Initial Study/Mitigated Negative Declaration

Alviso Hotel Project

File Numbers: PD19-031

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

October 2021

MITIGATED NEGATIVE DECLARATION

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

PROJECT NAME: Alviso Hotel Project

PROJECT FILE NUMBER: PD19-031

PROJECT DESCRIPTION: Planned Development (PD) Permit to allow the construction of an approximately 112,463-square foot, 214-room hotel in a five-story building. The northeast and northwest sections of the site would include surface parking with 21 parking spaces, and a four-story parking garage with 213 spaces, for a total of 234 parking spaces.

PROJECT LOCATION: The project is located at an undeveloped approximately 6.23-acre lot located south of North First Street and north of Highway 237 in the Alviso area of San José.

ASSESSOR'S PARCEL NO.: 015-48-006 **COUNCIL DISTRICT:** 4

APPLICANT CONTACT INFORMATION: Trang Tu-Nguyen, TNT Dev Services Inc. for the Shops@Terra, LLC, 1566 Davis Street, San Jose, CA 95126, (408)-857-4731

FINDING

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

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

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

B. **AGRICULTURE AND FORESTRY RESOURCES** – The project would not have a significant impact on this resource, therefore no mitigation is required.

C. AIR QUALITY - The project would not have a significant impact on this resource, therefore no mitigation is required.

D. BIOLOGICAL RESOURCES.

Impact BIO-1: The project could result in impacts from construction activities to special status plant species such as Congdon's tarplant and San Joaquin spearscale.

MM-BIO-1: Protocol-level surveys, as defined by the California Department of Fish and Wildlife (CDFW) and/or the California Native Plant Society (CNPS) shall be conducted by a qualified biologist during the documented bloom period of Congdon's tarplant (May to November) and San Joaquin spearscale (April to October) to determine the presence of these species in areas to be disturbed. Survey timing may fluctuate based on blooming periods of appropriate reference site locations. The biologist shall submit a report indicating the results of the survey to the City's Director of PBCE or the Director's designee for review and approval prior to issuance of any grading permit.
If special-status plant surveys result in negative findings, no impacts would occur, and no mitigation would be required. Similarly, if special-status plant surveys find either species are observed within the project area but can be avoided, these plants would not be impacted, and no mitigation would be required. However, if either species is found to be present, the implementation of following measures would reduce project impact on special-status plants to less than significant:

- If a population of Congdon's tarplant or San Joaquin spearscale is identified in the project footprint and cannot be avoided, mitigation for loss of individuals shall be completed. Mitigation shall be achieved by establishing a new population in the seasonal wetland and ruderal herbaceous vegetation that occur within the Wetland and Riparian Avoidance Buffer on the project site. This area shall not be developed by the project, and shall contain suitable habitat types for establishing a new population. Mitigation shall be a 1:1 ratio of plant establishment, on an acreage basis.

A Habitat Mitigation and Monitoring Plan (HMMP) shall be completed by a qualified biologist or botanist prior to removal of the individuals. The HMMP shall include a detailed explanation of how the new population would be established, as well as an explanation of what metrics shall be used to measure the success criteria of the new population. The HMMP shall include details for monitoring criteria to quantitatively sample the Congdon's tarplant or San Joaquin spearscale population and determine the number of germinated/surviving plants. This monitoring shall continue annually or until the success criteria described in the HMMP has been met; once annual monitoring has documented that a self-sustaining population has been successfully established on site, this mitigation measure shall be determined to have been met. If after five years of implementation of the new population the success criteria has not been met, adaptive management measures created by a qualified biologist or botanist shall be implemented. The HMMP shall be submitted to the City of San José Director of Department of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to issuance of any grading permit.
MM BIO-1.2: For the protection of special-status birds and native nesting birds protected by the Migratory Bird Treaty Act (MBTA) and California Fish and Game Code (CFGC), future project activities shall occur from September 1 – January 31 (inclusive) outside of the nesting season, to the extent feasible.

If work cannot be scheduled to occur outside of the nesting season, and project activities (grading, staging, etc.,) are initiated during the nesting season (February 1 – August 31, inclusive), a qualified wildlife biologist shall conduct a nesting bird survey no more than 14 days

prior to the start of project activities, such as grading or staging, and prior to issuance of any grading permit. If no active nests are identified during the surveys, no impacts will occur to birds and work shall progress without restriction. If active nests are identified, a no-disturbance buffer around the nest shall be implemented to avoid impacts to nesting birds. Buffers shall be determined by a qualified biologist, and typically range from 25 feet to 500 feet depending on the species, nest location, and protection status of that species. After an active nest is determined to no longer be active, because of young fledging or predation, the buffer around the nest shall be removed and work shall progress without restriction.

MM BIO-1.3: Prior to issuance of any grading, building, or demolition permits, the project applicant shall implement Condition 15 of the Habitat Plan and pay burrowing owl impact fees to the Habitat Agency. Pursuant to Condition 15, a qualified biologist shall conduct pre-construction surveys in all suitable habitat areas. To maximize the likelihood of detecting owls, the preconstruction survey shall last a minimum of three hours. The survey shall begin one hour before sunrise and continue until two hours after sunrise (for three hours total) or begin two hours before sunset and continue until one hour after sunset. Additional time may be required for large project sites. A minimum of two surveys shall be conducted (if owls are detected on the first survey, a second survey is not needed). All owls observed shall be counted and their locations mapped. Surveys shall conclude no more than two calendar days prior to the start of any construction. Therefore, the project applicant must begin surveys no more than four days prior to construction (two days of surveying plus up to two days between surveys and construction). To avoid last-minute changes in schedule or contracting that may occur if burrowing owls are found, the project applicant may also conduct a preliminary survey up to fourteen (14) days before start of any construction. This preliminary survey may count as the first of the two required surveys as long as the second survey concludes no more than two calendar days in advance of construction.

If evidence of western burrowing owls is found during the breeding season (February 1–August 31, inclusive), the project applicant shall avoid all nest sites that could be disturbed by project construction during the remainder of the breeding season or while the nest is occupied by adults or young. Avoidance shall include establishment of a 250-foot non-disturbance buffer zone around nests. Construction may occur outside of the 250-foot non-disturbance buffer zone. Construction may occur inside of the 250-foot non-disturbance buffer during the breeding season if:

- the nest is not disturbed, and
- the project applicant develops an avoidance, minimization, and monitoring plan is approved by the Habitat Agency and the Wildlife Agencies prior to project construction.

If evidence of western burrowing owls is found during the non-breeding season (September 1–January 31, inclusive), the project applicant shall establish a 250-foot non-disturbance buffer around occupied burrows as determined by a qualified biologist. Construction activities outside of this 250-foot buffer are allowed. Construction activities within the non-disturbance buffer are allowed if the certain criteria are met, as outlined in the Habitat Plan Conditions Implementation Guide, in order to prevent owls from abandoning important overwintering sites.

The project applicant shall submit a report disclosing evidence of compliance with the Habitat Plan to the City of San José Director of Department of Planning, Building and Code Enforcement or the Director's designee prior to issuance of any grading, building, or demolition permits.

Impact BIO-2: The project could have a substantial adverse effect on a riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFW or USFWS due to the introduction and/or spread of invasive weeds.

MM BIO-2.1: All seeds and straw materials used on site shall be composed of weed-free rice (or similar acceptable material) straw, and all gravel and fill material shall be certified weed-free. Proof of certification, in the form of a California Department of Food and Agriculture Form 66-079 "Certificate of Quarantine Compliance," or equivalent certification from a qualified biologist, shall be submitted to the City of San José Director of Department of Planning, Building and Code Enforcement or the Director's designee prior to issuance of any grading, building or demolition permits.

During construction, vehicles and equipment shall be washed (including wheels, undercarriages, and bumpers) before leaving and after entering the project footprint. Vehicles shall be cleaned at existing construction yards or legal operating car washes. This measure shall be printed on all construction documents, contracts, and project plans.

Following construction, temporary impact zones or any disturbed ground that will not be under hardscape, landscaped, or maintained, shall be reseeded with a native seed mixture as verified by a qualified biologist.

Seed mixtures applied for erosion control shall be composed of native species appropriate for the site in order to provide long-term erosion control and slow colonization by invasive non-native plants. The project applicant shall prepare a detailed landscape plan identifying the areas to be reseeded and the native seed mixture to be used and submit the plan to the Director of the City of San José Department of Planning, Building and Code Enforcement or the Director's designee for review and approval.

Impact BIO-3: The project could have a substantial adverse effect on adjacent wetland and non-wetland waters through direct removal, filling, hydrological interruption, or other means.

MM BIO-3.1: Prior to the issuance of any grading or building permits, the project applicant shall establish a Wetland and Riparian Avoidance Buffer at least 50 feet from the edge of the wetland or non-wetland water features and at least 100 feet from the edge of the riparian area, and all grading and construction activities shall occur outside of this area. The Wetland and Riparian Avoidance Buffer shall be temporarily staked prior to grading and construction activities, using orange construction fencing, lathe and flagging or its equivalent, by a qualified biologist to ensure that construction equipment and personnel avoid these features. Fencing shall be erected along the outer edge of the site, between the site and any adjacent wetland, pond, or riparian area, for the duration of project construction. Photo documentation shall be submitted to the Director of the City of San José Department of Planning, Building and Code Enforcement or the Director's designee.

Typical avoidance and minimization measures, such as those listed in Table 6-2 of the Habitat Plan or measures deemed appropriate by a qualified biologist, shall be implemented during construction. To this end, all personnel working adjacent to the Wetland and Riparian Avoidance Buffer shall be trained by a qualified biologist in the avoidance and minimization measures outlined in Table 6-2 of the Habitat Plan. Training materials shall be submitted to the Director of the City of San José Department of Planning, Building and Code Enforcement or the Director's designee upon request.

MM BIO-3.2: The following measures shall be implemented to ensure avoidance of erosion or pollution to wetlands during construction activity:

- Appropriate erosion control measures (e.g., fiber rolls, filter fences, vegetative buffer strips) shall be used on site to reduce siltation and runoff of contaminants into wetlands or non-wetland waters. Filter fences, if used, shall be of material that will not trap reptiles and amphibians (i.e., no mesh, woven, or netted material and no high density plastic fencing). Erosion control blankets shall be used as a last resort because of their tendency to biodegrade slowly and trap reptiles and amphibians.
- Erosion-control measures shall be placed between the wetland or pond and the outer edge of the Project site. Fiber rolls used for erosion control shall be certified as free of noxious weed seed.
- Vehicles and equipment shall be parked on pavement, existing roads, and previously disturbed area.
- No construction or maintenance vehicles shall be refueled within 200 feet of avoided wetlands and non-wetland waters unless a bermed and lined refueling area is constructed and hazardous material absorbent pads are available in the case of a spill.

Used cleaning materials (e.g., liquids) shall be disposed of safely, and if necessary, taken off site for proper disposal. Used disposable globes should be retained for safe disposal in sealed bags.

Impact BIO-4: The project could interfere substantially with the movement of native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites due to bird collisions.

MM BIO-4.1: Façade Treatments. Prior to issuance of any building permits, ,the project applicant shall ensure that all glazing on the southern façade of the building facing identified wetland areas and the Guadalupe River is treated with bird-friendly glazing treatments. Examples of bird-friendly glazing treatments include the use of opaque glass, the covering of clear glass surface with patterns, the use of paned glass with fenestration patterns, and the use of external screens over non-reflective glass. For the remaining building façades, no more than 10 percent of the surface area of façades between the ground and 60 feet above ground shall have untreated glazing. The final building design shall be reviewed by a qualified biologist for compliance, and the results of the review provided to the City of San José Director of Department of Planning, Building and Code Enforcement or the Director's designee, prior to issuance of a building permit.

Landscaping. Any trees used in landscaping that are adjacent to areas of untreated glazing shall have heights that do not exceed the first story of the building. This can be achieved through selection of species and/or through pruning. In these areas, tree species shall be selected that do not provide valuable resources for birds (e.g., food such as berries or other fruits, or cavities for nesting in their adult state) and that are not known to grow exceptionally tall (avoid oaks, redwoods, and eucalyptus trees). The final landscape plan shall be reviewed by a qualified biologist for compliance, and the results of the review provided to the City of San José Director of Department of Planning, Building and Code Enforcement or the Director's designee, prior to issuance of any building permits.

E. CULTURAL RESOURCES.

Impact CUL-2: Ground disturbing activities associated with project construction may result in impacts to unrecorded archaeological resources.

MM CUL-2.1: Treatment Plan: Prior to issuance of any grading permit, a project-specific Cultural Resources Treatment Plan shall be prepared by a qualified archaeologist. The Cultural Resources Treatment Plan shall reflect permit-level detail pertaining to depths and locations of all

ground disturbing activities. The Cultural Resources Treatment Plan shall be prepared and submitted to the City of San José Director of Department of Planning, Building and Code Enforcement or the Director's designee prior to approval of any grading permit. The Treatment Plan shall contain, at a minimum:

- Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations.
- Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found).
- Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information).
- Detailed field strategy used to record, recover, or avoid the finds and address research goals.
- Analytical methods.
- Report structure and outline of document contents.
- Disposition of the artifacts.
- Appendices: all site records, correspondence, and consultation with Native Americans, etc.

MM CUL-2.2: Investigation: Prior to issuance of any grading or demolition permits, the project applicant shall complete a preliminary field investigation program in conformance with the project-specific Cultural Resources Treatment Plan required under Mitigation Measure MM CUL-2.1. The locations of subsurface testing and exploratory trenching shall be determined prior to issuance of any grading permit based on the Cultural Resources Treatment Plan recommendations. A qualified archaeologist and a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area, shall complete a presence/absence exploration. Results of the investigation shall be provided to the City of San José Director of Department of Planning, Building and Code Enforcement or the Director's designee prior to issuance of any grading permit.

If any finds were discovered during the preliminary field investigation, the project shall implement MM CUL-2.4 for evaluation and recovery methodologies. The results of the preliminary field investigation and program shall be submitted to the City of San José Director of Department of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to issuance of any grading permit.

MM CUL-2.3: Construction Monitoring and Protection Measures: Although the data recovery and treatment program would be expected to recover potentially significant materials and information from the areas impacted by the project prior to grading, it is possible that additional resources could remain on- site. Therefore, all ground-disturbing activities (e.g., grading and excavation) shall be completed under the observation of a qualified archaeologist and a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area.

The qualified archaeologist or a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area, shall have authority to halt construction activities temporarily in the immediate vicinity of an unanticipated find. If, for any reasons, the qualified archaeologist or a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area, is not present, but construction crews encounter a cultural resource, all work shall stop temporarily within 50 feet of the find until a qualified archaeologist

in consultation with a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area, has been contacted to determine the proper course of action. The City of San José Director of Department of Planning, Building and Code Enforcement or the Director's designee and the Historic Preservation Officer shall be notified of any finds during the grading or other construction activities. Any human remains encountered during construction shall be treated according to the protocol identified in MM CUL-2.5.

MM CUL-2.4: Evaluation and Data Recovery: The City of San José Director of Department of Planning, Building and Code Enforcement or the Director's designee and the Historic Preservation Officer shall be notified of any finds during the preliminary field investigation, grading, or other construction activities.
Any historic or prehistoric material identified in the project area during the preliminary field investigation and during grading or other construction activities shall be evaluated for eligibility for listing as a Candidate City Landmark and/or in the California Register of Historic Resources. Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand auguring, and hand-excavation.
The techniques used for data recovery shall follow the protocols identified in the project-specific Cultural Resources Treatment Plan. Data recovery shall include excavation and exposure of features, field documentation, and recordation.

MM CUL-2.5: Human Remains: Native American coordination shall follow the protocols established under Assembly Bill 52, State of California Code, and applicable City of San José procedures.
If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant or qualified archaeologist shall immediately notify the City of San José Director of Department of Planning, Building and Code Enforcement or the Director's designee who will then notify the Santa Clara County Coroner. The Coroner shall make a determination as to whether the remains are Native American.
If the remains are believed to be Native American, the Coroner shall contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC shall then designate a Most Likely Descendant (MLD). The MLD shall inspect the remains and make a recommendation on the treatment of the remains and associated artifacts.
If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner, in consultation with a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area, to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

- The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 48 hours after being notified by the commission.
- The descendant identified fails to make a recommendation; or
- The landowner or his authorized representative rejects the recommendation of the descendant, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

MM CUL-2.6: Site Security: At the discretion of the City of San José Director of Department of Planning, Building and Code Enforcement or the Director's designee and the Historic Preservation Officer, site fencing shall be installed on-site during the investigation, grading, building, or other construction activities to avoid destruction and/or theft of potential cultural resources. The responsible qualified archaeologist, in consultation with a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area, shall advise the City of San José Director of Department of Planning, Building and Code Enforcement or the Director's designee and the Historic Preservation Officer as to the necessity for a guard. The purpose of the security guard shall be to ensure the safety of any potential cultural resources (including human remains) that are left exposed overnight. The Director of PBCE shall have the final discretion to authorize the use of a security guard at the project site.

MM CUL-2.7: Final Reporting: Once all analyses and studies required by the project-specific Cultural Resources Treatment Plan have been completed, the project applicant, or representative, shall prepare a final report summarizing the results of the field investigation, data recovery activities and results, and compliance with the Cultural Resources Treatment Plan during all demolition, grading, building, and other construction activities. The report shall document the results of field and laboratory investigations and shall meet the Secretary of the Interior's Standards for Archaeological Documentation. The contents of the report shall be consistent with the protocol included in the project-specific Cultural Resources Treatment Plan.
The report shall be submitted to the Director of Planning, Building, and Code Enforcement for review and approval prior to issuance of any Certificates of Occupancy (temporary or final). Once approved, the final documentation shall be submitted to the Northwest Information Center at Sonoma State University, as appropriate.

MM CUL-2.8: Curation: Upon completion of the final report required by the project-specific Cultural Resources Treatment Plan, all recovered archaeological materials not identified as tribal cultural resources by the Native American monitor, shall be transferred to a long-term curation facility. Any curation facility used shall meet the standards outlined in the National Park Services' Curation of Federally Owned and Administered Archaeological Collections (36 CFR 79). The project applicant shall notify the City of San José Director of Department of Planning, Building and Code Enforcement or the Director's designee of the selected curation facility prior to the issuance of any Certificates of Occupancy (temporary or final). To the extent feasible, and in consultation with the Native American representative, all recovered Native American/tribal cultural resources and artifacts shall be reburied on-site in an area that is unlikely to be disturbed again.
Treatment of materials to be curated shall be consistent with the protocols included in the project-specific Cultural Resources Treatment Plan.

All archaeological materials recovered during the data recovery efforts shall be cleaned, sorted, catalogued, and analyzed following standard archaeological procedures, and shall be documented in a report submitted to the Director of Planning, Building and Code Enforcement and the NWIC.

MM CUL-2.9: Dignified and Respectful Treatment – Cultural Sensitivity Training Prior to Construction: An important aspect of the consultation process is a dignified and respectful treatment of Tribal Cultural Resources. Prior to issuance of the Grading Permit, the project shall be required to submit evidence that an Archaeological Monitoring Contractor Awareness Training was held prior to ground disturbance. The training shall be facilitated by the project archaeologist in coordination with a Native American representative registered with the Native American Heritage Commissions for the City of San José and that is traditionally and culturally affiliated

with the geographic area as described in Public Resources Code Section 21080.3.

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

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

H. **GREENHOUSE GAS EMISSIONS -** The project would not have a significant impact on this resource, therefore no mitigation is required.

I. **HAZARDS AND HAZARDOUS MATERIALS**.

Impact HAZ-1: Residual soil and groundwater contamination could expose construction workers and members of the public, including the surrounding residential uses and elementary school, to hazardous materials during construction activities.

MM HAZ-1: Prior to the issuance of any grading, demolition, or building permits, the project applicant shall implement the approved Soil Management Plan prepared for the site under the oversight of the Regional Water Quality Control Board.

J. **HYDROLOGY AND WATER QUALITY -** The project would not have a significant impact on this resource, therefore no mitigation is required.

K. **LAND USE AND PLANNING** – The project would not have a significant impact on this resource, therefore no mitigation is required.

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

M. **NOISE -** The project would not have a significant impact on this resource, therefore no mitigation is required

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

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

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

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

R. **TRIBAL CULTURAL RESOURCES -** The project would not have a significant impact on this resource, therefore no mitigation is required.

S. **UTILITIES AND SERVICE SYSTEMS** – The project would not have a significant impact on this resource, therefore no mitigation is required.

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

U. **MANDATORY FINDINGS OF SIGNIFICANCE**

Cumulative impacts would be less than significant. The proposed Project would implement the identified mitigation measures and would have either have no impacts or less-than-significant impacts on air quality, biological resources, noise, and transportation. Therefore, the proposed Project would not contribute to any cumulative impact for these resources. The Project would not cause changes in the environment that have any potential to cause substantial adverse direct or indirect effects on human beings.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **Wednesday, November 10, 2021** any person may:

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

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

Christopher Burton, Director
Planning, Building and Code Enforcement

10/7/2021
Date

Deputy

Maira Blanco
Environmental Project Manager

Circulation period: October 12, 2021 to November 10, 2021

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SECTION 1.0 INTRODUCTION AND PURPOSE

1.1 PROJECT BACKGROUND

The proposed project is located on a 6.23-acre landlocked parcel adjacent to the Topgolf@Terra project (PDC16-013). The Topgolf@Terra project, which was approved in December 2016, is a Planned Development Rezoning from the CIC Combined Industrial Commercial and R-M Multiple Residence Residential Zoning Districts to the CIC (PD) Panned Development Zoning District to allow up to approximately 110,000 square feet of commercial/retail space, a 200 room hotel, approximately 72,000 square feet of indoor/outdoor recreation and entertainment use (Topgolf) and late night use, on an approximately 39.9 gross acre. Along with that project, a Planned Development Permit was filed and approved for "Master Planned Development Permit to demolish existing commercial structures, removal of six ordinance sized trees, and allow the construction of an approximately 72,000-square foot indoor/outdoor entertainment facility (Topgolf) with a late night use and entitle a future phase 110,000-square foot commercial/retail building and a 200-room hotel on an approximately 39.9-gross acre site. As of the date of preparation of this Initial Study, the Topgolf entertainment facility has been constructed, but the remaining development proposed by the Topgolf@Terra project has not yet been constructed.

Although the proposed project would utilize the internal roadways constructed by the Topgolf@Terra project for access to North First Street, the project is not located within the boundaries of the Topgolf@Terra project and was not considered in the environmental review for the Topgolf@Terra project. For this reason, the City of San José has determined that the project requires standalone environmental review under the California Environmental Quality Act (CEQA).

1.2 PURPOSE OF THE INITIAL STUDY

The City of San José, as the Lead Agency, has prepared this Initial Study for the Alviso Hotel project in compliance CEQA, the CEQA Guidelines (California Code of Regulations §15000 et. seq.) and the regulations and policies of the City of San José, California.

The project proposes the construction of an approximately 112,463-square foot, 214-room hotel in a five-story building, as well as a surface parking lot, and a four-story, approximately 74,836 square foot parking garage. This Initial Study evaluates the environmental impacts that might reasonably be anticipated to result from implementation of the proposed project.

1.3 PUBLIC REVIEW PERIOD

Publication of this Initial Study marks the beginning of a 20-day public review and comment period. During this period, the Initial Study will be available to local, state, and federal agencies and to interested organizations and individuals for review. Written comments concerning the environmental review contained in this Initial Study during the 20-day public review period should be sent to:

Maira Blanco (Planner II)
City of San José, Department of Planning, Building & Code Enforcement
200 East Santa Clara Street, 3rd Floor
San José, CA 95113

408.535.7837
Maira.Blanco@sanjoseca.gov

1.4 CONSIDERATION OF THE INITIAL STUDY AND PROJECT

Following the conclusion of the public review period, the City of San José will consider the adoption of the Initial Study/Mitigated Negative Declaration (MND) for the project at a regularly scheduled meeting via teleconference pursuant to Governor Newsom's Executive Order N-29-20. The City shall consider the Initial Study/MND together with any comments received during the public review process. Upon adoption of the MND, the City may proceed with project approval actions.

1.5 NOTICE OF DETERMINATION

If the project is approved, the City of San José will file a Notice of Determination (NOD), which will be available for public inspection and posted within 24 hours of receipt at the County Clerk's Office for 30 days. The filing of the NOD starts a 30-day statute of limitations on court challenges to the approval under CEQA (CEQA Guidelines Section 15075(g)).

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

Alviso Hotel Project

2.2 LEAD AGENCY CONTACT

Maira Blanco (Planner II)
City of San José, Department of Planning, Building & Code Enforcement
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Alec Atienza
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2.3 PROJECT APPLICANT

Trang Tu-Nguyen
Shops@Terra, LLC
1566 Davis Street
San José, CA 95126

2.4 PROJECT LOCATION

The project is located at an undeveloped lot located south of North First Street and north of Highway 237 in the Alviso area of San José. Regional and vicinity maps of the site are shown on Figures 2.0-1 and 2.0-2, and an aerial photograph of the project site and surrounding area is shown on Figure 2.0-3.

2.5 ASSESSOR'S PARCEL NUMBER

015-48-006[1]

2.6 GENERAL PLAN DESIGNATION AND ZONING DISTRICT

The project site is designated as *Combined Industrial/Commercial* in the Envision San José 2040 General Plan and is zoned as CIC(PD) - *Planned Development (Combined Industrial/ Commercial Base District.*

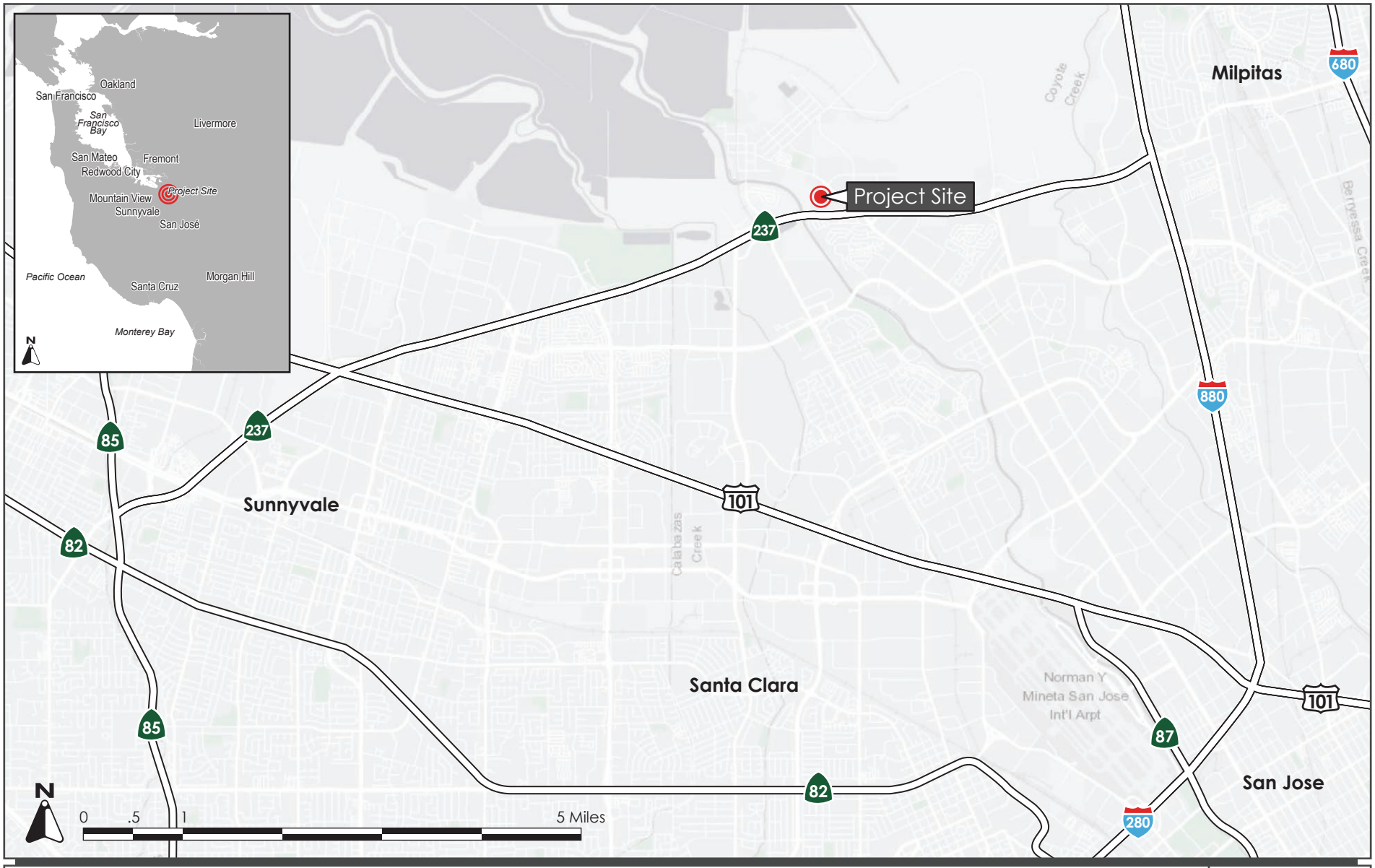
[1] The site was originally APN 015-39-020, but the site's APN has been changed to APN 015-48-006.

2.7 HABITAT PLAN DESIGNATION

Land Cover Fee Zone: A Ranchlands and Natural Lands

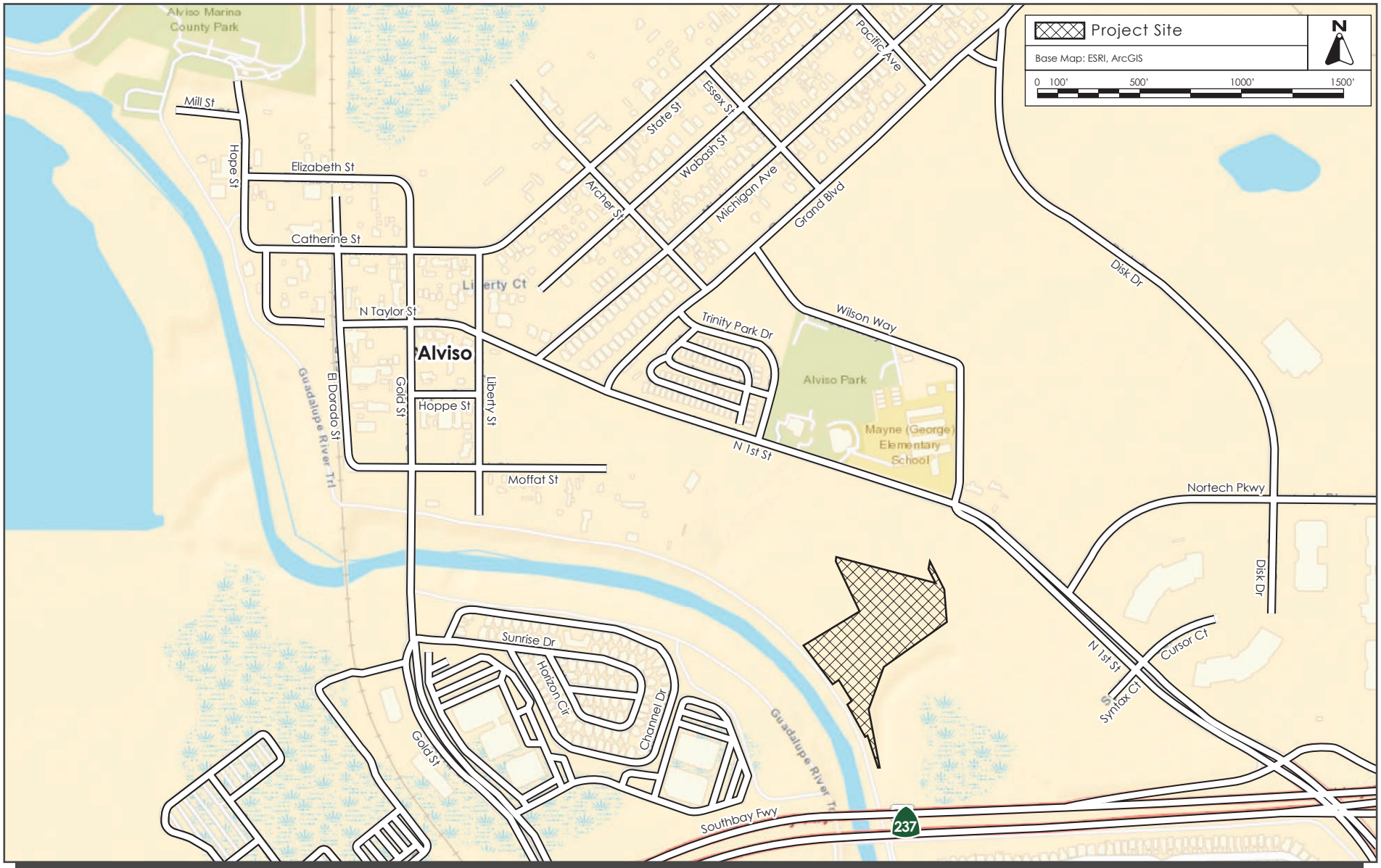
2.8 PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS

Planned Development Permit(s)
Public Works Clearances, including Grading Permit



REGIONAL MAP

FIGURE 2.0-1



VICINITY MAP

FIGURE 2.0-2

AERIAL PHOTOGRAPH AND SURROUNDING LAND USES | FIGURE 2.0-3

SECTION 3.0 PROJECT DESCRIPTION

3.1 EXISTING SETTING

The approximately 6.23-acre project site (APN 015-48-006) is currently an undeveloped lot located south of North First Street and north of Highway 237 in the Alviso area of San José. The site is bound by the Guadalupe River to the south, State-owned open space to the east, and privately-owned parcels to the north and west. The site is within the boundaries of the Alviso Master Plan.

3.2 PROPOSED DEVELOPMENT

The project proposes construction of an approximately 112,463-square foot, 214-room hotel in a five-story building (See Figure 3.1). The northeast and northwest sections of the site would include surface parking with 21 parking spaces, and a four-story parking garage with 213 spaces, for a total of 234 parking spaces.

3.2.1 Building Heights and Setbacks

The proposed five-story building would reach a maximum height of 65 feet including architectural elements, mechanical equipment screens, and elevator shafts. The four-story parking garage would reach a maximum height of 40 feet (see Figure 3.2 and Figure 3.3).

The proposed structures on the site would be set back at least 60 feet from the northern property line, 126 feet from the southern property line, 36 feet from the eastern property line, and 150 feet from the western property line. The development footprint would be set back at least 50 feet from the seasonal wetland areas and non-wetland waters present in the southern portion of the site, and 100 feet from the Guadalupe River to the southwest. Wetland and riparian avoidance buffers would be established to enforce these setbacks and ensure that no grading or construction activities would occur in biologically sensitive areas (see Section 3.4 Biological Resources).

3.2.2 Site Lighting

The project would install security lighting throughout the site in parking areas, along pathways, and adjacent to buildings. The outdoor lighting would be comparable in brightness to the ambient lighting in the surrounding developments. All lighting would conform to the City's Outdoor Lighting Policy (4-3) as applicable and be shielded to direct light downwards to ensure that lighting does not spill over onto adjacent residential properties, consistent with City standards.

3.2.3 Building Materials

The proposed building exterior would include use of the following materials:

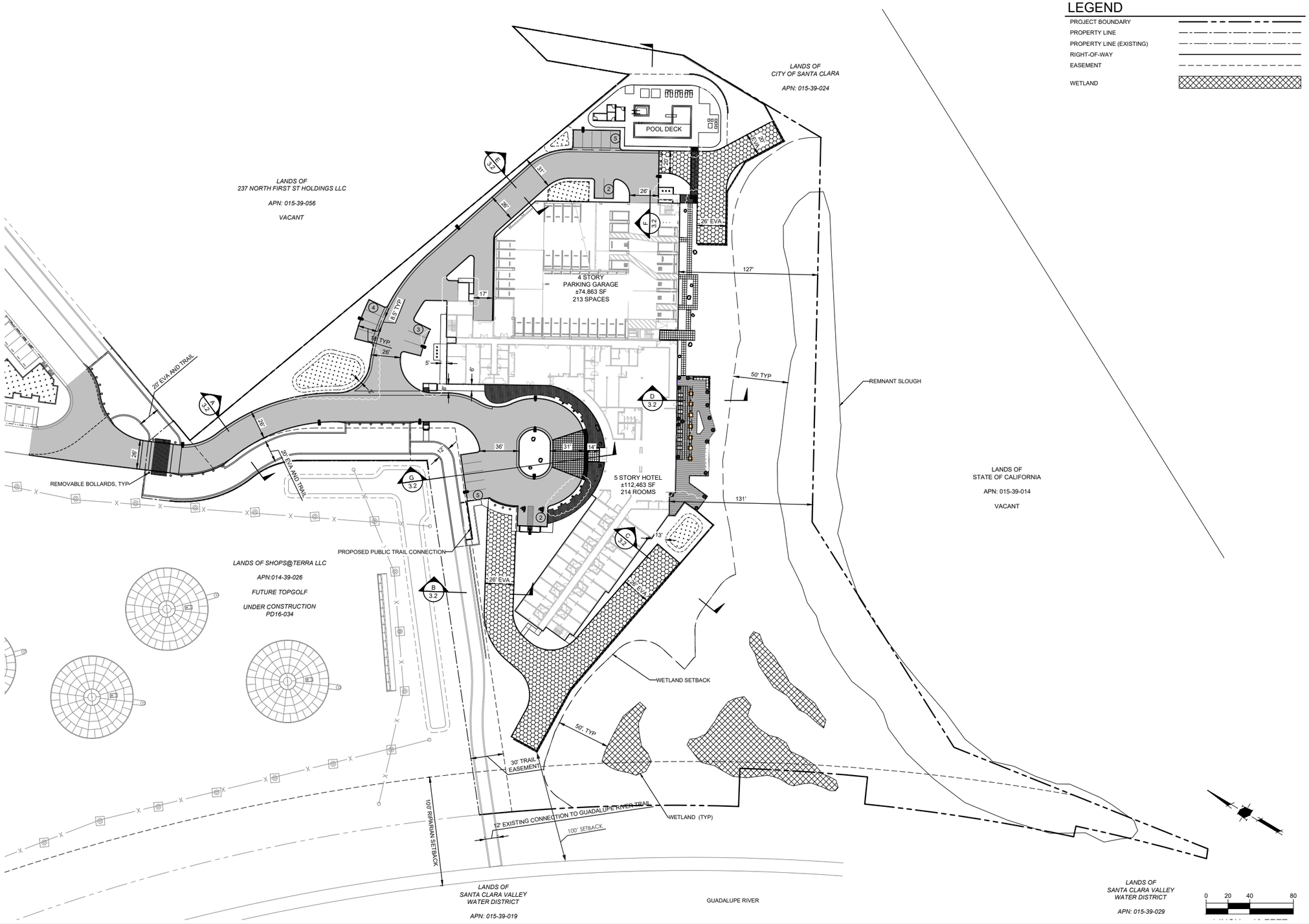
- Fiber-cement board siding
- Timber post
- Vertical batten board siding
- Wood grained aluminum window frames

- Stainless steel cable guardrails on balconies
- Aluminum window frames
- Aluminum storefront lobby entry
- Garage green screen
- Parking garage mesh panel

3.2.4 Site Access and Parking

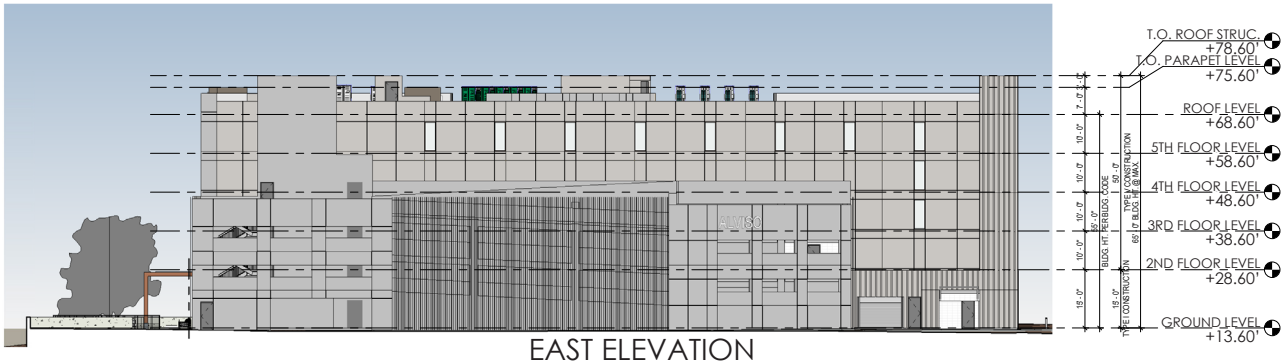
Access to the site would be provided by a 26-foot wide roadway on the northwestern boundary of the project site. This roadway would connect with two planned roadways[2] from an adjacent approved development, both exiting onto North First Street. The access roadway would also connect with two proposed internal roadways within the project site. As described above, a total of 234 parking spaces would be provided, including 24 with electrical vehicle charging stations, and nine ADA parking spaces.

