results of the VMT evaluation, using the City's VMT Evaluation Tool, indicate that the proposed project is projected to generate VMT per capita (10.07), which is below the established VMT impact threshold. The office component of the project is projected to generate VMT per employee (13.13), which would exceed the established impact threshold. Therefore, the proposed office component of the project could be considered inconsistent with CEQA guidelines section 15064.3, subdivision (b).

Since the VMT generated by the office component of the project (13.13 per employee) would exceed the threshold of 12.21 VMT per employee, the project would result in a significant VMT impact, and mitigation measures are required to reduce the VMT. According to the Transportation Analysis Handbook, projects located in areas where the existing VMT is above the established threshold are referred to as being in "high-VMT areas," and projects in high-VMT areas are required to include a set of VMT reduction measures that would reduce the project VMT to the greatest extent possible.

The transportation analysis requires that the project implement one of the following mitigation measures prior to issuance of building permit, which would reduce the significant VMT impact to a less-than-significant level. See Appendix A of the transportation analysis for the San José VMT Evaluation Tool Output Sheet, which documents how these options reduce the project VMT.

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.

Mitigation Measure

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:

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

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

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

Option D:

1. *Car Sharing Program:* 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. *Commute Trip Reduction Marketing/Education:* 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. *Employee Parking "Cash Out" and on-site TDM coordinator:* 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.

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.

The implementation of one of the above mitigation measures prior to issuance of a building permit would reduce the VMT generated by the project by supporting bicycle usage and increasing transit ridership by employees. The implementation of one of the above mitigation measures would reduce the project VMT to below the threshold of 12.21 per employee, which would reduce the project impact to less than significant. See the four strategy tiers included in the VMT Evaluation Tool, Appendix A of the transportation analysis. The transportation analysis' transportation demand management plan also proposes measures that would reduce the projects parking demand and support the ten percent parking reduction needed to satisfy the City's parking requirement.

c) Would the project substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

(No Impact)

The project is consistent with the General Plan and zoning designations for the site. During the development review process, the vehicle circulation on the project site is reviewed by City staff to ensure access is not hazardous and complies with the City's regulations and policies. Adequate sight distance is provided as the project's driveway should be free and clear of any

obstructions thereby ensuring that existing vehicles can see pedestrians on the sidewalk and other vehicles traveling on South Winchester Boulevard. Pursuant to the transportation analysis, vehicles exiting the project site driveway on South Winchester Boulevard would be able to see approaching traffic on southbound South Winchester Boulevard at least to Williams Road located approximately 350 feet to the north of the project site (Hexagon Transportation Consultants 2021, p. 52).

d) Would the project result in inadequate emergency access?

(Less than Significant)

The project's site plan indicates an emergency vehicle access (EVA) easement, just wider than 15 feet, located adjacent to the parking garage entrance via South Winchester Boulevard. The width of the EVA easement does not meet the City's minimum width requirement of 20 feet.

The project is required to comply with the California Fire Code and all other applicable standards. Final plans would be reviewed by the City to ensure that the project adheres to all California Fire Code requirements. Therefore, with implementation of the standard permit condition, the project would result in less than significant impacts on inadequate emergency access.

Non-CEQA Effects

Project Trip Generation

The transportation analysis estimates that the project would generate 580 daily vehicle trips, with 49 trips (28 inbound and 21 outbound) occurring during the AM peak hour and 54 trips (23 inbound and 31 outbound) occurring during the PM peak hour before any reductions.

Based on the City's guidelines, the project qualifies for a location-based adjustment. These adjustments were applied to the residential and office trips generated by the proposed project.

After the application of the location-based adjustment, the proposed project is estimated to generate a total of 499 daily vehicle trips, with 42 trips (24 inbound and 18 outbound) occurring during the AM peak hour and 46 trips (20 inbound and 26 outbound) occurring during the PM peak hour.

Intersection Operations

The following intersections are located between one-half mile and one-mile radii from the project site:

- Winchester Boulevard and Williams Road;
- Winchester Boulevard and Payne Avenue; and
- Winchester Boulevard and Walgrove Way (unsignalized).

The transportation analysis determined that the study intersections are projected to operate at acceptable levels of service, based on the City's intersection operations standard of LOS D

under background conditions, background plus project conditions, and cumulative conditions during both the AM and PM peak hours.

