

Appendix B  
**Initial Study**



# Initial Study

## Qume and Commerce Project

File No. H21-040, T21-040, and ER21-154

June 2022



## Table of Contents

1.0	Introduction & Purpose .....	1
1.1	Project History .....	1
2.0	Project Information.....	4
2.1	Project Title and File Number .....	4
2.2	Project Location .....	4
2.3	Lead Agency Contact.....	4
2.4	Property Owner/Project Applicant .....	4
2.5	Assessor’s Parcel Numbers .....	4
2.6	Zoning District and General Plan Designation .....	4
2.7	Habitat Plan Designation .....	4
2.8	Project-Related Approvals, Agreements and Permits .....	5
3.0	Description of Proposed Project.....	6
3.1	Existing Project Site.....	6
3.2	Project Site Vicinity .....	6
3.3	Proposed Project.....	7
4.0	Environmental Analysis.....	21
4.1	Aesthetics.....	21
4.2	Agriculture and Forestry Resources.....	25
4.3	Air Quality .....	28
4.4	Biological Resources.....	29
4.5	Cultural Resources .....	30
4.6	Energy .....	31
4.7	Geology and Soils.....	42
4.8	Greenhouse Gas Emissions .....	48
4.9	Hazards and Hazardous Materials .....	49
4.10	Hydrology and Water Quality .....	50
4.11	Land Use and Planning.....	57
4.12	Mineral Resources .....	62
4.13	Noise .....	64
4.14	Population and Housing.....	65
4.15	Public Services.....	67
4.16	Recreation .....	73

---

4.17 Transportation .....	75
4.18 Tribal Cultural Resources .....	76
4.19 Utilities and Service Systems .....	81
4.20 Wildfire.....	88
5.0 References .....	93

**Figures**

Figure 1-1: Regional Location Map .....	2
Figure 1-2: Project Vicinity Map.....	3
Figure 3-1: Proposed Vesting Tentative Map .....	14
Figure 3-2: Overall Site Plan.....	15
Figure 3-3A: Proposed Elevations .....	16
Figure 3-3B: Proposed Elevations .....	17
Figure 3-3C: Proposed Elevations .....	18
Figure 3-3D: Proposed Elevations .....	19
Figure 3-4: Proposed Landscape Plan .....	20
Figure 4-1: Fire Hazard Severity Zones .....	91
Figure 4-2: Santa Clara County Wildland Urban Interface Fire Area .....	92