[2] These roadways are currently under construction and are anticipated to be completed prior to operation of the proposed project.



SITE PLAN

FIGURE 3.1



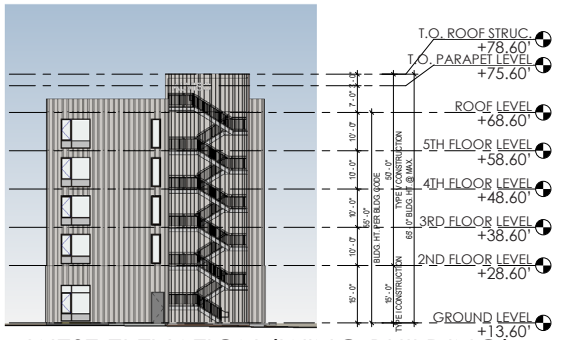
EAST ELEVATION

NORTH ELEVATION

BUILDING ELEVATIONS NORTH AND EAST

FIGURE 3.2

WEST ELEVATION



WEST ELEVATION (WING BUILDING)

SOUTH ELEVATION

BUILDING ELEVATIONS SOUTH AND WEST

FIGURE 3.3

3.2.5 Stormwater Controls

Bioretention areas with catch basins would be installed in the northwest and south corners of the project site (Refer to Figure 3.4). The project would install new storm drains, which would connect with planned storm drain lines from an adjacent project.

3.2.6 Landscaping

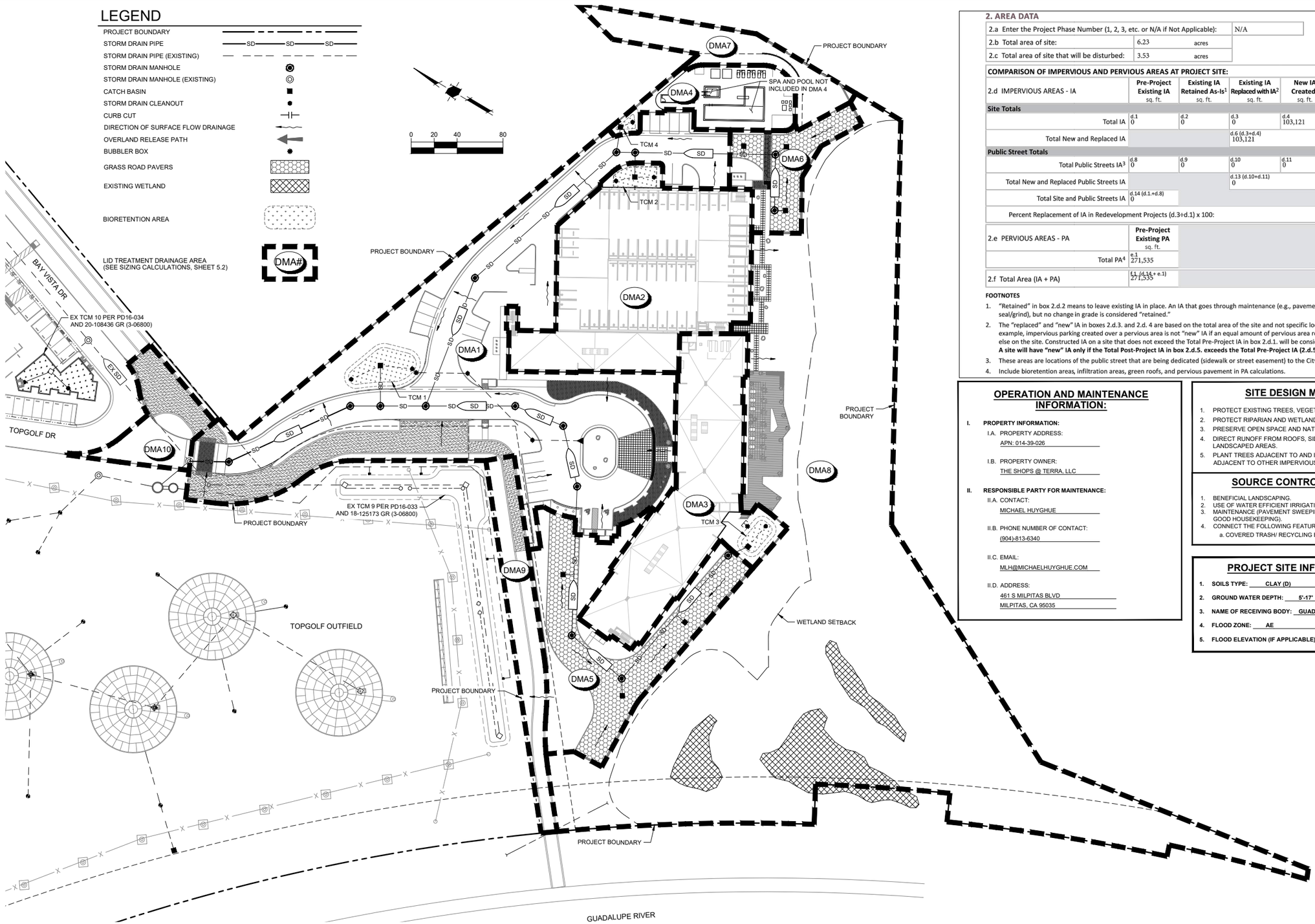
A number of new trees will be planted (see Figure 3.5). Species include vine maple, California box elder, California buckeye, bunya pine, dwarf strawberry, toyon, Japanese holly, California sycamore, California scrub oak, island oak, and arroyo willow. Landscaping would also include a wide variety of small, medium, and large shrubs and grasses. Landscaping would be installed around the boundary of the site, as well as throughout the site's interior. The total landscaped area proposed would be 187,792 square feet.

3.2.7 Green Building Measures

The proposed project would be required to be built in accordance with the California Building Code (CALGreen), which includes design provisions intended to minimize wasteful energy consumption. The project would be designed and constructed in compliance with City of San José Council Policy 6-32 (Green Building Ordinance), which would require the building to meet the United States Green Building Council's Leadership in Energy and Environmental Design (LEED) Silver rating.

3.2.8 Construction

The project would not involve demolition since the project site is currently undeveloped. Grading of the site would import approximately 1,000 cubic yards of fill. Construction activities would last approximately 24 months, construction is anticipated to begin in fall of 2021.



2. AREA DATA

2.a Enter the Project Phase Number (1, 2, 3, etc. or N/A if Not Applicable):		N/A
2.b Total area of site:	6.23	acres
2.c Total area of site that will be disturbed:	3.53	acres

COMPARISON OF IMPERVIOUS AND PERVIOUS AREAS AT PROJECT SITE:

2.d IMPERVIOUS AREAS - IA	Pre-Project Existing IA sq. ft.	Existing IA Retained As-Is[1] sq. ft.	Existing IA Replaced with IA[2] sq. ft.	New IA Created[2] sq. ft.	Total Post Project IA sq. ft.
Site Totals					
Total IA	d.1 0	d.2 0	d.3 0	d.4 103,121	d.5 (d.2+d.3+d.4) 103,121
Total New and Replaced IA			d.6 (d.3+d.4) 103,121		
Public Street Totals					
Total Public Streets IA[3]	d.8 0	d.9 0	d.10 0	d.11 0	d.12 (d.9+d.10+d.11) 0
Total New and Replaced Public Streets IA			d.13 (d.10+d.11) 0		
Total Site and Public Streets IA	d.14 (d.1+d.8) 0				d.15 (d.5+d.12) 103,121
Percent Replacement of IA in Redevelopment Projects (d.3÷d.1) x 100:					d.16 0 %

2.e PERVIOUS AREAS - PA	Pre-Project Existing PA sq. ft.			Total Post Project PA sq. ft.
Total PA[4]	e.1 271,535			e.2 167,244
2.f Total Area (IA + PA)	f.1 (d.14 + e.1) 271,535			f.2 (d.15 + e.2) 270,365

FOOTNOTES

1. "Retained" in box 2.d.2 means to leave existing IA in place. An IA that goes through maintenance (e.g., pavement resurfacing/slurry seal/grind), but no change in grade is considered "retained."
2. The "replaced" and "new" IA in boxes 2.d.3. and 2.d. 4 are based on the total area of the site and not specific locations on site. For example, impervious parking created over a pervious area is not "new" IA if an equal amount of pervious area replaces IA somewhere else on the site. Constructed IA on a site that does not exceed the Total Pre-Project IA in box 2.d.1. will be considered "replaced" IA. **A site will have "new" IA only if the Total Post-Project IA in box 2.d.5. exceeds the Total Pre-Project IA (2.d.5 - 2.d.1 = 2.d.4).**
3. These areas are locations of the public street that are being dedicated (sidewalk or street easement) to the City of San José.
4. Include bioretention areas, infiltration areas, green roofs, and pervious pavement in PA calculations.

OPERATION AND MAINTENANCE INFORMATION:

I. PROPERTY INFORMATION:

I.A. PROPERTY ADDRESS:
APN: 014-39-026

I.B. PROPERTY OWNER:
THE SHOPS @ TERRA, LLC

II. RESPONSIBLE PARTY FOR MAINTENANCE:

II.A. CONTACT:
MICHAEL HUYGHUE

II.B. PHONE NUMBER OF CONTACT:
(904)-813-6340

II.C. EMAIL:
MLH@MICHAELHUYGHUE.COM

II.D. ADDRESS:
461 S MILPITAS BLVD
MILPITAS, CA 95035

SITE DESIGN MEASURES:

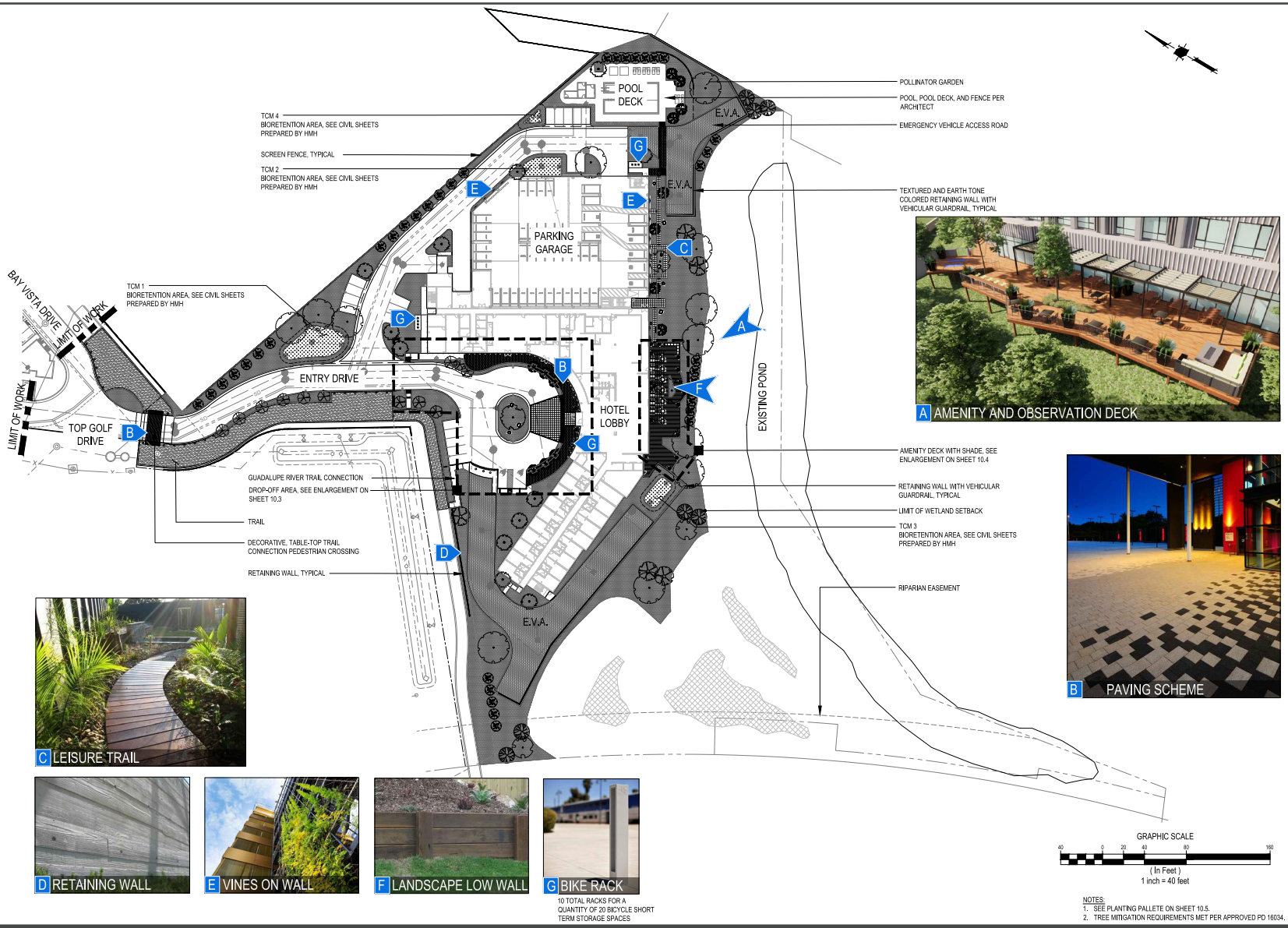
1. PROTECT EXISTING TREES, VEGETATION, AND SOIL
2. PROTECT RIPARIAN AND WETLAND AREAS/ BUFFERS.
3. PRESERVE OPEN SPACE AND NATURAL DRAINAGE PATTERNS.
4. DIRECT RUNOFF FROM ROOFS, SIDEWALKS, PATIOS TO LANDSCAPED AREAS.
5. PLANT TREES ADJACENT TO AND IN PARKING AREAS AND ADJACENT TO OTHER IMPERVIOUS AREAS.

SOURCE CONTROL MEASURES:

1. BENEFICIAL LANDSCAPING.
2. USE OF WATER EFFICIENT IRRIGATION SYSTEMS.
3. MAINTENANCE (PAVEMENT SWEEPING, CATCH BASIN CLEANING, GOOD HOUSEKEEPING).
4. CONNECT THE FOLLOWING FEATURES TO SANITARY SEWER:
   a. COVERED TRASH/ RECYCLING ENCLOSURES.

PROJECT SITE INFORMATION:

1. **SOILS TYPE:** CLAY (D)
2. **GROUND WATER DEPTH:** 5'-17'
3. **NAME OF RECEIVING BODY:** GUADALUPE RIVER
4. **FLOOD ZONE:** AE
5. **FLOOD ELEVATION (IF APPLICABLE):** 12 FEET



LANDSCAPING PLAN

FIGURE 3.5

SECTION 4.0 ENVIRONMENTAL SETTING, CHECKLIST, AND IMPACT DISCUSSION

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

4.1	Aesthetics	4.12	Mineral Resources
4.2	Agriculture and Forestry Resources	4.13	Noise
4.3	Air Quality	4.14	Population and Housing
4.4	Biological Resources	4.15	Public Services
4.5	Cultural Resources	4.16	Recreation
4.6	Energy	4.17	Transportation
4.7	Geology and Soils	4.18	Tribal Cultural Resources
4.8	Greenhouse Gas Emissions	4.19	Utilities and Service Systems
4.9	Hazards and Hazardous Materials	4.20	Wildfire
4.10	Hydrology and Water Quality	4.21	Mandatory Findings of Significance
4.11	Land Use and Planning		

The discussion for each environmental subject includes the following subsections:

- **Environmental Setting** – This subsection 1) provides a brief overview of relevant plans, policies, and regulations that compose the regulatory framework for the project and 2) describes the existing, physical environmental conditions at the project site and in the surrounding area, as relevant.
- **Impact Discussion** – This subsection 1) includes the recommended checklist questions from Appendix G of the CEQA Guidelines to assess impacts and 2) discusses the project's impact on the environmental subject as related to the checklist questions. For significant impacts, feasible mitigation measures are identified. "Mitigation measures" are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370). Each impact is numbered to correspond to the checklist question being answered. For example, Impact BIO-1 answers the first checklist question in the Biological Resources section. Mitigation measures are also numbered to correspond to the impact they address. For example, MM BIO-1.3 refers to the third mitigation measure for the first impact in the Biological Resources section.

4.1 AESTHETICS

4.1.1 Environmental Setting

4.1.1.1 *Regulatory Framework*

State

Streets and Highway Code Sections 260 through 263

The California Scenic Highway Program (Streets and Highway Code, Sections 260 through 263) is managed by the California Department of Transportation (Caltrans). The program is intended to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. There are no state-designated scenic highways in San José. Interstate 280 from the San Mateo County line to State Route (SR) 17, which includes segments in San José, is an eligible, but not officially designated, State Scenic Highway.[3]

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

Local

Envision San José 2040 General Plan

The General Plan includes the following policies applicable specifically to development projects in San José:

Envision San José 2040 Relevant Aesthetic Policies

Policies	Description
Policy CD-1.1	Require the highest standards of architecture and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
Policy CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
Policy CD-1.27	When approving new construction, require the undergrounding of distribution utility lines serving the development. Encourage programs for undergrounding existing overhead distribution lines. Overhead lines providing electrical power to

[3] California Department of Transportation. "Scenic Highways." Accessed March 29, 2021. https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways.

	light rail transit vehicles and high tension electrical transmission lines are exempt from this policy.
Policy CD-10.2	Require that new public and private development adjacent to Gateways, freeways (including U.S.101, I-880, I-680, I-280, SR17, SR85, SR237, and SR87), and Grand Boulevards consist of high-quality architecture, use high-quality materials, and contribute to a positive image of San José.
Policy CD-10.3	Require that development visible from freeways (including U.S.101, I-880, I-680, I-280, SR17, SR85, SR237, and SR87) be designed to preserve and enhance attractive natural and man-made vistas.

Alviso Master Plan

The Alviso Master Plan is a policy document that provides the background, vision, and character to guide the future of a unique area at the northern edge of San José. One of the stated purposes of the Plan is to protect and enhance the small town quality of Alviso by guiding appropriate new development, community facilities, and infrastructure. The Master Plan establishes the location, intensity, and character of land uses; the circulation pattern, and necessary infrastructure improvements to support development. The following policies are specific to aesthetics and are applicable to the proposed project:

Alviso Master Plan Relevant Policies and Design Guidelines

Policies	Description
Landscaping Policy 3	Landscaping should be used to screen unattractive uses and soften the effect of taller buildings due to the flood protection requirements.
Landscaping Policy 4	Landscaping should not block views of the rivers, natural riparian areas, or marshlands.
River Orientation Policy 1	Commercial land uses adjacent to the Guadalupe River should provide access to the waterway.
River Orientation Policy 2	Development along the Guadalupe River should be designed to reflect and acknowledge the river environment by orienting seating areas, windows, decks, balconies, and open spaces to the river while orienting utility, parking, storage and trash areas away from it.
River Orientation Policy 3	New buildings adjacent to the Guadalupe River/Alviso Slough should be of an appropriate scale and character to enhance this waterway as a public oriented recreation resource and as a natural riparian corridor.

City of San José Outdoor Lighting Policy (Policy 4-3)

The City of San José's Outdoor Lighting Policy requires outdoor lighting on private properties to be directed downward and include shielding to reduce light pollution and spill light. The policy also requires the use of energy efficient lighting fixtures.

4.1.1.2 *Existing Conditions*

The site is an undeveloped lot located at the western edge of the Alviso community of San José (the site is not visible from the central Alviso Village location), which is at the southern end of the San Francisco Bay. Within the Alviso community there is a mix of single-family and multi-family developments, many of which are one-to-two-story wood frame structures built before 1970. Single-story, wood and stucco commercial buildings and small parking lots are found clustered in the central section of Alviso, off Gold Street and North First Street. Industrial uses in the Alviso Village area include a variety of building types and densities, ranging from modern concrete and glass office buildings to localized concentrations of outdoor storage and corporation yards. There are many trails and public open spaces in the area, including the San Francisco Bay National Wildlife Refuge, Alviso Marina County Park (gateway to the wildlife refuge), Guadalupe River Trail, San Francisco Bay Trail and Sunnyvale Baylands Park. East and west of Alviso are the foothills which border the Santa Clara Valley.

The topography of the project site is relatively flat with ground surface elevations ranging from roughly two feet below mean sea level in the areas closest to the non-wetland water body to 10 feet above mean sea level (amsl) in the interior of the site. The site is an undeveloped open space comprised of non-native grassland vegetation. The Guadalupe River forms the southwestern boundary of the site. The Guadalupe River Trail is situated on top of the levee that separates the site from the river. High-voltage electrical transmission lines traverse east-to-west directly south of the site. Refer to Photo One through Photo Eight for views of the project site and surrounding area.

Surrounding Area

Immediately north, east, south, and, west of the site is undeveloped land. Adjacent land northwest of the site was recently developed as the Topgolf Project (File Number: PD16-034/PDC16-013) . Topgolf consists of approximately 110,000 square feet of commercial/retail space, a 200-roomhotel, approximately 72,000 square feet of indoor/outdoor recreation use (Topgolf), and late night use.

Development north of the site, across North First Street, includes the Balaji Temple, a three-story office building, George Mayne Elementary School, Alviso Youth Center, single-family residences, and a small strip mall. The Balaji Temple consists of a one-story religious center and parking lot. The George Mayne Elementary School consists of one-story education buildings adjacent to paved parking and play areas as well as a large grass field. The two-story Alviso Youth Center is located on the same property as the school, adjacent to the grass field. Three-story single-family residences of recent construction and consisting of modern architectural elements are located west of the library. The ground floors of the residences are elevated above street level for flood protection purposes. A sloping landscaped berm with stairways is located along the residential development's frontage with North First Street. Development south of the site, across California State Route 237, consists of residential properties. Development east of the site consists of commercial buildings ranging in height from four to six stories. Development to the west of the site across the Guadalupe River and Guadalupe River Trail consists of a mobile home community, a two-story commercial office development, and a four-story hotel.

Scenic Vistas and Resources

The project site is not located along or visible from a state-designated scenic highway.[4] A 21.8-mile stretch of Interstate 280 (I-280) is a state-designated scenic highway, from San Bruno to Portola Valley (post mile R0.0 to post mile R21.8). I-280 is the nearest state-designated scenic highway to the site (approximately seven miles south of the site and not visible from the site). The nearest portion of I-280 to the site is not part of the Interstate that is designated as scenic. Views of the Diablo Range foothills (to the east) are visible from the site; however, these views of these foothills are interrupted by existing urban development.

The City's General Plan identifies Gateways and Urban Throughways (urban corridors) where preservation and enhancement of views of the natural and man-made environment are crucial. The nearest Gateway to the project site is located on the North First Street overpass where it crosses over State Route 237 (SR 237), approximately 0.45 miles southeast of the site. The site is partially visible from the overpass. The City has designated SR 237 as an Urban Throughway from the I-880 intersection to Fair Oaks Avenue in Sunnyvale. The site is visible from SR 237.

Due to the site's flat topography, current views of the project site are limited to the site's immediate vicinity. The high-voltage electrical transmission lines traversing east-to-west directly south of the site are visible from areas further away due to the transmission lines' heights.

[4] The State Scenic Highways Program is under the jurisdiction of the California Department of Transportation (Caltrans). The program is intended 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 Highway Code, Sections 260 through 263.

Photo 1: Project Site Facing Northeast

Photo 2: Non-wetland Water Feature South of the Project Site

PHOTOS 1 & 2

Photo 3: Guadalupe River Southwest of the Project Site

Photo 4: View of Surrounding Land Development North of the Project Site

PHOTOS 3 & 4

Photo 5: View of Surrounding Land Use Southeast of the Project Site

Photo 6: View down Guadalupe River Trail facing South

PHOTOS 5 & 6

Photo 7: View of Surrounding Land Use West of the Project Site

Photo 8: View of Surrounding Residential Land Use Northwest of the Project Site

4.1.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Except as provided in Public Resources Code Section 21099, would the project:				
1) Have a substantial adverse effect on a scenic vista?	☐	☐	☒	☐
2) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒
3) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? [5] If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	☐	☐	☒	☐
4) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☒	☐

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

Impact AES-1: The project would not have a substantial adverse effect on a scenic vista. **(Less than Significant Impact)**

Impacts to a scenic vista consist of modification of a scenic feature, such as a hillside, or bayland areas, or scenic skyline or built environment. While the project would not modify a scenic feature, the proposed structure would be visible to users of nearby public open spaces including Alviso Marina County Park, Alviso Park, the Guadalupe River Trail, San Francisco Bay Trail and Sunnyvale Baylands Park. The proposed structure would also be visible from SR 237 and the North First Street overcrossing, which are identified as an Urban Throughway and a Gateway, respectively, in the City's General Plan. The proposed structure would be similar in scale to existing buildings east and west of the site that are visible from these locations.

The maximum allowed height on site is 65 feet, which is five stories above flood elevation, as a result of a text amendment to the Alviso Master Plan, and by extension the Envision 2040 General Plan, which changed the maximum allowable building height for properties on the west side of North First Street between Liberty and Tony P. Santos Streets, including the project site. The proposed building height for the project is 65 feet.

View from the SR 237 and the North First Street Overcrossing

Although the project would introduce prominent features on the site that would be visible from a designated Gateway and Urban Throughway, commercial development of the density proposed by the project was anticipated in the City's Envision 2040 General Plan, and the Final EIR completed for the General Plan concluded that development in accordance with the General Plan policies and design guidelines would not represent a significant aesthetics impact.

The office and hotel properties situated east of the project site are directly between the project site and the viewpoints from the North First Street overcrossing. Views of the site from the overcrossing are therefore largely blocked by the existing structures. The project would be visible from segments of SR 237, but the proposed structures would be similar in scale to existing structures on nearby properties. Therefore, the proposed project's impact on the designated Urban Thoroughfare and Gateway would be less than significant.

Views from Residential Areas

Residential land uses are located north, south, and west of the project site. Views of the surrounding foothills are very limited from these locations due to existing development, roadways, high-voltage electrical transmission lines, and landscaping. The project would introduce prominent features on the site that would be visible from surrounding residential land uses. The proposed buildings would, however, be comparable in massing and scale to existing commercial/office and mixed-use buildings in the project area and would be consistent with planned growth for the area in the General Plan. Additionally, private views are not a protected resource under CEQA. Therefore, the proposed project's impact on residential views would be less than significant.

Views from Trails and Parks

The proposed hotel and parking garage would modify views from the segment of the Guadalupe River Trail located west of the site and Alviso Park located north of the site by introducing new structures.

The General Plan FEIR (as amended) concluded that new development and redevelopment allowed under the General Plan would alter the appearance of San José; and implementation of applicable policies and regulations (including the City's Design Guidelines) would avoid substantial degradation of the visual character of the City. The proposed development would alter the visual character of the project site compared to the existing conditions. The proposed buildings would, however, be comparable in massing and scale to some of the existing commercial/office and mixed-use buildings in the project area and consistent with planned growth within the General Plan. As a result, the project would not degrade visual character of the area, and would not obscure any scenic vistas, damage scenic resources, or degrade the visual quality of the area. **(Less than Significant Impact)**

Impact AES-2:	The project would not substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway. **(No Impact)**

There are no state-designated scenic highways in the vicinity of the site, therefore, the project would not damage scenic resources within any state-designated scenic highways. **(No Impact)**

Impact AES-3:	The project would not substantially degrade the existing visual character or quality of public views of the site and its surroundings. The project would not conflict with applicable zoning and other regulations governing scenic quality. **(Less than Significant Impact)**

As described in Section 4.1.1.2, the property is currently undeveloped.

The project would develop the site with a hotel reaching a maximum height of 65 feet and parking garage, reaching 40 feet. The project would include landscaping around the boundary of the site, as well as throughout the site's interior. While the project would introduce visually prominent commercial development on the site, the proposed structures would be similar in scale to existing structures on nearby properties.

The hotel's building materials would primarily consist of fiber-cement board siding, vertical batten board siding, aluminum window frames, and windows. The garage would include a green screen and mesh panel (See Figure 4.1-1).

The project area is developed commercial, office and industrial land uses that range from one- to six-stories and has a mix of architectural styles. The existing buildings surrounding the site are made of materials similar to the proposed development. Development under the proposed project would be reviewed in accordance with the City's Commercial Development Guidelines and the Alviso Master

Plan's Village Area Guidelines for Commercial Development during the Planning Permit stage as part of the City's planning review process. For the above reasons, the proposed project would not substantially degrade the existing visual character of the site or its surroundings nor conflict with applicable regulations governing scenic quality. **(Less than Significant Impact)**

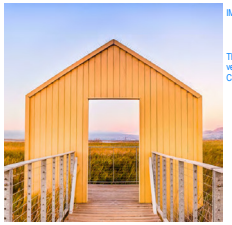


IMAGE : ALVISO MARINA PARK ENTRY GATE

The vertical siding of the gate inspires the hotel facade with vertical batten and board metal siding which also often used Cape Code style architecture.

IMAGE : SEA RANCH STYLE WAREHOUSE

The natural wooden and its weathered dark brown color is being used at the hotel ground level storefront windows along the pedestrian pathways.

IMAGE : SAN FRANCISCO MARITIME MUSEUM

The natural wooden and its weathered dark brown color is being used at the hotel ground level storefront windows along the pedestrian pathways.

IMAGE : SEA RANCH RESIDENCE BY CHARLES MOORE

The ranch style architecture designed by one of the modern architecture masters, Charles Moore, shows all varied undulating roof line which resembles in the hotel roof line.

IMAGE : ALVISO BAYSIDE CANNING COMPANY

The History of Alviso remains in the area reminiscing this facility, Bayside Canning Company, which once used as an aluminum can manufacturer. It is reflected in the hotel facility with metal material such as perforated metal at the parking structure, metal siding & board at the hotel facility.

IMAGE : WOODEN DECK AT WATERFRONT

The newly defined trail from First street to the Guadalupe River will be paved with a material usually associated with waterfront access deck.

EXTERIOR RENDERINGS

FIGURE 4.1-1

Impact AES-4:	The project would not create a new source of substantial light or glare which would adversely affect day or nighttime views in the area. **(Less than Significant Impact)**

The site is currently undeveloped, and therefore does not produce light or glare.

The project would install security lighting throughout the site in parking areas, along pathways, and adjacent to buildings. The outdoor lighting would be comparable in brightness to the ambient lighting in the surrounding developments. All lighting would conform to the City's Outdoor Lighting Policy (4-3) as applicable and be shielded to direct light downwards to ensure that lighting does not spill over onto adjacent residential properties, consistent with City standards.

The project will be reviewed in accordance with the City's Commercial Development Guidelines and the Alviso Master Plan's Village Area Guidelines for Commercial Development during the Planning Permit stage as part of the City's planning review process. The project would be constructed with a variety of building materials which would be subject to the City's Design Guidelines and regulations to ensure future light and glare impacts are minimized.

While the proposed building would include windows, the design of the building does not include large uninterrupted expansions of glass or highly reflective materials such as mirrored glass.

For the reasons described above, the proposed project would not create a substantial source of daytime or nighttime glare. The lighting would be designed to use modern technology, as previously described, to reduce spill light and visibility of the lights. **(Less than Significant Impact)**

4.2 AGRICULTURE AND FORESTRY RESOURCES

4.2.1 Environmental Setting

4.2.1.1 *Regulatory Framework*

State

Farmland Mapping and Monitoring Program

The California Department of Conservation's Farmland Mapping and Monitoring Program (FMMP) assesses the location, quality, and quantity of agricultural land and conversion of these lands over time. Agricultural land is rated according to soil quality and irrigation status. The best quality land is called Prime Farmland. In CEQA analyses, the FMMP classifications and published county maps are used, in part, to identify whether agricultural resources that could be affected are present on-site or in the project area.[6]

California Land Conservation Act

The California Land Conservation Act (Williamson Act) enables local governments to enter into contracts with private landowners to restrict parcels of land to agricultural or related open space uses. In return, landowners receive lower property tax assessments. In CEQA analyses, identification of properties that are under a Williamson Act contract is used to also identify sites that may contain agricultural resources or are zoned for agricultural uses.[7]

Fire and Resource Assessment Program

The California Department of Forestry and Fire Protection (CAL FIRE) identifies forest land, timberland, and lands zoned for timberland production that can (or do) support forestry resources.[8] Programs such as CAL FIRE's Fire and Resource Assessment Program and are used to identify whether forest land, timberland, or timberland production areas that could be affected are located on or adjacent to a project site.[9]

4.2.1.2 *Existing Conditions*

According to the Santa Clara County Important Farmland 2016 Map, the project site is designated as *Urban and Built-Up Land. Urban and Built-Up Land* is defined as residential land with a density of at least six units per 10-acre parcel, as well as land used for industrial and commercial purposes, golf

[6] California Department of Conservation. "Farmland Mapping and Monitoring Program." Accessed April 26, 2019. http://www.conservation.ca.gov/dlrp/fmmp/Pages/Index.aspx.
[7] California Department of Conservation. "Williamson Act." http://www.conservation.ca.gov/dlrp/lca.
[8] Forest Land is land that can support 10 percent native tree cover and allows for management of forest resources (California Public Resources Code Section 12220(g)); Timberland is land not owned by the federal government or designated as experimental forest land that is available for, and capable of, growing trees to produce lumber and other products, including Christmas trees (California Public Resources Code Section 4526); and Timberland Production is land used for growing and harvesting timber and compatible uses (Government Code Section 51104(g)).
[9] California Department of Forestry and Fire Protection. "Fire and Resource Assessment Program." Accessed October 22, 2020. http://frap.fire.ca.gov/.

courses, landfills, airports, sewage treatment, and water control structures.[10] According to Santa Clara County Office of the Assessor, the site is not subject to a Williamson Act contract.

4.2.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒
2) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒
3) 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))?	☐	☐	☐	☒
4) Result in a loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒
5) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒

Note: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board.

[10] California Department of Conservation, *Santa Clara County Important Farmland Map 2016.* Available at: ftp://ftp.consrv.ca.gov/pub/dlrp/FMMP/pdf/2016/scl16.pdf

Impact AG-1:	The project would not convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use. **(No Impact)**

According to the Santa Clara County Important Farmland 2016 Map, the project site is designated as *Urban and Built-Up Land*. The project, therefore, would not convert farmland to non-agricultural use. **(No Impact)**

Impact AG-2:	The project would not conflict with existing zoning for agricultural use, or a Williamson Act contract. **(No Impact)**

The site is zoned CIC(PD) - *Planned Development (Combined Industrial/ Commercial Base District*. According to Santa Clara County Office of the Assessor, the site is not subject to a Williamson Act contract. The project, therefore, would not conflict with existing zoning for agricultural use, or a Williamson Act contract. **(No Impact)**

Impact AG-3:	The project would not conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timberland zoned Timberland Production. **(No Impact)**

The site is zoned CIC(PD) - *Planned Development (Combined Industrial/ Commercial Base District*. The project, therefore, would not conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timberland zoned Timberland Production. **(No Impact)**

Impact AG-4:	The project would not result in a loss of forest land or conversion of forest land to non-forest use. **(No Impact)**

No forestland is located on or near the site. The project, therefore, would not result in a loss of forest land or conversion of forest land to non-forest use. **(No Impact)**

Impact AG-5:	The project would not involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use. **(No Impact)**

As described above, no farmland or forest land is located on or near the site. The project, therefore, would not involve other changes in the existing environment which could result in conversion of farmland, to non-agricultural use or conversion of forest land to non-forest use. **(No Impact)**

4.3 AIR QUALITY

The following discussion is based, in part, on an Air Quality and Greenhouse Gas Assessment prepared for the project by Illingworth & Rodkin, Inc. (I&R). A copy of the report, dated October 2, 2020, is included in Appendix A of this Initial Study.

4.3.1 Environmental Setting

4.3.1.1 *Background Information*

Criteria Pollutants

Air quality in the Bay Area is assessed related to six common air pollutants (referred to as criteria pollutants), including ground-level ozone (O_3), nitrogen oxides (NO_x), particulate matter (PM), carbon monoxide (CO), sulfur oxides (SO_x), and lead.[11] Criteria pollutants are regulated because they result in health effects. An overview of the sources of criteria pollutants and their associated health are summarized in Table 4.3-1. The most commonly regulated criteria pollutants in the Bay Area are discussed further below.

Table 4.3-1: Health Effects of Air Pollutants

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

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

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

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

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

Toxic Air Contaminants

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

Diesel exhaust is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs. Diesel exhaust is a complex mixture of gases, vapors, and fine particles. Medium- and heavy-duty diesel trucks represent the bulk of DPM emissions from California highways. The majority of DPM is small enough to be inhaled into the lungs. Most inhaled particles are subsequently exhaled, but some deposit on the lung surface or are deposited in the deepest regions of the lungs (most susceptible to injury).[12] Chemicals in diesel exhaust, such as benzene and formaldehyde, have been previously identified as TACs by the California Air Resources Board (CARB).

Sensitive Receptors

Some groups of people are more affected by air pollution than others. CARB has identified the following persons who are most likely to be affected by air pollution: children under 16, the elderly over 65, athletes, and people with cardiovascular and chronic respiratory diseases. These groups are classified as sensitive receptors. Locations that may contain a high concentration of these sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, and elementary schools.

4.3.1.2 *Regulatory Framework*

Federal and State

Clean Air Act

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

[12] California Air Resources Board. "Overview: Diesel Exhaust and Health." Accessed June 16, 2018. https://www.arb.ca.gov/research/diesel/diesel-health.htm.

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

Risk Reduction Plan

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

Regional

2017 Clean Air Plan

The Bay Area Air Quality Management District (BAAQMD) is the agency primarily responsible for assuring that the federal and state ambient air quality standards are maintained in the San Francisco Bay Area. Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how state and federal air quality standards will be met. BAAQMD's most recently adopted plan is the Bay Area 2017 Clean Air Plan (2017 CAP). The 2017 CAP focuses on two related BAAQMD goals: protecting public health and protecting the climate. To protect public health, the 2017 CAP describes how BAAQMD will continue its progress toward attaining state and federal air quality standards and eliminating health risk disparities from exposure to air pollution among Bay Area communities. To protect the climate, the 2017 CAP includes control measures designed to reduce emissions of methane and other super-greenhouse gases (GHGs) that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.[13]

CEQA Air Quality Guidelines

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

[13] BAAQMD. *Final 2017 Clean Air Plan.* April 19, 2017. http://www.baaqmd.gov/plans-and-climate/air-quality-plans/current-plans.

Community Air Risk Evaluation Program

Under the Community Air Risk Evaluation (CARE) program, BAAQMD has identified areas with high TAC emissions, and sensitive populations that could be affected by them, and uses this information to establish policies and programs to reduce TAC emissions and exposures. Impacted communities identified to date are located in Concord, Richmond/San Pablo, San José, eastern San Francisco, western Alameda County, Vallejo, San Rafael, and Pittsburg/Antioch. The main objectives of the program are to:

- Evaluate health risks associated with exposure to TACs from stationary and mobile sources;
- Assess potential exposures to sensitive receptors and identify impacted communities;
- Prioritize TAC reduction measures for significant sources in impacted communities; and
- Develop and implement mitigation measures to improve air quality in impacted communities.

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects with the City. The following policies are specific to air quality and are applicable to the proposed project.

Envision San José 2040 Relevant Land Use Policies

Policies	Description
Policy MS-10.1	Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement 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-11.2	For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.
Policy MS-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-13.1	Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures

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

4.3.1.3 *Existing Conditions*

The Bay Area is considered a non-attainment area for ground-level O_3 and $PM_{2.5}$ under both the federal Clean Air Act and state Clean Air Act. The area is also considered nonattainment for PM_{10} under the state act, but not the federal act. The area has attained both state and federal ambient air quality standards for CO. As part of an effort to attain and maintain ambient air quality standards for O_3 and PM_{10}, BAAQMD has established thresholds of significance for these air pollutants and their precursors. These thresholds are for O_3 precursor pollutants (ROG and NO_X), PM_{10}, and $PM_{2.5}$, and apply to both construction period and operational period impacts.

4.3.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☒	☐
2) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	☐	☐	☒	☐
3) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☒	☐
4) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	☐	☐	☒	☐

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. The City of San José has considered the air quality thresholds updated by BAAQMD in May 2017 and regards these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin and conservative in terms of the assessment of health effects associated with TACs and $PM_{2.5}$. The BAAQMD CEQA Air Quality thresholds used in this analysis are identified in Table 4.3-2.

Table 4.3-2: BAAQMD Air Quality Significance Thresholds			
Pollutant	**Construction Thresholds**	**Operation Thresholds**	
	Average Daily Emissions (pounds/day)	**Annual Daily Emissions (pounds/year)**	**Annual Average Emissions (tons/year)**
Criteria Air Pollutants			
ROG, NO_x	54	54	10
PM_{10}	82 (exhaust)	82	15
$PM_{2.5}$	54 (exhaust)	54	10
CO	Not Applicable	9.0 ppm (eight-hour) or 20.0 ppm (one-hour)	
Fugitive Dust	Dust-Control Measures/Best Management Practices	Not Applicable	
Health Risks and Hazards for New Sources (within a 1,000-foot Zone of Influence)			
Health Hazard	**Single Source**	**Combined Cumulative Sources**	
Excess Cancer Risk	>10 per one million	>100 per million	
Hazard Index	>1.0	>10.0	
Incremental Annual $PM_{2.5}$	>0.3 µg/m^3	>0.8 µg/m3 (average)	
Notes: ROG = reactive organic gases, NO_x = nitrogen oxides, PM_{10} = course particulate matter with a diameter of 10 micrometers (µm) or less, and $PM_{2.5}$ = fine particulate matter with a diameter of 2.5 µm or less.			