I-280/Winchester Boulevard Interchange Area Transportation Development Policy

- This Policy provides partial funding, via a traffic impact fee imposed on proposed development, for the implementation of a new westbound off-ramp from I-280 to Winchester Boulevard to reduce traffic congestion at the I-880/Stevens Creek and Stevens Creek Boulevard corridors. The traffic fee is based on the estimated trips to be added to the new westbound off-ramp from I-280 to Winchester Boulevard by each individual development. It is estimated that the proposed project would result in the addition of three PM peak hour trips to the planned I-280 to Winchester Boulevard ramp.

Parking: The proposed project is providing a Transportation Demand Management Plan (Appendix H of the transportation analysis) that would allow for a 20 percent reduction in spaces resulting in a requirement of 142 spaces. The project is proposing a total of 105parking spaces; however, the project also proposes to include at least three of the following recommended transportation demand management measures intended to encourage residents and office employees to utilize alternative transportation modes available in the area:

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

These measures are discussed in more detail in the transportation analysis. Implementation of the measures outlined in the project's Transportation Demand Management Plan would help the project meet its additional 22 percent reduction for parking spaces onsite.

Neighborhood Interface: The project site is located in a residential area consisting of both multi-family and single-family homes and neighborhood commercial land uses. Currently the surrounding network is connected via a system of sidewalks and curb ramps. The proposed project does not conflict with the short-term and long-term improvements proposed in the transportation analysis.

Construction Operations: Typical activities related to the construction of any development could include lane narrowing and/or lane closures, sidewalk and pedestrian crosswalk closures, and bike lane closures. In the event of any type of closure, clear signage (e.g., closure and detour signs) must be provided to ensure vehicles, pedestrians and bicyclists are able to adequately reach their intended destinations safely. Per City standard practice, the project would be required to submit a construction management plan for City approval that addresses the construction schedule, street closures and/or detours, construction staging areas and parking, and the planned truck routes.

Parking Supply

Vehicular Parking. Based on the City's standard parking requirements, the project is required to provide a total of 177 off-street parking spaces before any reductions. However, the project is located in the Winchester Urban Village. The Urban Village Overlay automatically allows for a 20 percent reduction in parking. With the 20 percent reduction, the required parking would be reduced to 142 spaces, consisting of 86 spaces for residential use and 56 spaces for office use. The project is proposing a total of 105 parking spaces, which would not meet the City's reduced parking requirements.

The proposed number of parking spaces represents a 42 percent reduction from the standard required number of spaces. With the 20 percent Urban Village reduction, the project requires an additional 22 percent reduction in on-site parking spaces. Therefore, the project was required to prepare and submit a Transportation Demand Management (TDM) plan (refer to the transportation analysis' Appendix H for the draft TDM plan).

Bicycle Parking. According to the City's Bicycle Parking Standards, the project is required to provide 11 short-term and 12 long-term bicycle parking spaces. The project site plan indicates that bicycle storage areas to accommodate 44 bicycles will be located within the basement level of the parking garage. Therefore, the proposed bicycle parking on-site will exceed the City's requirements and encourage the use of nonauto modes of travel and minimize the demand for on-site parking.

Motorcycle Parking. According to the City's Motorcycle Parking Standards, the project is required to provide 20 motorcycle parking spaces (two spaces for the office space and 18 spaces for the residential units). The site plan shows that the project would provide a total of 24 motorcycle parking spaces within the parking garage. Therefore, the number of proposed motorcycle parking spaces would meet the City's requirement.

The project applicant is proposing a TDM for reduced parking. The draft TDM plan proposes measures that would reduce the project's parking demand and support a 22 percent parking reduction needed to satisfy the City's parking requirement. The draft TDM plan includes maintaining an online kiosk of trip planning resources, providing 100 percent unbundled parking for all residential spaces, providing VTA SmartPasses to residential and commercial tenants, and providing on-site bicycle parking that will exceed the minimum required by the City (Hexagon Transportation Consultants 2021, p. 63). The final TDM is require prior to approval of the first planning permit.