**Tables**

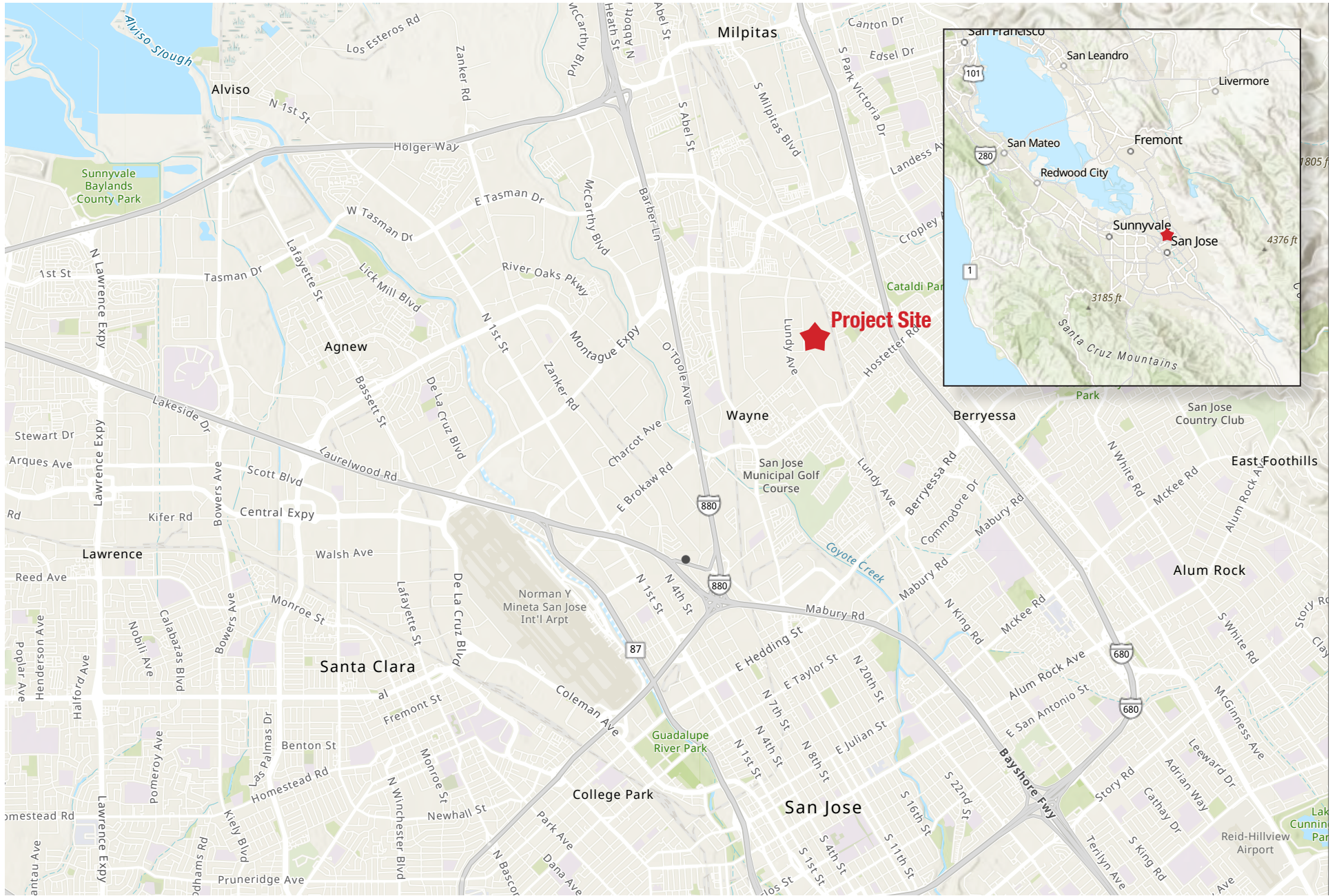
Table 3-1: Existing Building Summary .....	6
Table 3-2: Proposed Parcel Summary .....	7
Table 3-3: Proposed Building Summary .....	7
Table 4-1: Green Building Practices .....	33
Table 4-2: Project Energy Consumption During Construction .....	39
Table 4-3: Annual Energy Consumption During Operations .....	40
Table 4-4: Impervious and Pervious On-Site Surface Area .....	55
Table 4-5: General Plan Consistency.....	59

## **1.0 INTRODUCTION & PURPOSE**

### **1.1 Project History**

This Initial Study has been prepared by the City of San José (City) as the Lead Agency, in conformance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (Title 14, California Code of Regulations § 15000 et seq.), and the regulations and policies of the City of San José. The purpose of this Initial Study is to provide objective information regarding the environmental consequences of the proposed Project to the decision makers who will be reviewing and considering the project.

The Project site is located at 2222 and 2350 Qume Drive and 2150 Commerce Drive in the City of San José. The Project site is located east and south of the Qume Drive and Commerce Drive intersection. See **Figure 1-1: Regional Location Map** and **Figure 1-2: Project Vicinity Map**.