Impact AIR-1: The project would not conflict with or obstruct implementation of the applicable air quality plan. **(Less than Significant Impact)**

The 2017 CAP is the applicable air quality plan for the San Francisco Bay Area Air Basin. The 2017 CAP includes control measures that are intended to reduce air pollutant emissions in the Bay Area either directly or indirectly. The BAAQMD CEQA Air Quality Guidelines set forth criteria for determining consistency with the 2017 CAP. In general, a project is considered consistent if, a) the plan supports the primary goals of the 2017 CAP; b) it includes relevant control measures; and c) it does not interfere with implementation of 2017 CAP control measures. As shown in Table 4.3-3 below, the proposed project would be consistent with the 2017 CAP measures intended to reduce automobile trips, as well as energy and water usage and waste.

Table 4.3-3: Bay Area 2017 Clean Air Plan Applicable Control Measures		
Control Measures	Description	Project Consistency
Transportation Measures		
Trip Reduction Programs	Encourage trip reduction policies and programs in local plans, e.g., general and specific plans. Encourage local governments to require mitigation of vehicle travel as part of new development approval, to develop innovative ways to encourage rideshare, transit, cycling, and walking for work trips.	The project site is near VTA bus lines that would support multi-modal travel to and from the site. Additionally, the project includes an on-site connection to the Guadalupe River Trail at the southern limits of the site and currently proposes 20 long-term and three short-term bicycle parking spaces, consistent with City standards. As noted in Section 4.17, Transportation, the project would be required to implement a TDM program which would include measures to support reduced vehicle trips. The project is consistent with this measure.
Bicycle and Pedestrian Access and Facilities	Encourage planning for bicycle and pedestrian facilities in local plans, e.g., general and specific plans, fund bike lanes, routes, paths and bicycle parking facilities.	The project proposes 20 long-term and three short-term bicycle parking spaces, consistent with City standards. The project area is equipped with pedestrian facilities including sidewalks and crosswalks. The project includes an on-site connection to the Guadalupe River Trail at the southern limits of the site. The project is consistent with this measure.
Land Use Strategies	Support implementation of Plan Bay Area, maintain and disseminate information on current climate action plans and other local best practices.	The project would be located in proximity to transit services; therefore, the project is consistent with this measure (refer to *Section 4.17 Transportation* for more information).
Building Measures		
Green Buildings	Identify barriers to effective local implementation of CALGreen (Title 24) statewide building energy code; develop solutions to improve implementation/ enforcement. Engage with additional partners to target reducing emissions from specific types of buildings.	The project would comply with Building Energy Efficiency Standards (Title 24), the City's Green Building Ordinance, and the most recent CALGreen requirements. In addition, the project would be designed to achieve LEED Silver

Table 4.3-3: Bay Area 2017 Clean Air Plan Applicable Control Measures		
Control Measures	Description	Project Consistency
		certification. The project is consistent with this measure.
Urban Heat Island Mitigation	Develop and urge adoption of a model ordinance for "cool parking" that promotes the use of cool surface treatments for new parking facilities, as well existing surface lots undergoing resurfacing. Develop and promote adoption of model building code requirements for new construction or reroofing/ roofing upgrades for commercial and residential multifamily housing.	The project would be required to comply with the City's Green Building Ordinance and the most recent CALGreen requirements which would increase building efficiency over standard construction. Therefore, the project is consistent with this control measure.
Natural and Working Lands Measures		
Urban Tree Planting	Develop or identify an existing model municipal tree planting ordinance and encourage local governments to adopt such an ordinance. Include tree planting recommendations, the Air District's technical guidance, best management practices for local plans, and CEQA review.	Any trees removed would be required to be replaced in accordance with the City's tree replacement policy. Therefore, the project is consistent with this control measure. Further discussion in *Section 4.4 Biological Resources*.
Waste Management Measures		
Recycling and Waste Reduction	Develop or identify and promote model ordinances on community-wide zero waste goals and recycling of construction and demolition materials in commercial and public construction projects.	The City adopted the Zero Waste Strategic Plan which outlines policies to help the City foster a healthier community and achieve its Green Vision goals, including 75 percent diversion by 2013 and zero waste by 2022. In addition, the project would comply with the City's Construction and Demolition Diversion Program during construction which ensures that at least 75 percent of construction waste generated by the project is recovered and diverted from landfills. Therefore, the project is consistent with this control measure.

The proposed project would not conflict with the 2017 CAP planning efforts since the project would have emissions below the BAAQMD thresholds (see Impact AIR-2). **(Less than Significant Impact)**

Impact AIR-2:	The project would not result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard. **(Less than Significant Impact)**

Construction Period Emissions

The California Emissions Estimator Model (CalEEMod) Version 2016.3.2 was used to estimate emissions from on-site construction activity, construction vehicle trips, and evaporative emissions.[14] CalEEMod computes annual emissions that are based on the project type, size and acreage. The model provides emission estimates for both on-site and off-site construction activities. On-site activities are primarily made up of construction equipment emissions, while off-site activities include worker, hauling, and vendor traffic. The construction build-out scenario, including equipment list and schedule, were based on construction information provided by the project applicant.

The CalEEMod construction equipment information provided by the applicant included the schedule for each phase. Within each phase, the quantity of equipment to be used along with the average hours per day and total number of workdays was provided. Since different equipment would have different estimates of the working day per phase, the hours per day for each phase was computed by dividing the total number of hours that the equipment would be used by the total number of days in that phase. The construction schedule assumed that the project would be built over a period of approximately 15 months, or 343 construction workdays. The first full year of operation was assumed to be 2023. Table 4.3-4 summarizes the computed construction period emissions.

Table 4.3-4: Construction Period Emissions

Year	ROG	NO_x	PM_{10} Exhaust	$PM_{2.5}$ Exhaust
Construction Emissions Per Year (Tons)				
2021	0.07	0.66	0.04	0.03
2022	0.65	0.17	0.01	0.01
Average Daily Construction Emissions Per Year (lbs/day)				
2021 (240 construction days)	0.59	5.50	0.35	0.25
2022 (103 construction days)	12.59	3.21	0.23	0.14
BAAQMD Thresholds	54	54	82	54
Exceed Threshold?	No	No	No	No

As shown in Table 4.3-4, predicted construction period emissions for the project would not exceed the BAAQMD significance thresholds. As a result, project construction would not result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard.

[14] See Appendix A for more information about CalEEMod Modeling.

Additionally, construction activities, particularly site preparation and grading, would temporarily generate fugitive dust in the form of PM_{10} and $PM_{2.5}$. Sources of fugitive dust would include disturbed soils at the construction site and trucks carrying uncovered loads of soils. Unless properly controlled, vehicles leaving the site would deposit mud on local streets, which could be an additional source of airborne dust after it dries. The BAAQMD CEQA Air Quality Guidelines consider these impacts to be less than significant if best management practices are implemented to reduce these emissions. The project applicant shall implement the following best management practices as a standard permit condition to ensure that dust and exhaust are controlled during project construction:

Standard Permit Condition:

1. The following measures shall be implemented during all phases of construction to control dust and exhaust at the project site:
    a. Water active construction areas at least twice daily or as often as needed to control dust emissions.
    b. 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.
    c. Remove visible mud or dirt track-out onto adjacent public roads using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
    d. Enclose, cover, and water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
    e. Limit vehicle speeds on unpaved roads to 15 miles per hour (mph).
    f. Pave new or improved roadways, driveways, and sidewalks as soon as possible.
    g. Lay building pads as soon as possible after grading unless seeding or soil binders are used.
    h. Replant vegetation in disturbed areas as quickly as possible.
    i. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
    j. Minimize idling times either by shutting off equipment when not in use, or reducing the maximum idling time to five 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.
    k. 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.
    l. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

The standard permit conditions listed above are consistent with BAAQMD-recommended basic control measures for reducing fugitive particulate matter. Implementation of these standards would reduce impacts due to fugitive dust during construction to a less than significant level.

Operational Period Emissions

Operational air emissions from the project would be generated primarily from vehicles driven by future guests, employees, and vendors. Other operational emissions would be produced from architectural coatings, maintenance products, and energy usage. CalEEMod was used to estimate emissions from operation of the proposed project assuming full build-out in 2023. Table 4.3-5 provides a summary of the predicted operation period emissions for the project.

Table 4.3-5: Operational Period Emissions

Scenario	ROG	NO_x	PM_{10}	$PM_{2.5}$
2023 Project Operational Emissions (tons/year)	1.10	1.02	1.14	0.32
BAAQMD Thresholds (tons/year)	10	10	15	10
Exceed Thresholds?	No	No	No	No
2023 Project Operational Emissions (lbs/day)	6.01	5.60	6.26	1.78
BAAQMD Thresholds (lbs/day)	54	54	82	54
Exceed Thresholds?	No	No	No	No
Notes: Assumes 365-day operation				

As shown in Table 4.3-5, the project would not exceed BAAQMD significance thresholds for operational period emissions. Therefore, the project operations would not result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard.

The project would not result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under an applicable federal or state ambient air quality standard. **(Less than Significant Impact)**

Impact AIR-3: The project would not expose sensitive receptors to substantial pollutant concentrations**. (Less than Significant Impact)**

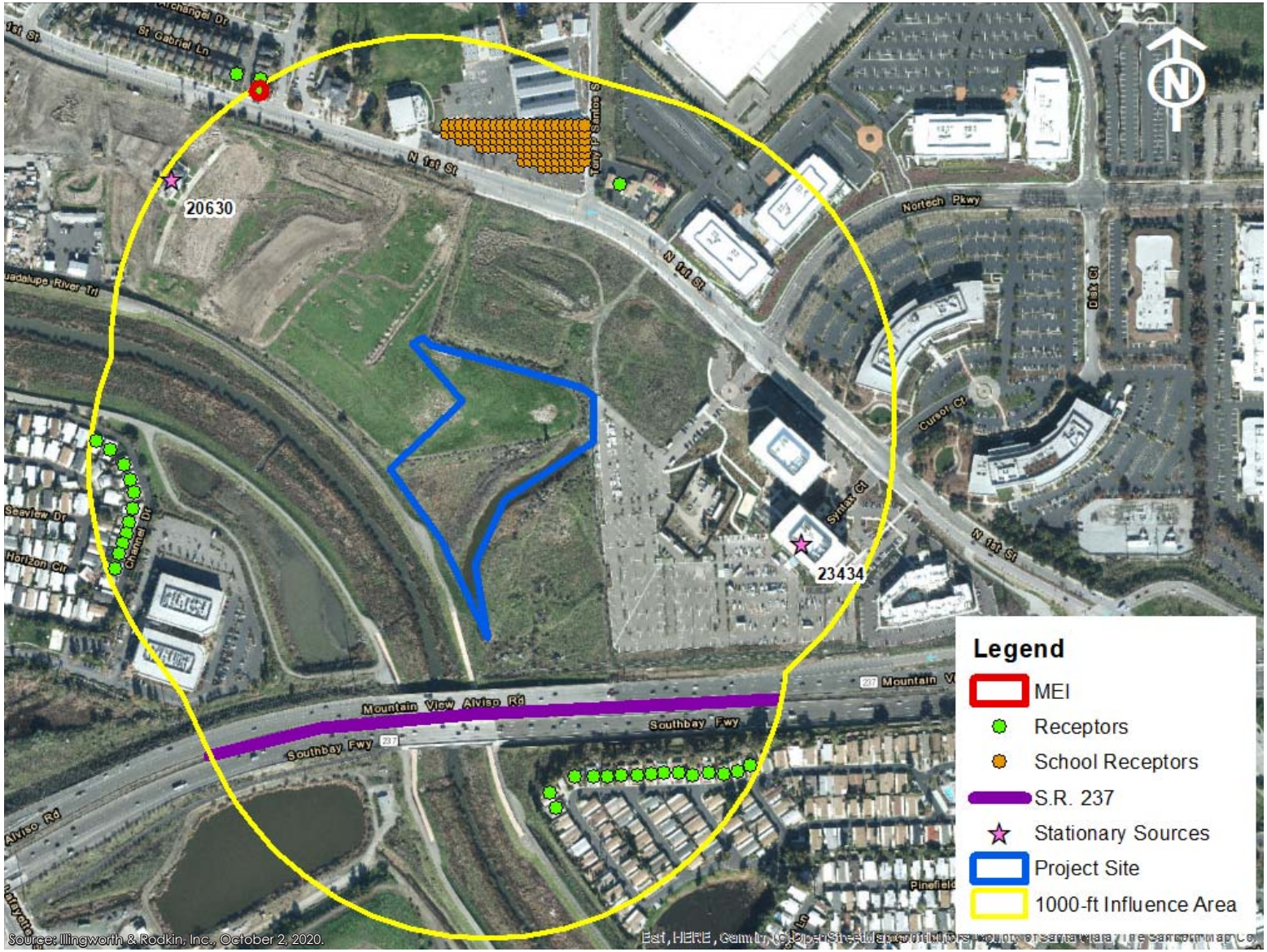
This project would introduce new sources of TACs during construction (i.e., on-site construction and truck hauling emissions) and operation (i.e., mobile sources). Project construction activities would generate dust and equipment exhaust that would affect nearby sensitive receptors. The project would generate some traffic consisting of light-duty vehicles. However, the number of net daily trips generated by the project would be small in relation to existing traffic volumes on surrounding roadways (i.e., 1,642 daily trips, see Section 4.17 Transportation) and emissions from automobile traffic generated by the project would be spread out over a broad geographical area and would not be localized. Project traffic was not considered a source of substantial TACs or $PM_{2.5}$.

Project impacts to existing sensitive receptors were assessed for temporary construction activities only. The impact of existing sources of TACs was assessed in terms of cumulative risk, including the project contribution, as well as the risk on the new sensitive receptors introduced by the project.

Community risk impacts were addressed by predicting increased cancer risk, the increase in annual $PM_{2.5}$ concentrations, and computing the Hazard Index (HI) for non-cancer health risks. To evaluate the increased cancer risks from the project, a 30-year exposure period was used, per BAAQMD guidance, with the sensitive receptors being exposed to both project construction and operation emissions during this timeframe. The closest sensitive receptors to the site are the children at the Mayne Elementary School, approximately 680 feet to the north, and the single-family residences, approximately 1,000 feet north of the site. There are additional residences west and south of the site at further distances. The project would not introduce new sensitive receptors.

The project maximally exposed individual (MEI) is identified as the sensitive receptor that is most impacted by the project's construction and operation. Receptors for this assessment included locations where sensitive populations would be present for extended periods of time. Results of the Air Quality Analysis determined that the construction MEI is located on the first floor (five feet above ground) of the nearest residence to the north of the site.

The community health risk assessment also considered all substantial sources of TACs that could affect sensitive receptors located within 1,000 feet of the project site. Cumulative community risk sources within 1,000 feet of the project site include SR 237 and two permitted stationary source facilities (generators owned by South Bay Development, LLC and Verizon Wireless). Figure 4.3-1 shows the locations of the sensitive receptors and cumulative TAC sources and Table 4.3-6 summarizes the community risks due to construction emissions.



LOCATIONS OF SENSITIVE RECEPTORS AND NEARBY TAC SOURCES | FIGURE 4.3-1

Table 4.3-6: Construction Risk of Impacts at the Off-site Receptors			
Source	**Cancer Risk (per million)**	**Annual $PM_{2.5}$ ($\mu g/m^3$)**	**Hazard Index**
Project Impacts			
Project Construction	0.3 (infant)	<0.01	<0.01
BAAQMD Single-Source Threshold	**>10.0**	**>0.3**	**>1.0**
Exceed Threshold?	No	No	No
Mayne Elementary School Student Receptors			
Project Construction	0.1 (child)	<0.01	<0.01
BAAQMD Single-Source Threshold	**>10.0**	**>0.3**	**>1.0**
Exceeds Threshold?	No	No	No
Cumulative Sources			
SR 237	9.4	0.19	--
South Bay Development, LLC	<0.1	--	--
Verizon Wireless	0.3	--	--
Combined Sources	10.1 (infant)	<0.20	<0.01
BAAQMD Cumulative Significance Threshold	**>100**	**>0.8**	**>10.0**
Exceed Threshold?	No	No	No

As shown in Table 4.3-6, the project's community risk impact would not exceed the single-source or cumulative thresholds for increased cancer risk, $PM_{2.5}$ concentration, or HI values. Therefore, the project would not expose sensitive receptors to substantial pollutant concentrations. **(Less than Significant Impact)**

Impact AIR-4: The project would not result in other emissions (such as those leading to odors) adversely affecting a substantial number of people. **(Less than Significant Impact)**

The project would generate localized emissions of diesel exhaust during construction equipment operation and truck activity. These emissions may be noticeable from time to time by adjacent receptors. However, they would be localized and are not likely to adversely affect people off-site by resulting in confirmed odor complaints. The project proposes construction of an approximately 112,463-square foot, 214-room hotel in a five-story building, surface parking, and a four-story parking garage. The project would not include any sources of significant odors that would cause complaints from surrounding uses. **(Less than Significant Impact)**

4.4 BIOLOGICAL RESOURCES

The following discussion is based in part on a Biological Resources Report prepared for the project by WRA, Inc. in February 2020, as well as a Bird Safe Design Review completed in January of 2021. Copies of these reports are attached to this Initial Study as Appendix B.

4.4.1 Environmental Setting

4.4.1.1 *Regulatory Framework*

Federal and State

Endangered Species Act

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

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

Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA) prohibits killing, capture, possession, or trade of migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. Hunting and poaching are also prohibited. The taking and killing of birds resulting from an activity is not prohibited by the MBTA when the underlying purpose of that activity is not to take birds.[15] Nesting birds are considered special-status species and are protected by the USFWS. The CDFW also protects migratory and nesting birds under California Fish and Game Code Sections 3503, 3503.5, and 3800. The CDFW defines taking as causing abandonment and/or loss of reproductive efforts through disturbance.

[15] United States Department of the Interior. "Memorandum M-37050. The Migratory Bird Treaty Act Does Not Prohibit Incidental Take." Accessed October 22, 2020. https://www.doi.gov/sites/doi.gov/files/uploads/m-37050.pdf.

Birds of Prey

Birds of prey, such as owls and hawks, are protected in California under provisions of the state Fish and Game Code, Section 3503.5 (1992), which states that it is "unlawful to take, possess, or destroy any birds in the order Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto." Construction disturbance during the breeding season can result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes nest abandonment and/or loss of reproductive effort is considered "taking" by the California Department of Fish and Wildlife (CDFW).[16]

Sensitive Habitat Regulations

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

Fish and Game Code Section 1602

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

Regional and Local

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

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

San Francisco Bay Conservation and Development Commission (BCDC)

The San Francisco Bay Conservation and Development Commission (BCDC) has regulatory jurisdiction, as defined by the McAteer-Petris Act, over the Bay and its shoreline, which generally consists of the area between the Bay shoreline and a line 100 feet landward of and parallel to the shoreline. BCDC has two areas of jurisdiction: San Francisco Bay and the Shoreline Band. These areas are defined in the McAteer-Petris Act (PRC Section 66610). San Francisco Bay comprises areas that are subject to tidal action from the south end of the Bay to the Golden Gate (Point Bonita-

[16] Formerly the California Department of Fish and Game.

Point Lobos) and to the Sacramento River line (a line between Stake Point and Simmons Point, extended northeasterly to the mouth of Marshall Cut), including all sloughs, tidelands (land lying between mean high tide and mean low tide); submerged lands (land lying below mean low tide), and marshlands. Specifically, it extends to the mean high tide line where tidal marsh is absent and up to 5 feet above mean sea level (MSL) where tidal marsh is present. The shoreline band consists of all territory located between the shoreline of San Francisco Bay as defined above and a line of 100 feet landward of and parallel with that line, but excluding any portions of such territory which are included in other areas of BCDC jurisdiction; provided that the Commission may, by resolution, exclude from its area of jurisdiction any area within the shoreline band that it finds and declares is of no regional importance to the Bay.

San José Tree Ordinance

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

Riparian Corridor Protection and Bird-Safe Design Council Policy

The City's Riparian Corridor Protection and Bird-Safe Design Council Policy provides guidance consistent with the goals, policies, and actions of the City's Envision San José 2040 General Plan. New buildings in existing urban infill areas are required to have a minimum 100-foot setback from riparian corridors. Additionally, new development should use materials and lighting that are designed and constructed to reduce light and glare impacts to riparian corridors and should be directed away from riparian corridors.

Bird-Safe Design Guidance includes: (1) the design of buildings and structures should avoid mirrors and large areas of reflective glass, (2) avoidance of transparent glass skyways, walkways, or entryways, (3) free-standing glass walls, and transparent building corners, (4) avoidance of funneling open space to a building façade. The area north of Highway 237, which includes the project site, is specifically mentioned in these guidelines as a location where bird safe design is an important consideration.

4.4.1.2 *Existing Conditions*

The project site is located within the Guadalupe River watershed, at the southern end of the San Francisco Bay.

Habitat Conditions

Field surveys completed on the site in December 2019 identified four general biotic/land cover types: developed, ruderal herbaceous, seasonal wetland, and non-wetland waters. These habitats are described in detail below. Table 4.4-1 provides a summary of the land cover acreages on the site, and their distribution is depicted in Figure 4.4-1.

Table 4.4-1: Habitats on the Project Site

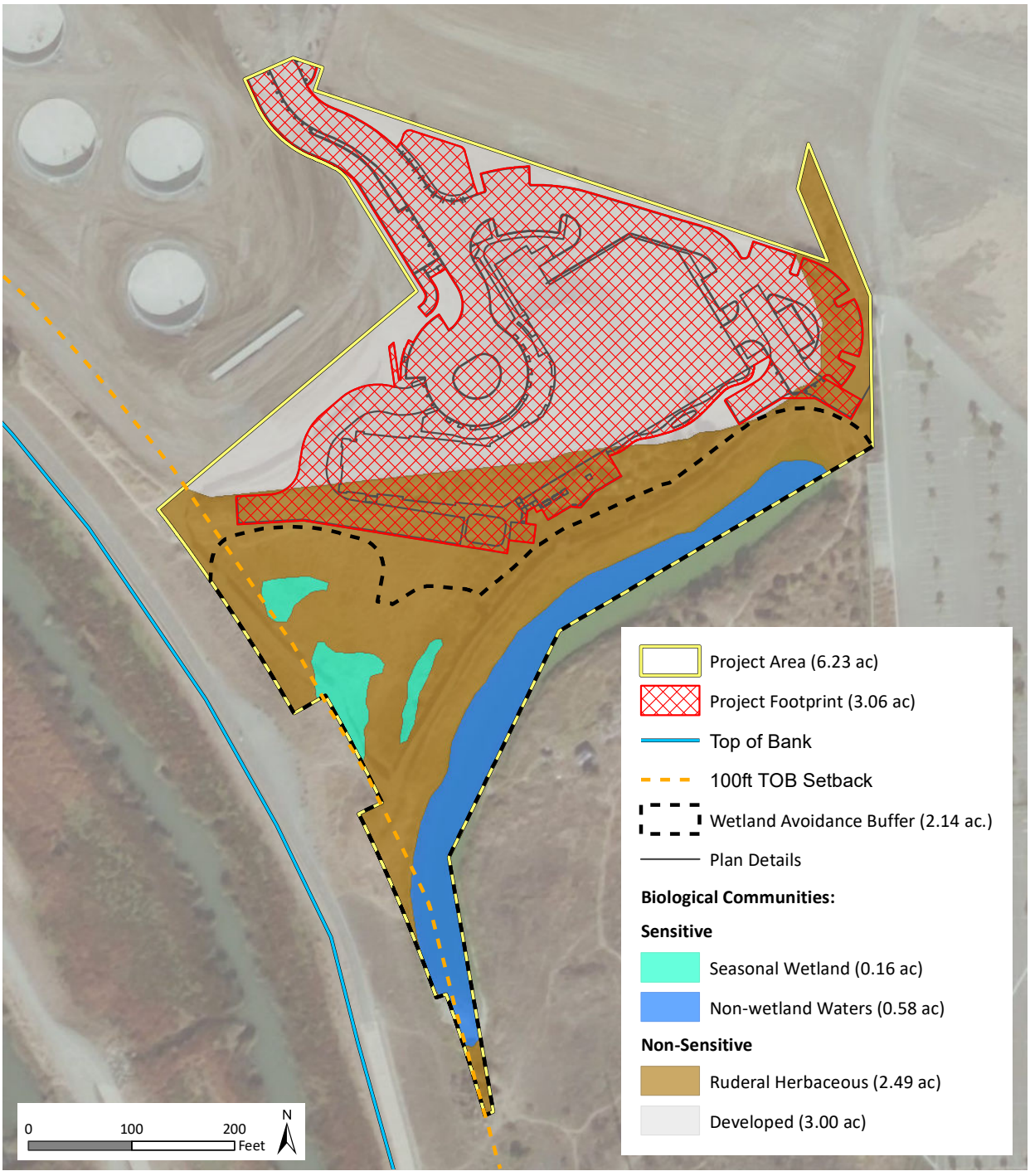
Biological Community	Area (acres)	Percentage of Site
Non-Sensitive		
Developed	3.00	48%
Ruderal Herbaceous	2.49	40%
Sensitive		
Seasonal Wetland	0.16	3%
Non-Wetland Waters	0.58	9%
Total	**6.23**	**100%**

Developed Land

The majority of the site is undeveloped, however (48%) of the habitat type is considered developed land because it has been previously graded. The northern portion of the project site consists of mostly bare ground which has been graded. Grading appears to be active and recent, as the only vegetation in the developed areas consist of sparse cover by annual grass seedlings. Due to the early stage of growth, vegetation in developed areas was not identifiable.

Ruderal Herbaceous

The project site has been highly altered and disturbed. As a result, the vegetation is characterized by non-native, herbaceous species typical of ruderal, highly disturbed conditions. Ruderal herbaceous vegetation is present along the slopes of the Guadalupe River canal and within the southern portion of the project site below the recently graded area. Dominant species include black mustard (Brassica nigra), ripgut brome (Bromus diandrus), smilo grass (Stipa miliacea var. miliacea), and oat grass (Avena spp.). Scattered coyote brush (Baccharis pilularis) was present in the eastern portion of the project site, and other shrub species are occasionally present at low cover, including Italian buckthorn (Rhamnus alaterna) and tree tobacco (Nicotiana glauca).



Source: Esri World Imagery; WRA, Inc., April 26, 2021.

BIOLOGICAL COMMUNITIES PRESENT WITHIN THE PROJECT AREA | FIGURE 4.4-1

Seasonal Wetland

Three potential seasonal wetlands are present in the shallow depressions in the terrace northwest of the non-wetland water features, discussed below. These depressions are characterized by a mix of hydrophytic and halophytic vegetation such as pickleweed (Salicornia pacifica), alkali heath (Frankenia salina), perennial pepperweed (Lepidium latifolium), salt grass (Distichlis spicata), and beardless wildrye (Elymus triticoides). The edges of these features transition into the vegetation characteristic of the ruderal herbaceous biological community. Shrubs and trees are not present.

Non-Wetland Waters

The non-wetland waters feature, present along the southern boundary of the project site, is comprised of the relict portion of the historic Guadalupe River channel. Between 1960 and 1968, the Guadalupe River was channelized, creating the isolated drainage feature. No inlet or outlet was observed during the site visit. Despite having no apparent inlet, based on historic aerial imagery, this feature appears to be perennially inundated, with only slight fluctuations in the water level. Non-wetland waters within the project site do not have any tidal connection to the Bay or the Guadalupe River, and therefore are not subject to BCDC's Bay jurisdiction. The project site is also greater than 100 feet inland from nearby tidal vegetation, at its closest, and therefore is not within the Shoreline Band.

The non-wetland waters feature is almost entirely unvegetated, though a narrow band of hydrophytic vegetation is present around the water's edge comprised primarily of pickleweed and salt grass. This narrow band of vegetation was too small to map separately and was included as part of the non-wetland waters feature.

Special-Status Species

Special-Status Plant Species

Based upon a review of the resources and databases listed in the Biological Resources Report (Appendix B), 51 special-status plant species were determined to have some potential to occur on the project site. Of these species, two have moderate or high potential to occur within the project site, while the remaining 49 species are unlikely to occur as a result of the high level of disturbance and a lack of suitable habitat elements such as vernal pools, chaparral, and woodland habitats or serpentine substrate. The two species with moderate or high potential to occur within the project site are Congdon's tarplant (Centromadia parryi ssp. Congdonii) and San Joaquin spearscale (Extriplex joaquinana). They are discussed in detail below.

Congdon's Tarplant. Cogdon's tarplant is a California Rare Plant Rank 1B species, meaning that it is considered extinct, rare, threatened, or endangered throughout its range in California. Congdon's tarplant is an annual herb in the composite family (Asteraceae) that has a variable blooming period extending from June through November. It occurs in valley and foothill grasslands, particularly those with alkaline substrates, at an elevation ranging from 0 to 755 feet. The closest known occurrence of Congdon's tarplant is approximately 0.5 miles east of the project site.

Based on the proximity of the site to known occurrences of the species and the species ability to grow in disturbed habitats, it was determined that Congdon's tarplant has a high potential to occur at

the edges of the non-wetland waters feature and in mesic areas[17] on the terrace above the non-wetland waters feature, which have not already been graded. Congdon's tarplant is most commonly found in seasonal alkaline wetland depressions that are periodically disturbed. Therefore, it may be present on the site.

San Joaquin Spearscale. San Joaquin Spearscale is a California Rare Plant Rank 1B species, meaning that it is considered extinct, rare, threatened, or endangered throughout its range in California San Joaquin spearscale is an annual herb in the goosefoot family (Chenopodiaceae) that blooms from April to October. It typically occurs in seasonal alkali sink scrub and wetlands in chenopod scrub, alkali meadow, and valley and foothill grassland habitat at elevations ranging from 0 to 2,740 feet in elevation. The nearest known occurrence of San Joaquin spearscale is over 4.5 miles north of the site, in the Pacific Commons Preserve in the City of Fremont, where it was observed growing on the edge of a created vernal pool.

San Joaquin spearscale is a disturbance-tolerant species, and within the project site it has a moderate potential to occur at the edges of the non-wetland waters feature and in mesic areas on the terrace above the non-wetland waters feature, which have not already been graded.

Special-Status Wildlife Species

No federal or state listed species are expected to occur on the site. However, four California species of special concern, the San Francisco common yellowthroat (Geothlypis trichas sinuosa), white-tailed kite (Elanus leucurus), northern harrier (Circus cyaneus), and burrowing owl (Athene cunicularia), may be present on the site due to the potential of suitable nesting and/or foraging habitat adjacent to the site for the San Francisco common yellowthroat, white-tailed kite, and burrowing owl, and due to the potential of suitable habitat on-site for the northern harrier. These species are discussed in detail below.

San Francisco (Saltmarsh) Common Yellowthroat. This subspecies of the common yellowthroat is a CDFW species of special concern with moderate potential to occur on the site. The species is found in freshwater marshes, coastal swales, riparian thickets, brackish marshes, and saltwater marshes. The breeding range extends from Tomales Bay in the north, Carquinez Strait to the east, and Santa Cruz County to the south. The species requires thick, continuous cover such as tall grasses, tule patches, or riparian vegetation down to the water surface for foraging and prefers willows for nesting.

Foraging habitat for this species is not present around water features contained within the project site but is present along the adjacent Guadalupe river corridor in dense cattail patches. Nesting may occur in small shrubs along the edge of the project site; therefore, the species has moderate potential to occur.

White-tailed Kite. The white-tailed kite is a CDFW fully protected species with moderate potential to occur on the site. The species is found in open to semi-open habitats throughout the lower elevations of California, including grasslands, savannahs, woodlands, agricultural areas, and wetlands. White-tailed kites are year-round residents of the state, establishing nesting territories that encompass open areas with healthy prey populations, and snags, shrubs, trees, or other nesting substrates. In the

[17] A mesic habitat is a type of habitat with a moderate or well-balanced supply of moisture.

project vicinity, white-tailed kites are known to nest along the northern edge of Santa Clara County throughout the open areas edging the San Francisco Bay. Suitable foraging habitat for the white-tailed kite is present on the project site. Although suitably large trees for nesting are not present within the project boundaries, suitable nesting sites are present in trees near the site.

Northern Harrier. The Northern harrier is CDFW species of special concern with moderate potential to occur on the site. The species occurs as a resident and winter visitor in open habitats throughout most of California, including freshwater and brackish marshes, grasslands and fields, agricultural areas and deserts. Harriers typically nest in treeless areas with patches of dense, relatively tall, vegetation, the composition of which is highly variable; nests are placed on the ground and often located near water or within wetlands.

Foraging habitat for this species is present on the project site in developed ruderal herbaceous areas, as well as in the vicinity within wetland and ruderal herbaceous and other open space areas. Nesting opportunities for this species are limited within the project site, but nesting may occur in vegetation along the edges of the season wetland area. Due to the presence of nearby foraging habitat and potential nesting habitat, this species has moderate potential to occur on the project site.

Burrowing Owl. The burrowing owl is a CDFW species of special concern and a USFWS bird of conservation concern. The species occurs as a year-round resident and winter visitor in much of California's lowlands, inhabiting open areas with sparse or non-existent tree or shrub canopies. Typical habitat is annual or perennial grassland, although human-modified areas such as agricultural lands and airports are also used. This species is dependent on burrowing mammals to provide the burrows that are characteristically used for shelter and nesting, and in northern California is typically found in close association with California ground squirrels (Spermophilus beecheyi). Manmade substrates such as pipes or debris piles may also be occupied in place of burrows. Prey consists of insects and small vertebrates. Breeding typically takes place from March to July.

Burrowing owl is routinely documented in the vicinity of the project site; the closest occurrence documented is 0.3 miles southeast of the project site. The grasslands on the project site provide suitable nesting, foraging, and roosting habitat, and the site is mapped as burrowing owl habitat by the Santa Clara Valley Habitat Plan.

4.4.2 Impact Discussion

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

Impact BIO-1: The project would not have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS. **(Less than Significant Impact with Mitigation Incorporated)**

Special Status Plant Species

Two special-status plant species have a moderate or high potential to occur in the project area based on the availability of suitable habitat, the presence of associated plant species, and the proximity to

documented occurrences. None of the special-status plant species covered under the Habitat Plan have potential to occur in the project area.

The majority of the project area has either already been graded or is located within the Wetland and Riparian Avoidance Buffer, discussed below as part of mitigation measure BIO MM-3.1, in which no impacts would occur. However, Congdon's tarplant and San Joaquin spearscale could occur in mesic areas of ruderal herbaceous vegetation outside of the Wetland and Riparian Avoidance Buffer, and these plants could be impacted (either damaged or removed) by construction activities, such as grading and hardscaping. If present in the project area, impacts to the aforementioned special-status plant species could be significant under CEQA.

Mitigation Measures: The following mitigation measures would reduce impacts to Congdon's Tarplant and San Joaquin spearscale to a less than significant level.

MM BIO-1.1: Protocol-level surveys, as defined by the California Department of Fish and Wildlife (CDFW) and/or the California Native Plant Society (CNPS), shall be conducted by a qualified biologist during the documented bloom period of Congdon's tarplant (May to November) and San Joaquin spearscale (April to October) to determine the presence of these species in areas to be disturbed. Survey timing may fluctuate based on blooming periods of appropriate reference site locations. The biologist shall submit a report indicating the results of the survey to the City's Director of PBCE or the Director's designee for review and approval prior to issuance of any grading permit.

If special-status plant surveys result in negative findings, no impacts would occur, and no mitigation would be required. Similarly, if special-status plant surveys find either species are observed within the project area but can be avoided, these plants would not be impacted, and no mitigation would be required. However, if either species is found to be present, the implementation of following measures would reduce project impact on special-status plants to less than significant:

- If a population of Congdon's tarplant or San Joaquin spearscale is identified in the project footprint and cannot be avoided, mitigation for loss of individuals shall be completed. Mitigation shall be achieved by establishing a new population in the seasonal wetland and ruderal herbaceous vegetation that occur within the Wetland and Riparian Avoidance Buffer on the project site. This area shall not be developed by the project, and shall contain suitable habitat types for establishing a new population. Mitigation shall be a 1:1 ratio of plant establishment, on an acreage basis.
- A Habitat Mitigation and Monitoring Plan (HMMP) shall be completed by a qualified biologist or botanist prior to removal of the individuals. The HMMP shall include a detailed explanation of how the new population would be established, as well as an explanation of what metrics shall be used to measure the success criteria of the new

population. The HMMP shall include details for monitoring criteria to quantitatively sample the Congdon's tarplant or San Joaquin spearscale population and determine the number of germinated/surviving plants. This monitoring shall continue annually or until the success criteria described in the HMMP has been met; once annual monitoring has documented that a self-sustaining population has been successfully established on site, this mitigation measure shall be determined to have been met. If after five years of implementation of the new population the success criteria has not been met, adaptive management measures created by a qualified biologist or botanist shall be implemented. The HMMP shall be submitted to the City of San José Director of Department of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to issuance of any grading permit.

Special Status Wildlife Species

Of the 42 special-status wildlife species known to occur in the greater vicinity of the project, four were determined to have moderate or high potential to occur on site: San Francisco common yellowthroat, white-tailed kite, northern harrier, and burrowing owl. No special-status birds were observed within the project area during the site assessment.

None of the bird species listed above are state or federally listed as endangered, threatened or candidates for listing. White-tailed kite is listed as a California fully protected species, while northern harrier, burrowing owl and San Francisco common yellowthroat are CDFW Species of Special Concern (SSC). These designations require extra consideration for buffer zones around active nests, but otherwise require protection and surveys to be completed in the same manner as other species protected under the MBTA and California Fish and Game Code (CFGC). If nesting birds are present during construction, they may be impacted directly or indirectly by operation of equipment, increased noise, and increased human presence. Impacts to common native nesting birds and the aforementioned special-status birds would be considered a significant impact.

Mitigation Measures: The following mitigation measures would reduce impacts to nesting birds to a less than significant level.

MM BIO-1.2: For the protection of special-status birds and native nesting birds protected by the Migratory Bird Treaty Act (MBTA) and California Fish and Game Code (CFGC), future project activities shall occur from September 1 – January 31 (inclusive) outside of the nesting season, to the extent feasible.

If work cannot be scheduled to occur outside of the nesting season, and project activities (grading, staging, etc.,) are initiated during the nesting season (February 1 – August 31, inclusive), a qualified wildlife biologist shall conduct a nesting bird survey no more than 14 days prior to the start of project activities, such as grading or staging, and prior to issuance of any grading permit. If no active nests are identified during the surveys, no impacts will occur to birds and work shall progress without restriction. If active nests are identified, a no-disturbance buffer around the nest shall be implemented

to avoid impacts to nesting birds. Buffers shall be determined by a qualified biologist, and typically range from 25 feet to 500 feet depending on the species, nest location, and protection status of that species. After an active nest is determined to no longer be active, because of young fledging or predation, the buffer around the nest shall be removed and work shall progress without restriction.

Although ground squirrels are not active on the site, burrow surrogates that may become occupied by burrowing owls exist in crevices in stockpiles and manmade culverts adjacent to water features. Burrowing owl is common in the vicinity of the site, and may disperse through the project area or potentially use it as wintering or breeding habitat. Burrowing owl is a CDFW SSC, and is therefore given special considerations with regards to no-work buffers and any actions that could exclude the species from suitable or occupied habitat. Burrowing owls that could be present on the site could be directly harmed if burrows or burrow surrogate structures are graded, excavated, or otherwise disassembled. Any impacts to burrowing owls or occupied burrows as a result of project activities would be considered a significant impact.

Mitigation Measures: The following mitigation measures would reduce impacts to burrowing owls to a less than significant level.

MM BIO-1.3: Prior to issuance of any grading, building, or demolition permits, the project applicant shall implement Condition 15 of the Habitat Plan and pay burrowing owl impact fees to the Habitat Agency. Pursuant to Condition 15, a qualified biologist shall conduct pre-construction surveys in all suitable habitat areas. To maximize the likelihood of detecting owls, the preconstruction survey shall last a minimum of three hours. The survey shall begin one hour before sunrise and continue until two hours after sunrise (for three hours total) or begin two hours before sunset and continue until one hour after sunset. Additional time may be required for large project sites. A minimum of two surveys shall be conducted (if owls are detected on the first survey, a second survey is not needed). All owls observed shall be counted and their locations mapped. Surveys shall conclude no more than two calendar days prior to the start of any construction. Therefore, the project applicant must begin surveys no more than four days prior to construction (two days of surveying plus up to two days between surveys and construction). To avoid last-minute changes in schedule or contracting that may occur if burrowing owls are found, the project applicant may also conduct a preliminary survey up to fourteen (14) days before start of any construction. This preliminary survey may count as the first of the two required surveys as long as the second survey concludes no more than two calendar days in advance of construction.