Surrounding On-Street Parking

The project site is located within the Cadillac Residential Parking Program zone, where a permit is required to use on-street parking from 10:00 PM to 6:00 AM every day except on holidays. With the implementation of the required transportation demand management plan, included in Appendix H of the transportation analysis, the proposed project would provide adequate parking spaces onsite to satisfy its parking demand and would not have an effect on the Cadillac Residential Parking Program (Hexagon Transportation Consultants 2021, p. 55).

The transportation analysis recommends the following in order to reduce or eliminate conflict with City requirements and standards in place to address the circulation system.

4.18 TRIBAL CULTURAL RESOURCES

4.18.1 Tribal Cultural Resources Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, or cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:					
1. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources code section 5020.1(k), or	☐	☐	☒	☐	1,2,3
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 the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	☐	☐	☒	☐	1,2,3

Tribal Cultural Resources checklist is addressed in the EIR.

4.19 UTILITIES AND SERVICE SYSTEMS

4.19.1 Utilities and Services Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment, storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	☐	☐	☒	☐	1,2,3,5, 11,21, 22,23, 24,46
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☒	☐	1,3,11
c) Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☒	☐	1,3
d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	☐	☐	☒	☐	1,3,24, 25,26, 27,28, 29
e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	☐	☐	☒	☐	1,3,24, 25,26, 27,28, 29

4.19.2 Environmental Setting

Water Service

The project site is served by the San José Water Company. Water resources in San José are managed by the Santa Clara Valley Water District (Valley Water), which receives its water supply from several locations including local groundwater, local surface water, and imported treated water. In addition, there is a fourth and growing source of supply, non-potable recycled water. San José Water Company is under contract with Valley Water for the purchase of just over 50 percent of the needed water supply. This water originates from several sources including Valley Water's local reservoirs, the State Water Project, and the federally funded Central Valley Project San Felipe Division before it is treated at one of three Valley Water operated treatment plants and then piped into San José Water Company's distribution system at various turnout locations (San José Water Company 2021, p. 3-3).

On average, groundwater from the Santa Clara Subbasin accounts for 30-40 percent of San José Water Company's total water supply. These aquifers are recharged naturally by recharge ponds operated by Valley Water. San José Water Company also diverts surface water in the local Saratoga

Creek and Los Gatos Creek watersheds to one of the three San José Water Company water treatment plants for treatment prior to entering the distribution system (San José Water Company 2021, p. 3-3).

According to the *San Jose Water Company 2020 Urban Water Management Plan* (urban water management plan), total water use (potable and non-potable) will increase from 40,390 million gallons per year in 2020 to 45,605 million gallons in 2045 (San José Water Company 2021, Table 4-3). Table 7-2 of the urban water management plan indicates that San José Water anticipates adequate water supply through 2045 under average water year conditions (p.7-11). Over a multiple dry year supply and demand comparison, Table 7-4 indicates that there would be adequate supplies to meet system demand for years 2025 to 2045. Multi-year droughts present the greatest challenge to Valley Water's water supply reliability. Valley Water's basic water supply strategy to compensate for supply variability is to store excess wet year supplies in the groundwater basin, local reservoirs, San Luis Reservoir, and/or Semitropic Groundwater Bank, and draw on these reserve supplies during dry years to help meet demands (San José Water Company 2021, p. 7-12). To account for potential water shortages under severe drought conditions, San José Water has adopted a Water Shortage Contingency Plan, which requires a staged water reduction process. (San José Water Company 2021, p. 8-1).

Wastewater/Sanitary Sewer System

San José Water does not own or operate any wastewater treatment facilities. The majority of sewage generated within San José Water Company's service area is delivered to the San José/Santa Clara Regional Wastewater Facility via the City and West Valley Sanitation District collection systems (San José Water Company 2021, p. 6-7).

The San José/ Santa Clara Regional Wastewater Facility (wastewater facility) is managed and operated by the City. The plant produces an average of 110 million gallons per day (mgd) of tertiary-treated water, with a capacity of up to 167 mgd. The majority of treated water at the wastewater facility is discharged into the South San Francisco Bay. According to the urban water management plan, the wastewater facility produced 36,949 mg of treated wastewater in 2020, 30,254 mg of which was discharged to the South San Francisco Bay. Remaining flows were sent to the South Bay Water Recycling's system to produce recycled water supplies or to Valley Water's Silicon Valley Advanced Water Purification Center to produce advanced-treated water, some of which is blended with South Bay Water Recycling's recycled water to improve the quality of recycled water supplies (p. 6-10).