Source: USGS, 2021

Figure 1-1: Regional Location Map  
 Qume and Commerce Project  
 Initial Study



Not to scale



Source: Google Earth, 2022

Figure 1-2: Project Vicinity Map  
Qume and Commerce Project  
Initial Study



Not to scale

## 2.0 PROJECT INFORMATION

### 2.1 Project Title and File Number

Qume and Commerce Project

File Nos. H21-040, T21-040, and ER21-154

### 2.2 Project Location

The 32.80-acre Project site is located at 2222 and 2350 Qume Drive and 2150 Commerce Drive in the City of San José. The Project site is east and south of the Qume Drive and Commerce Drive intersection. See **Figure 1-1: Regional Map** and **Figure 1-2: Project Vicinity Map**.

### 2.3 Lead Agency Contact

City of San José  
200 East Santa Clara Street, 3rd Floor  
San José, California 95113

Environmental Project Manager: Cassandra van der Zweep  
Phone: (408) 535-7659  
Email: Cassandra.vanderzweep@sanjoseca.gov

### 2.4 Property Owner/Project Applicant

Contact: Heather Crossner  
Qume and Commerce, LLC.  
3101 Ocean Park Boulevard, Suite 100, PMB 60  
Santa Monica, CA 90405

### 2.5 Assessor's Parcel Numbers

APN 244-15-029, -030, -003

### 2.6 Zoning District and General Plan Designation

General Plan: Industrial Park (IP)

Zoning: Industrial Park (IP)

### 2.7 Habitat Plan Designation

Land Cover Designation: Urban-Suburban

Development Zone: Urban Development greater than two acres covered

Fee Zone: Urban Area

Owl Conservation Zone: N/A



## **2.8 Project-Related Approvals, Agreements and Permits**

- Site Development Permit, including extended construction hours
- Vesting Tentative Map
- Demolition Permit
- Tree Removal Permit
- Public Works Clearances, including grading permits

### 3.0 DESCRIPTION OF PROPOSED PROJECT

#### 3.1 Existing Project Site

The 32.80-acre Project site is located at 2222 and 2350 Qume Drive and 2150 Commerce Drive (APN: 244- 15-029, -030, and -003) in the City of San José.<sup>1</sup> For the purpose of this analysis, the baseline conditions are that the Project site is developed with an industrial/business park complex containing three buildings totaling approximately 425,433 square-feet (sf). Existing uses on-site include research and development, industrial business park, and office.<sup>2</sup> Vehicular access to the Project site is currently provided via eight driveways on Qume Drive and Commerce Drive, and surface parking is available throughout the site. Truck access and loading docks are located on the northwestern extent of 2350 Qume Drive and the southwestern extent of 2150 Commerce Drive. **Table 3-1: Existing Building Summary** provides an overview of existing buildings.

**Table 3-1: Existing Building Summary**

Existing APN	Address	Building Area (sf)
244-15-029	2350 Qume Drive	289,915
244-15-030	2222 Qume Drive	79,685
244-15-003	2150 Commerce Drive	58,833

There is existing utility access (water, sewer, electricity, gas) to the Project site. The Project site has existing landscaping along all site boundaries and planters and landscaping strips throughout surface parking areas. There are 702 existing trees throughout the Project site, including 298 Ordinance-size trees.<sup>3</sup> Finally, the Project site has existing site lighting for security and wayfinding.

#### 3.2 Project Site Vicinity

The Project site is located in an urban area with a mix of surrounding uses including commercial, office, residential, and industrial uses. The Project site is bound by an industrial/business park to the north, McKay Drive and industrial uses to the south and southeast, the BART corridor to the east with residential uses beyond, and Qume Drive with a range of industrial and commercial uses to the west. Residential uses beyond the BART corridor are part of a different community than the Project site and do not share an immediate roadway network because they are separated by the fenced BART corridor.

Interstate 680 (I-680) and Interstate 880 (I-880) each run in a north-south orientation and are located approximately 0.51 mile east and 1.0-mile west, respectively, of the Project site at their nearest points. The nearest transit stop is the Lundy Avenue and Commerce Drive bus stop located approximately 0.14 mile west of the Project site.