If evidence of western burrowing owls is found during the breeding season (February 1–August 31, inclusive), the project applicant shall avoid all nest sites that could be disturbed by project construction during the remainder of the breeding season or while the nest is occupied by adults or young.

Avoidance shall include establishment of a 250-foot non-disturbance buffer zone around nests. Construction may occur outside of the 250-foot non-disturbance buffer zone. Construction may occur inside of the 250-foot non-disturbance buffer during the breeding season if:

- the nest is not disturbed, and
- the project applicant develops an avoidance, minimization, and monitoring plan is approved by the Habitat Agency and the Wildlife Agencies prior to project construction.

If evidence of western burrowing owls is found during the non-breeding season (September 1–January 31, inclusive), the project applicant shall establish a 250-foot non-disturbance buffer around occupied burrows as determined by a qualified biologist. Construction activities outside of this 250-foot buffer are allowed. Construction activities within the non-disturbance buffer are allowed if the certain criteria are met, as outlined in the Habitat Plan Conditions Implementation Guide, in order to prevent owls from abandoning important overwintering sites.

The project applicant shall submit a report disclosing evidence of compliance with the Habitat Plan to the City of San José Director of Department of Planning, Building and Code Enforcement or the Director's designee prior to issuance of any grading, building, or demolition permits.

With the implementation of BIO MM-1.1 through BIO MM-1.3, the project would not have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS. **(Less than Significant Impact with Mitigation Incorporated)**

Impact BIO-2:	The project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFW or USFWS. **(Less than Significant Impact with Mitigation Incorporated)**

Riparian Habitat

As described previously, the City of San José has a riparian buffer policy meant to limit development near riparian corridors and protect sensitive riparian resources. Under the City's policy, the required riparian setback for the Guadalupe River extends 100 feet landward from the top of bank. In addition, the Habitat Plan requires a 100-foot setback from the top of bank for projects that are adjacent to Category One streams, such as the Guadalupe River. The project is set back approximately 150 feet from the Guadalupe River and 100 feet from the top of the river bank. No construction activities, such as staging, would occur within the setback. The project has been designed to avoid impacts on the riparian buffer and no project activities would occur within the 100-foot riparian setback. Additionally, the project would be setback 50 feet from the edge of the wetland and non-wetland

water features south and east of the project site, thus avoiding impacts to these areas. The project, therefore, would not result in a significant impact to a riparian corridor.

Sensitive Natural Community

The project area is located within an urban area in which a number of invasive weeds are known to occur. Movement of equipment to and from the site has the potential to result in the introduction or spread of invasive weeds. The introduction and/or spread of invasive weeds would be considered a significant impact.

Mitigation Measures: The following mitigation measures would reduce impacts due to the introduction and spread of invasive weeds to a less than significant level.

MM BIO-2.1: All seeds and straw materials used on site shall be composed of weed-free rice (or similar acceptable material) straw, and all gravel and fill material shall be certified weed-free. Proof of certification, in the form of a California Department of Food and Agriculture Form 66-079 "Certificate of Quarantine Compliance," or equivalent certification from a qualified biologist, shall be submitted to the City of San José Director of Department of Planning, Building and Code Enforcement or the Director's designee prior to issuance of any grading, building, or demolition permits.

During construction, vehicles and equipment shall be washed (including wheels, undercarriages, and bumpers) before leaving and after entering the project footprint. Vehicles shall be cleaned at existing construction yards or legal operating car washes. This measure shall be printed on all construction documents, contracts, and project plans.

Following construction, temporary impact zones or any disturbed ground that will not be under hardscape, landscaped, or maintained, shall be reseeded with a native seed mixture as verified by a qualified biologist. Seed mixtures applied for erosion control shall be composed of native species appropriate for the site in order to provide long-term erosion control and slow colonization by invasive non-native plants. The project applicant shall prepare a detailed landscape plan identifying the areas to be reseeded and the native seed mixture to be used and submit the plan to the Director of the City of San José Department of Planning, Building and Code Enforcement or the Director's designee for review and approval.

As described in Section 4.4.1.2 previously, the project site contains two sensitive communities: seasonal wetlands and non-wetland waters. Additional information and discussion of impacts to these habitats, such as wetlands, are described in further detail in the response to Impact BIO-3 below, and mitigation measure BIO MM-3.1 and BIO MM-3.2 would reduce impacts to sensitive natural communities to a less than significant level. The project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans,

policies, regulations or by the CDFW or USFWS with implementation of MM BIO-2.1. **(Less Than Significant Impact with Mitigation Incorporated)**

Impact BIO-3:	The project would not have a substantial adverse effect on state or federally protected wetlands through direct removal, filling, hydrological interruption, or other means. **(Less than Significant Impact with Mitigation Incorporated)**

The project area contains two sensitive aquatic communities: seasonal wetland and non-wetland waters. Any impacts to these aquatic communities would be potentially significant. Without proper erosion and sedimentation measures, ground-disturbing activities and vegetation removal also increase the likelihood of sedimentation occurring in adjacent seasonal wetland and non-wetland waters within the site outside of the proposed limit of disturbance. Additionally, earth work and equipment use may result in erosion, siltation, or discharge of fuels or other construction equipment-related substances into the seasonal wetlands. Discharge of sediment or hazardous materials may impact potentially jurisdictional features within the site.

In the absence of suitable mitigation measures, any impacts to seasonal wetland would be potentially significant. The proposed project shall implement Conditions 3 and 12 of the Habitat Plan to reduce construction impacts to streams, wetlands, and riparian habitat. These Habitat Plan conditions require avoidance of wetlands and require construction setbacks for streams and riparian area during construction. Mitigation measures, based on these conditions, are outlined below.

Mitigation Measures: The following mitigation measures would reduce impacts to wetlands and non-wetland waters to a less than significant level.

MM BIO-3.1: Prior to the issuance of any grading or building permits, the project applicant shall establish a Wetland and Riparian Avoidance Buffer at least 50 feet from the edge of the wetland or non-wetland water features and at least 100 feet from the edge of the riparian area, and all grading and construction activities shall occur outside of this area. The Wetland and Riparian Avoidance Buffer shall be temporarily staked prior to grading and construction activities, using orange construction fencing, lathe and flagging or its equivalent, by a qualified biologist to ensure that construction equipment and personnel avoid these features. Fencing shall be erected along the outer edge of the site, between the site and any adjacent wetland, pond, or riparian area, for the duration of project construction. Photo documentation shall be submitted to the Director of the City of San José Department of Planning, Building and Code Enforcement or the Director's designee.

Typical avoidance and minimization measures, such as those listed in Table 6-2 of the Habitat Plan or measures deemed appropriate by a qualified biologist, shall be implemented during construction. To this end, all personnel working adjacent to the Wetland and Riparian Avoidance Buffer shall be trained by a qualified biologist in the avoidance and minimization measures outlined in Table 6-2 of the Habitat Plan. Training materials shall be

submitted to the Director of the City of San José Department of Planning, Building and Code Enforcement or the Director's designee upon request.

MM BIO-3.2: The following measures shall be implemented to ensure avoidance of erosion or pollution to wetlands during construction activity:

- Appropriate erosion control measures (e.g., fiber rolls, filter fences, vegetative buffer strips) shall be used on site to reduce siltation and runoff of contaminants into wetlands or non-wetland waters. Filter fences, if used, shall be of material that will not trap reptiles and amphibians (i.e., no mesh, woven, or netted material and no high density plastic fencing). Erosion control blankets shall be used as a last resort because of their tendency to biodegrade slowly and trap reptiles and amphibians.
- Erosion-control measures shall be placed between the wetland or pond and the outer edge of the Project site. Fiber rolls used for erosion control shall be certified as free of noxious weed seed.
- Vehicles and equipment shall be parked on pavement, existing roads, and previously disturbed area.
- No construction or maintenance vehicles shall be refueled within 200 feet of avoided wetlands and non-wetland waters unless a bermed and lined refueling area is constructed and hazardous material absorbent pads are available in the case of a spill.
- Used cleaning materials (e.g., liquids) shall be disposed of safely, and if necessary, taken off site for proper disposal. Used disposable globes should be retained for safe disposal in sealed bags.

With the implementation of BIO MM-3.1 and BIO MM-3.2, the project would not have a substantial adverse effect on state or federally protected wetlands through direct removal, filling, hydrological interruption, or other means. **(Less than Significant Impact with Mitigation Incorporated)**

Impact BIO-4:	The project would not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites. **(Less than Significant Impact with Mitigation Incorporated)**

The project site is in the vicinity of known avian breeding and migratory habitat. Building features, most often those associated with lighting or glass components (i.e., glazing), can attract birds from these nearby habitats and cause mortality in the form of collisions resulting from confusion.

A review of the project design was completed by WRA, Inc. to determine the potential for impacts from bird collisions (refer to Appendix B). WRA determined that although the design of the project would result in a low overall risk for bird collisions, some design elements such as proposed glazing on façades facing wetland areas and the Guadalupe River, as well as landscaping adjacent to façades

with untreated glazing, do still pose a relatively increased risk. Any impacts to local or migrating birds resulting from building design features that are considered hazardous would be considered a significant impact.

Mitigation Measures: The following mitigation measures would reduce impacts from bird collisions to a less than significant level:

MM BIO-4.1: Façade Treatments. Prior to issuance of any building permits, the project applicant shall ensure that all glazing on the southern façade of the building facing identified wetland areas and the Guadalupe River is treated with bird-friendly glazing treatments. Examples of bird-friendly glazing treatments include the use of opaque glass, the covering of clear glass surface with patterns, the use of paned glass with fenestration patterns, and the use of external screens over non-reflective glass. For the remaining building façades, no more than 10 percent of the surface area of façades between the ground and 60 feet above ground shall have untreated glazing. The final building design shall be reviewed by a qualified biologist for compliance, and the results of the review provided to the City of San José Director of Department of Planning, Building and Code Enforcement or the Director's designee, prior to issuance of a building permit.

Landscaping. Any trees used in landscaping that are adjacent to areas of untreated glazing shall have heights that do not exceed the first story of the building. This can be achieved through selection of species and/or through pruning. In these areas, tree species shall be selected that do not provide valuable resources for birds (e.g., food such as berries or other fruits, or cavities for nesting in their adult state) and that are not known to grow exceptionally tall (avoid oaks, redwoods, and eucalyptus trees). The final landscape plan shall be reviewed by a qualified biologist for compliance, and the results of the review provided to the City of San José Director of Department of Planning, Building and Code Enforcement or the Director's designee, prior to issuance of any building permit.

With incorporation of MM BIO-4.1, the project would not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites. (**Less than Significant Impact with Mitigation Incorporated)**

Impact BIO-5:	The project would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. **(Less than Significant Impact)**

The City of San José maintains the urban landscape partly by controlling the removal of ordinance trees on private property (San José Municipal Code Section 13.32). Ordinance trees are defined as trees 38 inches in circumference or more, or approximately 12 inches in diameter, at a height of 4.5 feet above natural grade. Ordinance trees are generally mature trees that help beautify the City, slow

erosion of topsoil, minimize flood hazards, minimize the risk of landslides, increase property values, and improve local air quality. A tree removal permit is required from the City of San José for the removal of ordinance trees.

The removed trees would be replaced according to tree replacement ratios required by the City, as provided in Table 4.4-2 below, as amended.

Table 4.4-2: Tree Replacement Ratios

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 up to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon

x:x = tree replacement to tree loss ratio

Note: 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 Multi-family Residential, Commercial, and Industrial properties, a permit is required for removal of trees of any size.

A 38-inch tree equals 12.1 inches in diameter.

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

Single-family and two-dwelling properties may be mitigated at a 1:1 ratio.

The only mature tree on the project site is a palm tree located in the eastern portion of the site. The one tree would be removed; therefore, the project would conservatively be required to plant five replacement trees, at a 5:1 ratio[18]. The project would exceed this requirement by planting approximately 100 trees on-site. The species of trees to be planted would be determined in consultation with the City Arborist and staff from the Department of Planning, Building and Code Enforcement. The replacement trees shall be water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance (MWELO).

In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement or the Director's designee, at the development permit stage:

- 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 grading permit(s), in accordance to the City Council approved Fee Resolution. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

[18] This conservatively assumes that the tree to be removed is a native tree with a circumference of 38 inches or more, therefore requiring replacement at a 5:1 ratio.

The project proposes to remove the existing tree on site and plant approximately 100 trees, increasing the total number of trees on site. The project would therefore exceed the tree replacement ratios shown in Table 4.4-2 above, and would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. **(Less Than Significant Impact)**

Impact BIO-6:	The project would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. **(Less than Significant Impact with Mitigation Incorporated)**

The proposed project is a covered project under the Santa Clara Valley Habitat Plan. The Habitat Plan defines measures to avoid, minimize, and mitigate impacts on covered species and their habitats while allowing for the implementation of certain covered projects. Chapter 6 of the Habitat Plan includes detailed and comprehensive conditions to avoid and minimize impacts on the 18 "covered species" (nine animal species and nine plant species) included in the Plan area.[19]

In conformance with the Habitat Plan, project proponents are required to pay impact fees in accordance with the types and acreage of habitat or "land cover" impacted, and to implement conservation measures specified by the Habitat Plan. Land cover impacts are used because it is the best predictor of potential species habitat, and is applicable to all of the covered species (with the exception of the burrowing owl). Additional fees (i.e., specialty fees) in-lieu of providing compensatory mitigation are imposed for projects that impact serpentine habitat, wetlands, and burrowing owls, and for certain projects that result in atmospheric nitrogen emissions, although in some cases, project proponents may provide land to restore or create habitat types protected by the Habitat Plan in lieu of payment of fees.

Applicable Habitat Plan Conditions

Condition 1 - Avoid Direct Impacts on Legally Protected Plant and Wildlife Species. Several wildlife species that occur in the project vicinity are protected under state and federal laws. Some of these animal species are listed as fully protected under the California Fish and Wildlife Code (e.g., white-tailed kite), and eagles are protected under the Bald and Golden Eagle Protection Act. Further, all native bird species and their nests are protected under the Migratory Bird Treaty Act (MBTA) and California Fish and Game Code. Actions conducted under the Habitat Plan must comply with the provisions of the MBTA and California Fish and Wildlife Code. Incorporation of Mitigation Measure MM BIO-1.1 through 4.1 would ensure the project complies with Condition 1 of the Habitat Plan.

[19] The covered plant species are: Tiburon Indian Paintbrush *(Castilleja affinis ssp. Neglecta)*, Coyote ceanothus *(Ceanothus ferrisiae*), Mount Hamilton thistle (*Cirsium fontinales var. campylon*), Santa Clara Valley dudleya (*Dudleya abramsii ssp. Setchellii*), Fragrant fritillary (*Fritillaria lilacea*), Loma Prieta hoita (*Hoita strobilina*), Smooth lessingia (*Lessingia micradenia var. glabrata*), Metcalf Canyon jewelflower (*Streptanthus albidus ssp. Albidus*), and Most beautiful jewelflower (*Streptanthus albidus ssp. Peramoenus*). The covered animal species are: Tricolored blackbird (*Agelaius tricolor*), Least Bell's vireo (*Vireo bellii pusillus*), Bay checkerspot butterfly (*Euphydryas editha bayensis*), Western burrowing owl (*Athene cunicularia*), San Joaquin kit fox (Vulpes macrotis), California red-legged frog (Rana draytonii), Foothill yellow-legged frog (Rana boylii), Western pond turtle (*Actinemys marmorata*), and Least Bell's vireo (*Vireo bellii pusillus*).

Condition 3 - Maintain Hydrologic Conditions and Protect Water Quality. Condition 3 applies to all projects and identifies a set of programmatic best management practices (BMPs), performance standards, and control measures to minimize increases of peak discharge of storm water and to reduce runoff of pollutants to protect water quality, including during project construction. These requirements include pre-construction, construction site, and post-construction actions. Pre-construction conditions are site design planning approaches that protect water quality by preventing and reducing the adverse impacts of stormwater pollutants and increases in peak runoff rate and volume. They include hydrologic source control measures that focus on the protection of natural resources. Construction site conditions include source and treatment control measure to prevent pollutants from leaving the construction site and minimizing site erosion and local stream sedimentation during construction. Post-construction conditions include measures for stormwater treatment and flow control. Mitigation measure MM BIO-3.2 would ensure the project complies with Condition 3 of the Habitat Plan.

Condition 11 – Stream and Riparian Setbacks. Condition 11 applies to covered projects that may affect streams and associated riparian vegetation within the Habitat Plan area. This condition requires new covered projects to adhere to setbacks from creeks and streams and associated riparian vegetation to minimize and avoid impacts on aquatic and riparian land cover types, covered species, and wildlife corridors. The required setback for the reach of the Guadalupe River (a Category One stream) adjacent to the project site is 100 feet from the top of bank. The project would be set back at least 100 feet from the Guadalupe River top of bank, and would therefore comply with Condition 11 of the Habitat Plan.

Condition 12 - Wetland and Pond Avoidance and Minimization. Condition 12 applies to covered projects that would directly or indirectly affect wetlands or ponds. The purpose of Condition 12 is to minimize impacts on wetlands and ponds and avoid impacts on high quality wetlands and ponds by prescribing vegetated stormwater filtration features, proper disposal of cleaning materials, and other requirements. Project proponents are required to pay a wetland fee for impacts on wetlands and ponds to cover the cost of restoration or creation of aquatic land cover types required by the Habitat Plan. Covered activities can avoid paying the wetland fee if they avoid impacts on wetlands. The project would be required to implement mitigation measure MM BIO-3.1 to ensure compliance with Condition 12 of the Habitat Plan.

Condition 15 - Western Burrowing Owl. Condition 15 requires the implementation of measures to avoid and minimize direct impacts on burrowing owls, including pre-construction surveys, establishment of 250-foot non-disturbance buffers around active nests during the breeding season (February 1 through August 31), establishment of 250-foot non-disturbance buffers around occupied burrows during the nonbreeding season, and construction monitoring. Pre-construction surveys for burrowing owls are required by the Habitat Plan in areas mapped as breeding habitat, which include the project site. As mentioned above, additional fees in-lieu of providing compensatory mitigation are imposed for Habitat Plan covered projects that impact burrowing owls. Because the project site includes habitat for burrowing owls, as mapped by the Habitat Plan, a specialty fee for impacts on habitat for this species would apply. The project would pay all applicable fees and implement mitigation measure MM BIO-1.2 to ensure compliance with Condition 15 of the Habitat Plan.

Condition 17 – Tricolored Blackbird. Condition 17 calls for surveys of project areas within 250 feet of any riparian, coastal and valley freshwater marsh (perennial wetlands), or pond land cover types

for potential tricolored blackbird nesting substrate. The project site is located within a designated tricolored blackbird survey area under the Habitat Plan. Although potentially suitable nesting habitat was identified along the Guadalupe River, no tricolored blackbirds were observed within or immediately adjacent to the project site during the site survey conducted during the breeding season, and the species is determined to be absent. Even though it is likely that blackbirds are absent from the project site and all areas within 250 feet of the site, based on the species' known distribution, the project applicant will be required to demonstrate compliance with this condition for Habitat Plan compliance purposes. The following standard Habitat Plan conditions would apply to the project:

Standard Habitat Plan Conditions: The project would be required to implement the following standard Habitat Plan conditions to demonstrate compliance with Condition 17.

- *Implement Condition 17 of the Habitat Plan*. To avoid direct impacts of covered activities on nesting tricolored blackbird colonies, the following procedures will be implemented.

    - *Preconstruction Survey*. Prior to any ground disturbance related to covered activities, a qualified biologist will:
        - Make his/her best effort to determine if there has been nesting at the site in the past 5 years. This includes checking the CNDDB, contacting local experts, and looking for evidence of historical nesting (i.e., old nests).
        - If no nesting in the past 5 years is evident, conduct a preconstruction survey in areas identified in the habitat survey as supporting potential tricolored blackbird nesting habitat. Surveys will be made at the appropriate times of year when nesting use is expected to occur. The surveys will document the presence or absence of nesting colonies of tricolored blackbird. Surveys will conclude no more than two calendar days prior to construction.

      To avoid last minute changes in schedule or contracting that may occur if an active nest is found, the project proponent may also conduct a preliminary survey up to 14 days before construction. If a tricolored blackbird nesting colony is present (through step 1 or 2 above), a 250-foot buffer will be applied from the outer edge of all hydric vegetation associated with the site and the site plus buffer will be avoided (see below for additional avoidance and minimization details). The Wildlife Agencies will be notified immediately of nest locations.

    - *Avoidance and Minimization*. If tricolored blackbird colonies are identified during the breeding season, covered activities will be prohibited within a 250-foot no-activity buffer zone around the outer edge of all hydric vegetation associated with the colony. This buffer may be reduced in areas with dense forest, buildings, or other habitat features between the construction activities and the active nest colony, or where there is sufficient topographic relief to protect the colony from excessive noise or visual disturbance. Depending on site characteristics, the sensitivity of the colony, and surrounding land uses, the buffer zone may be increased. Land uses potentially affecting a colony will be observed by a qualified biologist to verify that the activity is not disrupting the colony. If it is, the buffer will be increased. Implementing Entity technical staff will coordinate with the Wildlife Agencies and evaluate exceptions to the minimum no-activity buffer distance on a case-by-case basis.

- *Construction Monitoring*. If construction takes place during the breeding season when an active colony is present, a qualified biologist will monitor construction to ensure that the 250-foot buffer zone is enforced. If monitoring indicates that construction outside of the buffer is affecting a breeding colony, the buffer will be increased if space allows (e.g., move staging areas farther away). If space does not allow, construction will cease until the colony abandons the site or until the end of the breeding season, whichever occurs first. The biological monitor will also conduct training of construction personnel on the avoidance procedures, buffer zones, and protocols in the event that tricolored blackbirds fly into an active construction zone (i.e., outside the buffer zone).

Project's Overall Compliance with the 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 Private Application form to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit.[20]

As described above, implementation of mitigation measures and standard Habitat Plan conditions, along with payment of all applicable fees, would ensure the project's compliance with the Habitat Plan. **(Less Than Significant Impact with Mitigation Incorporated)**

[20] The Habitat Plan and supporting materials can be viewed at www.scv-habitatplan.org.

4.5 CULTURAL RESOURCES

The discussion in this section is based in part on an Archaeological Survey Report prepared for the project by Holman & Associates, in November 2015. The report is included as Appendix C.

4.5.1 Environmental Setting

The project site is located in Santa Clara Valley, where Native American occupation extended over 5,000 to 8,000 years and possibly longer. Before European settlement, Native Americans resided in the area that encompasses the project site. The South Bay Area's favorable environment during the prehistoric period included alluvial plains, foothills, many water courses, and bay margins that provided an abundance of wild food and other resources.

4.5.1.1 *Regulatory Framework*

Federal and State

National Historic Preservation Act

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

California Register of Historical Resources

The California Register of Historical Resources (CRHR) is administered by the State Office of Historic Preservation and encourages protection of resources of architectural, historical, archeological, and cultural significance. The CRHR identifies historic resources for state and local planning purposes and affords protections under CEQA. Under Public Resources Code Section 5024.1(c), a resource may be eligible for listing in the CRHR if it meets any of the NRHP criteria.[21]

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

The concept of integrity is essential to identifying the important physical characteristics of historical resources and, therefore, in evaluating adverse changes to them. Integrity is defined as "the authenticity of a historical resource's physical identity evidenced by the survival of characteristics that existed during the resource's period of significance." The processes of determining integrity are similar for both the CRHR and NRHP and use the same seven variables or aspects to define integrity

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

that are used to evaluate a resource's eligibility for listing. These seven characteristics include 1) location, 2) design, 3) setting, 4) materials, 5) workmanship, 6) feeling, and 7) association.

California Native American Historical, Cultural, and Sacred Sites Act

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

Public Resources Code Sections 5097 and 5097.98

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

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

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects with the City. The following policies are specific to cultural resources and are applicable to the proposed project.

Envision San José 2040 Relevant Cultural Resources Policies

Policies	Description
Policy ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
Policy ER-10.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.

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

City of San José Historic Resources Inventory (HRI)

The HRI is an inventory of San José's historically and architecturally significant buildings. According to the City of San José's Historic Preservation Ordinance (Chapter 13.48 of the Municipal Code), a resource qualifies as a City Landmark if it has "special historical, architectural, cultural, aesthetic or engineering interest or value of an historic nature" and is one of the following resource types:

1. An individual structure or potion thereof:
2. An integrated group of structures on a single lot;
3. A site, or portion thereof; or
4. Any combination thereof.

Six City Landmarks are located within the Port of Alviso NRHP district, the boundary of which is roughly 2,370 feet northwest of the project site. None are located on or adjacent to the site.

4.5.1.2 *Prehistoric and Historic Resources*

Cultural resources are evidence of past human occupation and activity and include both historical and archaeological resources. These resources may be located above ground or underground and have significance in the history, prehistory, architecture, architecture of culture of the nation, State of California, or local or tribal communities.

Prehistoric resources are resources that have significance in prehistory, which is defined as events of the past occurring prior to advent of written records. Historic resources are generally 50 years or older in age and include, but are not limited to, buildings, districts, structures, sites, objects and areas. Archaeological resources are resources associated with human activity in the past and encompass both prehistoric and historic resources.

Based on the archaeological survey report prepared by Holman & Associates, portions of the project site are moderately to highly sensitive to contain buried Native American sites. There is also a high potential for historic-era archaeological deposits associated with the buildings formerly located on the project site.

In October 2015, surface reconnaissance of the site was completed to inspect for the presence of cultural resources. No resources were discovered during the reconnaissance.

4.5.1.3 *Paleontological Resources*

Paleontological resources are fossils, the remains or traces of prehistoric life preserved in the geologic record. They range from the well-known and well-publicized (such as mammoth and dinosaur bones) to scientifically important fossils. Based on a Paleontological Evaluation Report

completed for the City's General Plan, the project site is located in an area of Bay Mud that has a high sensitivity to paleontological resources at depths close to the ground surface.

4.5.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?	☐	☐	☒	☐
2) Cause a substantial adverse change in the significance of an archaeological resource as pursuant to CEQA Guidelines Section 15064.5?	☐	☒	☐	☐
3) Disturb any human remains, including those interred outside of dedicated cemeteries?	☐	☒	☐	☐

Impact CUL-1: The project would not cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5. **(Less than Significant Impact)**

The site is undeveloped; therefore, no historic buildings or structures are located on the project site. As described previously, historic resources such as the Port of Alviso NHRP and six City Landmarks are located in the vicinity of the site; however, the project is a substantial distance (over 2,300 feet) and would not result in impacts to these historic resources. **(Less than Significant Impact)**

Impact CUL-2: The project would not cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5. **(Less than Significant Impact with Mitigation Incorporated)**

Although portions of the site contain substantial amounts of artificial fill (up to 14 feet in some areas), the project would include disturbance of native soils for trenching, site grading, and other construction activities. The Native American Heritage Commission and Native American contacts were consulted during the development of the Archaeological Survey Report and no specific Native American resource were identified within or adjacent to the study area. While there are no recorded archaeological or historic sites on the project site, there is a potential for buried archaeological resources to occur on the site.

Impact CUL-1: Ground disturbing activities associated with project construction may result in impacts to unrecorded archaeological resources.

Mitigation Measures: The project will be required to implement the following mitigation measures to reduce possible impacts to cultural resources to a less than significant level.

MM CUL-2.1: Treatment Plan: Prior to the issuance of any grading permit, a project-specific Cultural Resources Treatment Plan shall be prepared by a qualified archaeologist, in consultation with a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area. The Cultural Resources Treatment Plan shall reflect permit-level detail pertaining to depths and locations of all ground disturbing activities. The Cultural Resources Treatment Plan shall be prepared and submitted to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement prior to approval of any grading permit. The Treatment Plan shall contain, at a minimum:

- Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations.
- Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found).
- Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information).
- Detailed field strategy used to record, recover, or avoid the finds and address research goals.
- Analytical methods.
- Report structure and outline of document contents.
- Disposition of the artifacts.
- Appendices: all site records, correspondence, and consultation with Native Americans, etc.

MM CUL-2.2: Investigation: Prior to issuance of any grading or demolition permits, the project applicant shall complete a preliminary field investigation program in conformance with the project-specific Cultural Resources Treatment Plan required under Mitigation Measure MM CUL-2.1. The locations of subsurface testing and exploratory trenching shall be determined prior to issuance of any grading permit based on the Cultural Resources Treatment Plan recommendations. A qualified archaeologist and a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area, shall complete a presence/absence exploration. Results of the investigation shall be provided to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement prior to issuance of any grading permit.

If any finds were discovered during the preliminary field investigation, the project shall implement MM CUL-2.4 for evaluation and recovery methodologies. The results of the preliminary field investigation and program shall be submitted to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement for review and approval prior to issuance of any grading permit.

MM CUL-2.3: Construction Monitoring and Protection Measures: Although the data recovery and treatment program would be expected to recover potentially significant materials and information from the areas impacted by the project prior to grading, it is possible that additional resources could remain on-site. Therefore, all ground-disturbing activities (e.g., grading and excavation) shall be completed under the observation of a qualified archaeologist and a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area.

The qualified archaeologist or a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area, shall have authority to halt construction activities temporarily in the immediate vicinity of an unanticipated find. If, for any reasons, the qualified archaeologist or a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area, is not present, but construction crews encounter a cultural resource, all work shall stop temporarily within 50 feet of the find until a qualified archaeologist in consultation with a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area, has been contacted to determine the proper course of action. The Supervising Environmental Planner and Historic Preservation Officer of the City of San José Department of Planning, Building, and Code Enforcement shall be notified of any finds during the grading or other construction activities. Any human remains encountered during construction shall be treated according to the protocol identified in MM CUL-2.5.

MM CUL-2.4: Evaluation and Data Recovery: The Supervising Environmental Planner and Historic Preservation Officer of the City of San José Department of Planning, Building, and Code Enforcement shall be notified of any finds during the preliminary field investigation, grading, or other construction activities. Any historic or prehistoric material identified in the project area during the preliminary field investigation and during grading or other construction activities shall be evaluated for eligibility for listing as a Candidate City Landmark and/or in the California Register of Historic Resources. Data

recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand auguring, and hand-excavation.

The techniques used for data recovery shall follow the protocols identified in the project-specific Cultural Resources Treatment Plan. Data recovery shall include excavation and exposure of features, field documentation, and recordation.

MM CUL-2.5: Human Remains: Native American coordination shall follow the protocols established under Assembly Bill 52, State of California Code, and applicable City of San José procedures.

If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant or qualified archaeologist in consultation with a Native American representative registered with the Native American Heritage Commission from the City of San José and that is traditionally and culturally affiliated with the geographic area shall immediately notify the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement, who will then notify the Santa Clara County Coroner. The Coroner shall make a determination as to whether the remains are Native American.

If the remains are believed to be Native American, the Coroner shall contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC shall then designate a Most Likely Descendant (MLD). The MLD shall inspect the remains and make a recommendation on the treatment of the remains and associated artifacts.

If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner, in consultation with a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area, to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

- The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 48 hours after being notified by the commission.

- The descendant identified fails to make a recommendation; or

- The landowner or his authorized representative rejects the recommendation of the descendant, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

MM CUL-2.6: Site Security: At the discretion of the Supervising Environmental Planner and Historic Preservation Officer of the City of San José Department of Planning, Building, and Code Enforcement, site fencing shall be installed on-site during the investigation, grading, building, or other construction activities to avoid destruction and/or theft of potential cultural resources. The responsible qualified archaeologist, in consultation with a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area, shall advise the Supervising Environmental Planner and Historic Preservation Officer of the City of San José Department of Planning, Building, and Code Enforcement as to the necessity for a guard. The purpose of the security guard shall be to ensure the safety of any potential cultural resources (including human remains) that are left exposed overnight. The Director of PBCE shall have the final discretion to authorize the use of a security guard at the project site.

MM CUL-2.7: Final Reporting: Once all analyses and studies required by the project-specific Cultural Resources Treatment Plan have been completed, the project applicant, or representative, shall prepare a final report summarizing the results of the field investigation, data recovery activities and results, and compliance with the Cultural Resources Treatment Plan during all demolition, grading, building, and other construction activities. The report shall document the results of field and laboratory investigations and shall meet the Secretary of the Interior's Standards for Archaeological Documentation. The contents of the report shall be consistent with the protocol included in the project-specific Cultural Resources Treatment Plan. The report shall be submitted to the Director of Planning, Building, and Code Enforcement for review and approval prior to issuance of any Certificates of Occupancy (temporary or final). Once approved, the final documentation shall be submitted to the Northwest Information Center at Sonoma State University, as appropriate.

MM CUL-2.8: Curation: Upon completion of the final report required by the project-specific Cultural Resources Treatment Plan, all recovered archaeological materials not identified as tribal cultural resources by the Native American monitor, shall be transferred to a long-term curation facility. Any curation facility used shall meet the standards outlined in the National Park Services' Curation of Federally Owned and Administered Archaeological Collections (36 CFR 79). The project applicant shall notify the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement of the selected curation facility prior to the issuance of any Certificates of Occupancy (temporary or final). To the extent feasible, and in

consultation with the Native American representative, all recovered Native American/tribal cultural resources and artifacts shall be reburied on-site in an area that is unlikely to be disturbed again. Treatment of materials to be curated shall be consistent with the protocols included in the project-specific Cultural Resources Treatment Plan.

All archaeological materials recovered during the data recovery efforts shall be cleaned, sorted, catalogued, and analyzed following standard archaeological procedures, and shall be documented in a report submitted to the Director of Planning, Building and Code Enforcement and the NWIC.

MM CUL-2.9: Dignified and Respectful Treatment – Cultural Sensitivity Training Prior to Construction: An important aspect of the consultation process is a dignified and respectful treatment of Tribal Cultural Resources. Prior to issuance of the Grading Permit, the project shall be required to submit evidence that an Archaeological Monitoring Contractor Awareness Training was held prior to ground disturbance. The training shall be facilitated by the project archaeologist in coordination with a Native American representative registered with the Native American Heritage Commissions for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3.

The proposed project would be required to implement the provisions of a project-specific Cultural Resources Treatment Plan, as outlined in the mitigation measures above. Implementation of these measures would ensure extensive subsurface investigation where subsurface excavation and groundwork would occur. Through this field investigation and data recovery program, the project would avoid demolition, substantial alteration, or relocation of an eligible resource. Significant disturbance of any human remains, Native American or otherwise, would be avoided through a robust protection program designed to respond to an encounter with cultural resources and/or human remains in consultation with appropriate parties (e.g., the Most Likely Descendant).

With implementation of MM CUL-2.1 – MM CUL-2.9, the project would not cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5. **(Less than Significant Impact with Mitigation Incorporated)**

Impact CUL-3:	The project would not disturb any human remains, including those interred outside of dedicated cemeteries. **(Less than Significant Impact with Mitigation Incorporated)**

With incorporation of *Mitigation Measures CUL-2.1 – 2.8*, as discussed under *Impact CUL-2*, the project would have a less than significant impact on human remains. **(Less than Significant Impact)**

4.6 ENERGY

4.6.1 Environmental Setting

4.6.1.1 *Regulatory Framework*

Federal and State

Energy Star and Fuel Efficiency

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

Renewables Portfolio Standard Program

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

Executive Order B-55-18 To Achieve Carbon Neutrality

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

California Building Standards Code

The Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6 of the California Code of Regulations (Title 24), was established in 1978 in response to a legislative mandate to reduce California's energy consumption. Title 24 is updated approximately every three years.[22] Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.[23]

[22] California Building Standards Commission. "California Building Standards Code." Accessed October 21, 2020. https://www.dgs.ca.gov/BSC/Codes#@ViewBag.JumpTo.
[23] California Energy Commission (CEC). "2019 Building Energy Efficiency Standards." Accessed October 21, 2020. https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2019-building-energy-efficiency.

California Green Building Standards Code

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

Advanced Clean Cars Program

CARB adopted the Advanced Clean Cars program in 2012 in coordination with the EPA and National Highway Traffic Safety Administration. The program combines the control of smog-causing pollutants and GHG emissions into a single coordinated set of requirements for vehicle model years 2015 through 2025. The program promotes development of environmentally superior passenger cars and other vehicles, as well as saving the consumer money through fuel savings.[24]

Regional and Local

Climate Smart San José

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

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

4.6.1.2 *Existing Conditions*

Total energy usage in California was approximately 7,881 trillion British thermal units (Btu) in the year 2017, the most recent year for which this data is available.[25] Out of the 50 states, California is ranked second in total energy consumption and 48th in energy consumption per capita. The breakdown by sector was approximately 18 percent (1,416 trillion Btu) for residential uses, 19 percent (1,473 trillion Btu) for commercial uses, 23 percent (1,818 trillion Btu) for industrial uses, and 40 percent (3,175 trillion Btu) for transportation.[26] This energy is primarily supplied in the form of natural gas, petroleum, nuclear electric power, and hydroelectric power.

[24] California Air Resources Board. "The Advanced Clean Cars Program." Accessed October 21, 2020. https://www.arb.ca.gov/msprog/acc/acc.htm.
[25] United States Energy Information Administration. "State Profile and Energy Estimates, 2017." Accessed October 21, 2020. https://www.eia.gov/state/?sid=CA#tabs-2.
[26] United States Energy Information Administration. "State Profile and Energy Estimates, 2017." Accessed October 21, 2020. https://www.eia.gov/state/?sid=CA#tabs-2.

Electricity

Electricity in Santa Clara County in 2018 was consumed primarily by the commercial sector (77 percent), followed by the residential sector consuming 23 percent. In 2019, a total of approximately 16,664 gigawatt hours (GWh) of electricity was consumed in Santa Clara County.[27]

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

Natural Gas

PG&E provides natural gas services within San José. In 2018, approximately one percent of California's natural gas supply came from in-state production, while the remaining supply was imported from other western states and Canada.[28] In 2018, residential and commercial customers in California used 34 percent of the state's natural gas, power plants used 35 percent, the industrial sector used 21 percent, and other uses used 10 percent. Transportation accounted for one percent of natural gas use in California. In 2018, Santa Clara County used approximately 3.5 percent of the state's total consumption of natural gas.[29]

Fuel for Motor Vehicles

In 2018, 15.5 billion gallons of gasoline were sold in California.[30] The average fuel economy for light-duty vehicles (autos, pickups, vans, and sport utility vehicles) in the United States has steadily increased from about 13.1 miles per gallon (mpg) in the mid-1970s to 24.9 mpg in 2018.[31] Federal fuel economy standards have changed substantially since the Energy Independence and Security Act was passed in 2007. That standard, which originally mandated a national fuel economy standard of 35 miles per gallon by the year 2020, was subsequently revised to apply to cars and light trucks model years 2011 through 2020. [32,33]

[27] California Energy Commission. Energy Consumption Data Management System. "Electricity Consumption by County." Accessed October 21, 2020. http://ecdms.energy.ca.gov/elecbycounty.aspx.
[28] California Gas and Electric Utilities. 2019 *California Gas Report.* Accessed October 21, 2020. https://www.socalgas.com/regulatory/documents/cgr/2019_CGR_Supplement_7-1-19.pdf.
[29] California Energy Commission. "Natural Gas Consumption by County." Accessed October 21, 2020. http://ecdms.energy.ca.gov/gasbycounty.aspx.
[30] California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed October 21, 2020. https://www.cdtfa.ca.gov/dataportal/dataset.htm?url=VehicleTaxableFuelDist.
[31] United States Environmental Protection Agency. "The 2018 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." March 2019.
[32] United States Department of Energy. *Energy Independence & Security Act of 2007.* Accessed October 21, 2020. http://www.afdc.energy.gov/laws/eisa.
[33] Public Law 110–140—December 19, 2007. *Energy Independence & Security Act of 2007.* Accessed October 21, 2020. http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf.

4.6.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	☐	☐	☒	☐
2) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	☐	☐	☐	☒

Impact EN-1: The project would not 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 Impact)**

Energy Efficiency During Construction

The anticipated construction schedule assumes that the project will be built over a period of approximately 24 months, beginning in fall of 2021. The project would require site preparation, grading and excavation, trenching, paving, and construction of the hotel building interior and exterior and the parking garage structure. Energy would not be wasted or used inefficiently by construction equipment, as the proposed project would include several measures to improve efficiency of the construction (e.g., limiting idling time or use U.S. EPA tiered equipment). In addition, construction waste management methods and processes would be employed to reduce the amount of construction waste.

Energy Use During Project Operation

Operation of the project would consume energy for multiple purposes, including building heating and cooling, lighting, and appliance use. Operational energy would also be consumed by hotel guests and employees. The net increase in energy use of the proposed project is summarized in Table 4.6-1 below.