As stated above, the wastewater facility produces an average of 110 mgd of wastewater with a capacity of up to 167 mgd. As a result, there is an existing available capacity of 57 mgd. According to the *San José/Santa Clara Water Pollution Control Plant Master Plan*, projections indicate that population growth will lead to an increase in wastewater flows to 172 mgd by 2040, which would require modifications to the wastewater facility and to the wastewater facility's NPDES permit (City of San José 2013, p. 15).

There is an existing six-inch sanitary sewer main along South Winchester Boulevard project frontage, which would serve the proposed project site. A proposed six-inch sanitary sewer lateral is located at the southeastern corner of the project site and is proposed to connect into the existing system located in South Winchester Boulevard.

Storm Drainage

The City's storm drain system is an underground collection system consists of approximately 1,250 miles of reinforced concrete pipes varying in size from 12 to 144 inches in diameter that function by gravity to carry untreated storm water to local creeks and rivers. Collected storm water runoff is discharged to the creeks and rivers via storm outfall structures. The creeks and rivers, in turn, flow to the San Francisco Bay. There is an existing 24" RCP storm drain main on S. Winchester Blvd to serve the project site.

Solid Waste

Republic Services provides solid waste collection services to all businesses in the City; therefore, Republic Services would serve the project site. The landfills that serve San José include Guadalupe Sanitary, Kirby Canyon, and Newby Island. Through an agreement with International Disposal Corporation of California (IDC), municipal solid waste generated in the City of San José that is not diverted through recycling or composting must go to Newby Island Landfill. However, City-certified construction and demolition recycling facilities can be used during the construction phase.

Other Utilities

It is assumed that gas and electric utilities are currently provided by PG&E to the project site.

4.19.3 Regulatory Setting

Federal

Title 40 of the Code of Federal Regulations

Title 40 of the Code of Federal Regulations (CFR), Part 258 (Resource Conservation and Recovery Act RCRA, Subtitle D) contains regulations for municipal solid waste landfills and requires states to implement their own permitting programs incorporating the Federal landfill criteria. The Federal regulations address the location, operation, design, groundwater monitoring, and closure of landfills.

State

California Integrated Waste Management Regulations (AB 939, AB 341, and SB 1016)

To minimize the amount of solid waste that must be disposed of, the State Legislature passed the California Integrated Waste Management Act of 1989, effective January 1990. Under AB 939, all cities and counties were required to divert at least 50 percent of solid waste from landfill facilities by the year 2000 and every year thereafter. This act also requires every city and county to report to CalRecycle annually and requires jurisdictions to begin planning for new landfills when the jurisdiction's primary disposal site reaches its 15-year capacity.

In 2008, Senate Bill 1016 was passed, which builds on AB 939 compliance requirements by implementing a streamlined measure of jurisdictions' performance. SB 1016 accomplishes this by focusing on a disposal-based indicator rather than diversion rates. The per capita disposal rate utilizes two factors: a jurisdiction's residents/employees and its disposal amount as reported by disposal facilities. Thus, rather than mandating a 50 percent or more diversion of solid waste, SB 1016 requires a 50 percent or less disposal rate of solid waste per capita. In 2012, the California legislature sought to further reduce solid waste disposal rates through AB 341, which set a goal of

75 percent recycling, composting, or source reduction of solid waste statewide by 2020. AB 341 also requires businesses that generate four or more cubic yards of waste per week and multi-family complexes of five or more units, to implement recycling programs.

Assembly Bill 1826 (2014)

AB 1826 sets forth the requirements of the statewide mandatory commercial organics recycling program for businesses and multi-family dwelling with five or more units that generate four or more (two or more by December 31, 2020) cubic yards of commercial solid waste per week. AB 1826 sets a statewide goal for 50 percent reduction in organic waste disposal by the year 2020.

CalRecycle

The California Department of Resources Recycling and Recovery, also known as CalRecycle, is a department within the California Environmental Protection Agency. CalRecycle administers and provides oversight for all of California's state-managed waste handling and recycling programs. Known mostly for overseeing beverage container and electronic-waste recycling, CalRecycle is also responsible for organics management, used tires, used motor oil, carpet, paint, mattresses, rigid plastic containers, plastic film wrap, newsprint, construction and demolition debris, medical sharps waste, household hazardous waste, and food-scrap composting. In addition to these duties CalRecycle also provides training and support for agencies that regulate and inspect California's solid waste facilities including active landfills, materials recovery facilities, solid waste transfer stations, and compost facilities.

Regional Water Quality Control Board.

The State Water Resources Control Board and the nine Regional Water Quality Control Boards are responsible for assuring implementation and compliance with the provisions of the Clean Water Act and the Porter-Cologne Water Quality Control Act. The state board and regional boards are designated as lead agencies in implementing the Clean Water Act and Porter-Cologne Water Quality Control Act. The City is within the jurisdiction of the San Francisco Bay Regional Water Quality Control Board. Refer back to Section 4.10, Hydrology and Water Quality, Regulatory subsection for more information on the regional board.

Title 22 of California Code of Regulations

Title 22 regulates the use of reclaimed wastewater. In most cases only disinfected tertiary water may be used on food crops where the recycled water would come into contact with the edible portion of the crop. Disinfected secondary treatment may be used for food crops where the edible portion is produced above ground and will not come into contact with the secondary effluent. Lesser levels of treatment are required for other types of crops, such as orchards, vineyards, and fiber crops. Standards are also prescribed for the use of treated wastewater for irrigation of parks, playgrounds, and landscaping.

California Green Building Standards Code

In January 2010, the State adopted the California Green Building Standards Code ("CALGreen"), establishing mandatory green building standards for all buildings in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material

conservation and resources efficiency, and indoor environmental quality. These standards include a mandatory set of guidelines, as well as more rigorous voluntary measures, for new construction projects to achieve specific green building performance levels:

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

Assembly Bill 939 (1989)

The California Integrated Waste Management Act of 1989, or AB 939, established the Integrated Waste Management Board, required the implementation of integrated waste management plans, and mandated that local jurisdictions divert from the landfill at least 50 percent of solid waste generated beginning January 1, 2000, and divert at least 75 percent by 2010. Projects that would have an adverse effect on waste diversion goals are required to include waste diversion mitigation measures.

Assembly Bill 341 (2011)

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

Assembly Bill 1826 (2014)

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

Senate Bill 1383 (2016)

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

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

In January 2010, the State of California adopted the California Green Building Standards Code ("CALGreen"), establishing mandatory green building standards for all buildings in California. The

code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resources efficiency, and indoor environmental quality. These standards include the following mandatory set of measures, as well as more rigorous voluntary guidelines, for new construction projects to achieve specific green building performance levels:

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

Regional/Local

Santa Clara Valley Water District 2020 Urban Water Management Plan

California's Urban Water Management Planning Act requires that "every urban water supplier providing water for municipal purposes to more than 3,000 customers or supplying more than 3,000 acre-feet of water annually prepare and adopt, in accordance with prescribed requirements, an urban water management plan." The Santa Clara Valley Water District's (Valley Water) Urban Water Management Plan documents information on water supply, water use, recycled water, water conservation programs, water shortage contingency planning, and water supply reliability in Santa Clara County under different scenarios.

Every five years, urban water suppliers in California are required by State law to prepare an Urban Water Management Plan. The plan is a water agency's long-term water resource planning document to ensure that adequate water supplies are available to meet existing and future water needs within its service area. The Urban Water Management Plan provides an overall picture of a water agency's current and future water conditions and management over the next 25 years.

Valley Water is a special district that provides water resources management for all of Santa Clara County. Valley Water's water system includes local water from reservoirs, groundwater, imported water, and recycled water. These supplies are used to recharge local groundwater subbasins, treated at drinking water treatment plants, released to local creeks to meet environmental needs, or sent directly to water users. Climate change, new regulatory requirements, and population growth could affect countywide water supply and demand in the future.

San Jose Zero Waste Strategic Plan/Green Vision

The Green Vision was a 15-year sustainability plan to steer economic growth and reduce greenhouse gas emissions. Through the Green Vision, adopted in 2007, the City made strides as a national leader in the sustainability movement.