Table 4.6-1 Estimated Annual Energy Use of Proposed Development

	Electricity (kWh)	Natural Gas (kBtu)	Gasoline (gallons)
Proposed Uses	971,598	4,816,590	24,069

Note: the estimated gasoline demand is based on the estimated annual VMT of 599,330 for the project, and an average fuel economy of 24.9 mpg.

kWh = kilowatt per hour

kBtu = kilo-British thermal unit

Source: Illingworth & Rodkin, Inc. *The Estuary @ Terra Air Quality & Greenhouse Gas Assessment.* October 2, 2020; and Fehr & Peers. *Alviso Hotel Transportation Analysis Report*. July 2020.

As shown in Table 3.6-1 above, the project would result in an increase in energy demand compared to existing conditions. The project, however, would not represent a wasteful or inefficient use of energy resources because the project would be required to comply with Title 24 and CALGreen requirements to reduce energy consumption. In addition, the project would be required to prepare and implement a Transportation Demand Management (TDM) plan to reduce project VMT below the City threshold for residential projects. The TDM plan would incentivize the use of alternative methods of transportation to and from the site, which would reduce the project's gasoline demand. New automobiles used by employees, guests, and vendors of the proposed project would be subject to fuel economy and efficiency standards applied throughout the State of California, which means that over time the fuel efficiency of vehicles associated with the project site would improve. Implementation of the project would not result in a substantial increase of transportation-related energy use. For these reasons, the project would not result in a wasteful use of energy or conflict with a state or local plan for renewable energy or energy efficiency. **(Less than Significant Impact)**

Impact EN-2:	The project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. **(No Impact)**

Electricity for the proposed project would be provided by SJCE. The proposed development would be completed in compliance with the current energy efficiency standards set forth in Title 24 and CALGreen. For these reasons, the project would not conflict with or obstruct state or local plans for renewable energy or energy efficiency. **(No Impact)**

4.7 GEOLOGY AND SOILS

4.7.1 Environmental Setting

4.7.1.1 *Regulatory Framework*

State

Alquist-Priolo Earthquake Fault Zoning Act

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

Seismic Hazards Mapping Act

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

California Building Standards Code

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

California Division of Occupational Safety and Health Regulations

Excavation, shoring, and trenching activities during construction are subject to occupational safety standards for stabilization by the California Department of Industrial Relations, Division of Occupational Safety and Health (Cal/OSHA) under Title 8 of the California Code of Regulations and Excavation Rules. These regulations minimize the potential for instability and collapse that could injure construction workers on the site.

Public Resources Code Section 5097.5

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. They range from mammoth and dinosaur bones to impressions of ancient

animals and plants, trace remains, and microfossils. These are valued for the information they yield about the history of the earth and its past ecological settings. California Public Resources Code Section 5097.5 specifies that unauthorized removal of a paleontological resource is a misdemeanor. Under the CEQA Guidelines, a project would have a significant impact on paleontological resources if it would disturb or destroy a unique paleontological resource or site or unique geologic feature.

Local

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects with the City. The following polices are specific to geological resources and are applicable to the proposed project.

Envision San José 2040 Relevant Geology and Soil Policies

Policy	Description
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	Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
Policy EC-4.5	Ensure that any development activity that requires grading does not impact adjacent properties, local creeks, and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 1 and April 30.
Action EC-4.11:	Require the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards, and require review and implementation of mitigation measures as part of the project approval process.
Action EC-4.12:	Require review and approval of grading plans and erosion control plans (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 health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.

4.7.1.2 *Existing Conditions*

Soil Conditions

The proposed project site is situated on the coastal plain immediately south of tidal flats that fringe the southern San Francisco Bay. The topography is relatively flat with a slight downward slope towards the north.

Groundwater

The depth to groundwater in the project area ranges from feet 14 to 15 feet below ground surface, based on the Phase I Environmental Site Assessment (ESA) report completed for the site. Groundwater typically flows northwest toward the San Francisco Bay, but recently groundwater has flowed to the southeast due to drought conditions. Seasonal fluctuations in rainfall influence groundwater levels and may cause several feet of variation.

Seismicity and Seismic Hazards

The project site is located within the seismically active San Francisco Bay Area region. There is a 72 percent probability that one or more major earthquake (7.7 in magnitude or greater) will occur in the region by 2044[34]. Although the site is within a seismically active region, it is not located within a designated Alquist-Priolo Earthquake Fault Zone, the Santa Clara County Fault Hazard Zone, or the City of San José Potential Hazard Zone.[35] The potential for fault rupture at the site is low.

Significant active faults (which have a capability of generating an earthquake with a magnitude of 6.7 or greater)[36] within the region include the Hayward Fault, Calaveras Fault, and San Andreas Fault, located roughly five miles northeast, nine miles east, and 13 miles west of the site, respectively. Other significant faults in the region include the San Gregorio Fault, Greenville, Concord-Green Valley, and Healdsburg Roger Creek Faults (which range from 25 to 50 miles in distance from the site). Due to the proximity of the project site to these active or potentially active faults, ground shaking, ground failure, and/or liquefaction as a result of an earthquake could cause damage to structures on the site.

Liquefaction

Liquefaction is a result of seismic activity and is characterized as the transformation of loose, water-saturated soils from a solid state to a liquid state after ground shaking. There are many variables that contribute to liquefaction, including the age of the soil, soil type, soil cohesion, soil density, and groundwater level. Soil susceptible to liquefaction includes loose to medium dense sand and gravel, low plasticity silt, and some low-plasticity clay deposits. Liquefaction can result in ground surface deformations and settlement.

[34] US Geological Survey. *UCERF3: A New Earthquake Forecast for California's Complex Fault System*. Fact Sheet 2015 – 3009. March 2015. Accessed January 7 2020. http://pubs.usgs.gov/fs/2015/3009/pdf/fs2015-3009.pdf
[35] Santa Clara County, Santa Clara County Geologic Hazard Zones, Map 20. Accessed January 7, 2020 https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO_GeohazardATLAS.pdf.
[36] An active fault is one that has ruptured in the last 11,000 years. California Geological Survey. Alquist-Priolo Earthquake Fault Zoning Act. Accessed January 7, 2019. http://www.conservation.ca.gov/cgs/rghm/ap/Pages/main.aspx.

Surface soils on the proposed project site are classified as Holocene-age levee deposits, consisting of loose, moderate-to-well-sorted or clayey silt grading to sandy or silty clay. The project site is located within a State of California Hazard Zone for liquefaction and within a County of Santa Clara Liquefaction Hazard Zone.[37]

Lateral Spreading

Liquefaction-induced lateral spreading typically occurs as a form of horizontal displacement of relatively flat-lying alluvial material within an underlying liquified layer, toward an open or "free" face such as an open body of water, channel, or excavation. Generally, in soils this movement is due to failure along a weak plane, formed within an underlying liquified layer. As cracks develop within the weakened material, blocks of soil displace laterally towards the free face.

The project site is located approximately 150 feet from the Guadalupe River and there are liquefiable sand layers underlying the site, and, therefore, there is a potential displacement during an earthquake.

Differential Settlement

Differential (uneven) settlement is associated with loose unsaturated sands and gravels. These soils typically settle during strong seismic shaking. Soils that are variable in nature and contain organic materials are more susceptible to differential settlement than uniform soils. Differential settlement during seismic shaking occurs when the foundation settles unevenly, which can cause one part of a structure to settle into the ground more than other which could cause damage to buildings, roadways, utilities, and hardscape improvements. The existing undocumented fill on the site may be susceptible to settlement.

Landslides

Landslides are the movement of rock, debris, or earth down a slope and typically occur in connection with other natural disasters such as earthquakes and floods. Landslides occur when the stability of a slope changes from a stable to an unstable condition. In general, slopes steeper than approximately 15 degrees are typically most susceptible to landslides. Earthquakes can induce landslides in hillside areas and along creeks.

The project site is not located within a California Seismic Hazard Zone for landsliding or within a County of Santa Clara Landslide Hazard Zone. The project area is relatively flat and, therefore, the probability of landslides occurring at the project sites during a seismic event is low.

[37] County of Santa Clara. *County Geologic Hazard Zones*. Map 11. October 2012.

4.7.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:				
– Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault (refer to Division of Mines and Geology Special Publication 42)?	☐	☐	☒	☐
– Strong seismic ground shaking?	☐	☐	☒	☐
– Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐
– Landslides?	☐	☐	☒	☐
2) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐
3) Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☒	☐
4) Be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property?	☐	☐	☒	☐
5) 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?	☐	☐	☐	☒
6) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?	☐	☐	☒	☐

As previously discussed in Section 4.0, on December 17, 2015, the California Supreme Court issued an opinion in "CBIA vs. BAAQMD" holding that CEQA is primarily concerned with the impacts of a project on the environment and generally does not require agencies to analyze the impact of existing conditions on a project's future users or residents unless the project risks exacerbating those environmental hazards or risks that already exist. Nevertheless, the City has policies and regulations that address existing conditions affecting a proposed project, such as locating structures in geologic hazard zones, which are discussed below.

The policies of the City of San José 2040 General Plan have been adopted for the purpose of avoiding or mitigation environmental effects resulting from planned development within the City. The City of San José General Plan Policy EC-4.2 states that development is allowed in areas subject to soils and geologic hazards, including un-engineered fill and weak soils and landscape-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. To ensure this, the policy requires the City of San José Geologist to review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process. In addition, Policy EC-4.4 requires all new development to conform to the City of San José's Geologic Hazard Ordinance. To ensure that proposed development sites are suitable, Action EC-4.11 requires 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.

The analysis below includes discussion of both impacts of the environment on the project, such as hazards to proposed structures due to undocumented fill on the site, and impacts from the project on the environment, such as the potential for the proposed project to result in off-site geologic hazards. Impacts of the project on the environment are discussed in terms of their significance under CEQA, while impacts of the environment on the project are discussed in terms of the project's consistency with relevant City policies.

Impact GEO-1:	The 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; strong seismic ground shaking; seismic-related ground failure, including liquefaction; or landslides. **(Less than Significant Impact)**

Impacts to the Project

The project site is located in a seismically active region and, therefore, strong ground shaking would be expected during the lifetime of the proposed project. There are no known active faults traversing the project site and the site is not located in an Alquist-Priolo Earthquake Fault Zone. Potential for surface rupture from displacement or fault movement directly beneath the proposed project is, therefore, considered low. Depending on the intensity and magnitude of a seismic event, new buildings may experience shaking due to the site's proximity to the active Hayward, San Andreas, Monte Vista-Shannon, and Calaveras Faults.

The project site would be subject to strong seismic ground shaking and seismic-related ground failure, including liquefaction in the event of a large earthquake. Consistent with the City's General Plan and Municipal Code, to avoid and/or minimize potential damage from seismic shaking, the proposed project would be built using standard engineering and seismic safety design techniques. Consistent with these requirements, the following condition shall be implemented to ensure the proposed development is designed to address seismic hazards.

Standard Permit Condition:

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

Compliance with these standard permit conditions would ensure that the proposed project is designed to properly account for soil-related hazards on the site.

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; strong seismic ground shaking; seismic-related ground failure, including liquefaction; or landslides. **(Less than Significant Impact)**

Impact GEO-2:	The project would not result in substantial erosion or the loss of topsoil. **(Less than Significant Impact)**

The City's NPDES Municipal Permit, urban runoff policies, and the Municipal Code are the primary means of enforcing erosion control measures through the grading and building permit process. The Draft Program EIR for the General Plan concluded that with the regulatory programs currently in place, the possible impacts of accelerated erosion during construction would be less than significant[38]. The City shall require all phases of the project to comply with all applicable City regulatory programs pertaining to construction related erosion, including the standard permit condition above.

[38] City of San José. *Draft Program Environmental Impact Report for the Envision San José 2040 General Plan*. SCH# 2009072096. Page 515.

Through conformance with the standard permit conditions listed above, the project would not result in substantial erosion or the loss of topsoil. **(Less than Significant Impact)**

Impact GEO-3:	The project would not 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 Impact)**

Strong shaking during an earthquake can result in ground failure such as that associated with soil liquefaction and differential compaction. The project site is located within a State of California Liquefaction Zone. A design-level geotechnical investigation will be prepared for the proposed development that identifies site-specific ground failure hazards such as liquefaction and lateral spreading and appropriate techniques to minimize risks to people and structures. In addition, the project shall be designed and constructed in accordance with the recent California Building Code as a standard permit condition.

Standard Permit Condition:

1. 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.

Adherence to the California Building Code would ensure the project resists minor earthquakes without damage and major earthquakes without collapse. The project site is located in a relatively flat area and would not be exposed to substantial slope instability, erosion, or landslide-related hazards. Dewatering is not required for the construction of the project. The project would be required to implement the standard permit conditions listed under Impact GEO-1. Development of the project site would not change or exacerbate the geologic conditions of the project area. Therefore, the project would not 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 Impact)**

Impact GEO-4:	The project would not be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property. **(Less than Significant Impact)**

The on-site soils may have expansion potential. By implementing the standard permit conditions described in GEO-1 and GEO-3, the project would be designed and constructed to minimize hazards due to expansive soils and the soil conditions on-site would not be exacerbated by the project such that it would impact on- or off-site conditions. Therefore, the project would not be located on

expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property. **(Less than Significant Impact)**

Impact GEO-5:	The project would not have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water. **(No Impact)**

The proposed project would connect to the existing sewer system; therefore, the project would not require septic tanks or alternative wastewater disposal systems. **(No Impact)**

Impact GEO-6:	The project would not directly or indirectly destroy a unique paleontological resource or site or unique geological feature. **(Less than Significant Impact)**

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in the geologic strata. Most of the City is situated on alluvial fan deposits of Holocene age that have a low potential to contain significant nonrenewable paleontological resources; however, older Pleistocene sediments present at or near the ground surface at some locations have high potential to contain these resources. These older sediments, often found at depths of greater than 10 feet bgs, have yielded the fossil remains of plants and extinct terrestrial Pleistocene vertebrates.

The General Plan EIR recognized that while development allowed under the General Plan could directly impact paleontological resources, implementation of General Plan policies and existing regulations and programs would reduce potential impacts to a less than significant level. As such, the following standard permit conditions would be applied to the proposed project to reduce and avoid impacts to unidentified paleontological resources.

Standard Permit Condition:

- The City shall ensure all construction personnel receive paleontological awareness training that includes information on the possibility of encountering fossils during construction and the types of fossils likely to be seen, based on past finds in the project area and proper procedures in the event fossils are encountered. Worker trainings shall be prepared and presented by a qualified paleontologist.
- If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, Director of PBCE or Director's designee shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of PBCE or Director's designee.

Although unlikely, the project could result in the disturbance of previously undiscovered paleontological resources. With implementation of the standard permit conditions described above, impacts to undiscovered paleontological resources would be minimal. Therefore, the project would not directly or indirectly destroy a unique paleontological resource or site or unique geological feature. **(Less than Significant Impact)**

4.8 GREENHOUSE GAS EMISSIONS

The following discussion is based, in part, on an Air Quality and Greenhouse Gas Assessment prepared for the project by Illingworth &Rodkin, Inc. A copy of the report, dated October 2, 2020, is included in Appendix A of this Initial Study.

4.8.1 Environmental Setting

4.8.1.1 *Background Information*

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

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

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

4.8.1.2 *Regulatory Framework*

State

Assembly Bill 32

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

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

Senate Bill 375

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

Consistent with the requirements of SB 375, the Metropolitan Transportation Commission (MTC) partnered with the Association of Bay Area Governments (ABAG), BAAQMD, and the Bay Conservation and Development Commission to prepare the region's Sustainable Communities Strategy (SCS) as part of the Regional Transportation Plan process. The SCS is referred to as Plan Bay Area 2040. Plan Bay Area 2040 establishes a course for reducing per-capita GHG emissions through the promotion of compact, high-density, mixed-use neighborhoods near transit, particularly within identified Priority Development Areas (PDAs).

Regional and Local

2017 Clean Air Plan

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

CEQA Air Quality Guidelines

The BAAQMD CEQA Air Quality Guidelines are intended to serve as a guide for those who prepare or evaluate air quality impact analyses for projects and plans in the San Francisco Bay Area. The jurisdictions in the San Francisco Bay Area Air Basin utilize the thresholds and methodology for assessing GHG impacts developed by BAAQMD within the CEQA Air Quality Guidelines. The

guidelines include information on legal requirements, BAAQMD rules, methods of analyzing impacts, and recommended mitigation measures.

Climate Smart San José

Climate Smart San José was developed by the City to reduce air pollution, save water, and create a healthier community. The plan contains nine strategies to reduce carbon emissions consistent with the Paris Climate Agreement. These strategies include use of renewable energy, densification of neighborhoods, electrification and sharing of vehicle fleets, investments in public infrastructure, creating local jobs, and improving building energy-efficiency.

Reach Building Code

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

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

In October 2008, the City adopted the Private Sector Green Building Policy (6-32) that establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. This policy requires that applicable projects achieve minimum green building performance levels using the Council adopted standards. Future development proposed under the Downtown Strategy 2040 would be subject to this policy.

Envision San Jose 2040 General Plan

The General Plan includes the following GHG policies applicable to the proposed project.

Policy	Description
MS-2.11	Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize the effectiveness of passive solar design).
MS-14.4	Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy system, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.
CD-3.2	Prioritize pedestrian and bicycle connections to transit, community facilities (including schools), commercial areas, and other areas serving daily needs. Ensure

	that the design of new facilities can accommodate significant anticipated future increases in bicycle and pedestrian activity.
CD-5.1	Design areas to promote pedestrian and bicycle movements and to facilitate interaction between community members and to strengthen the sense of community
LU05.4	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.
TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

San José 2030 Greenhouse Gas Reduction Strategy

The 2030 Greenhouse Gas Reduction Strategy (GHGRS) is the latest update to the City's GHGRS and is designed to meet statewide GHG reduction targets for 2030 set by Senate Bill 32. As a qualified Climate Action Plan, the 2030 GHGRS allows for tiering and streamlining of GHG analyses under CEQA. The GHGRS identifies General Plan policies and strategies to be implemented by development projects in the areas of green building/energy use, multimodal transportation, water conservation, and solid waste reduction. Projects that comply with the policies and strategies outlined in the 2030 GHGRS, would have less than significant GHG impacts under CEQA.[39]

4.8.1.3 *Existing Conditions*

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

The project site is currently undeveloped and thus is not generating any GHG emissions.

[39] City of San José. Greenhouse Gas Reduction Strategy. November 2020. https://www.sanjoseca.gov/your-government/department-directory/planning-building-code-enforcement/planning-division/environmental-planning/greenhouse-gas-reduction-strategy.

4.8.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Generate greenhouse gas (GHG) emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☒	☐	☐
2) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of GHGs?	☐	☐	☒	☐

Impact GHG-1: The project would not generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment. **(Less than Significant Impact with Mitigation Incorporated)**

Consistency with 2030 GHGRS

As discussed in Section 4.8.1.2, Regulatory Framework, the project would be subject to the City's recently approved 2030 GHGRS which was adopted after a project-level GHG analysis was prepared for the proposed project.

The 2030 GHGRS identifies required General Plan policies and strategies to be implemented by development projects in the areas of green building/energy use, multimodal transportation, water conservation, and solid waste reduction. Compliance with these mandatory policies and strategies and any voluntary measures proposed by the project ensure a project's consistency with the GHG Reduction Strategy. The proposed project is consistent with the Land Use/Transportation Diagram designation of *Combined Industrial/Commercial*. The proposed project incorporates applicable mandatory measures of the GHGRS, as shown in Table 4.8-1 (this table is also included as Appendix J).

Table 4.8-1: San José Greenhouse Gas Reduction Strategy Consistency Checklist

Policy/Strategy	Consistency Discussion
Table A: General Plan Consistency	
1) Consistency with the Land Use/ Transportation Diagram (Land Use and Density)	
Is the project consistent with the Land Use/Transportation Diagram?	**Yes.** As discussed in Section 4.11 Land Use and Planning, the project is consistent with the *Combined Industrial/Commercial* General Plan land use designation for the site and does not require a General Plan Amendment.

Table 4.8-1: San José Greenhouse Gas Reduction Strategy Consistency Checklist	
Policy/Strategy	**Consistency Discussion**
2) Implementation of Green Building Measures	
MS-2.2: Encourage maximized use of on-site generation of renewable energy for all new and existing buildings	**Yes.** The project includes installation of solar panels on the rooftop of the hotel building. The project applicant is committed to the project being compliant with all mandatory applicable state and local green building and energy codes.
MS-2.3: Encourage consideration of solar orientation, including building placement, landscaping, design and construction techniques for new construction to minimize energy consumption.	**Yes.** The proposed project is located and designed to maximize sun exposure and reduce energy consumption. All building facades and hotel rooms include windows to maximize natural sunlight and reduce energy consumption for lighting and heating during winter months.
MS-2.7: Encourage the installation of solar panels or other clean energy power generation sources over parking areas.	**Yes.** Parking for the project would be primarily situated in parking structures underneath buildings, thus minimizing the surface parking heat island effect. The project would not include solar panels over the parking garage; however, solar panels would be installed on the rooftop of the hotel building. The project would comply with applicable local and the state mandatory measures that are encouraging clean energy power generation.
MS-2.11: Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize the effectiveness of passive solar design).	**Yes.** The project will conform with the City's Green Building Ordinance which includes measures for reduced energy consumption (e.g., LED light fixtures, energy saving appliances).
MS-16.2: Promote neighborhood-based distributed clean/renewable energy generation to improve local energy security and to reduce the amount of energy wasted in transmitting electricity over long distances.	**Yes.** The project applicant is committed to working with the city and the adjoining property owners towards supporting neighborhood-based distributed clean/ renewable energy generation when it becomes available in the area.
3) Pedestrian, Bicycle & Transit Site Design Measures	
CD-2.1: Promote the Circulation Goals and Policies in the Envision San José 2040 General Plan. Create streets that promote pedestrian and	**Yes.** The project includes an on-site connection to the Guadalupe River Trail at the southern limits of the site and currently proposes 20

Table 4.8-1: San José Greenhouse Gas Reduction Strategy Consistency Checklist	
Policy/Strategy	**Consistency Discussion**
bicycle transportation by following applicable goals and policies in the Circulation section of Envision San José 2040 General Plan. a) Design the street network for safe shared use by pedestrians, bicyclists, and vehicles. Include elements that increase driver awareness. b) Create a comfortable and safe pedestrian environment by implementing wider sidewalks, shade structures, attractive street furniture, street trees, reduced traffic speeds, pedestrian-oriented lighting, mid-block pedestrian crossings, pedestrian activated crossing lights, bulb-outs and curb extensions at intersections, and on-street parking that buffers pedestrians from vehicles. c) Consider support for reduced parking requirements, alternative parking arrangements, and Transportation Demand Management strategies to reduce area dedicated to parking and increase area dedicated to employment, housing, parks, public art, or other amenities. Encourage de-coupled parking to ensure that the value and cost of parking are considered in real estate and business transactions.	long-term and three short-term bicycle parking spaces. Bicycle access would be provided via North First Street, where Class II bike lanes currently exist along the project frontage. Upon entering the project site at the Bay Vista driveway, a two-way path is provided along the east side of Bay Vista Drive. The path continues through the project site and provides access to the Guadalupe River Trail. This path would help prevent vehicle-bicycle conflicts on the project site. Pedestrian access would be provided via this path also. Within the project site, sidewalks would provide hotel access to and from the parking garage and surface parking areas. The project would not substantially increase hazards due to bicycles or pedestrians entering and exiting the project site.
CD-2.5: Integrate Green Building Goals and Policies of the Envision San José 2040 General Plan into site design to create healthful environments. Consider factors such as shaded parking areas, pedestrian connections, minimization of impervious surfaces, incorporation of stormwater treatment measures, appropriate building orientations, etc.	**Yes.** As discussed in Section 2.0, Project Information, the proposed project would include shaded parking in the lower levels of the parking structure, on-site bicycle parking, would plant 30 trees on-site and would include stormwater treatment measures consistent with City post construction requirements.
CD-2.11: Within the Downtown and Urban Village Overlay areas, consistent with the minimum density requirements of the pertaining Land Use/Transportation Diagram designation, avoid the construction of surface parking lots except as an interim use, so that long-term development of the site will result in a cohesive urban form. In these areas, whenever possible, use structured parking, rather than surface parking, to fulfill parking requirements. Encourage the	**Not Applicable.** The project site is not located in the Downtown area or within an Urban Village overlay.

Table 4.8-1: San José Greenhouse Gas Reduction Strategy Consistency Checklist	
Policy/Strategy	**Consistency Discussion**
incorporation of alternative uses, such as parks, above parking structures.	
CD-3.2: Prioritize pedestrian and bicycle connections to transit, community facilities (including schools), commercial areas, and other areas serving daily needs. Ensure that the design of new facilities can accommodate significant anticipated future increases in bicycle and pedestrian activity.	**Yes.** The project would not remove or inhibit access to any existing bicycle or pedestrian facilities. The project includes an on-site connection to the Guadalupe River Trail at the southern limits of the site and currently proposes 20 long-term and three short-term bicycle parking spaces. Within the project site, sidewalks would provide hotel access to and from the parking garage and surface parking areas. The project would not conflict with any program, plan, ordinance, or policy addressing pedestrian facilities.
CD-3.4: Encourage pedestrian cross-access connections between adjacent properties and require pedestrian and bicycle connections to streets and other public spaces, with particular attention and priority given to providing convenient access to transit facilities. Provide pedestrian and vehicular connections with cross-access easements within and between new and existing developments to encourage walking and minimize interruptions by parking areas and curb cuts.	**Yes.** The project includes an on-site connection to the Guadalupe River Trail at the southern limits of the site. Within the project site, sidewalks would provide hotel access to and from the parking garage and surface parking areas.
LU-3.5: Provide for the needs of bicyclists and pedestrians, including adequate bicycle parking areas and design measures to promote bicyclists and pedestrian safety.	**Not applicable.** The project site in not located in the Downtown area.
TR-2.8: Require new development to promote on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land use to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.	**Yes.** The project would include 20 long-term and three short-term bicycle parking spaces.
TR-7.1: Require large employers to develop TDM programs to reduce the vehicle trips and vehicle miles generated by their employees through the use of shuttles, provision for car-sharing, bicycle sharing, carpool, parking strategies, transit incentives and other measures.	**Yes.** As noted in Section 4.17, Transportation, the project would be required to implement a TDM program which would include measures to support reduced vehicle trips.

Table 4.8-1: San José Greenhouse Gas Reduction Strategy Consistency Checklist	
Policy/Strategy	**Consistency Discussion**
TR-8.5: Promote participation in car share programs to minimize the need for parking spaces in new and existing development.	**Yes.** As noted in Section 4.17, Transportation, the project would be required to implement a TDM program which may include a car share program.
4) Water Conservation and Urban Forestry Measures	
MS-3.1: Require water-efficient landscaping, which conforms to the state's Model Water Efficient Landscape Ordinance (MWELO), for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.	**Yes.** The proposed project would include use of low water use plants and irrigation systems consistent with the State's MWELO requirements.
MS-3.2: Promote the use of green building technology or techniques that can help reduce the depletion of the City's potable water supply, as building codes permit. For example, promote the use of captured rainwater, graywater, or recycled water as the preferred source of non-potable water needs such as irrigation and building cooling, consistent with Building Codes or other regulations.	**Yes.** The project would utilize recycled water for landscape irrigation.
MS-19.4: Require the use of recycled water whenever feasible and cost-effective to serve the existing and new development.	**Yes.** The project would utilize recycled water for landscape irrigation.
MS-21.3: Ensure that San José's Community Forest is comprised of species that have low water requirements and are well adapted to its Mediterranean climate. Select and plant diverse species to prevent monocultures that are vulnerable to pest invasions. Furthermore, consider the appropriate placement of tree species and their lifespan to ensure perpetuation of the Community Forest.	**Yes.** The proposed trees would have low water requirements and are suitable for San José's climate. The project would plant diverse species.
MS-26.1: As a condition of new development, require the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.	**Yes.** As noted in Section 4.4, the project would be required to comply with the City's tree replacement policy and would result in approximately 100 trees being planted.
ER-8.7: Encourage stormwater reuse for beneficial uses in existing infrastructure and future development through the installation of rain	**Yes.** The proposed project includes water-efficient landscaping that does not warrant use of irrigation such that rain barrels, cisterns, or water storage facilities would be necessary.

Table 4.8-1: San José Greenhouse Gas Reduction Strategy Consistency Checklist	
Policy/Strategy	**Consistency Discussion**
barrels, cisterns, or other water storage and reuse facilities.	
Table B: Greenhouse Gas Reduction Strategy	
Part 1: Residential Projects – Not Applicable to the Project	
Part 2: Residential and Non-Residential Projects	
Renewable Energy Development 1. Install solar panels, solar hot water, or other clean energy power generation sources on development sites, or 2. Participate in community solar programs to support development of renewable energy in the community, or 3. Participate in San José Clean Energy at the Total Green level (i.e., 100% carbon-free electricity) for electricity accounts associated with the project. **Supports Strategies: GHGRS #1, GHGRS #3**	**Yes.** The project includes installation of solar panels on the rooftop of the hotel building.
Building Retrofits – Natural Gas This strategy applies to projects that include a retrofit of an existing building. **Supports Strategies: GHGRS # 4**	**Not Applicable.** This strategy is not applicable because the project does not include a retrofit of existing buildings.
Zero Waste Goal 1. Provide space for organic waste collection containers, and/or 2. Exceed the City's construction and demolition waste diversion requirement **Supports Strategies: GHGRS #5**	**Yes.** Organic waste containers will not be provided for the proposed hotel. However, the proposed project would meet the City's construction and demolition waste diversion requirements.
Caltrain Modernization 1. For projects located within 1/2 mile of a Caltrain station, establish a program through which to provide project tenants and/or residents with free or reduced Caltrain passes; or 2. Develop a program that provides project tenants and/or residents with options to reduce their vehicle miles traveled (e.g., a TDM program), which could include transit passes, bike lockers and showers, or other strategies to reduce project related VMT. **Supports Strategies: GHGRS #6**	**Yes.** As noted in Section 4.17, Transportation, the project would be required to implement a TDM program which would include measures to support reduced vehicle trips.

Table 4.8-1: San José Greenhouse Gas Reduction Strategy Consistency Checklist	
Policy/Strategy	**Consistency Discussion**
Water Conservation 1. Install high-efficiency appliances/fixtures to reduce water use, and/or include water sensitive landscape design, and/or 2. Provide access to reclaimed water for outdoor water use on the project site. **Supports Strategies: GHGRS #7**	**Yes.** The proposed project would include high-efficiency fixtures to reduce water usage and would utilize recycled water for landscape irrigation.
Note: Refer to Section 4.8.1.2 for more information on the seven strategies identified in the 2030 GHGRS.	

As noted above, the project would be consistent with 2030 GHGRS and therefore would not conflict with AB 32 or SB 32. For these reasons, the impact would be less than significant. **(Less than Significant Impact)**

Impact GHG-2: The project would not conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of GHGs. **(Less than Significant Impact)**

As discussed under Impact GHG-1, the project would be consistent with the 2030 GHGRS. Additionally, the proposed project would not conflict or otherwise interfere with the statewide GHG reduction measures identified in CARB's Scoping Plan nor would the project conflict with SB 100 goals. The project would be constructed in conformance with CALGreen and the Title 24 Building Code, which requires high-efficiency water fixtures, water-efficient irrigation systems, and compliance with current energy efficacy standards. Therefore, the project would not conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of GHGs. **(Less than Significant Impact)**

4.9 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based on a Phase I Environmental Site Assessment and a Phase II Soil and Groundwater Investigation completed by Geologica Inc. in November 2015 and March 2016, respectively, a Soil Management Plan completed for the site and surrounding sites by Geologica Inc. in June 2018, and a Phase I Environmental Site Assessment completed by ERAS Environmental, Inc in April 2021. The Phase I Environmental Site Assessment from 2015, the Phase II Report from 2016, and the Soil Management Plan from 2018 were completed for a 36-acre study area that includes the project site, as well as the City approved Topgolf @ Terra development northwest of the project site. The reports are attached as Appendices D, E, and F, respectively. The Phase I completed in 2021 was completed for the specific project site (APN 015-48-006)[40] and is attached as Appendix G.

4.9.1 Environmental Setting

4.9.1.1 *Regulatory Framework*

Overview

The storage, use, generation, transport, and disposal of hazardous materials and waste are highly regulated under federal and state laws. In California, the EPA has granted most enforcement authority over federal hazardous materials regulations to the California Environmental Protection Agency (CalEPA). In turn, local agencies have been granted responsibility for implementation and enforcement of many hazardous materials regulations under the Certified Unified Program Agency (CUPA) program.

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

Federal and State

Federal Aviation Regulations Part 77

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

Comprehensive Environmental Response, Compensation, and Liability Act

[40] The site was originally APN 015-39-020, but the site's APN has been changed to APN 015-48-006.

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, was enacted by Congress on December 11, 1980. This law created a tax on the chemical and petroleum industries and provided broad federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment. Over five years, $1.6 billion was collected and the tax went to a trust fund for cleaning up abandoned or uncontrolled hazardous waste sites. CERCLA accomplished the following objectives:

- Established prohibitions and requirements concerning closed and abandoned hazardous waste sites;
- Provided for liability of persons responsible for releases of hazardous waste at these sites; and
- Established a trust fund to provide for cleanup when no responsible party could be identified.

The law authorizes two kinds of response actions:

- Short-term removals, where actions may be taken to address releases or threatened releases requiring prompt response; and
- Long-term remedial response actions that permanently and significantly reduce the dangers associated with releases or threats of releases of hazardous substances that are serious, but not immediately life-threatening. These actions can be completed only at sites listed on the EPA's National Priorities List.

CERCLA also enabled the revision of the National Contingency Plan (NCP). The NCP provided the guidelines and procedures needed to respond to releases and threatened releases of hazardous substances, pollutants, or contaminants. The NCP also established the National Priorities List. CERCLA was amended by the Superfund Amendments and Reauthorization Act on October 17, 1986.[41]

Resource Conservation and Recovery Act

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

The Federal Hazardous and Solid Waste Amendments (HSWA) are the 1984 amendments to RCRA that focused on waste minimization, phasing out land disposal of hazardous waste, and corrective action for releases. Some of the other mandates of this law include increased enforcement authority

[41] United States Environmental Protection Agency. "Superfund: CERCLA Overview." Accessed October 22, 2020. https://www.epa.gov/superfund/superfund-cercla-overview.

for the EPA, more stringent hazardous waste management standards, and a comprehensive underground storage tank program.[42]

Government Code Section 65962.5

Section 65962.5 of the Government Code requires CalEPA to develop and update a list of hazardous waste and substances sites, known as the Cortese List. The Cortese List is used by state and local agencies and developers to comply with CEQA requirements. The Cortese List includes hazardous substance release sites identified by the Department of Toxic Substances Control (DTSC) and State Water Resources Control Board (SWRCB).[43]

Toxic Substances Control Act

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

California Accidental Release Prevention Program

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

Asbestos-Containing Materials

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

[42] United States Environmental Protection Agency. "Summary of the Resource Conservation and Recovery Act." Accessed October 22, 2020. https://www.epa.gov/laws-regulations/summary-resource-conservation-and-recovery-act.
[43] California Environmental Protection Agency. "Cortese List Data Resources." Accessed October 22, 2020. https://calepa.ca.gov/sitecleanup/corteselist/.

CCR Title 8, Section 1532.1

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

Local

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects with the City. The following policies are specific to hazards and hazardous materials and are applicable to the proposed project.

Envision San José 2040 Relevant Hazardous Material Policies

Policy	Description
Policy EC-7.1	For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.
Policy EC-7.2	Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.
Action EC-7.9:	Ensure coordination with the County of Santa Clara Department of Environmental Health, Regional Water Quality Control Board, Department of Toxic Substances Control or other applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists.
Action EC 7.10:	Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.

4.9.1.2 *Existing Conditions*

Historic Uses

The project site was undeveloped from at least 1897 until the mid-1960s. Portions of the site were utilized from the 1950s through the 1960s as an unpermitted debris dumping area. The Guadalupe River was present on the southeastern portion of the site until the mid-1960s when the river was channelized to the west of the site. A portion of the former riverbed remains on the site currently.

In the late 1990s, the northwestern portion of the site was included as part of a former golf driving range facility. The development was cleared by 2016, at which point the entire property consisted of vacant land.

South Bay Asbestos Area

The entire town of Alviso, including the project site, is located within a former Superfund site called the South Bay Asbestos Area. Three sources of asbestos were identified in the area: the "ring levee", truck yards, and former landfills where asbestos containing materials were historically disposed. Asbestos fibers from these sources proliferated throughout the 550-acre South Bay Asbestos Area. Remediation of the truck yards and ring levee were completed in 1994 and 1997, respectively. Following the completion of remediation activities and subsequent testing by the EPA, the South Bay Asbestos Area was removed from the Superfund list. Other than deed restrictions placed on the properties containing the former landfills to prevent the release of asbestos resulting from future development activities, no remaining Superfund regulations apply to the area.

The former Sainte Claire Landfill site is located immediately west of the project site, along either side of Gold Street south of Moffat Street. This landfill was identified by the EPA as having the potential for asbestos-containing waste materials. In 2011, the property owner performed additional sampling work under EPA oversight sufficient to show that the former Sainte Claire landfill need not be deed restricted to prevent potential exposure to asbestos containing waste. Of the 28 samples analyzed, only one had over the one percent concentration action level. All of the other concentrations were less than 0.25 percent or none detected, which means the 0.29 percent average for all samples is substantially less than the one percent action level established for the site by the EPA. The EPA coordinated its review of this sampling effort and the analytical results closely with the supporting state agency, the California DTSC. The DTSC has concurred with EPA that based on sampling results, a deed restriction (i.e., land use covenant) is not needed for the Sainte Claire Landfill. As a result, the landfill is not subject to the requirements and restrictions of the South Bay Asbestos Area.[44] The project site is not within the former landfill.

Current Uses

The site is undeveloped and vacant except for a large homeless encampment close to the southeast portion of the site and a number of small encampments along the northwest portion of the site. Garbage and household debris extends across the middle of the site. The site is mostly surrounded by chain link fencing on the northwest and northeast sides. The site has irregular topography with many small, elevated areas and low sections scattered throughout, and is approximately 15 feet below the adjacent levee and parcels to the northwest and northeast. The low area of the site extends southeast to the elevated Highway 237. The northwest portion of the site is graded and covered with gravel, which extends northwest to a paved road to the Topgolf facility.

Septic systems, drywells, monitoring wells or other evidence of subsurface investigations were not observed on the site. No evidence of underground storage tanks, aboveground tanks, sumps, pits, or

[44] US EPA. Explanation of Significant Differences to the Record of Decision - South Bay Asbestos Superfund Site Operable Unit 2 - Overall Site. September 28, 2011.

wells was observed. Additionally, no evidence of significant spillage, leakage or dumping of hazardous materials was observed.[45]

The site was noted to previously be at or below sea level. Up to 14 feet of uncompacted fill and rubble materials have been placed on top of native soils on the site. Given that the project site is known to contain imported soils and fill from unknown locations, there is a potential for contaminated soils to be on the project site. The site is currently approximately five feet above Mean Sea level (MSL).

Surrounding Land Uses

The site is bordered on the east by an office business park with a hotel. The site is bordered to the northwest by a fence-enclosed driving range that is part of the newly constructed three-story Topgolf, beyond which are residences, the Alviso Community Center, the Alviso Health Center, and a gated and fenced parking lot. The site is bordered to the northeast by a strip of undeveloped land and a large, landscaped asphalt parking lot for two recently constructed multi-story office buildings. Across North First Street, to the north, is Mayne Elementary School, youth center, public library, two residential subdivisions and, at the northeast corner of First and Liberty Streets, a small retail center. A large area of undeveloped land bounds the site to the southeast, which extends to the elevated Highway 237. The southern side of the project site is bounded by the Guadalupe River with an adjacent paved trail along the riverfront.

The Syntax Court Waste Disposal site is located southeast of the property, near the intersection of Highway 237 and North First Street. The former Sainte Claire Landfill site is located west of the project site, along either side of Gold Street south of Moffat Street. The project site is not within the bounds of either the Syntax Court Disposal or Sainte Claire Landfill sites.

Recognized Environmental Conditions

Based on previous site investigations, a field reconnaissance, and records searches, the Phase I ESA prepared for the project in 2015 identified the following potential sources of hazardous contamination on the project site:

- Undocumented fill containing concrete debris and other materials underlies most or all of the project site to a depth of up to 14 feet.
- Soil samples taken in 2004 found concentrations of petroleum hydrocarbons and heavy metals in exceedance of Regional Water Quality Control Board (RWQCB) Environmental Screening Levels.
- Off-site shallow groundwater has been impacted by chlorinated volatile organic compounds (VOCs), which are believed to be sourced from a localized area near the intersection of North First Street and Highway 237. In-situ groundwater remediation by injection is in process, however, the leading edge of the plume appears to extend onto the project site.

[45] ERAS Environmental, Inc. Phase I Environmental Site Assessment 015-48-006 North First Street. May 3, 2021.