In 2017, the City began drafting the Green Vision's replacement, Climate Smart San José. Approved by the City Council in February 2018, Climate Smart San José builds upon the Green Vision with a people-focused approach, encouraging the entire San José community to join an

ambitious campaign to reduce greenhouse gas emissions, save water and improve quality of life. The Green Vision established a comprehensive strategy to lead the City and nation in sustainability initiatives such as renewable energy, diverting waste, and increasing recycled water usage.

Construction and Demolition Diversion Deposit Program

The Construction and Demolition Diversion Deposit Program (CDDD) requires projects to divert at least 50% of total projected project waste to be refunded the deposit. Permit holders pay this fully refundable deposit upon application for the construction permit with the City if the project is a demolition, alteration, renovation, or a certain type of tenant improvement. The minimum project valuation for a deposit is $2000 for an alteration-renovation residential project and $5000 for a non-residential project. There is no minimum valuation for a demolition project and no square footage limit for the deposit applicability. The deposit is fully refundable if C&D materials were reused, donated, or recycled at a City-certified processing facility. Reuse and donation require acceptable documentation, such as photos, estimated weight quantities, and receipts from donations centers stating materials and quantities.

Santa Clara County Integrated Waste Management Plan

The Santa Clara County Integrated Waste Management Plan, prepared in compliance with Assembly Bill 939 and more recently Senate Bill 1016, is the primary tool for waste reduction and recycling programs that are countywide in scope. This plan sets the countywide goals for reducing waste sent to landfills by 50 percent by 2000 and each year thereafter.

City's Green Building Policy

Under the City's Green Building Policy, all private sector and municipal building projects constructing or adding more than 10,000 square feet of occupied space (as defined in the adopting building code) are required to be designed and constructed to achieve, at a minimum, the United States Green Building Council's (USGBC) Leadership in Energy and Environmental Design (LEED TM) rating system Silver-level certification with a goal of reaching LEED Gold or Platinum levels.

Envision San José 2040 General Plan

Chapter 3, Environmental Leadership, in the General Plan sets forth sustainability goals for the City through 2040. The following policies are germane to the proposed project (City of San José 2011):

> **Policy MS-3.1** Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.
>
> **Policy MS-3.2** Promote use of green building technology or techniques that can help reduce the depletion of the City's potable water supply as building codes permit. For example, promote the use of captured rainwater, graywater, or recycled water as the preferred source for non-potable water needs such as irrigation and building cooling, consistent with Building Codes or other regulations.
>
> **Policy MS-3.3** Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.

Policy IN-3.5 Require development which will have the potential to reduce downstream LOS to lower than "D", or development which would be served by downstream lines already operating at a LOS lower than "D", to provide mitigation measures to improve the LOS to "D" or better, either acting independently or jointly with other developments in the same area or in coordination with the City's Sanitary Sewer Capital Improvement Program.

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

Policy IN-3.9 Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.

Policy IN-3.10 Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES) permit.

Policy MS-17.2 Ensure that development within San José is planned and built in a manner consistent with sustainable use of current and future water supplies by encouraging sustainable development practices, including low-impact development, water-efficient development and green building techniques. Support the location of new development within the vicinity of the recycled water system and promote expansion of the SBWR system to areas planned for new development. Residential development outside of the Urban Service Area can be approved only at minimal levels and only allowed to use non-recycled water at urban intensities. For residential development outside of the Urban Service Area, restrict water usage to well water, rainwater collection or other similar sustainable practice. Non-residential development may use the same sources and potentially make use of recycled water, provided that its use will not result in conflicts with other General Plan policies, including geologic or habitat impacts. To maximize the efficient and environmentally beneficial use of water, outside of the Urban Service Area, limit water consumption for new development so that it does not diminish the water supply available for projected development within San Jose's urbanized areas.

Policy MS-19.1 Require new development to contribute to the cost-effective expansion of the recycled water system in proportion to the extent that it receives benefit from the development of a sustainable local water supply.

Policy MS-19.4 Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.

Policy IN-3.3 Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.

Policy IP-15.1 New development is required to construct and dedicate to the City all public improvements directly attributable to the site. This includes neighborhood or community parks and recreation facilities, sewer extensions, sewer laterals, street improvements, sidewalks, street lighting, fire hydrants and the like. In the implementation of the level of service policies for transportation, sanitary sewers, and neighborhood and community parks, development is required to finance

improvements to nearby intersections or downstream sewer mains in which capacity would be exceeded, and dedicate land, pay an in lieu fee or finance improvements for parks and recreation needs which would result from the development.

Policy EC-5.7 Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.

Policy EC-5.11 Reduce the amount of impervious surfaces as a part of redevelopment and roadway improvements through the selection of materials, site planning, and street design where possible.

Action EC-5.16 Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.

San José Zero Waste Strategic Plan/Climate Smart San José

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

Construction and Demolition Diversion Deposit Program

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

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

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

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

4.19.4 Impact Discussion

a) Would the project require or result in the relocation or construction of new or expanded water, wastewater treatment, storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

(Less than Significant)

The project would incrementally increase demands on utility services. Given the scale of the project as a mixed-use building, the increase in utility demand is expected to be minor, since it represents a small fraction of the total growth identified in the City's General Plan.

Water service to the site would be supplied by the San José Water Company, a private entity that obtains water from a variety of groundwater and surface water sources. Because the project is consistent with the City's General Plan, the growth proposed by the project and its associated water use was addressed in the General Plan EIR.

The City of San José owns and maintains the sanitary sewer drain system in the project area. The project proposes to connect its sanitary sewer to the City's existing sewer system located in South Winchester Boulevard.

As described in Section 4.10, Hydrology and Water Quality, the project would not significantly impact storm drainage facilities. All runoff from the site would be managed and treated in accordance with City policies, which includes implementation of the stormwater control plan.

As described in Section 4.6, Energy, the project would have a less than significant impact related to natural gas and electricity use (among other energy sources). The provision/relocation of telecommunication facilities would be coordinated between the project applicant and telecommunication provider, and no significant environmental effects are anticipated as a result of this infill project.

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

b) Does the site have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?

(**Less Than Significant**)

The project would incrementally increase demands on utility services. Water service to the site would be supplied by the San José Water Company, a private entity that obtains water from a variety of groundwater and surface water sources. Additionally, because the project is consistent with the City's General Plan, the growth proposed by the project and its associated water use was addressed in the General Plan EIR.

c) Would the project result in a determination by the wastewater treatment provider, which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

(**Less than Significant**)

As stated in checklist question a) above, the General Plan EIR determined that development allowed under the General Plan would not exceed the City's allocated capacity of the wastewater facility. The proposed project is consistent with the General Plan designation Mixed-Use Commercial; therefore, mixed-use development of the site has been anticipated in the City's General Plan and evaluated in the General Plan EIR. Therefore, the proposed project would not result in a determination by the wastewater treatment provider that it has inadequate capacity to serve the proposed project's demands in addition to its existing commitments.

d) Would the project generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

(**Less than Significant**)

All commercial, residential, and City-facility generated solid waste must be disposed at Newby Island Landfill, in accordance with the municipal agreement with the International Disposal Corporation of California. However, solid waste generated by proposed project during construction can be disposed of at any of the City-certified construction and demolition recycling facilities. Once the project is completed, all commercial solid waste produced in San José is processed at a Material Recovery Facility before they are disposed of at the landfill. According to CalRecycle, the landfill has a remaining capacity of 21,200,000 cubic yards. Anticipated closure date is 2041 (CalRecycle 2020).

According to the CalRecycle's Disposal Rate Calculator for the year 2018, San José produced 3.8 pounds of solid waste per resident per day and 9.6 pounds of solid waste per employee per day (CalRecycle 2020). The proposed project would result an increase in population of approximately 224 residents and approximately 69 employees. Therefore, the proposed project's population increase could generate approximately 851 pounds of solid waste per day (3.8 pounds per person per day x 224 residents) or 0.43 tons of solid waste per day. The proposed project's employees could generate approximately 662 pounds of solid waste per day (9.6 pounds per person per day x 69 employees) or 0.33 tons of solid waste per day. This results in the proposed project generating approximately 0.76 tons of solid waste per day.

The proposed project's contribution of 0.76 tons of solid waste per day would not exceed the landfill's maximum permitted throughputs of 4,000 tons per day at Newby Island Landfill. Therefore, the proposed project would not generate solid waste that would exceed landfill capacity. Further, the proposed project would be required to comply with federal, state, and local statutes and regulations related to solid waste.

e) Would the project comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

(Less than Significant)

Final project design would be required to comply with all federal, State, and local statutes and regulations related to solid waste disposal.