Several other environmental compliance issues were noted, including a lack of a hazardous materials business plan. In addition, two groundwater piezometers (i.e., devices used to measure groundwater pressure) are known to be on the site but their location is unknown, and they were never properly abandoned or closed under a County permit.

A Soil Management Plan (SMP) for the project site and surrounding parcels was completed in 2018. The SMP was prepared to provide technical and operational guidelines to be instituted during the development of the project site and the surrounding parcels, including any invasive activities such as the installation of utility lines or foundations. The document covers soil management procedures, dust control measures, and decontamination procedures.

A Subsurface Investigation Report was also prepared in 2018 to further characterize soil and groundwater conditions in the vicinity of the proposed project site. Soil and groundwater investigation were conducted in October of 2018. Eight soil borings were advanced to depths of 12 to 28 feet, arranged at locations surrounding the former GP-2 boring[46] (drilled off-site close to the project site boundary). Soil and groundwater samples were recovered from each boring and analyzed for TPH-dro and TPH-oro.

Analytical results indicated that all soil contaminant detections were below the commercial/industrial ESL levels of 1,000 and 140,000 mg/kg, respectively.

Groundwater analysis indicated that TPH-dro exceeded Tier 1 ESL levels at several sampling locations. However, the report noted that groundwater underlying the project site is not suitable for use as drinking water due to high salinity related to proximity to the San Francisco Bay. TPH-dro levels did not exceed aquatic habitat or gross contamination levels (640 and 2,500 ug/L, respectively). TPH-oro analytical results did not exceed the gross contaminant level of 50,000 ug/L. The report also noted that the RWQCB concluded that motor oil detections were likely petroleum degradants and suggested combining TPH-dro and TPH-oro results for comparison to TPH-dro standards. The report stated that this approach would suggest groundwater ESL exceedances at GP-2 and possibly 10 feet and 50 feet to the north of GP-2.

Based on these results, the report concluded that detections of TPH compounds, VOCs, and metals at the project site are related to historic fill placed throughout the project site and contaminants randomly distributed through that fill. As the project site is proposed to be developed for commercial use and would be completely paved and/or otherwise covered and encapsulated, the report concluded that removal of random localized exceedances would not be necessary or practical. As such, the report recommended no further soil testing or excavation at the project site. The previous SMP developed for the site was recommended as a guideline to detail procedures for management of low-level contamination at the project site for subsurface work or grading.

Off-Site Potential Sources of Contamination

The following nearby sites were analyzed in the Phase I Report completed in 2021 due to their close proximity to the project site and their listings within relevant agency databases.

[46] GP-2 boring is a boring from the subsurface investigation completed by Geologica, Inc in 2016. The boring detected an apparent petroleum hydrocarbon "hot spot" in the soil and groundwater in the southwest corner.

4701 North First Street

This site is located to the northwest boundary of the project site, and previously included portions of the project site. The 4701 North First Street includes five parcels (015-48-002, -003, -004, -005, and -007) and was undergoing redevelopment with an upgraded golf center, hotel, and commercial buildings. Investigations were conducted at this location starting in 2015 to assess if excavated soil and produced groundwater would require special handling and or disposal during grading activities during the redevelopment activities.

During investigation activities, fill, including concrete debris, was noted to a depth of up to 14 feet below ground surface (bgs). Groundwater was reported to be present at depths of seven to 18 feet bgs. The expected groundwater flow direction was reported to be to the northwest due to the proximity to the Guadalupe River.

Soil and/or groundwater indicated the presence of contaminants, including the following:

- Total petroleum hydrocarbons quantified as diesel and motor oil (TPH-dro and TPH-oro)
- Total petroleum hydrocarbons quantified as hydraulic oil range organics (TPH-horo)
- Total oil and grease (TOG)
- VOCs (benzene, 1,1-dichloroethene, and vinyl chloride)
- Polychlorinated biphenyls (PCBs)
- Dieldrin
- Metals (arsenic, cobalt, lead, and nickel)

Groundwater samples were collected from two borings in close vicinity and located upgradient of the project site. Concentrations of benzene detected were 0.73 micrograms per liter (ug/L), which are above the RWQCB‘s January 2019 environmental screening level of 0.42 ug/L.

In 2019, a Soil Vapor and Groundwater Testing report was completed for an assessment of vapor intrusion due to the potential presence of low levels of VOCs in the fill and/or in groundwater at the site. The report indicated that low concentrations of VOCs were scattered across the site in soil vapor and occasionally exceeded the ESLs for potential vapor intrusion for commercial or industrial land use. The RWQCB staff indicated that the concentrations detected did not warrant the installation of a vapor mitigation system.

Fuel related VOCs, including benzene, toluene, ethylbenzene, and xylenes (BTEX) were detected consistently at low concentrations across the site. Chlorinated solvents detected on the site consisted of tetrachloroethane (PCE), trichloroethene (TCE), cis-1,2-dichloroethene (cis-1,2-DCE), and trans-1,2-DCE. A Soil Management Plan was put in place for the site and surrounding areas to manage the risk of exposure. No further soil testing or excavation was recommended.

A Vapor Intrusion Mitigation (VIM) Design report for the site was prepared in 2019. VOCs detected on the site appeared to be randomly distributed. The RWQCB agreed that a passive/active VIM system beneath the proposed structure would fully mitigate the risk posed by the known contamination. The system was installed in 2019.

Syntax Court Disposal Site

Previous unpermitted disposals occurred at this location, which is located approximately 1,000 feet east of the project site. The site is now being developed as the 237 @ First Street Development Project. Historical records and previous investigations found that undocumented fill was placed in areas along the former Guadalupe River floodplain dating back to the 1950s, west of the Syntax Court Disposal Site. Development is planned for this site, and therefore investigations and remediation are currently ongoing.

Two groundwater monitoring wells are present at the eastern margin of the Syntax Court Disposal Site, immediately adjacent to the eastern boundary of the project site. The most recent groundwater monitoring report, dated October 2020, indicated the detection of 1,1-DCA at 2.7 ug/L, and 1,1-DCE at 1.7 ug/L. No other VOCs or SVOCs were detected. While these detection levels exceed Tier 1 ESL levels, the noted Tier 1 levels are for the leaching to groundwater to be potential drinking water. As groundwater in the area is impacted by salinity, it is unlikely to be utilized for drinking water. Contaminant levels detected are below contemporary ESLs for commercial vapor intrusion (1,1-DCA, 33 ug/L; 1,2-DCE 9.8 ug/L) and ecological habitat goals (1,1-DCA, 47 ug/L; 1,2-DCE 10,000 ug/L).

Based on the contaminant levels observed in ongoing groundwater monitoring, the Syntax Court Disposal site does not present a risk to subsurface conditions at the project site.

Phase II Soil & Groundwater Investigation

Several soil and groundwater investigations have been completed for the project site to date; for a review of these studies, refer to the proposed project's Phase II Investigation (Appendix E). To evaluate the currently proposed project, *Geologica* took 11 soil and groundwater samples on the site in January 2016. However, only the samples taken in the proposed hotel site will be discussed in the Initial Study. All other samples were taken on the site of the approved Topgolf development (File Number: PD16-034/PDC16-013) and were discussed in the environmental review of that project. Continuous soil cores and temporary groundwater monitoring wells were utilized, with sample depths ranging from the surface to between 16 and 24 feet bgs. The samples were analyzed for many varieties of total petroleum hydrocarbons (TPH), heavy metals, organochlorine pesticides, and polychlorinated biphenyls (PCBs). Supplemental soil and groundwater sampling were completed in February 2016 to further assess site conditions. The complete results of the investigations are provided in Appendix E along with maps showing the soil boring locations and details pertaining to methodology and quality control. The results of the sampling are summarized and discussed below.

Asbestos

Asbestos testing was completed at 15 locations on the site in 1996 to evaluate for asbestos in the onsite fill. Sampling locations were not clearly identified, but did not include a small portion of the site located west of the Pin High Golf Center and south of the RV parking lot. The laboratory analyses did not detect the presence of asbestos in any of the samples. Because the testing locations are unknown and did not include a portion of the site, asbestos may be present in the undocumented fill in areas of the site that were not previously tested.

Total Petroleum Hydrocarbons (TPH)

No TPH as gasoline or diesel were detected in any of the soil samples on the project site.

The RWQCB has established environmental screening levels (ESLs) for Direct Exposure of 1,200 mg/kg and 140,000 mg/kg for TPH-d and TPH-mo, respectively. Only one sample had a TPH-d detection greater than the Direct Exposure ESL of 1,200 mg/kg. TPH-d was not reported at concentrations greater than the Soil to Groundwater Leaching ESL of 3,600 mg/kg. None of the reported TPH-mo concentrations exceeded the Direct Exposure ESL of 140,000 mg/kg.

Pesticides

No pesticides were detected on the project site. However, pesticides were detected in the adjacent Topgolf site. The pesticide levels were generally at low concentrations except for three samples that were above Soil to Groundwater Leaching ESLs. All samples were below the Commercial/Industrial Direct Exposure ESL. Due to the proximity of the Topgolf sampling, it is possible that some pesticides are present in the project site soils as well.

Metals

Cadmium was detected in one on-site soil sample above the Commercial/Industrial Direct Exposure ESL of 0.058 mg/kg. However, this concentration is consistent with natural background concentrations for this metal in Bay Area soils. While no other metals were detected on the project site samples, other metals were detected above ESLs in the Topgolf site. The other metals include arsenic, lead, and beryllium.

Polychlorinated Biphenyls (PCBs)

No PCBs were detected in the on-site soil. One sample in the Topgolf site contained PCBs at a concentration below ESLs. PCBs were not detected in any other samples.

Volatile Organic Compounds (VOCs)

No VOCs were detected in the on-site soil. Acetone was detected in one sample in the Topgolf site. No other VOCs were detected.

Groundwater

Total Petroleum Hydrocarbons (TPH)

The presence of total petroleum hydrocarbons as diesel (TPH-d) and motor oil (TPH-mo) was documented during the Phase I ESA from 2015, the Phase I ESA from 2021, and the Phase II Soil and Groundwater Analysis. Maximum TPD-d concentrations ranged up to 1,900 ug/l, while TPH-mo ranged up to 10,000 ug/l. Numerous detected concentrations of TPH-mo exceeded the applicable ESLs during the time of the Phase II completed in 2016. Analytical results disclosed in the Phase I ESA completed in 2021 indicated that all soil contaminant detections were below the commercial/industrial ESL levels of 1,000 and 140,000 mg/kg, respectively.

Volatile Organic Compounds (VOCs)

The VOCs 1,1-dichloroethene (1,1-DCE) and vinyl chloride (VC) were detected in the groundwater on-site at 18 ug/l and 0.69, respectively, which exceed the applicable ESLs. Several other VOCs were detected at concentrations below applicable ESLs including 1,1,1-trichloroethane (TCA), cis-1,2- dichloroethene (cis-DCE), 1,1-dichloroethane (DCA), and 1,1,2-trichloro-1,2,2-trifluoroethane.

As discussed previously, the up-gradient property southeast of the site (237 @ First Street Development Project) comprises the Syntax Court Disposal Site, which is a source of chlorinated VOCs to groundwater. Groundwater impacts and associated remediation and monitoring are currently occurring on that property under the oversight of the RWQCB. Based on the types of VOC's detected in the groundwater samples for the proposed project, the Syntax Court Disposal Site groundwater VOC plume appears to extend onto the subject property. A groundwater monitoring program is in place at the 237 @ First Street Property. Based on the contaminant levels observed in ongoing groundwater monitoring, the Syntax Court Disposal site does not present a risk to subsurface conditions at the project site.

Dissolved Metals

Groundwater samples indicated detections of cobalt and nickel above the applicable ESLs. The cobalt and nickel concentrations were consistent throughout the project site and the adjacent Topgolf site, indicating that the detections likely represent background conditions. Mercury was also detected in some samples in the Topgolf site. No other metals were detected above their respective ESLs.

Other Hazards

Asbestos Containing Materials

Friable asbestos is any asbestos containing material (ACM) that, when dry, can easily be crumbled or pulverized to a powder by hand allowing the asbestos particles to become airborne. ACMs are of concern because exposure to ACMs has been linked to cancer. Use of friable asbestos products was banned in 1978. Given that there are no existing buildings on site and the existing buildings on the Topgolf site were constructed in the 1990s, ACMs are assumed to be absent for the purposes of this analysis.

As described previously, given the history of asbestos contamination in the Alviso area, undocumented fill on portions of the site that were not previously tested may contain asbestos

Lead-Based Paint

Lead-based paint is of concern both as a source of direct exposure through ingestion of paint chips, and as a contributor to lead in interior dust and exterior soil. In 1978, the Consumer Products Safety Commission banned paint and other surface coating materials containing lead. Given that there are no existing buildings on site and the existing buildings on the Topgolf site were constructed in the 1990s, lead-based paint is assumed to be absent for the purposes of this analysis.

Airports

The Norman Y. Mineta San Jose International Airport is located approximately 5.6 miles south of the project site. As previously mentioned, Federal Aviation Regulations, Part 77, "Objects Affecting Navigable Airspace" (referred to as FAR Part 77) requires that the Federal Aviation Administration (FAA) be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport's runways, or which would otherwise stand at least 200 feet in height above ground. For the project site, any structure exceeding 195 feet in height above grade would require submittal to the FAA for airspace safety review. As the proposed project would have a maximum height of 65 feet, notification to the FAA is not required to determine the potential for the project to create an aviation hazard.

Wildfire Hazards

The project site is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones.[47]

4.9.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☒	☐	☐
2) 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?	☐	☒	☐	☐
3) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☒	☐
4) 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, will it create a significant hazard to the public or the environment?	☐	☒	☐	☐
5) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, result in a safety hazard or excessive noise for people residing or working in the project area?	☐	☐	☒	☐

[47] California Department of Forestry and Fire Protection. Santa Clara County FHSZ Map. November 6, 2007. Accessed October 22, 2020. https://osfm.fire.ca.gov/media/6766/fhszs_map43.pdf

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
6) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
7) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	☐	☐	☒	☐

Impact HAZ-1: The project would not create a significant hazard to the public or the environment through routine transport, use, or disposal of hazardous materials. **(Less than Significant Impact with Mitigation Incorporated)**

Soil Management Plan

A SMP was prepared for the site in June 2018 (see Appendix F). The SMP was prepared to provide technical and operational guidelines to be instituted during the development of the project site and the surrounding parcels, including any invasive activities such as excavation, drilling, or activities involving soil disturbance. The SMP establishes management practices for handling impacted groundwater and/or soil material that may be encountered during site development and soil-disturbing activities.

Components of the SMP include: a detailed discussion of the site background; a summary of the analytical results from soil and groundwater sampling; protocols for preparation of a Health and Safety Plans; protocols for conducting earthwork activities in areas where impacted soil and/or groundwater are present or suspected, including site cap maintenance; health and safety measures and soil handing procedures; mobilization of equipment; site grading protocols; excavation and stockpiling protocols; transport and disposal guidelines; protocols for importing clean soil; protocols for excavation for subsurface utilities; protocols for construction dewatering; dust control measures; worker training requirements; and decontamination procedures. The Regional Water Quality Control Board (RWQCB) provides regulatory oversight for remediation of contamination on the site. The RWQCB reviewed and approved the SMP in its capacity as the regulatory agency. Implementation of the approved SMP would reduce impacts associated with on-site contamination to less than significant levels (refer to MM HAZ-1.1, below).

Operation and construction of the proposed hotel would not require the routine transport, use, or disposal of hazardous materials in quantities that would result in a significant hazard to the public. Operation of the proposed project would include the use and storage of cleaning supplies and maintenance chemicals in small quantities. No other hazardous materials would be used or stored on-site. The small quantities of cleaning supplies and materials would be stored on the site in accordance with all pertinent local, state, and federal regulations and thus would not pose a risk to the public or the environment.

As described above, contaminated soil and groundwater exists on the site. Construction activities could result in the exposure of construction workers (and surrounding residential uses and elementary school) to hazardous materials.

Impact HAZ-1: Residual soil and groundwater contamination could expose construction workers and members of the public, including the surrounding residential uses and elementary school, to hazardous materials during construction activities.

Mitigation Measures: As a condition of approval, the project proponent shall implement the following measures to reduce impacts from hazardous materials to a less than significant level:

MM HAZ-1.1: Prior to the issuance of any grading, demolition, or building permits, the project applicant shall prepare and implement the approved Soil Management Plan prepared for the site under the oversight of the Regional Water Quality Control Board.

With implementation of General Plan policies and precautionary measures, development of the project site would not expose construction workers, the public, or the environment to significant hazards related to soil or groundwater contamination. **(Less Than Significant Impact with Mitigation Incorporated)**

Impact HAZ-2: The project would not 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 Impact with Mitigation Incorporated)**

As previously described in Impact HAZ-1, the project would properly store small quantities of cleaning and maintenance products. No other hazardous materials would be used on-site during project operation. Thus, there would be no significant hazardous materials that could be released during upset and accident conditions. Additionally, with implementation of MM HAZ-1.1, any contaminated soils and groundwater on-site would be properly managed during construction so as to not expose construction workers, the public, or the environment to hazardous materials. Therefore, the project would not 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 Impact with Mitigation Incorporated)**

Impact HAZ-3: The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. **(Less than Significant Impact)**

Mayne Elementary School is within a quarter mile of the project site, located directly across North First Street at 5030 North First Street. However, as previously discussed in Impact HAZ-1 and HAZ-2, the project would not emit hazardous emissions or handle hazardous or acutely hazardous

materials, substances, or wastes in quantities that would pose a risk to human health. Mitigation measures MM HAZ-1.1, identified for contaminated soil/groundwater, would provide adequate mitigation to ensure no exposure for the school from on-site contaminants encountered during construction. **(Less than Significant Impact)**

Impact HAZ-4:	The project would not 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. **(Less than Significant Impact with Mitigation)**

The South Bay Asbestos Area Superfund site is a 550-acre site located in the Alviso District of San José which encompasses the project site. The site includes former landfills, a ring levee and truck yards. The Marshland and Santos landfills accepted asbestos containing material from an asbestos-cement pipe manufacturing plant from 1953 to 1982. Prior to joining the City of San José, the Alviso District erected a ring levee to protect low lying areas from flooding. The ring levee was built with locally quarried rock that contained naturally occurring asbestos. The EPA and the US Army Corps of Engineers removed the ring levee, installed landfill caps, paved truck yards, and restored wetlands. The landfill caps require ongoing maintenance and inspection, including following soil management plans.

The EPA has conducted five, Five-Year Reviews of the South Bay Asbestos Area Superfund site's remedy. These reviews ensure that the remedies put in place protect public health and the environment, and function as intended by site decision documents. The most recent review concluded that response actions at the site are in accordance with the remedy selected by the EPA and that the remedy continues to be protective of human health and the environment.[48]

As discussed under Impact HAZ-1, the project would include mitigation measures to ensure any contaminated soils and groundwater on-site would be properly managed during construction so as to not expose construction workers, the public, or the environment to hazardous materials.

Additionally, the adjacent Topgolf project site has been listed as a Cleanup Program Site since the project's approval due to the remedial action to clean the site's soil and groundwater prior to construction. That project implemented similar mitigation measures to ensure that impacts resulting from removal of the contaminated soil and groundwater would result in less than significant impacts. **(Less than Significant Impact with Mitigation)**

Impact HAZ-5:	The project would not be located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport. The project would not result in a safety hazard or excessive noise for people residing or working in the project area. **(Less than Significant Impact)**

[48] United States Environmental Protection Agency. Superfund Site: South Bay Asbestos Area, Alviso Cleanup Activities. Accessed January 15, 2021. https://cumulis.epa.gov/supercpad/SiteProfiles/index.cfm?fuseaction=second.Cleanup&id=0902250#bkground

As described in Section 4.9.1.2 Existing Conditions the project is over two miles away from the nearest airport, which is the Norman Y. Mineta San José International Airport. The proposed hotel would be a maximum of 65 feet tall, well under the FAA's notification height limit of 200 feet above ground level[49]. The project site is outside of the 2027 60 Community Noise Equivalent Level (CNEL) contour.[50] Therefore, the project would not result in a safety hazard or excessive noise for people residing or working in the project area. **(Less than Significant Impact)**

Impact HAZ-6:	The project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. **(No Impact)**

The parking lot design provides adequate access for emergency vehicles throughout the project site (see Section 4.17 Transportation). The proposed project would not impair or interfere with the implementation of an adopted City of San Jose or County of Santa Clara emergency response plan or emergency evacuation plan. **(No Impact)**

Impact HAZ-7:	The project would not expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires. **(Less than Significant Impact)**

As described in Section 4.9.1.2 Existing Conditions, the project site is not located in a fire hazard severity zone. The project would not exacerbate existing conditions. Therefore, the project would not expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires. **(Less than Significant Impact)**

[49] FAA. Notice of Proposed Construction of Alteration. §77.13 Construction or alteration requiring notice.
[50] Norman Y. Mineta San José International Airport. 2027 CNEL Contours for Airport Master Plan. Amended June 8, 2010. Map.

4.10 HYDROLOGY AND WATER QUALITY

4.10.1 Environmental Setting

4.10.1.1 *Regulatory Framework*

Federal and State

National Flood Insurance Program

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

Statewide Construction General Permit

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

Regional and Local

San Francisco Bay Basin Plan

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

Municipal Regional Permit Provision C.3.

The San Francisco Bay RWQCB re-issued the Municipal Regional Stormwater NPDES Permit (MRP) in 2015 to regulate stormwater discharges from municipalities and local agencies (co-permittees) in Alameda, Contra Costa, San Mateo, and Santa Clara Counties, and the cities of

Fairfield, Suisun City, and Vallejo.[51] Under Provision C.3 of the MRP, new and redevelopment projects that create or replace 10,000 square feet or more of impervious surface area are required to implement site design, source control, and Low Impact Development (LID)-based stormwater treatment controls to treat post-construction stormwater runoff. LID-based treatment controls are intended to maintain or restore the site's natural hydrologic functions, maximizing opportunities for infiltration and evapotranspiration, and using stormwater as a resource (e.g., rainwater harvesting for non-potable uses). The MRP also requires that stormwater treatment measures are properly installed, operated, and maintained.

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

Water Resources Protection Ordinance and District Well Ordinance

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

Post-Construction Urban Runoff Management (City Council Policy No. 6-29)

The City of San José's Policy No. 6-29 implements the stormwater treatment requirements of Provision C.3 of the MRP. City Council Policy No. 6-29 requires new development and redevelopment projects to implement post-construction Best Management Practices (BMPs) and Treatment Control Measures (TCMs). This policy also established specific design standards for post-construction TCMs for projects that create or replace 10,000 square feet or more of impervious surfaces.

Post-Construction Hydromodification Management (City Council Policy No. 8-14)

The City of San José's Policy No. 8-14 implements the hydromodification management requirements of Provision C.3 of the MRP. Policy No. 8-14 requires new development and redevelopment projects that create or replace one acre or more of impervious surface area, and are located within a subwatershed that is less than 65 percent impervious, to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt generation, or other impacts to local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP). Projects that do not meet the minimum size threshold, drain into tidally influenced areas or directly into the Bay, or are infill projects in subwatersheds or

[51] MRP Number CAS612008

catchment areas that are greater than or equal to 65 percent impervious would not be subject to the HMP requirement.

City of San José Floodplain Ordinance

The City's Floodplain Ordinance establishes minimum elevations for finished building floors based on base flood elevations (BFEs) established for the NFIP, and generally prohibits any improvements that will cause a cumulative rise of more than one foot to the base flood elevation at any point in San José.

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects with the City. The following policies are specific to hydrology and water quality and are applicable to the proposed project.

Policy	Description
Policy IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
Policy IN-3.9	Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards.
Policy MS-3.4	Promote the use of green roofs (i.e., roofs with vegetated cover), landscape-based treatment measures, pervious materials for hardscape, and other stormwater management practices to reduce water pollution.
Policy ER-8.1	Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
Policy ER-8.3	Ensure that private development in San José includes adequate measures to treat stormwater runoff.
Policy EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and stormwater controls.
Policy EC-5.7	Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.
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.

Alviso Master Plan

The Alviso Master Plan establishes the location, intensity, and character of land uses; the circulation pattern, and necessary infrastructure improvements to support development. The following policies are specific to hydrology and water quality and are applicable to the proposed project.

Alviso Master Plan Relevant Utilities Policies

Policies	Description
Storm Drainage Policy 1	All new development projects should be evaluated to determine the possible need for additional storm drainage facilities
Environmental Protection Policy 1	All new parking, circulation, loading, outdoor storage, utility, and other similar activity areas must be located on paved surfaces with proper drainage to avoid potential pollutants from entering the groundwater, Guadalupe River, Coyote Creek, or San Francisco Bay

4.10.1.2 *Existing Conditions*

Water Quality

The project site is located within the Guadalupe River watershed, which covers a 170 square-mile area, including the Guadalupe River/Alviso Slough (adjacent to the west of the site). The water quality of the river/slough can be greatly affected by pollution carried in contaminated surface runoff. Pollutants from unidentified sources, known as "non-point" source pollutants, are washed from streets, construction sites, parking lots, and other exposed surfaces into storm drains. Grading and excavation activities during construction could increase the amount of surface water runoff (i.e., particles of fill or excavated soil) from the site, or could erode soil downgradient, if the flows are not controlled).

Groundwater

The project site is located in the Santa Clara Valley Groundwater Basin between the Diablo Mountains to the east and Santa Cruz Mountains to the west. The Santa Clara Valley Groundwater Basin is filled by valley floor alluvium and the Santa Clara Formation. Groundwater at the project site can range from 14 to 15 feet below ground surface (bgs).[52] Groundwater levels typically fluctuate seasonally depending on the variation in rainfall, irrigation from landscaping, and other factors. The project site does not contribute to the recharging of the County's groundwater aquifers managed by the Santa Clara Valley Water District.

Storm Drainage

The site is currently undeveloped and pervious. While a majority of storm water would percolate into the ground on-site, runoff still occurs under high rain scenarios. Runoff follows the grade of the site, flowing northeast towards storm drains on North First Street, which is then conveyed to a pump

[52] *Geologica, Inc.* Phase I Environmental Site Assessment: Pin High Golf Center & 3 Adjacent Parcels. November 10, 2015.

station near Gold Street or flowing towards the non-wetland water feature on the southeast portion of the site.

4.10.2 Impact Discussion

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

Impact HYD-1:	The project would not violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality. **(Less than Significant Impact)**

Construction-Related Water Quality Impacts

Construction of the proposed project, including grading, and excavation activities, may result in temporary impacts to surface water quality. Surface runoff that flows across the site may contain sediments that are ultimately discharged into the storm drainage system. Construction of the project would disturb more than one acre of soil and, therefore, compliance with the National Pollution Discharge Elimination System (NPDES) General Permit for Construction Activities is required. As part of development of the proposed project, a Notice of Intent (NOI) would be submitted to the State Water Quality Control Board (SWQCB). Prior to initiation of construction or demolition activities a Storm Water Pollution Prevention Plan (SWPPP) would be prepared in accordance with the NPDES requirements. The SWPPP would identify specific Best Management Practices (BMPs) that would be used at the project site to treat and control stormwater, reduce sedimentation, and prevent erosion.

All development projects in San José shall comply with the City's Grading Ordinance. The City of San José Grading Ordinance requires the use of erosion and sediment controls to protect water quality while a site is under construction. Prior to issuance of a permit for grading activity occurring during the rainy season (October 1 to April 30), the applicant is required to submit an Erosion Control Plan to the Director of Public Works for review and approval. The Plan must detail the Best Management Practices (BMPs) that would be implemented to prevent the discharge of stormwater pollutants.

The Municipal Regional Permit and City Council Policy 8-14 requires regulated projects to include measures to control hydromodification impacts where the project would otherwise cause increased erosion, silt pollutant generation, or other adverse impacts to local rivers and creeks. Development projects that create and/or replace one acre or more of impervious surface and are located in a subwatershed or catchment that is less than 65 percent impervious must manage increases in runoff flow and volume so that post-project runoff shall not exceed estimated pre-project rates and durations. Projects located within catchment areas that drain to hardened channels that extend continuously to the Bay, or projects located within tidally-influenced creek areas or Bayland areas, are not subject to the City's hydromodification requirements.

Based on the SCVUPPP Watershed Map for the City of San José, the project site is currently exempt from the NPDES hydromodification requirements because it is located in a subwatershed that drains into a hardened channel and/or tidal area.[53]

Standard Permit Conditions: Consistent with the General Plan, standard permit conditions that shall be implemented to prevent stormwater pollution and minimize potential sedimentation during construction include, but are not limited to, the following:

[53] Santa Clara Valley Urban Runoff Pollution Prevention Program. Accessed October 20, 2020. http://www.scvurppp-w2k.com/hmp_maps.htm

- Utilize on-site sediment control BMPs to retain sediment on the project site;
- Utilize stabilized construction entrances and/or wash racks;
- Implement damp street sweeping;
- Provide temporary cover of disturbed surfaces to help control erosion during construction; and
- Provide permanent cover to stabilize the disturbed surfaces after construction has been completed.

The project, with the implementation of the SWPPP and standard permit conditions, would not result in significant construction-related water quality impacts. **(Less than Significant Impact)**

Impact HYD-2:	The project would not substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin. **(Less than Significant Impact)**

The project site does not presently contribute to recharging of the groundwater aquifers used for water supply (managed by the Santa Clara Valley Water District) and this condition would not change once development is complete. As a result, implementation of the project would not interfere with groundwater recharge or cause a reduction in the overall groundwater supply. **(Less than Significant Impact)**

Impact HYD-3:	The project would not substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on- or off-site; substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site; create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or impede or redirect flood flows. **(Less than Significant Impact)**

The project site is exempt from the hydromodification control requirements in the Municipal Regional NPDES permit and Council Policy 8-14 because it is located in a subwatershed that drains into a hardened channel and/or tidal area. Moreover, details of specific site design and stormwater treatment control measures demonstrating compliance with Municipal Regional NPDES permit and City Council Policy 6-29 shall be included in the project design (refer to Figure 3.4), to the satisfaction of the Director of Planning, Building and Code Enforcement.

The project would not alter the course of a stream or river. As part of the development of the proposed project, a SWPPP would be prepared in compliance with NPDES requirement and would ensure erosion or siltation impacts are less than significant.

Stormwater catch basins would be located throughout the site. Stormwater would be collected in the catch basins, then directed to bioretention areas for treatment and detention before being conveyed off-site to an existing 48-inch storm drain in North First Street. Although the project would increase the amount of impervious surfaces on the site, the proposed detention system would limit runoff from the proposed project to the equivalent of existing conditions. **(Less than Significant Impact)**

Impact HYD-4:	The project would not risk release of pollutants due to project inundation in flood hazard, tsunami, or seiche zones. **(Less than Significant Impact)**

The project site is not within a tsunami inundation area or subject to a seiche. A seiche is the resonant oscillation of water generated in an enclosed body of water, such as San Francisco Bay, from seismic activity. Seiches are related to tsunamis for enclosed bays, inlets, and lakes. These tsunami-like waves can be generated by earthquakes, subsidence or uplift of large blocks of land, submarine and onshore landslides, sediment failures and volcanic eruptions. The strong currents associated with these events may be more damaging than inundation by waves. The largest seiche wave ever measured in the San Francisco Bay, following the 1906 earthquake, was four inches high. The Bay Area has not been adversely affected by seiches during its history within this seismically active region of California.[54] Thus the risk of inundation of seiche at the project site is low.

Tsunami hazards for the Santa Clara County coastline have been modeled by the California Emergency Management Agency (Cal EMA) to identify areas at risk for tsunami inundation. Multiple source events were selected to represent local and distant earthquakes, and hypothetical extreme undersea, near-shore landslides occurring around the San Francisco Bay region. As defined by the Tsunami Inundation Map for Emergency Planning Milpitas Quadrangle dated July 31, 2009, the risk of inundation by tsunami at the proposed site is low. The project is unlikely to be affected by seiches or tsunamis and therefore would not release pollutants due to inundation.

The Federal Emergency Management Agency (FEMA) manages the NFIP and creates Flood Insurance Rate Maps (FIRMs) that designates 100-year floodplain zones and delineate other flood hazard areas. A 100-year floodplain zone is the area that has a one in one hundred (one percent) chance of being flooded in any one year based on historical data. The project site is located in flood hazard zone AE, defined as a special flood hazard area with a one percent annual chance flood event (also known as the 100-year flood zone) as determined by the FEMA NFIP. Tidal inundation from San Francisco Bay under the regulatory assumptions necessitated by a non-accredited outboard levee system inundates the project site to a base flood elevation of 12 feet.

Standard Permit Conditions: The project would implement the following standard permit conditions to reduce flooding impacts to proposed structures in order to comply with relevant City policies.

[54] US Army Corps of Engineers San Francisco District, Port of Oakland. *Oakland Harbor Navigation Improvement (-50 foot) Project SCH No. 97072051 Final Environmental Impact Statement/Report*, May 1998, updated January 2000.

- The lowest floor shall be elevated above 12.00' NAVD88 or floodproof to the same elevation. For insurance rating purposes, the structure's floodproofed design elevation must be at least one foot above the base flood elevation to receive rating credit.
- An Elevation Certificate (FEMA Form 086-0-33) for the proposed project, based on construction drawings, is required prior to issuance of a building permit. Additionally, an Elevation Certificate for the built structure, based on finished construction, is required prior to issuance of an occupancy permit.
- If the structure is to be floodproofed, a Floodproofing Certificate (FEMA Form 086-0-34) for each structure, floodproofing details, and if applicable, a Flood Emergency Operation Plan and an Inspection and Maintenance Plan are required prior to the issuance of a Public Works Clearance.
- Building support utility systems such as HVAC, electrical, plumbing, air conditioning equipment, including ductwork, and other service facilities must be elevated above the base flood elevation or protected from flood damage.

The project would not risk release of pollutants due to project inundation in flood hazard, tsunami, or seiche zones. **(Less than Significant Impact)**

Impact HYD-5:	The project would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan. **(No Impact)**

The project includes LID-based treatment controls and would not obstruct implementation of the Basin Plan. The project site is not located within any designated groundwater recharge areas, and would have a less than significant impact on groundwater supplies. Therefore, the project would not conflict with or obstruct the implementation of a water quality control plan or sustainable groundwater management plan. **(Less than Significant Impact)**

4.11 LAND USE AND PLANNING

4.11.1 Environmental Setting

4.11.1.1 *Regulatory Framework*

Regional and Local

Habitat Conservation Plan/Natural Community Conservation Plan

As described in Section 4.4 Biological Resources, the Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (HCP), which encompasses a study area of 519,506 acres (or approximately 62 percent of Santa Clara County), was adopted by six local entities in Santa Clara County and went into effect in October 2013. The entire 6.23-acre project site is contained within the boundaries of the HCP (the project is located at the northwestern edge of the HCP boundary, as the HCP does not include any of the baylands or tidal areas) and the project would be considered a covered activity.

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects with the City. The following policies are specific to land use and are applicable to the proposed project.

Envision San José 2040 Relevant Land Use Policies

Policies	Description
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.
CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
Policy CD-4.9	For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).
Policy ER-2.1	Ensure that new public and private development adjacent to riparian corridors in San José are consistent with the provisions of the City's Riparian Corridor Policy Study and any adopted Santa Clara Valley Habitat Conservation Plan/ Natural Communities Conservation Plan (HCP/NCCP).
Policy ER-2.2	Ensure that a 100-foot setback from riparian habitat is the standard to be achieved in all but a limited number of instances, only where no significant environmental impacts would occur.

Policy ER-2.3	Design new development to protect adjacent riparian corridors from encroachment of lighting, exotic landscaping, noise and toxic substances into the riparian zone.
Policy ER-2.4	When disturbances to riparian corridors cannot be avoided, implement appropriate measures to restore, and/or mitigate damage and allow for fish passage during construction.
Policy ER-2.5	Restore riparian habitat through native plant restoration and removal of nonnative/invasive plants along riparian corridors and adjacent areas.

Alviso Master Plan

The project site is located within the boundaries of the Alviso Village. The Alviso Master Plan, adopted in 1998, designates the site as a *Combined Industrial/Commercial* land use. Allowed uses under the *Combined Industrial/Commercial* designation include commercial activities, industrial uses, or a compatible mix. Commercial uses could include retail, restaurant, office, hotel, or other commercial establishments. Other allowed non-industrial uses are primary/secondary schools, freestanding day care centers, churches, and sports, social, or arts centers.

Riparian Corridor Protection and Bird-Safe Design Policy

San José Policy 6-34 provides guidance consistent with the City's Envision San José 2040 General Plan for:

1. protecting, preserving, or restoring riparian habitat;
2. limiting the creation of new impervious surface within Riparian Corridor setbacks to minimize flooding from urban runoff, and control erosion; and
3. encouraging bird-safe design in baylands and riparian habitats of lower Coyote Creek, north of State Route 237.

Riparian projects are defined as any development of activity that is located within 300 feet of a Riparian Corridor's top of bank or vegetative edge, whichever is greater, and that requires approval of a Development Permit as defined in Chapter 20.200 of Title 20 of the San José Municipal Code (the Zoning Code), except that projects that only require approval of a Single-Family House Permit under the provisions of the Zoning Code are not subject to this policy. The proposed project is subject to Policy 6-34, as it is within 300 feet of a Riparian Corridor. The following riparian guidelines apply to the project:

- For new commercial/institutional buildings, a 100-foot setback from the Riparian Corridor is required.
- New development should use materials and lighting that are designed and constructed to reduce light and glare impacts to Riparian Corridors. For example, the use of bright colors, and glossy, reflective, see through or glare-producing building and material finishes is discouraged on buildings and structures. Lighting should not be directed into Riparian Corridors.
- Project design and implementation should include erosion-control measures in conformance with the City Council Policies 6-29 and 8-14 (Stormwater Policies) to avoid soil erosion and to minimize runoff. Projects that are not subject to the Stormwater Policies should incorporate basic site-design measures such as limiting disturbances of Riparian Corridor

areas, conserving natural areas through the protection of planting of riparian-compatible vegetation, minimizing impervious surfaces, directing runoff to areas outside of and away from Riparian Corridors, and locating trash storage away from Riparian Corridors.

The following bird-safe design guidelines apply to the project:

- Avoid mirrors and large areas of reflective glass.
- Avoid transparent glass skyways, walkways, or entryways, free-standing glass walls, and transparent building corners.
- Avoid funneling open space to a building façade.
- Strategically place landscaping to reduce reflection and views of foliage inside or through glass.
- Avoid or minimize up-lighting and spotlights.
- Turn non-emergency lighting off, or shield it, at night to minimize light from buildings that is visible to birds, especially during bird mitigation season (February – May and August – November).

4.11.1.2 *Existing Conditions*

The project site is zoned as CIC(PD) - *Planned Development (Combined Industrial/ Commercial Base District*.

Development immediately north of the site, across North First Street, includes the George Mayne Elementary School, Alviso Youth Center, Alviso Branch Library, single-family residences, four office buildings (two to three stories in height), three industrial warehouse buildings, and a small strip mall. Development to the west of the site, across Liberty Street, consists of one-story single-family residences, a two-story health clinic with associated paved parking area, and a small community center consisting of a one-story structure and landscaped areas. Properties on the east side of Liberty Street contain a towing yard, and one-story single-family residences situated between the Guadalupe River and the western area of the site. Development to the south of the site, across the Guadalupe River, consists of a mobile home community and a two-story commercial office development.

As of January 2020, an active construction site is underway northwest of the project site on North First Street. Once complete, the site will include a 65-foot tall hotel and 54 foot tall parking garage.

4.11.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Physically divide an established community?	☐	☐	☒	☐
2) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☒	☐

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				

Impact LU-1:	The project would not physically divide an established community. **(Less than Significant Impact)**

The project proposes to construct a 214-room hotel on an undeveloped, 6.23-acre lot. The project would not physically divide an established community. Access to the site would be provided by a 26-foot wide roadway on the northwestern boundary of the project site. This roadway would connect with two planned roadways from an adjacent approved development, both exiting onto North First Street. The access roadway would also connect with two proposed internal roadways within the project site. The project would not physically divide an established community. **(Less than Significant Impact) (Less than Significant Impact)**

Impact LU-2:	The project would not cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. **(Less than Significant Impact)**

The proposed project would be consistent with the current *Combined Industrial/Commercial* General Plan land use designation, which allows for hotels as a commercial use with building heights up to 24 stories and densities of up to a FAR of 12, as well as the Alviso Master Plan which allows buildings with a maximum height of 65 feet/five stories. The proposed project would also be consistent with the current CIC(PD) - *Planned Development (Combined Industrial/ Commercial Base District* zoning.