4.20 WILDFIRE

4.20.1 Wildfire Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project, would the project:					
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒	1,3,47
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of wildfire?	☐	☐	☐	☒	1,3,47
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	☐	☐	☐	☒	1,3,47
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	☐	☐	☐	☒	1,3,47

4.20.2 Environmental Setting

The project site is located within an urbanized area of San José and is surrounded by existing urban development. According to the Cal Fire GIS maps, the project site is identified as not being within a very high fire hazard zone (Cal Fire 2021).

4.20.3 Regulatory Setting

Local

Envision San José 2040 General Plan

Chapter 3 of the City's General Plan sets forth the goal to protect lives and property from risks associated with fire-related emergencies at the urban/wildland interface. Although the project site is not located within a fire hazard area, the following policies are germane to the proposed project:

> **Policy EC-8.1** Minimize development in very high fire hazard zone areas. Plan and construct permitted development so as to reduce exposure to fire hazards and to facilitate fire suppression efforts in the event of a wildfire.
>
> **Policy EC-8.2** Avoid actions which increase fire risk, such as increasing public access roads in very high fire hazard areas, because of the great environmental damage and economic loss associated with a large wildfire.

Policy EC-8.4 Require use of defensible space vegetation management best practices to protect structures at and near the urban/wildland interface.

4.20.4 Impact Discussion

a) Would the project substantially impair an adopted emergency response plan or emergency evacuation plan?

b) Due to slope, prevailing winds, and other factors, Would the project exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of wildfire?

c) Would the project require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?

d) Would the project expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

(**No Impact**)

The project site is located within an urbanized area of San José and is surrounded by existing urban development. Furthermore, the project site is not within or near a very high fire hazard zone (Cal Fire 2021). Therefore, the proposed project would not expose people or structures to a significant risk involving wildfires nor exacerbate the risk of wildfire.

4.21 MANDATORY FINDINGS OF SIGNIFICANCE

4.21.1 Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Does the project have the potential to substantially degrade the quality of the environment; substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; substantially reduce the number or restrict the range of an endangered, rare, or threatened species; or eliminate important examples of the major periods of California history or prehistory?	☒	☐	☐	☐	1,3,4,5, 8,14,17
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☒	☐	☐	1,33,34, 35,36
c) Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☒	☐	☐	1,33.34. 35.36. 40,50

4.21.2 Impact Discussion

a) Does the project have the potential to substantially degrade the quality of the environment; substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; substantially reduce the number or restrict the range of an endangered, rare, or threatened species; or eliminate important examples of the major periods of California history or prehistory?

(**Potentially Significant Impact**)

As discussed in Section 4.4 Biological Resources, special-status species are not expected to occur in areas of the City already urbanized, such as the project site. However, 49 existing trees are proposed for removal could support nesting birds and bats protected under the Migratory Bird Treaty Act. Implementation of Mitigation Measures BIO-1, BIO-2, and BIO-3 would protect nesting birds and roosting bats and reduce the potential impact to a less than significant level.

As described in Section 4.5 Cultural Resources, the project site consists of onsite historic structures. The proposed project would require demolition of these historic structures, resulting in a significant impact. An environmental impact report is being prepared to address this.

b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

(Less Than Significant with Mitigation)

The proposed project has the potential to result in cumulatively considerable air quality impacts (construction-related impacts, such as 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). However, with the implementation of identified mitigation measure in Section 4.3, Air Quality, impacts of the proposed project would not be cumulatively considerable.

The proposed project has the potential to result in cumulatively considerable noise impacts (construction-related noise impacts) that would be reduced to less than significant with implementation of Mitigation Measure N-1. Other cumulative projects would be required to implement similar construction project-specific noise logistics plan. Therefore, impacts of the proposed project would not be cumulatively considerable.

c) Does the project have *This side intentionally left blank.* **environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?**

(Less Than Significant with Mitigation)

The proposed project has the potential to result in adverse environmental effects that could cause substantial adverse effects on human beings from the following: construction-related emissions, temporary construction noise, and VMT impacts. Implementation of Mitigation Measures AQ-1, N-1, and TR-1 would reduce potential impacts that would cause substantial adverse effects on human beings, either directly or indirectly to a less-than-significant level

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