The project site is located within the boundaries of the HCP, and would be considered a covered activity. As described in Section 4.4 *Biological Resources*, the project would comply with the requirements of the HCP and Riparian Policy. **(Less than Significant Impact)**

4.12 MINERAL RESOURCES

4.12.1 Environmental Setting

4.12.1.1 *Regulatory Framework*

State

Surface Mining and Reclamation Act

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

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

4.12.1.2 *Existing Conditions*

Mineral resources found in Santa Clara County include construction aggregate deposits such as sand, gravel, and crushed stone. The only area in the City of San José that is designated by the State Mining and Geology Board under the Surface Mining and Reclamation Act of 1975 (SMARA) as containing mineral deposits which are of regional significance is Communications Hill. Communications Hill is located over 11 miles southeast of the project site and generally bound by the Southern Pacific Railroad, Curtner Avenue, State Route 87, and Hillsdale Avenue.[55]

4.12.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Result in the loss of availability of a known mineral resource that will be of value to the region and the residents of the state?	☐	☐	☐	☒

[55] City of San José. 2011. *Envision San José 2040 General Plan Final Program EIR.*

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
2) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒

Impact MIN-1:	The project would not result in the loss of availability of a known mineral resource that would be of value to the region and residents of the state. **(No Impact)**

Based on the United States Geological Survey (USGS) map of mines and mineral resources, the project site is not comprised of known mineral resources or mineral resource production areas.[56] Therefore, the proposed project would not result in the loss of availability of a known mineral resource that would be of value to the residents in the state or region. **(No Impact)**

Impact MIN-2:	The project would not result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan. **(No Impact)**

See discussion for Impact MIN-1.

[56] United States Geological Survey. *Mineral Resources Online Spatial Data: Interactive maps and downloadable data for regional and global Geology, Geochemistry, Geophysics, and Mineral Resources.* Available at https://mrdata.usgs.gov/ Accessed November 22, 2019.

4.13 NOISE

The following discussion is based, in part, on a Noise and Vibration Assessment prepared for the project by Illingworth & Rodkin, Inc. A copy of the report, dated October 2, 2020, is included in Appendix H of this Initial Study.

4.13.1 Environmental Setting

4.13.1.1 *Background Information*

Noise

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

Since excessive noise levels can adversely affect human activities and human health, federal, state, and local governmental agencies have set forth criteria or planning goals to minimize or avoid these effects. Noise guidelines are generally expressed using one of several noise averaging methods, including L_{eq}, DNL, or CNEL.[57] These descriptors are used to measure a location's overall noise exposure, given that there are times when noise levels are higher (e.g., when a jet is taking off from an airport or when a leaf blower is operating) and times when noise levels are lower (e.g., during lulls in traffic flows on freeways or in the middle of the night). L_{max} is the maximum A-weighted noise level during a measurement period.

Vibration

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

[57] L_{eq} is a measurement of average energy level intensity of noise over a given period of time. Day-Night Level (DNL) is a 24-hour average of noise levels, with a 10 dB penalty applied to noise occurring between 10:00 PM and 7:00 AM. Community Noise Equivalent Level (CNEL) includes an additional five dB applied to noise occurring between 7:00 PM and 10:00 PM. Where traffic noise predominates, the CNEL and DNL are typically within two dBA of the peak-hour L_{eq}.

4.13.1.2 *Regulatory Framework*

Federal

Federal Transit Administration Vibration Limits

The Federal Transit Administration (FTA) has developed vibration impact assessment criteria for evaluating vibration impacts associated with transit projects. The FTA has proposed vibration impact criteria based on maximum overall levels for a single event. The impact criteria for groundborne vibration are shown in Table 4.13-1 below. There are established criteria for frequent events (more than 70 events of the same source per day), occasional events (30 to 70 vibration events of the same source per day), and infrequent events (less than 30 vibration events of the same source per day). These criteria can be applied to development projects in jurisdictions that lack vibration impact standards.

Table 4.13-1: Groundborne Vibration Impact Criteria

Land Use Category	Groundborne Vibration Impact Levels (VdB inch/sec)		
	Frequent Event	Occasional Events	Infrequent Events
Category 1: Buildings where vibration would interfere with interior operations	65	65	65
Category 2: Residences and buildings where people normally sleep	72	75	80
Category 3: Institutional land uses with primarily daytime use	75	78	83

Source: Federal Transit Administration. *Transit Noise and Vibration Assessment Manual.* September 2018.

State and Local

California Green Building Standards Code

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

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects with the City. The following policies are specific to noise and vibration and are applicable to the proposed project.

Policies	Description
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: <u>Interior Noise Levels</u> • 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 General Plan traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan. <u>Exterior Noise Levels</u> • The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (refer to Table EC-1 in the General Plan or Table 4.13-2 in this Initial Study). 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.
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) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would: • Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain "Normally Acceptable;" or • Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.
Policy EC-1.6	Regulate the effects of operational noise from existing and new industrial and commercial development on adjacent uses through noise standards in the City's Municipal Code.

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

Table 4.13-2: General Plan Land Use Compatibility Guidelines

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

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

Normally Acceptable:

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

Conditionally Acceptable:

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

Unacceptable:

New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies.

Santa Clara County Airport Land Use Commission Comprehensive Land Use Plan

The Comprehensive Land Use Plan (CLUP) adopted by the Santa Clara County Airport Land Use Commission (ALUC) contains standards for projects within the vicinity of San José International Airport, which are relevant to this project:

Policies	Description
Policy N-3	Noise impacts shall be evaluated according to the Aircraft Noise Contours presented on Figure 5 (2022 Aircraft Noise Contours).
Policy N-4	No residential or transient lodging construction shall be permitted within the 65 dB CNEL contour boundary unless it can be demonstrated that the resulting interior sound levels will be less than 45 dB CNEL and there are no outdoor patios or outdoor activity areas associated with the residential portion of a mixed use residential project or a multi-unit residential project. (Sound wall noise mitigation measures are not effective in reducing noise generated by aircraft flying overhead.)

4.13.1.3 *Existing Conditions*

Existing noise-sensitive receptors in the project vicinity include Mayne Elementary School, the Alviso Branch Library, single-family residences north of North First Street, and the Summerset Mobile Estates west of the Guadalupe River.

Due to Shelter-in-Place restrictions implemented by the State of California at the time of this study, traffic volumes along the surrounding roadways were lower. A noise monitoring survey was not completed to document ambient noise levels during this time period because resultant noise levels would not be representative of typical conditions. In order to establish the environmental baseline for the project, noise data contained in the City of San José General Plan were reviewed along with noise data from the nearby approved Topgolf development (File Number: PD16-034/PDC16-013) that was subject to noise monitoring during normal traffic conditions.[58] A review of these data indicates that the noise environment in the project vicinity is primarily the result of vehicular traffic along Highway 237 and North First Street. The General Plan noise contour information shows that noise levels at boundaries of the project site nearest to Highway 237 are approximately 65 dBA DNL. Noise levels along Highway 237 are not projected to measurably increase by 2035.

Noise data quantified by Bollard Acoustical Consultants for the nearby Topgolf development in 2015 indicate that ambient noise levels ranged from 65 to 66 dBA DNL at Location A, which is representative of the noise environment at the nearest residences on North First Street, and from 62 to 64 dBA DNL at Location B, which is representative of residences west of the Guadalupe River (See Figure 4.13-1).

[58] Noise data quantified by Bollard Acoustical Consultants for the Topgolf development in 2015

NOISE MEASUREMENT LOCATIONS | FIGURE 4.13-1

4.13.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project result in:				
1) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☒	☐
2) Generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☒	☐
3) 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?	☐	☐	☒	☐

Impact NOI-1: The project would not result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies. **(Less than Significant Impact)**

Temporary Construction Noise

Policy EC-1.7 of the City's General Plan requires all construction operations within the City to use best available noise suppression devices and techniques. The policy also requires projects to limit construction hours near residential uses per the Municipal Code allowable hours, which are between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday when construction occurs within 500 feet of a residential land use. Further, 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 involves substantial noise-generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) that continue for more than 12 months.

Construction activities generate considerable amounts of noise, especially during earth-moving activities when heavy equipment is used. The construction of the proposed project would involve grading, excavation to lay foundations, trenching, building erection, and paving. The hauling of imported and exported soil and materials would generate truck trips on local roadways as well. Grading of the site would import approximately 1,000 cubic yards of fill. Construction activities would last approximately 24 months, beginning in fall of 2021.

The nearest noise-sensitive educational and residential land uses would be located approximately 900 feet from the acoustic center of the construction site. Construction noise levels at 900 feet would

range from 53 to 64 dBA L_{eq} with all pertinent equipment present at the site. The nearest commercial or office uses would be located approximately 600 feet from the acoustic center of the construction site.[59] Construction noise levels at 600 feet would range from 57 to 68 dBA L_{eq} with all pertinent equipment present at the site. Per General Plan Policy EC-1.7, temporary noise increases due to project construction would be considered less than significant if the construction activity would occur more than 500 feet from the nearest sensitive residential uses and more than 200 feet from the nearest commercial or office uses. Therefore, the project would not result in generation of a substantial temporary increase in ambient noise levels in the vicinity of the project.

Operational Noise

A significant impact would result if traffic generated by the project would substantially increase noise levels at sensitive receptors in the vicinity. A substantial increase would occur if: a) the noise level increase is five dBA DNL or greater, with a future noise level of less than 60 dBA DNL, or b) the noise level increase is three dBA DNL or greater, with a future noise level of 60 dBA DNL or greater. The existing noise environment in the surrounding area would exceed 60 dBA DNL; therefore, a significant impact would occur if project-generated traffic would permanently increase noise levels by three dBA DNL. For reference, a three dBA DNL noise increase would be expected if the project would double existing traffic volumes along a roadway.

For the proposed project, peak hour turning movements were provided for seven study intersections. Existing plus project traffic volumes were compared to existing volumes to estimate the project's contribution to permanent noise level increases expected in the project vicinity. Upon comparison of these traffic conditions, traffic noise increases of less than one dBA DNL were estimated for the roadways serving the site. Thus, the project would not have a significant impact on ambient noise levels due to traffic generated by the project.

On-site noise sources, including mechanical equipment for heating, ventilation, and cooling purposes, exhaust fans, and other similar equipment, parking lots, truck deliveries, etc., would not occur in areas near noise-sensitive receptors. No noise-generating sources are anticipated for this project that would exceed the applicable noise limits over 600 feet from the project site. Such noise sources would produce noise levels well below ambient noise levels in the area resulting from vehicle traffic, aircraft, and other commercial and industrial operations. This is a less than significant impact. Therefore, the project would not result in a substantial permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.

The project would not result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies. **(Less than Significant Impact)**

[59] The approved adjacent commercial project currently being constructed northwest of the site would also be within 600 feet of the project's acoustic center. The closest portion of the adjacent project to the proposed project's acoustic center would be the outfield of the Topgolf golfing facility where people would not occupy. Temporary noise increases at the adjacent site due to project construction would be considered less than significant.

Impact NOI-2:	The project would not result in generation of excessive groundborne vibration or groundborne noise levels. **(Less than Significant Impact)**

According to Policy EC-2.3 of the City of San José General Plan, a vibration limit of 0.08 in/sec PPV shall be used to minimize the potential for cosmetic damage to sensitive historical structures, and a vibration limit of 0.20 in/sec PPV shall be used to minimize damage at buildings of normal conventional construction. Construction vibration may at times be perceptible at the common property lines of the project site but would be minimal and dissipate rapidly with distance from the construction activity occurring at the time. The project site is located over 200 feet from the nearest buildings, none of which are considered historic, and no vibration-related impacts are identified at any of the nearest sensitive receptors to the project site. Therefore, the project would not result in generation of excessive groundborne vibration or groundborne noise levels. **(Less than Significant Impact)**

Impact NOI-3:	The project would not be 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. The project would not expose people residing or working in the project area to excessive noise levels. **(Less than Significant Impact)**

Norman Y. Mineta San José International Airport is a public-use airport located approximately 3.5 miles south-southeast of the project site. The project site lies well outside the 2037 60 dBA CNEL noise contour of the airport, according to the City's new Airport Master Plan Environmental Impact Report[60]. Future exterior noise levels due to aircraft would not exceed 60 dBA CNEL/DNL at the project site. According to Policy EC-1.11 of the City's General Plan, the required safe and compatible threshold for exterior noise levels would be at or below 65 dBA CNEL/DNL for aircraft. Similarly, Moffett Federal Airfield is located approximately four miles west of the project site, and this airport produces considerably less environmental noise as compared to Norman Y. Mineta San José International Airport. Noise levels produced by Moffett Federal Airfield aircraft are insignificant at the site and are not considered excessive. Therefore, the project would not expose people residing or working in the project area to excessive noise levels due to airport activity. **(Less than Significant Impact)**

4.13.3 Non-CEQA Effects

Per *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 (General Plan Policies 1.1, 1.2, 1.7, and 2.3) that address existing noise conditions affecting a proposed project.

[60] David J. Powers & Associates, Inc., Integrated Final Environmental Impact Report, Amendment to Norman Y. Mineta San José International Airport Master Plan, April 2020.

Future Exterior Noise Environment

The exterior noise threshold established in the General Plan for new hotel projects is 60 dBA DNL at usable outdoor activity areas, excluding private balconies and porches. The project would include a small amenity deck south of the hotel lobby that would be exposed to future exterior noise levels of approximately 65 dBA DNL. Exterior noise levels at the amenity deck would exceed the City's 60 dBA DNL threshold at the center of the outdoor use area by up to five dBA DNL and would be considered to be "conditionally acceptable" with respect to the noise environment. Due to the limited size and open nature of this amenity deck, the City could allow the outdoor use area without additional measures to reduce noise levels because future exterior noise levels would fall within the conditionally acceptable noise level range for hotels. However, if the City does not allow the amenity deck in a conditionally acceptable noise environment, noise control measures would be required to meet the City's normally acceptable threshold of 60 dBA DNL.

Methods available to reduce exterior noise levels at the amenity deck include site planning alternatives (e.g., using the proposed buildings as noise barriers), the construction of traditional noise barriers, or a combination of the above. A noise barrier with a minimum height of five-feet, as measured from the base elevation of the deck, could be constructed along the southern perimeter of the amenity deck to reduce noise levels by five dBA. With the implementation of this barrier, the exterior noise environment at the amenity deck would be maintained at or below 60 dBA DNL.

Future Interior Noise Environment

The City of San José requires that interior noise levels within hotels be maintained at 45 dBA DNL or less. Interior noise levels would vary depending upon the design of the buildings (relative window area to wall area) and the selected construction materials and methods. Standard hotel construction methods provide approximately 25 dBA of exterior-to-interior noise reduction assuming windows are closed. In noise environments ranging from 65 to 70 dBA DNL, interior noise levels can typically be maintained below 45 dBA DNL with the incorporation of an adequate forced-air mechanical ventilation system in each hotel room, allowing the windows to be closed to control noise. In noise environments exceeding 70 dBA DNL, a combination of forced-air mechanical ventilation and sound-rated construction methods is often necessary to meet the interior noise level limit.

The southern façade of the proposed hotel building facing SR 237 would receive the highest traffic noise exposure. At 830 feet from the center of SR 237, the southern-facing hotel rooms would be exposed to future exterior noise levels up to 65 dBA DNL. Rooms located along the northern, eastern, and western building façades would be exposed to lower traffic noise levels due to acoustical shielding provided by the hotel building itself and setback of the building from North First Street. In addition to the traffic noise exposure, the northern and western building façades would be exposed to operational noise associated with the Topgolf project. Topgolf noise levels would reach 60 dBA L_{eq} at the hotel building, and the worst-case DNL noise level, estimated assuming this worst-case noise level during operational hours (9:00 am to 2:00 am), would reach 63 dBA. Based on the future exterior noise exposure anticipated at the site, interior noise levels attributable to exterior environmental noise sources would exceed 45 dBA DNL assuming windows are open for ventilation.

In order to reduce interior noise levels to 45 dBA DNL or less in hotel rooms, the project shall provide a suitable form of forced-air mechanical ventilation, as determined by the local building official, for all hotel rooms, so that windows can be kept closed to control noise.

4.14 POPULATION AND HOUSING

4.14.1 Environmental Setting

4.14.1.1 *Regulatory Framework*

State

Housing-Element Law

State requirements mandating that housing be included as an element of each jurisdiction's general plan is known as housing-element law. The Regional Housing Need Allocation (RHNA) is the state-mandated process to identify the total number of housing units (by affordability level) that each jurisdiction must accommodate in its housing element. California housing-element law requires cities to: 1) zone adequate lands to accommodate its RHNA; 2) produce an inventory of sites that can accommodate its share of the RHNA; 3) identify governmental and non-governmental constraints to residential development; 4) develop strategies and a work plan to mitigate or eliminate those constraints; and 5) adopt a housing element and update it on a regular basis.[61] The City of San José Housing Element and related land use policies were last updated in 2015.

Regional and Local

Plan Bay Area 2040

Plan Bay Area 2040 is a long-range transportation, land-use, and housing plan intended to support a growing economy, provide more housing and transportation choices, and reduce transportation-related pollution and GHG emissions in the Bay Area. Plan Bay Area 2040 promotes compact, mixed-use residential and commercial neighborhoods near transit, particularly within identified Priority Development Areas (PDAs).[62] The subject site is not located within a PDA.

ABAG allocates regional housing needs to each city and county within the nine-county San Francisco Bay Area, based on statewide goals. ABAG also develops forecasts for population, households, and economic activity in the Bay Area. ABAG, MTC, and local jurisdiction planning staff created the Regional Forecast of Jobs, Population, and Housing, which is an integrated land use and transportation plan through the year 2040 (upon which Plan Bay Area 2040 is based).

4.14.1.2 *Existing Conditions*

The population of San José was estimated to be approximately 1,049,187 in January 2020 with an average of 3.19 persons per household.[63] The City currently has approximately 336,507 housing

[61] California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements" Accessed November 22, 2019. http://hcd.ca.gov/community-development/housing-element/index.shtml.
[62] Association of Bay Area Governments and Metropolitan Transportation Commission. "Project Mapper." http://projectmapper.planbayarea.org/.
[63] State of California, Department of Finance. "E-5 Population and Housing Estimates for Cities, Counties, and the State, 2011-2018." Accessed December 6, 2019. http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/.

units[64] and, by 2040, the City's population is projected to reach 1,357,845 with 448,310 households.[65]

The City of San José currently has a higher number of employed residents than jobs (approximately 0.8 jobs per employed resident), but this trend is projected to reverse with full build out under the General Plan.

4.14.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☒	☐
2) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☒	☐

Impact POP-1: The project would not induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure). **(Less than Significant Impact)**

The proposed project would result in a net increase of 20 jobs in the City. As noted above, San José currently has a higher number of employed residents than jobs. The increase in jobs will incrementally decrease the overall jobs/housing imbalance within the City. The project site is within the City's Urban Growth Boundary and Urban Service Area and is served by utilities and infrastructure previously extended to the site. The project would not generate demand for housing at a rate that was not envisioned in the General Plan FEIR. The project proposes to construct 214 hotel rooms with no permanent residences. The project, therefore, would not induce substantial population growth. **(Less than Significant Impact)**

[64] State of California, Department of Finance. "E-5 Population and Housing Estimates for Cities, Counties, and the State, 2011-2020." Accessed December 6, 2019. http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/
[65] Association of Bay Area Governments. *2019 Projections Data*. May 1, 2019.

Impact POP-2:	The project would not displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere. **(Less than Significant Impact)**

The site is not currently developed and has not been used for residential purposes in the recent past; therefore, the proposed development would not displace existing housing or people. **(Less than Significant Impact)**

4.15 PUBLIC SERVICES

4.15.1 Environmental Setting

4.15.1.1 *Regulatory Framework*

State

Government Code Section 66477

The Quimby Act (included within Government Code Section 66477) requires local governments to set aside parkland and open space for recreational purposes. It provides provisions for the dedication of parkland and/or payment of fees in lieu of parkland dedication to help mitigate the impacts from new residential developments. The Quimby Act authorizes local governments to establish ordinances requiring developers of new residential subdivisions to dedicate parks, pay a fee in lieu of parkland dedication, or perform a combination of the two.

Government Code Section 65995 through 65998

California Government Code Section 65996 specifies that an acceptable method of offsetting a project's effect on the adequacy of school facilities is the payment of a school impact fee prior to the issuance of a building permit. Government Code Sections 65995 through 65998 set forth provisions for the payment of school impact fees from new development by "mitigating impacts on school facilities that occur (as a result of the planning, use, or development of real property" (Section 65996[a]). The legislation states that the payment of school impact fees "are hereby deemed to provide full and complete school facilities mitigation" under CEQA (Section 65996[b]).

Developers are required to pay a school impact fee to the school district to offset the increased demands on school facilities caused by the proposed residential development project. The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code.

Regional and Local

Countywide Trails Master Plan

The Santa Clara County Trails Master Plan Update is a regional trails plan approved by the Santa Clara County Board of Supervisors. It provides a framework for implementing the County's vision of providing a contiguous trail network that connects cities to one another, cities to the county's regional open space resources, County parks to other County parks, and the northern and southern urbanized regions of the County. The plan identifies regional trail routes, sub-regional trail routes, connector trail routes, and historic trails.

4.15.1.2 *Existing Conditions*

Fire Protection Services

Fire protection services for the project site are provided by the San José Fire Department (SJFD). The SJFD responds to all fires, hazardous materials spills, and medical emergencies (including injury accidents) in the City. The closest fire stations to the project site are Station No. 25 located at 5215 Wilson Way, approximately 0.2 miles north of the project site and Station No. 29 at 199 Innovation Drive (2.1 miles southeast of the project site).

For fire protection services, the City has a total response time goal of eight minutes and a total travel time goal of four minutes for 80 percent of emergency incidents (per General Plan Policy ES-3.1).

Police Protection Services

Police protection services for the project site are provided by the San José Police Department (SJPD), which is headquartered at 201 West Mission Street, approximately six miles southeast of the project site. SJPD is divided into four geographic divisions: Central, Western, Foothill, and Southern. The project site is directly served by the SJPD Central Division, which includes three lieutenants, four patrol officers and two crime prevention specialists. For the last several years, the most frequent calls for service in the City have dealt with larceny, burglary, vehicle theft, and assault.

For police protection services, SJPD has a service goal of six minutes or less for 60 percent of all Priority 1 (emergency) calls and 11 minutes or less for 60 percent of all Priority 2 (non-emergency) calls (per General Plan Policy ES-3.1).

Parks

The City of San José owns and maintains approximately 3,435 acres of parkland, including neighborhood parks, community parks, and regional parks. The City also has 54 community centers and neighborhood centers. Other recreational facilities include five public pools, six public skate parks and over 55 miles of trails.

The City's Department of Parks, Recreation, and Neighborhood Services is responsible for development, operation, and maintenance of all City park facilities. Nearby City park and recreational facilities include the Guadalupe River trail, which forms the southern boundary of the project site, Alviso Park, and Alviso Branch Library and Community Center (across North First Street from the project site). Other facilities include the San Francisco Bay Trail at Sunnyvale Baylands Park (1.6 miles northwest of the project site) and Alviso Marina County Park (0.6 miles northwest of the project site).

Schools and Libraries

The project area is served by the Santa Clara Unified School District and residences near the site are assigned to George Mayne Elementary School (located at 5030 North First Street, across from the project site), Don Callejon Middle School (located at 4176 Lick Boulevard, Santa Clara, approximately 1.9 miles southeast of the project site), and Adrian Wilcox High School (located at

3250 Monroe Street, Santa Clara, approximately four miles south of the project site). The nearest library to the project site is Alviso Branch Library and Community Center, located at 5050 North First Street, San José, directly across from the project site.

4.15.2 Impact Discussion

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

Impact PS-1: The project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for fire protection services. **(Less than Significant Impact)**

The proposed hotel development on the project site is accounted for in the planned growth for the City. The project would incrementally increase demand for fire services. This increase in demand would not result in a substantial adverse physical impact associated with a need for new facilities in order to maintain acceptable levels of services or performance objectives.

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 identified in the General Plan to avoid unsafe building conditions and promote public safety. The proposed development would not require new fire stations to be constructed or existing fire stations to be expanded to serve the proposed development. **(Less than Significant Impact)**

Impact PS-2:	The project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for police protection services. **(Less than Significant Impact)**

The proposed hotel development on the project site is accounted for in the planned growth for the City. The project would incrementally increase demand for police services. This increase in demand would not result in a substantial adverse physical impact associated with a need for new facilities in order to maintain acceptable levels of services or performance objectives. The proposed development would not require new police stations to be constructed or existing police stations to be expanded to serve the proposed development. **(Less than Significant Impact)**

Impact PS-3:	The project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for schools. **(No Impact)**

The project proposes a 214-room hotel and would not introduce new students to the community. Therefore, the project would not impact school facilities in San José. **(No Impact)**

Impact PS-4:	The project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for parks. **(Less than Significant Impact)**

While employees and hotel guests may utilize nearby parks and trails, they would not place a physical burden or a substantial increase in demand on these facilities such that it would result in the need for new facilities. **(Less than Significant Impact)**

Impact PS-5:	The project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for other public facilities. **(Less than Significant Impact)**

While employees and hotel guests may utilize nearby public facilities, they would not place a physical burden or a substantial increase in demand on these facilities such that it would result in the need for new facilities. **(Less than Significant Impact)**

4.16 RECREATION

4.16.1 Environmental Setting

4.16.1.1 *Regulatory Framework*

State

Government Code Section 66477

The Quimby Act (included within Government Code Section 66477) requires local governments to set aside parkland and open space for recreational purposes. It provides provisions for the dedication of parkland and/or payment of fees in lieu of parkland dedication to help mitigate the impacts from new residential developments. The Quimby Act authorizes local governments to establish ordinances requiring developers of new residential subdivisions to dedicate parks, pay a fee in lieu of parkland dedication, or perform a combination of the two.

4.16.1.2 *Existing Conditions*

The City of San José owns and maintains approximately 3,435 acres of parkland, including neighborhood parks, community parks, and regional parks. The City also has 54 community centers and neighborhood centers. Other recreational facilities include five public pools, six public skate parks and over 55 miles of trails.

As discussed in Section 4.14 Public Services, the City's Department of Parks, Recreation, and Neighborhood Services is responsible for development, operation, and maintenance of all City park facilities. Nearby City park and recreational facilities include the existing Guadalupe River Trail (adjacent to the southern boundary of the project site), and Alviso Park and Alviso Branch Library and Community Center (adjacent to the project site across North First Street). Other facilities include the San Francisco Bay Trail at Sunnyvale Baylands Park (approximately 1.9 miles northwest of the project site) and Alviso Marina County Park (approximately 0.6 miles northwest of the project site).

4.16.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
1) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility will occur or be accelerated?	☐	☐	☒	☐
2) 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?	☐	☐	☒	☐

Impact REC-1:	The project would not 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. **(Less than Significant Impact)**

The project is not anticipated to place a physical burden on existing nearby parks and recreational facilities. While employees and hotel guests may utilize nearby parks and trails, the use of these facilities would not result in substantial physical deterioration. **(Less than Significant Impact)**

Impact REC-2:	The project would not 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 Impact)**

As described previously, employees and hotel guests could utilize nearby recreational facilities such as parks and trails. Implementation of the project would not result in the need for new recreational facilities or physically alter existing public parks or recreation facilities. **(Less than Significant Impact)**

4.17 TRANSPORTATION

The following discussion is based, in part, on a Transportation Analysis Report prepared for the project by Fehr & Peers. A copy of this report, dated July 2020, is included in Appendix I of this Initial Study.

4.17.1 Environmental Setting

4.17.1.1 *Regulatory Framework*

State

Regional Transportation Plan

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 ABAG adopted Plan Bay Area 2040 in July 2017, which includes a Regional Transportation Plan to guide regional transportation investment for revenues from federal, state, regional and local sources through 2040.

Senate Bill 743

SB 743 establishes criteria for determining the significance of transportation impacts using a vehicle miles traveled (VMT) metric intended to promote the reduction of GHG emissions, the development of multimodal transportation networks, and a diversity of land uses. Specifically, SB 743 requires the replacement of automobile delay – described solely by level of service (LOS) or similar measures of vehicular capacity or traffic congestion – with VMT as the recommended metric for determining the significance of transportation impacts. The Governor's Office of Planning and Research (OPR) approved the CEQA Guidelines implementing SB 743 on December 28, 2018. Local jurisdictions were required to implement a VMT policy by July 1, 2020.

SB 743 did not authorize OPR to set specific VMT impact thresholds, but it did direct OPR to develop guidelines for jurisdictions to utilize. CEQA Guidelines Section 15064.3(b)(1) describes factors that might indicate whether a development project's VMT may be significant. Notably, projects located within 0.50 mile of transit should be considered to have a less than significant transportation impact based on OPR guidance.

Regional and Local

Congestion Management Program

VTA oversees the Congestion Management Program (CMP), which is aimed at reducing regional traffic congestion. The relevant state legislation requires that urbanized counties in California prepare a CMP in order to obtain each county's share of gas tax revenues. State legislation requires that each CMP define traffic LOS standards, transit service standards, a trip reduction and transportation demand management plan, a land use impact analysis program, and a capital improvement element. VTA has review responsibility for proposed development projects that are expected to affect CMP-designated intersections.

Transportation Analysis Policy (City Council Policy 5-1)

As established in City Council Policy 5-1, Transportation Analysis Policy (2018), the City of San José uses VMT as the metric to assess transportation impacts from new development. According to the policy, an employment (e.g., office or research and development) project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average regional per capita VMT. The threshold for a retail project is whether it generates net new regional VMT, as new retail typically redistributes existing trips and miles traveled as opposed to inducing new travel. Screening criteria have been established to determine which projects require a detailed VMT analysis. If a project meets the relevant screening criteria, it is considered to a have a less than significant VMT impact.

If a project's VMT does not meet the established thresholds, mitigation measures would be required, where feasible. The policy also requires preparation of a Local Transportation Analysis to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, site access and circulation, and neighborhood transportation issues such as pedestrian and bicycle access and recommend transportation improvements. The VMT policy does not negate Area Development policies and Transportation Development policies approved prior to adoption of Policy 5-1. Policy 5-1 does, however, negate the City's Protected Intersection policy as defined in Policy 5-3.

City of San José Bike Plan

The City of San José Bike Plan 2020, adopted in 2009, contains policies for guiding the development and maintenance of bicycle and trail facilities within San José. The plan also includes the following goals for improving bicycle access and connectivity: 1) complete 500 miles of bikeways; 2) achieve a five percent bike mode share; 3) reduce bicycle collision rates by 50 percent; 4) add 5,000 bicycle parking spaces; and 5) achieve Gold-Level Bicycle Friendly Community Status. The Bike Plan defines a 500-mile network of bikeways that focuses on connecting off-street bikeways with on-street bikeways. The City is in the process of preparing the San José Better Bike Plan 2025, an update to the Bike Plan 2020.[66]

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects with the City. The following policies are specific to transportation and are applicable to the proposed project.

Envision San José 2040 Relevant Transportation Policies

Policies	Description
Policy LU-2.2	Include within the Land Use/Transportation Diagram significant job and housing growth capacity within the following identified growth areas:

[66] City of San José. "San José Better Bike Plan 2025." Accessed October 14, 2020. https://www.bikesanJosé.com/

- Specific Plan Areas – The City's Specific Plans provide significant residential growth capacity and opportunities for mixed-use development.

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-1.7	Require that private streets be designed, constructed and maintained to provide safe, comfortable, and attractive access and travel for motorists and for pedestrians, bicyclists, and transit users of all ages, abilities, and preferences.
Policy TR-2.2	Provide a continuous pedestrian and bicycle system to enhance connectivity throughout the City by completing missing segments. Eliminate or minimize physical obstacles and barriers that impede pedestrian and bicycle movement on City streets
Policy TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
Policy TR-2.18	Provide bicycle storage facilities as identified in the San José Bicycle Master Plan.
Policy TR-5.5	Require that new development, which includes new public or private streets, connect these streets with the existing public street network and prohibit the gating of private streets with the intention of restricting public access. Furthermore, where possible, require that the street network within a given project consists of integrated short blocks to facilitate bicycle and pedestrian travel and access.

4.17.1.2 *Existing Conditions*

Roadway Facilities

Regional Access

Regional access to the project site is provided via SR 237. This roadway is described below:

- SR 237 is an east-west freeway that connects El Camino Real in Mountain View to I-680 in Milpitas. The freeway has two mixed-flow lanes plus one Express Lane in each direction within the project vicinity. Express Lanes provide toll-free travel to carpools, motorcycles, and buses and provide solo drivers the choice to pay a toll to use the lanes during weekdays from 5:00 AM to 8:00 PM. Access to the project site is provided at the Great America Parkway interchange and North First Street interchange.

Local Access

Local access to the project site is provided via Gold Street, Great America Parkway, Nortech Parkway, North First Street, and Trinity Park Drive. These roadways are described below:

- Gold Street is a north-south street with one travel lane in each direction and a two-way left-turn lane between Moffat Street and North Taylor Street. It provides access to surrounding residential, commercial, and office land uses. Gold Street connects SR 237 west of the project site and North First Street.
- Great America Parkway is a north-south street with three travel lanes in each direction and a center median. It provides access to the commercial corridor southwest of the project site, and connects to SR 237 west of the project site.
- Nortech Parkway is an east-west street with two travel lanes in each direction and a two-way left-turn lane. It provides access to surrounding office, commercial, and industrial uses. Nortech Parkway connects to North First Street south of the project site.
- North First Street is a north-south street with a northwest-southeast orientation within the project vicinity. It has three travel lanes in each direction south of the SR 237 eastbound ramps, two lanes in each direction between the SR 237 eastbound ramps and Tony P. Santos Street, and one lane in each direction north of Tony P. Santos Street. North First Street provides access to residential, commercial, office, and industrial uses. It provides direct access to the project site driveways at Trinity Park Drive/Anderson Alley and proposed Bay Vista Drive driveway.
- Trinity Park Drive-Anderson Alley is an east-west street that turns into a north-south oriented street when it meets North First Street. Trinity Park Drive is a residential street with one travel lane in each direction that serves a residential community northwest of the project site. Anderson Alley is a driveway that provides access to the project site.

Bicycle Facilities and Pedestrian Facilities

Bicycle Facilities

Existing bicycle facilities in the project vicinity are shown in Figure 4.17-1. Bicycle connectivity to the project site includes Class II bike lanes[67] present along the project frontage on both sides of North First Street that extend from Liberty Street in the north and East Brokaw Road in the south. Bike lanes are also provided on Nortech Parkway and Disk Drive northwest of the project site. Great America Parkway has on-street bicycle lanes that extend from SR 237 past US 101 until Central Expressway. Off-street bicycle trails along SR 237 connect bicyclists to business districts along North First Street. There are also off-street bicycle trails along the Guadalupe River and San Tomas Aquino Creek that provide access to central San José and Santa Clara.

Pedestrian Facilities

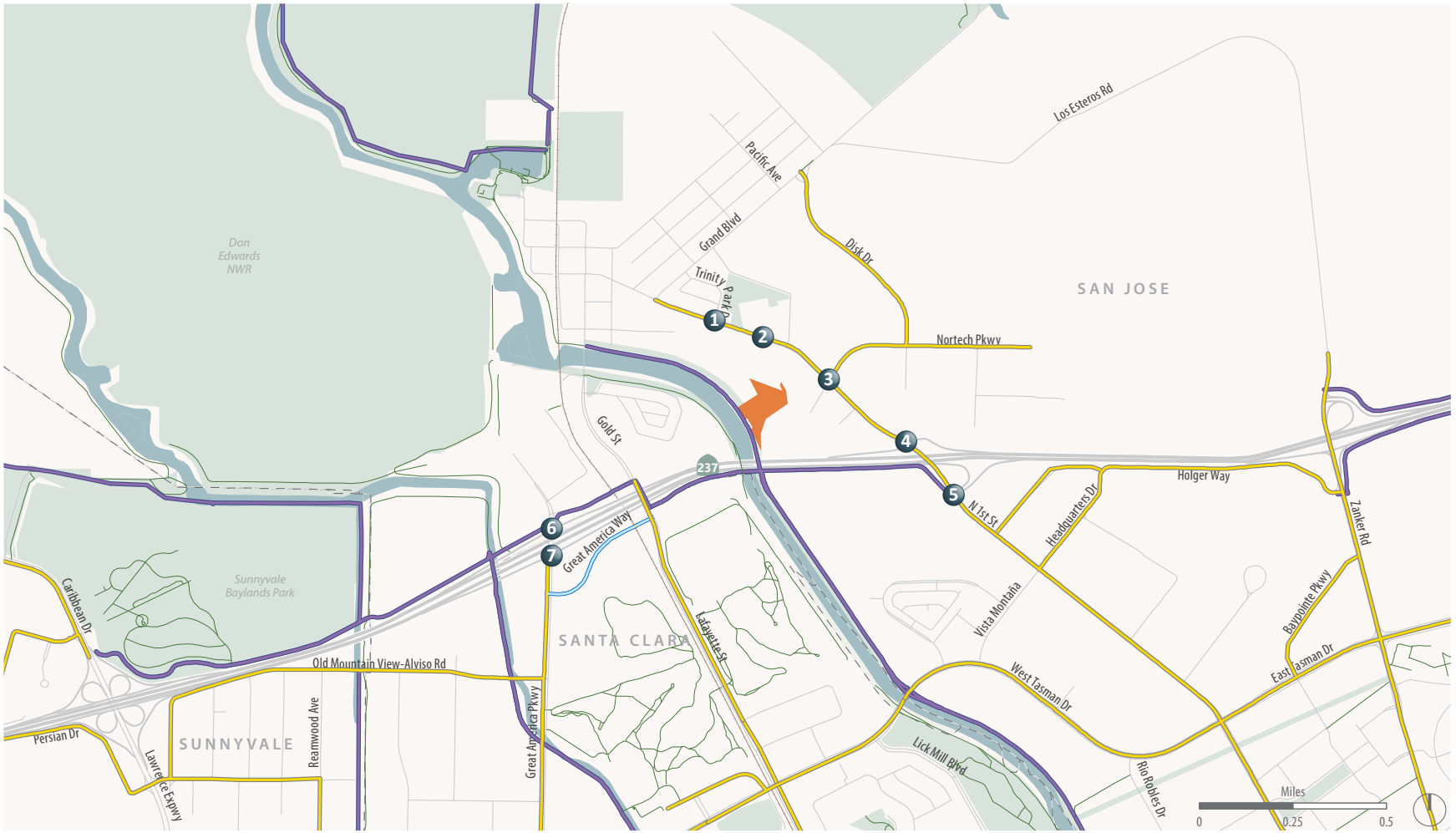
Pedestrian connectivity (shown in Figure 4.17-1) is provided by a mostly complete network of sidewalks and crosswalks that serve the adjacent Alviso neighborhoods. The approved Topgolf development adjacent to the project site closed the sidewalk gaps along the southern side of North First Street between Liberty Street and Tony P. Santos Street; the segment directly fronting the project site. The Topgolf development provides a connection from the project site to the surrounding pedestrian facilities. Pedestrian facilities at study intersections are described below:

[67] Class II bike lanes are dedicated lanes for bicyclists generally adjacent to the outer vehicle travel lanes. These lanes have special lane markings, pavement legends, and signage. Bicycle lanes are typically five feet wide. Adjacent vehicle parking and vehicle/pedestrian cross-flow are permitted.

- Intersection 1 (North First Street and Trinity Park Drive) is a side-street stop-controlled intersection with a marked stop-controlled crosswalk on the east leg crossing Trinity Drive.
- Intersection 2 (North First Street and Bay Vista Drive) is an intersection that does not yet exist, and would be constructed as part of the adjacent Topgolf development and connect to the proposed project.
- Intersection 3 (North First Street and Nortech Parkway) is a signalized intersection with marked crosswalks and pedestrian signals on all legs.
- Intersection 4 (North First Street and SR 237 Westbound Ramps) is a signalized intersection with marked crosswalks and pedestrian signals on north and west legs.
- Intersection 5 (North First Street and SR 237 Eastbound Ramps) is a signalized intersection with marked crosswalks and pedestrian signals on south and west legs.
- Intersection 6 (Great America Parkway and SR 237 Westbound Ramps) is a signalized intersection with marked crosswalks and pedestrian signals on north and west legs.
- Intersection 7 (Great America Parkway and SR 237 Eastbound Ramps) is a signalized intersection with marked crosswalks and pedestrian signals on south and west legs.

Transit Facilities

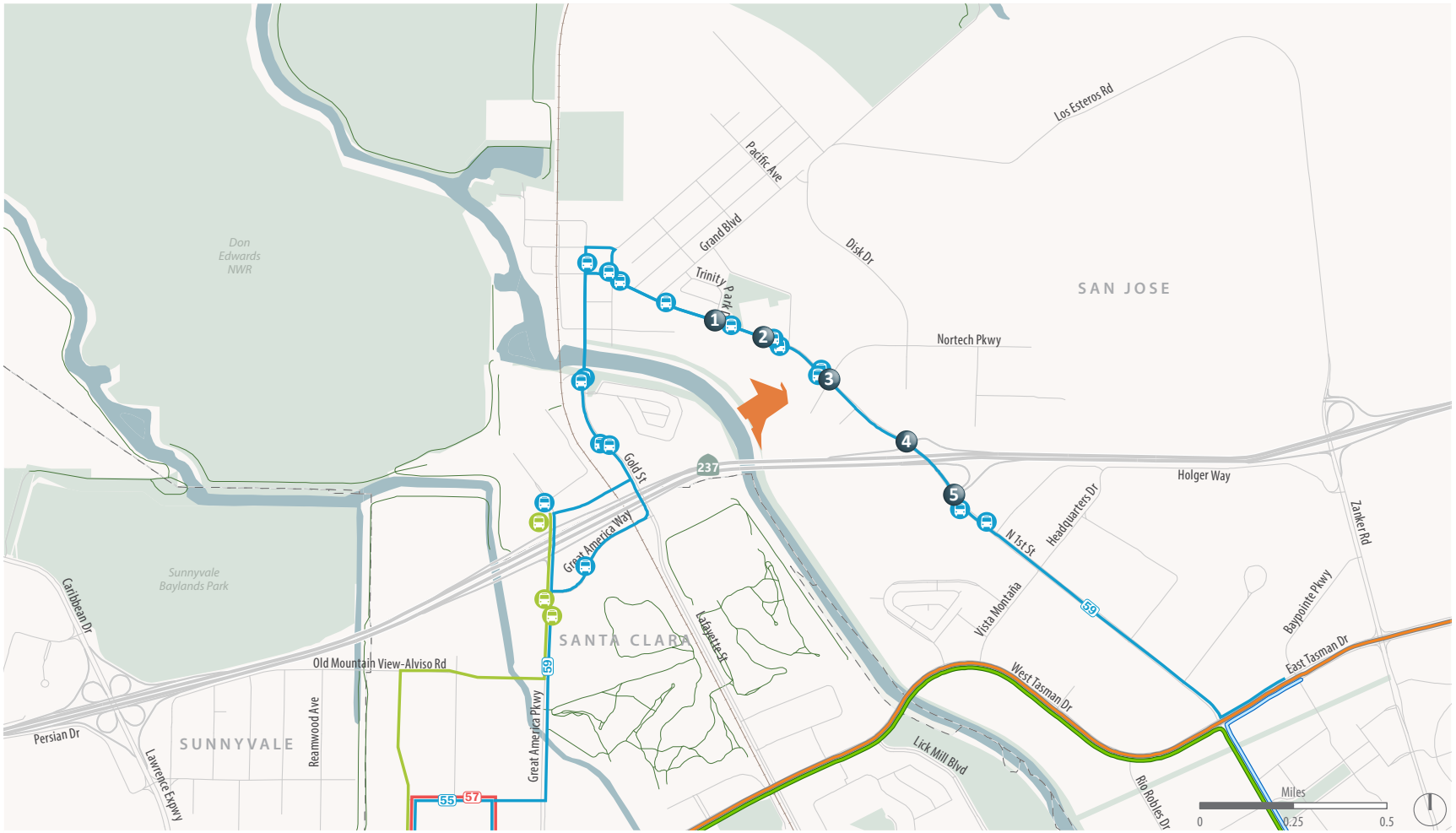
Bus and light rail transit (LRT) service in Santa Clara County is operated by the Santa Clara Valley Transportation Authority (VTA). The project site is directly served by VTA local bus route 59. The project site is within walking distance (approximately 750 feet) to the Route 59 bus stops on both sides of North First Street at Tony P. Santos Street. Transfers to bus route 59 include VTA Route 55, Rapid 57, as well as the Blue, Green, and Orange LRT Lines and the ACE Green shuttle. These routes are shown on Figure 4.17-2.



Source: Fehr & Peers, July 2020.

EXISTING BICYCLE AND PEDESTRIAN FACILITIES

FIGURE 4.17-1



Source: Fehr & Peers, July 2020.

EXISTING TRANSIT SERVICE

FIGURE 4.17-2

4.17.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities?	☐	☐	☒	☐
2) Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?	☐	☐	☒	☐
3) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	☐	☐	☒	☐
4) Result in inadequate emergency access?	☐	☐	☒	☐

Impact TRN-1: The project would not conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities. **(Less than Significant Impact)**

Transit Facilities

The project site is near VTA bus lines that would support multi-modal travel to and from the site. The project would not physically remove or inhibit access to any bus stops in the area, nor would the project conflict with any planned transit improvements throughout the Alviso area. Therefore, implementation of the proposed project would not conflict with any program, plan, ordinance or policy addressing transit facilities.

Roadways

As described in Section 4.17.2.2 below, the proposed project would result in a less than significant increase in vehicle trips on the surrounding roadways. The project's effect on vehicle delay on nearby roadways would not be considered a significant transportation impact under CEQA, as VMT is the City's adopted standard for assessing transportation impacts. For a discussion of the project's VMT impacts, refer to checklist Impact Question Two, below. The project would not conflict with any planned or ongoing roadway improvements throughout the Alviso area. Therefore, the proposed project would not conflict with any program, plan, ordinance or policy addressing roadways.

Bicycle Facilities

The project would not remove or inhibit access to any existing bicycle facilities. The project includes an on-site connection to the Guadalupe River Trail at the southern limits of the site and currently proposes 20 long-term and three short-term bicycle parking spaces.

Pedestrian Facilities

The project would not inhibit pedestrian flow through the area by reducing sidewalk width or eliminating sidewalks to accommodate vehicular flow. Within the project site, sidewalks would provide hotel access to and from the parking garage and surface parking areas The project would not conflict with any program, plan, ordinance, or policy addressing pedestrian facilities.

The project would not conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities. **(Less than Significant Impact)**

Impact TRN-2:	The project would not conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b). **(Less than Significant Impact)**

The City of San José's Transportation Analysis Handbook describes the screening criteria used to determine whether a detailed CEQA transportation analysis would be required. Projects that meet the screening criteria "are expected to result in less than significant VMT impacts based on project description, characteristics, and/or location."

The project would result in 1,642 daily trip estimates (see Section 4.17.3 Non-CEQA Effects). The size of a comparable local-serving retail project was calculated[68] to be approximately 44,000 square feet. Thus, a local-serving retail project producing the same number of trips as the proposed hotel would be less than 100,000 square feet in size and therefore, a detailed analysis is not required per City Council Policy 5-1. The project is not expected to have an increase on overall VMT within the City. It will likely shorten existing trips currently occurring to other similar uses, thereby reducing overall VMT. Similar to the characteristics of a "local serving retail" land use, the hotel has less potential to generate new trips or VMT; it is more likely rather to divert trips from an existing use, because this new development is in some way more attractive in its location, setting, or otherwise to the traveler. In the case of the proposed project, the hotel would attract existing hotel trips from the surrounding office developments Thus, the project would be consistent with CEQA Guidelines Section 15064.3. **(Less than Significant Impact)**

Impact TRN-3:	The project would not substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment). **(Less than Significant Impact)**

Project Driveways

Vehicle Access

Vehicle site access will be provided via two driveways traversing adjacent private property (currently under construction) to access North First Street at Trinity Park Drive and Bay Vista Drive. The Trinity Park Drive intersection will be signalized with the Topgolf development and will provide full

[68] The square footage of a comparable retail project was back-calculated by dividing the daily trip estimate of 1,642 trips by the daily average rate of 37.75, taken from the Institute of Transportation Engineer's Trip Generation Manual, 10th Edition (Land Use Code 820, Shopping Center).

access to the site. The Bay Vista Drive intersection provides a northbound left-turn into the project site but is designed not to allow left-turn movements exiting Bay Vista Drive, decreasing potential hazards that could be created by exiting vehicles. Any northbound trips leaving the project site would be required to use the Trinity Park Drive and North First Street intersection. Therefore, the project would not substantially increase hazards due to vehicles entering and exiting the project site. **(Less than Significant Impact)**

Bicycle and Pedestrian Access

Bicycle access would be provided via North First Street, where Class II bike lanes currently exist along the project frontage. Upon entering the project site at the Bay Vista driveway, a two-way path is provided along the east side of Bay Vista Drive. The path continues through the project site and provides access to the Guadalupe River Trail. This path would help prevent vehicle-bicycle conflicts on the project site. Pedestrian access would be provided via this path also. Within the project site, sidewalks would provide hotel access to and from the parking garage and surface parking areas. The project would not substantially increase hazards due to bicycles or pedestrians entering and exiting the project site. **(Less than Significant Impact)**

Impact TRN-4:	The project would not result in inadequate emergency access. **(Less than Significant Impact)**

The project's Fire Access Plan provided vehicle turning movements that demonstrate adequate circulation of fire trucks and larger vehicles through the site's internal roadways. The Fire Access Plan includes removable bollards to allow larger trucks to access the EVA/trail connection. In addition to the two driveways traversing adjacent private property to access North First Street (Anderson Alley and Bay Vista Drive), an emergency access driveway will be provided at Moffat Street. The project would not result in inadequate emergency access. **(Less than Significant Impact)**

4.17.3 Non-CEQA Effects

While the evaluation of project CEQA impacts on the transportation system is focused on VMT, in accordance with the City of San José Transportation Policy (Council Policy 5-1), the following discussion is included for informational purposes. The City Council Policy 5-1 requires preparation of a Local Transportation Analysis (LTA) to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, site access and circulation, and neighborhood transportation issues such as pedestrian and bicycle access, and recommend needed transportation improvements.

Project Trip Generation

Vehicle trip generation estimates for the proposed hotel were generated using rates from the Institute of Transportation Engineers (ITE) Trip Generation Manual (10th Edition). Rates for the Hotel (ITE Land Use Code 310), were used. Then, a location-based adjustment was calculated using the City of San José VMT Evaluation Tool based on the 44,000 square feet of comparable retail space used for the VMT analysis (see Impact TRN-2). The project with the location-based adjustments is expected to add 1,642 daily trips, including 93 AM and 118 PM peak hour trips. A summary of the trip generation estimates can be seen below in Table 4.17-1.

Table 4.17-1: Trip Generation Estimates										
Land Use	**Rooms**	**Weekday AM Trips**			**Weekday PM Trips**			**Daily Trips**		
		In	**Out**	**Total**	**In**	**Out**	**Total**	**In**	**Out**	**Total**
Hotel[1]	214	60	42	102	66	63	129	899	899	1,798
Deduction with Location Based Adjustment of 91.2%[2]		(5)	(4)	(9)	(6)	(5)	(11)	(78)	(78)	(156)
Total		**55**	**38**	**93**	**60**	**58**	**118**	**821**	**821**	**1,642**

Notes:

1. Hotel land use code 310, ITE, Trip Generation Manual, 10th Edition, 2017. Trip estimates calculated using average rates.

Daily rate = 8.36; In = 50%; Out = 50%

AM rate = 0.47; In = 59%; Out = 41%

PM rate = 0.6; In = 51%; Out = 49%

2. Location based adjustment calculated using City of San José VMT Evaluation Tool based on 44,600 square feet of retail space at the project site (APN 015-48-060).

Source: Fehr & Peers, March 2020.

Intersection Traffic Operations

Intersection LOS was evaluated against the standards of the City of San José. Currently, all the intersections studied operate LOS C or better. Background Conditions traffic volumes were calculated by adding projected traffic from the City's Approved Trips Inventory of approved but not yet built/occupied developments in the area to existing volumes. The intersection traffic operations that would be affected by the project are summarized below in Table 4.17-2.

The approved Topgolf development (which has since been developed since the time that the Transportation Analysis was completed) is conditioned to install a traffic signal at the North First Street and Trinity Park Drive intersection, which is currently side-street stop-controlled but will serve as the Topgolf development's main project access point once it is developed. Thus, the intersection was assumed to be signal controlled in this analysis.

Table 4.17-2: Intersection Traffic Operations							
Intersection	**Control**	**Peak Hour**	**Background**		**Background Plus Project**		
			Average Delay	**LOS**	**Average Delay**	**LOS**	**Net Change in Crit. Delay**
	Signal	AM	16.8	B	17.8	B	0.1

Table 4.17-2: Intersection Traffic Operations							
Intersection	**Control**	**Peak Hour**	**Background**		**Background Plus Project**		
			Average Delay	**LOS**	**Average Delay**	**LOS**	**Net Change in Crit. Delay**
North First St. & Trinity Park Dr.		PM	18.6	B-	19.7	B-	0.2
North First St. & Bay Vista Dr.	SSSC	AM	Exists only with project		0.5	B	0.5
		PM			0.6	B	0.6
North First St. & Nortech Pkwy	Signal	AM	21.8	C+	21.8	C+	-0.2
		PM	38.0	D+	39.4	D	1.7
North First St. & SR 237 WB Ramps*	Signal	AM	27.0	C	29.0	C	3.1
		PM	**134.1**	**F**	**140.2**	**F**	**8.8**
North First St. & SR 237 EB Ramps*	Signal	AM	38.8	D+	39.9	D	1.4
		PM	35.5	D+	37.3	D+	3.0
Great America Pkwy & SR 237 WB Ramps*	Signal	AM	16.8	B	16.8	B	0.1
		PM	24.1	C	24.1	C	0.0
Great America Pkwy & SR 237 EB Ramps*	Signal	AM	14.6	B	14.8	B	0.2
		PM	13.8	B	14.1	B	0.2

*indicates that intersection is under the jurisdiction of the CMP and thus the applicable minimum LOS threshold is E or higher. All other intersections have a minimum LOS threshold of D or higher.

SSSC = Side street stop-controlled; signal = signalized

Bold text indicates intersection operates at an unacceptable level of service

Table 4.17-2 shows that all intersection operations operate at acceptable levels with or without the project, except for the North First Street and SR 237 Westbound Ramps. The intersection of North First Street and SR 237 Westbound Ramps operates at an unacceptable LOS F both with and without the project during the PM peak hour.

The intersection of North First Street and SR 237 Westbound Ramps is located with the boundary of the NSJADP. On December 17, 2013, the City Council modified the NSJADP to allow projects

outside the policy area boundary (such as the proposed project) that contribute trips to intersections within the policy area to pay the TIF to pay fair share fees to fund traffic mitigation. Therefore, it would be appropriate for the proposed project to pay the NSJ impact fee for its contribution to impacted intersections within the NSJADP boundary, even though the project is not within the NSJADP boundary. The payment of the NSJ impact fee would provide a proportional fair share payment toward the required improvements to the North First Street and SR 237 intersection.

Additionally, the addition of project trips would result in an adverse impact to this intersection during the PM peak hour. Mitigation of the adverse impact would be addressed by the project paying its fair share of traffic impact fees (TIF) into the North San Jose Area Development Policy (NSJADP) based on 26 project PM peak hour trips traveling into the NSJADP.

Left Turn Storage Analysis

The addition of project traffic along the roadway network has the potential to add vehicles to left-turn movements such that the left-turn queues would exceed the turn pocket storage lengths. Queues that exceed the turn pocket storage length can impede through traffic movement along an approach. Potentially affected intersections were selected for this evaluation based on where the project would add a minimum of ten vehicles to a dedicated left-turn movement in at least one of the peak hours, which includes the following signalized intersections:

- North First Street and Trinity Park Drive (northbound left-turn pocket)
- North First Street and Bay Vista Drive (northbound left-turn pocket)
- North First Street and SR 237 EB Ramps (southbound left-turn pocket)
- Great America Parkway and SR 237 EB Ramps (eastbound left-turn pocket)

The 95th percentile queues from the TRAFFIX LOS analysis were used to evaluate the projected queues at the identified left-turn movements for the Background and Background Plus Project Conditions. The results revealed that the southbound left-turn pocket at the intersection of North First Street and SR 237 EB Ramps exceeds the available storage length during the PM peak hour under Background No Project Conditions. The project adds 15 trips to that movement during the PM peak hour, resulting in an addition of one car, or about 25 feet, to the 95th percentile left-turn vehicle queue. The queuing issue at this intersection is attributed primarily to other background projects because the project only adds 15 trips to the southbound left-turn movement during the PM peak hour and the queue length already exceeds the storage capacity under Background No Project Conditions. All other intersections analyzed have sufficient capacity to support project vehicle queue lengths at left-turn pockets.

On-Site Circulation

The on-site circulation was reviewed by City engineering staff and the traffic consultant Fehr & Peers in accordance with generally accepted traffic engineering standards. Interior roadways aisles are generally 26 feet in width and accommodate two-way traffic and access to 90-degree surface parking spaces. The site layout provides continuous circulation through all the parking areas with no dead-end aisles. A trash pick-up and turning area is provided adjacent to the parking garage. Overall, the on-site circulation is generally considered to be acceptable.

Parking

Vehicle Parking

The project proposes to include a surface parking lot with 21 spaces throughout the northeastern section of the site and a four-story parking garage with 213 spaces, for a total of 234 parking spaces (19 spaces would be designated for clean air vehicles and nine spaces would be ADA parking spaces). The City's vehicle parking requirement for a hotel is a minimum of one space per room, plus one space per employee (20 employees are proposed by the project), resulting in a required 235 parking spaces including 19 spaces for clean air vehicles (eight percent) and seven ADA spaces. The project meets the requirements for overall parking and exceeds the ADA parking space requirement.

Bicycle Parking

The City's bicycle parking requirement for a hotel is one space, plus one space per ten guest rooms. Of the minimum required bicycle parking, 20 percent must be long-term bicycle parking facilities and 80 percent must be short-term bicycle parking facilities. Thus, the project would be required to provide a minimum of 23 bicycle parking spaces, including five long-term bicycle parking spaces and 18 short-term spaces. The project currently proposes three short-term bicycle spaces and 20 long-term spaces. Thus, the project exceeds the long-term bicycle parking requirement, but does not meet the requirement for short-term bicycle parking spaces.

4.18 TRIBAL CULTURAL RESOURCES

4.18.1 Environmental Setting

4.18.1.1 *Regulatory Framework*

State

Assembly Bill 52

AB 52, effective July 2015, established a new category of resources for consideration by public agencies called Tribal Cultural Resources (TCRs). AB 52 requires lead agencies to provide notice of projects to tribes that are traditionally and culturally affiliated with the geographic area if they have requested to be notified. Where a project may have a significant impact on a tribal cultural resource, consultation is required until the parties agree to measures to mitigate or avoid a significant effect on a tribal cultural resource or until it is concluded that mutual agreement cannot be reached.

Under AB 52, TCRs are defined as follows:

- Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are also either:
    - Included or determined to be eligible for inclusion in the California Register of Historic Resources, or
    - Included in a local register of historical resources as defined in Public Resources Code Section 5020.1(k).
- A resource determined by the lead agency to be a TCR.

4.18.1.2 *Existing Conditions*

At the time of the release of the NOP for the Downtown Strategy 2040 DEIR on September 28, 2020, no tribes had provided AB 52 project notification requests to the City of San José except for projects in Coyote Valley (approximately 14 miles to the southeast of the project site). Andrew Galvan representing the Ohlone Tribe, has requested notification of all projects in the Downtown core. No request for the project was received.[69] The City routinely notifies all tribes who are traditionally and culturally affiliated with the geographic area of the City based on the latest list from the NAHC when project documents are available for public review.

[69] Personal Communication. Maira Blanco. March 17, 2021.

4.18.2 Impact Discussion

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

Impact TCR-1: The project would not cause a substantial adverse change in the significance of a tribal cultural resource that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k). **(Less than Significant Impact)**

No known tribal cultural resources are presented on-site. No tribes have provided AB 52 project notification requests to the City of San José except for projects in Coyote Valley (approximately 14 miles to the southeast of the project site). As discussed in Section 4.5 Cultural Resources, in the unlikely event that human remains or other TCRs are discovered during construction activities, implementation of Standard Condition of Approval listed under Impact CUL-3 would reduce the project's impact to a less than significant level. **(Less than Significant Impact)**

Impact TCR-2:	The project would not cause a substantial adverse change in the significance of a tribal cultural resource that is determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. **(Less than Significant Impact)**

As discussed under Impact TCR-1, there are no known tribal cultural resources on-site, and no tribes have provided AB 52 project notification requests to the City of San José except for projects in Coyote Valley (approximately 14 miles to the southeast of the project site). As discussed in Section 4.5 Cultural Resources, in the unlikely event that human remains or other tribal cultural resources are discovered during construction activities, implementation of Standard Condition of Approval listed under Impact CUL-3 would reduce the project's impact to a less than significant level. **(Less than Significant Impact)**

4.19 UTILITIES AND SERVICE SYSTEMS

4.19.1 Environmental Setting

4.19.1.1 *Regulatory Framework*

State

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 non-hazardous 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.

State Water Code

Pursuant to the State Water Code, water suppliers providing water for municipal purposes to more than 3,000 customers or supplying more than 3,000 acre-feet (approximately 980 million gallons) of water annually must prepare and adopt an urban water management plan (UWMP) and update it every five years. As part of a UWMP, water agencies are required to evaluate and describe their water resource supplies and projected needs over a 20-year planning horizon, water conservation, water service reliability, water recycling, opportunities for water transfers, and contingency plans for drought events. The City of San José Municipal Water Department adopted its most recent UWMP in June 2015.

Assembly Bill 939

The California Integrated Waste Management Act of 1989, or AB 939, established the Integrated Waste Management Board, required the implementation of integrated waste management plans, and mandated that local jurisdictions divert at least 50 percent of solid waste generated (from 1990 levels), beginning January 1, 2000, and divert at least 75 percent by 2010. Projects that would have an adverse effect on waste diversion goals are required to include waste diversion mitigation measures.

Assembly Bill 341

AB 341 sets forth the requirements of the statewide mandatory commercial recycling program Businesses that generate four or more cubic yards of garbage per week and multi-family dwellings

with five or more units in California are required to recycle. AB 341 sets a statewide goal for 75 percent disposal reduction by the year 2020.

Senate Bill 1383

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

Local

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts from planned development in the City. The policies below are specific to utilities and service systems and are applicable to the proposed project:

Policy	Description
MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.
MS-19.4	Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.
IN-1.5	Require new development to provide adequate facilities or pay its fair share of the cost for facilities needed to provide services to accommodate growth without adversely impacting current service levels.

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).

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 should consider conducting an inventory of the existing building(s), determining the material types and quantities to recover, and salvaging materials during deconstruction.

San José Zero Waste Strategic Plan/Green Vision

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

4.19.1.2 *Existing Conditions*

Water Service

Potable water service to the project site is provided by the City of San José Municipal Water Department. The water provided comes from a mix of imported surface water and groundwater. The site is currently undeveloped and does not use water provided by the City.

Sanitary Sewer/Wastewater Treatment

Sanitary sewer lines in the area are owned and maintained by the City of San José. The project area is currently served by a six-inch sanitary sewer pipe in North First Street Wastewater in the project's surrounding area is treated at the San José/Santa Clara Regional Wastewater Facility (the Facility) in Alviso. The Facility has capacity to treat 167 million gallons per day (mgd) of sewage during dry weather flow.[70] The City's share of the Facility's treatment capacity is approximately 108.6 mgd. Based on the average dry weather flows from sources in San José (approximately 69.8 mgd), the City current has approximately 38.8 mgd of available treatment capacity at the Facility.[71] The resulting fresh water from the Facility is discharged to the South San Francisco Bay or delivered to the South Bay Water Recycling Project for distribution.

The project site is undeveloped and currently does not generate wastewater.

Storm Drainage System

The City of San José Public Works Department operates and maintains the storm drainage system that serves the project site. The project site is currently served by a 48-inch storm main in North First Street. The site is currently undeveloped and largely pervious, with 7,175 square feet of impervious surfaces.[72]

[70] City of San José. San José-Santa Clara Regional Wastewater Facility. Accessed December 16, 2019. https://www.sanJoséca.gov/your-government/environment/water-utilities/regional-wastewater-facility
[71] City of San José. *General Plan FPEIR*. September 2011. Page 648.
[72] The site contains a small portion of concrete.

Solid Waste

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California IWMB in 1996 and was reviewed in 2004 and 2007. Based on the IWMP, the County has adequate landfill capacity. In October 2007, the San José City Council adopted a Zero Waste Resolution which set a goal of 75 percent waste diversion by 2013 and zero waste by 2022. The Newby Island Landfill (NISL) receives approximately 350,000 tons per year from San José. The total permitted landfill capacity of the five operating landfills in the City is approximately 5.3 million tons per year. According to the IWMP, the County has adequate disposal capacity beyond 2030.[73] The total permitted landfill capacity of the five operating landfills in the City is approximately 5.3 million tons per year.

All municipal solid waste in San José is landfilled at NISL. The City has an existing contract with NISL through 2041. The City has an annual disposal allocation for 395,000 tons per year. As of May 2018, NISL had approximately 16.9 million cubic yards of capacity remaining.[74]

The site is undeveloped, and therefore does not currently generate solid waste.[75]

4.19.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	☐	☐	☒	☐
2) Have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☒	☐
3) Result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☒	☐
4) 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?	☐	☐	☒	☐

[73] Santa Clara County. *Five-Year CIWMP/RAIWMP Review Report.* June 2016.
[74] Ibid.
[75] CalEEMod. "Table 10.1 Solid Waste Disposal Rates." 2016. City park land use sub type.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
5) Be noncompliant with federal, state, and local management and reduction statutes and regulations related to solid waste?	☐	☐	☒	☐

Impact UTL-1: The project would not require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects. **(Less than Significant Impact)**

The project would install new domestic water, fire water, sanitary sewer, fiber, and natural gas lines on-site that would connect with the existing City infrastructure systems located along North First Street through connections with the adjacent commercial development. The impacts associated with these proposed installments have been incorporated into the construction assumptions for the project that have been analyzed throughout this application.

As discussed under *Impact UTL-2*, the project's increase in water demand is consistent with the growth projections and future water demand assumed in the preparation and analysis of the City's Envision 2040 General Plan. As a result, the project would not require new or expanded water facilities.

As discussed under *Impact UTL-3*, the project would generate wastewater that would continue to allow the RWF to operate below the required 120 million gallons per day constraint and would not increase the need for wastewater treatment beyond the capacity of the RWF.

The project would result in an increase in the amount of impervious area on the site. Storm drainage runoff from the site's impervious surfaces would be directed to treatment systems before being collected in a series of pipes sized for a 10-year storm event in accordance with the City's design requirements. These pipes would ultimately leave the site, connecting to storm drainage pipes being constructed in the planned adjacent development and then to the existing City storm drainage pipes in North First Street. No new off-site storm drain facilities would be required to serve the project site.

The City prepared a sanitary sewer model run to determine the capacity of the adjacent pipelines to accommodate the proposed project's sewage. The model determined that there is adequate capacity to serve the project. As a result, no new off-site sanitary sewer facilities would be required.

Pacific Gas & Electric (PG&E) supplies electricity and natural gas to the project area. The project would connect to the existing PG&E lines located along North First Street through connections with the adjacent commercial development currently under construction. The proposed project would not require the construction of any additional off-site facilities.

The analysis in the following sections discusses the potential impacts of the project on existing facilities. Based on the following analysis, no relocation of existing or construction of new facilities are needed to serve the proposed project; as the project would connect to facilities approved by the City and currently under construction adjacent to the site. **(Less than Significant Impact)**

Impact UTL-2:	The project would not have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years. **(Less than Significant Impact)**

The San José General Plan FEIR determined that the three water suppliers for the City could serve the planned growth under the Envision 2040 General Plan until 2025. Water demand could exceed water supply with implementation of the General Plan during dry and multiple dry years after 2025. The General Plan has specific policies to reduce water consumption including expansion of the recycled water system and implementation of water conservation measures. The General Plan FEIR concluded that with implementation of existing regulations and adopted General Plan policies, full build out under the General Plan would not exceed the available water supply. The project, at 214 hotel rooms, is not considered a 'water demand project' pursuant to CEQA Guidelines section 15155, which defines a hotel with more than 500 rooms as a water demand project.

The proposed project is consistent with planned growth in the Alviso area under the Envision 2040 General Plan. Additionally, the project would utilize recycled water for landscape irrigation. Therefore, implementation of the proposed project would not create the need for major new utility or water supply infrastructure and would have a less than significant impact on the City's water supply. **(Less than Significant Impact)**

Impact UTL-3:	The project would not result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments. **(Less than Significant Impact)**

The project would require a connection to the adjacent commercial development currently under construction, and then to an existing six-inch sanitary sewer line in North First Street. Sewer upsizing of these lines may be required after further flow monitoring of existing surrounding sanitary mains is conducted. The improvements for the sanitary sewer connection would occur on-site and within the existing right-of-way of North First Street. The project would implement the identified improvements and standard permit conditions to reduce construction-related impacts to a less than significant level.

The RWF has the capacity to treat 167 million gallons of wastewater per day.[76] Currently, the RWF is operating under a 120 million gallon per day dry weather effluent flow constraints. With implementation of the project, the RWF would still operate below the required 120 million gallons per day constraint and would not increase the need for wastewater treatment beyond the capacity of the RWF. **(Less than Significant Impact)**

[76] City of San José. San José-Santa Clara Regional Wastewater Facility. Accessed December 18, 2019: http://sanJoséca.gov/index.aspx?nid=1663.

Impact UTL-4:	The project would not generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals. **(Less than Significant Impact)**

The proposed project would increase the total solid waste generated by the project site compared to existing conditions. The General Plan FEIR concluded that the increase in solid waste generated by full build out under the General Plan would not cause the City to exceed the capacity of existing landfills that serve the City. Future increases in solid waste generation from development allowed under the General Plan would be avoided with ongoing implementation of the City's Zero Waste Strategic Plan. This plan, in combination with existing regulations and programs, would ensure that full build out of the General Plan would not result in significant impacts from the provision of landfill capacity to accommodate the City's increased service population.

The proposed project would generate an increase of approximately 118 tons of solid waste per year compared to existing conditions at the project site.[77] As mentioned previously, the NISL had approximately 14.6 million cubic yards of capacity remaining in December 2019. Given NISL's remaining capacity, the City's contract with NISL, the amount of waste the City disposes of at NISL, and the amount of waste the project is expected to generate, there is sufficient capacity at NISL to service the project. Furthermore, the proposed project is consistent with the development assumptions in the General Plan. Therefore, development of the project site would have a less than significant impact on solid waste disposal capacity. **(Less than Significant Impact)**

Impact UTL-5:	The project would not be noncompliant with federal, state, and local management and reduction statutes and regulations related to solid waste. **(Less than Significant Impact)**

Per CALGreen requirements, the project would be required to provide on-site recycling facilities, develop a construction waste management plan, salvage at least 75 percent of nonhazardous construction/demolition debris (by weight), and implement other waste reduction measures. The project would comply with the City's Zero Waste Strategic Plan. The Zero Waste Strategic Plan, in combination with existing regulations and programs, would ensure that the proposed project would not result in significant impacts on solid waste disposal capacity in excess of State or local standards or in excess of NISL capacity. **(Less than Significant Impact)**

[77] Illingworth & Rodkin, Inc. The Estuary @ Terra *Air Quality & Greenhouse Gas Assessment*. October 2, 2020.

4.20 WILDFIRE

4.20.1 Environmental Setting

4.20.1.1 *Regulatory Framework*

4.20.1.2 *Existing Conditions*

The California Department of Forestry and Fire Protection (Cal Fire) is required by law to map areas of significant fire hazards based on fuels, terrain, weather, and other relevant factors. Referred to as Fire Hazard Severity Zones (FHSZ), these maps influence how people construct buildings and protect property to reduce risk associated with wildland fires. The project site is not located in a FHSZ.[78]

4.20.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:				
1) Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
2) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	☐	☐	☐	☒
3) 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?	☐	☐	☐	☒
4) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	☐	☐	☐	☒

The project site is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones; therefore, the project would not result in wildfire impacts.

[78] California Board of Forestry and Fire Protection. *Fire Hazard Severity Zones Maps*. Accessed October 22, 2020. https://osfm.fire.ca.gov/divisions/wildfire-prevention-planning-engineering/wildland-hazards-building-codes/fire-hazard-severity-zones-maps/

4.21 MANDATORY FINDINGS OF SIGNIFICANCE

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
1)	Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	☐	☒	☐	☐
2)	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.)	☐	☒	☐	☐
3)	Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☒	☐	☐

Impact MFS-1: The project does not have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory. **(Less than Significant Impact with Mitigation Incorporated)**

As discussed in the previous sections of this Initial Study, the proposed project would not degrade the quality of the environment with the implementation of the identified mitigation measures and Standard Permit Conditions. As discussed in Section 4.4 Biological Resources, with implementation of the identified mitigation measures (MM BIO-1.1 through MM BIO-1.3, MM BIO-2.1, MM BIO 3.1 through MM BIO-3.2, and MM BIO-4.1 through MM BIO-4.2) and Standard Permit Conditions, the project would not significantly impact sensitive habitats or species. As discussed in Section 4.8 Greenhouse Gas Emission, with implementation of the identified mitigation measures (MM GHG-1.1 through MM GHG-1.4) the project would not significantly degrade the quality of the environment. As discussed in Section 4.5 Cultural Resources, with implementation of the identified mitigation measures (MM CUL-1.1 through MM CUL-1.8), the project would result in a less than significant impact on archaeological, historic, and paleontological resources.

Impact MFS-2:	The project does not have impacts that are individually limited, but cumulatively considerable. **(Less than Significant Impact with Mitigation Incorporated)**

Projects recently approved, reasonably foreseeable, or under development in the surrounding area include: Topgolf at 4701 North First Street and 1561 and 1537 Liberty Street (an entertainment and recreation development northwest of the project site), 237 @ First Street (an office development southeast of the project site), and 237 Industrial Center at 1657 Alviso-Milpitas, NW Hwy 237 and McCarthy (an industrial project east of the project site)[79]. While these individual projects may result in significant impacts in particular issue areas, it is assumed that the projects will comply with existing regulations and statutes, and will incorporate measures to reduce potential impacts to a less than significant level, if necessary. For example, all projects are required to incorporate best management practices and comply with local and regional regulations to reduce impacts to water quality to the maximum extent feasible. With the proposed project's adherence to the Land Use, Air Quality, Noise, Energy, and Water Policies described in the City's General Plan, project impacts would not contribute to cumulatively considerable impacts. Given the project's location and proposed operation, areas of particular concern for cumulative impacts include biological resources, cultural resources, and GHG emissions. These impact areas are discussed in further detail below.

Biological Resources

As described in Section 4.4 Biological Resources, the project could affect sensitive biological resources in both the short- and long-term. The project would implement a number of measures to reduce impacts on biological resources. Additionally, all projects are required to implement best management practices and comply with all federal, state, regional and local regulations described in Section 4.4. Therefore, the project would not significantly contribute to cumulative impacts on biological resources.

Cultural Resources

The geographic area for cultural resources is the city boundaries as cultural resource impacts are typically localized and generally limited to the immediate area in which a given cultural resources is located.

As described in Section 4.5 Cultural Resources, the project would include disturbance of native soils for trenching, site grading, and other construction activities. While there are no recorded archaeological or historic sites on the project site, there is a potential for buried archaeological resources to occur on the site. Construction of the proposed project could impact unknown buried archaeological resources and human remains, if present on-site. The project would implement a number of measures to reduce impacts on cultural resources. Additionally, all projects are required to implement best management practices and comply with all federal, state, and local regulations described in Section 4.5. Therefore, the project would not significantly contribute to cumulative impacts on cultural resources.

[79] City of San José. Key Economic Development Projects. Accessed January 20, 2021. https://gis.sanjoseca.gov/maps/devprojects/

Greenhouse Gas Emissions

Similar to regulated air pollutants, GHG emissions and global climate change also represent cumulative impacts. The project's contribution to global climate change is discussed in Section 4.8 Greenhouse Gas Emissions in terms of the project's GHG emissions. With implementation of the efficiency measures and mitigation measures proposed, the project would not conflict with plans, policies or regulation adopted for the purpose of reducing the emissions of GHGs.

The project does not have impacts that are individually limited, but cumulatively considerable. **(Less than Significant Impact with Mitigation Incorporated)**

Impact MFS-3:	The project does not have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly. **(Less than Significant Impact with Mitigation Incorporated)**

Consistent with Section 15065(a)(4) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has the potential to cause substantial adverse effects on human beings, either directly or indirectly. Under this standard, a change to the physical environment that might otherwise be minor must be treated as significant if people would be significantly affected. This factor relates to adverse changes to the environment of human beings generally, and not to effects on particular individuals. While changes to the environment that could indirectly affect human beings would be represented by all of the designated CEQA issue areas, those that could directly affect human beings include construction-related air quality, hazardous materials, and noise. Implementation of mitigation measures identified in Section 4, however, would reduce these impacts to a less than significant level. No other direct or indirect adverse effects on human beings have been identified. **(Less than Significant Impact with Mitigation Incorporated)**

SECTION 5.0 REFERENCES

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SECTION 6.0 LEAD AGENCY AND CONSULTANTS

6.1 LEAD AGENCY

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SECTION 7.0 ACRONYMS AND ABBREVIATIONS

2017 CAP	Bay Area 2017 Clean Air Plan
AB	Assembly Bill
ABAG	Association of Bay Area Governments
ALUC	Airport Land Use Commission
amsl	Above mean sea level
BAAQMD	Bay Area Air Quality Management District
BCDC	San Francisco Bay Conservation and Development Commission
BMPs	Best Management Practices
Btu	British thermal units
CAL FIRE	California Department of Forestry and Fire Protection
CalEEMod	California Emissions Estimator Model
CalEMA	California Emergency Management Agency
CALGreen	California Green Building Code
Cal/OSHA	California Department of Industrial Relations, Division of Occupational Safety and Health
Caltrans	California Department of Transportation
CARB	California Air Resources Board
CARE	Community Air Risk Evaluation
CBC	California Building Standards Code
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CFCs	Chlorofluorocarbons
CGS	California Geological Survey
CH_4	Methane
CLUP	Comprehensive Land Use Plan
CMP	Congestion Management Plan
CNEL	Community Noise Equivalent Level
CO	Carbon Monoxide
CO_2	Carbon Dioxide
CO_2e	Carbon Dioxide Equivalents
CRHR	California Register of Historical Resources
CWA	Clean Water Act

DPM	Diesel Particulate Matter
EIR	Environmental Impact Report
EO	Executive Order
EPA	Environmental Protection Agency
ESA	Environmental Site Assessment
FEMA	Federal Emergency Management Agency
FHSZ	Fire Hazard Severity Zones
FIRMs	Flood Insurance Rate Maps
FMMP	Farmland Mapping and Monitoring Program
FTA	Federal Transit Administration
GHG	Greenhouse Gas
GWP	Global Warming Potential
HFCs	Hydrofluorocarbons
HI	Hazard Index
HMMP	Habitat Mitigation and Monitoring Plan
HMP	Hydromodification Management Plan
HRI	City of San Jose's Historic Resources Inventory
ITE	Institute of Transportation Engineers
LEED	Leadership in Energy and Environmental Design
LID	Low Impact Development
LOS	Level of Service
LTA	Local Transportation Analysis
LTR	Light Rail Transit
MBTA	Migratory Bird Treaty Act
MEI	Maximally Exposed Individual
Mgd	Million gallons per day
MLD	Most Likely Descendant
$MMTCO_2e$	Million Metric Tons of Carbon Dioxide Equivalents
MND	Mitigated Negative Declaration
MRP	Municipal Regional Permit
MSL	Mean sea level
MT	Metric Tons
MTC	Metropolitan Transportation Committee

N_2O	Nitrous oxide
NAHC	Native American Heritage Commission
NFIP	National Flood Insurance Program
NHPA	National Historic Preservation Act
NOD	Notice of Determination
NOI	Notice of Intent
NO_2	Nitrogen Dioxide
NO_x	Nitrogen oxides
NPDES	National Pollutant Discharge Elimination System
NRHP	National Register of Historic Places
O_3	Ground-level Ozone
OPR	Governor's Office of Planning and Research
PDAs	Priority Development Areas
PFCs	Perfluorocarbons
PG&E	Pacific Gas and Electric Company
PM	Particulate Matter
$PM_{2.5}$	Fine Particulate Matter
PM_{10}	Coarse Particulate Matter
PPV	Peak Particle Velocity
RHNA	Regional Housing Need Allocation
ROG	Reactive Organic Gases
RWQCB	Regional Water Quality Control Board
SB	Senate Bill
SCS	Sustainable Communities Strategy
SCVHCP	Santa Clara Valley Habitat Conservation Plan
SF_6	Sulfur hexafluoride
SFHA	Special Flood Hazard Areas
SHMA	Seismic Hazards Mapping Act
SJCE	San José Clean Energy
SJFD	San José Fire Department
SJPD	San José Police Department
SMARA	Surface Mining and Reclamation Act
SMGB	State Mining and Geology Board

SO_x	Sulfur Oxides
SSC	Species of Special Concern
SR	State Route
SWQCB	State Water Quality Control Board
SWPPP	Storm Water Pollution Prevention Plan
TACs	Toxic Air Contaminants
TCMs	Treatment Control Measures
TCRs	Tribal Cultural Resources
TDM	Transportation Demand Management
USACE	United States Army Corps of Engineers
USFWS	United States Fish and Wildlife Service
USGS	United States Geological Survey
UWMP	Urban Water Management Plan
VMT	Vehicle Miles Traveled
VTA	Santa Clara Valley Transportation Authority
ZNE	Zero Net Carbon Emissions