<sup>1</sup> The County Assessor’s Map was corrected in February 2022 to reflect changes from Lot Line Adjustment 19953160 recorded in 2008. The APNs identified herein are effective starting July 2022, which is the start of the new assessor roll year.

<sup>2</sup> Per information provided by the Applicant, the existing use has approximately 1,150 employees.

<sup>3</sup> An ordinance-size tree on private property is either: Single Trunk, 38-inches or more in circumference at 4 ½ feet above ground or Multi Trunk, the combined measurements of each trunk circumference, at 4 ½ feet above ground, add up to 38-inches or more in circumference.

### 3.3 Proposed Project

#### VESTING TENTATIVE MAP

The proposed Project includes approval of a Vesting Tentative Map (VTM) to divide APNs 244-15-029, -030, and -003 into four individual parcels, in order to provide each of the four proposed buildings with its own legal lot. **Figure 3-1: Proposed Vesting Tentative Map** depicts the proposed VTM and associated property lines. **Table 3-2: Proposed Parcel Summary** provides an overview of Project parcels.

**Table 3-2: Proposed Parcel Summary**

Proposed Project Parcel	Existing APN	Proposed APN	Proposed Acreage
1	244-15-029	244-15-026	15.18
2		244-15-028	9.43
3	244-15-030	244-15-020	4.48
4	244-15-003	244-15-003	3.77

#### PROPOSED DEVELOPMENT

The proposed Project would demolish all On-site improvements and construct four single-story new industrial warehouse/distribution buildings, all with dock doors, a mezzanine, generator (one per building -4 total), and associated site improvements. The proposed buildings would comprise a total of approximately 714,491 sf with a net floor area ratio (FAR) of 0.51 and a maximum height of 48-feet. All buildings are proposed to operate 24 hours daily. **Figure 3-2: Proposed Overall Site Plan** shows the site layout and **Figure 3-3A, Figure 3-3B, Figure 3-3C, Figure 3-3D: Proposed Elevations** show the proposed architectural elevations.

The Project site is designated as Industrial Park (IP) by the General Plan, which allows for warehousing and distribution uses. The Project site is zoned as Industrial Park (IP). The IP Zoning District also allows for warehouse/distribution facilities.

**Table 3-3: Proposed Building Summary** provides an overview of proposed buildings and key components. Additionally, the proposed details of each building are outlined below.

**Table 3-3: Proposed Building Summary**

Building	Total Building Area (sf)	Warehouse Space (sf)	Office Space (sf)	Automobile Parking <sup>1</sup>	Trailer Parking	Dock Doors
1	358,180	353,180	5,000	156	61	39
2	202,735	197,735	5,000	150	27	21
3	83,751	78,751	5,000	53	4	10
4	69,825	84,825	5,000	53	7	10
<b>Total</b>	<b>714,491</b>	<b>694,491</b>	<b>20,000</b>	<b>412</b>	<b>99</b>	<b>80</b>
Notes						
<sup>1</sup> Total parking includes ADA accessible, clean air vehicle, EV stalls.						
Source: Herdman Architecture + Design, February 2022.						

#### Building 1

Building 1 would be a single-story building and consist of approximately 358,180 sf including 353,180 sf of warehouse, 2,500 sf of office space in the southwest corner of the building and, 2,500 sf of office space on a mezzanine floor. Building 1 would include 39 loading dock doors for trucks on the south side of the building and 61 trailer parking stalls would be provided immediately south of the dock doors. On-site

surface parking would include 133 standard automobile stalls along the northern and western site boundary, 8 Americans with Disabilities Act (ADA) accessible stalls, 8 clean air vehicle stalls, 8 electric vehicle (EV) stalls, and 8 motorcycle stalls along the southwest corner of the site near the office entrance on Qume Drive. Additionally, 12 bicycle parking stalls would be located near the office entrance. Vehicular access to Building 1 would be provided by two 32-foot wide driveways at Qume Drive. Truck access would be limited to the southerly driveway and would be controlled by a steel rolling gate. Additionally, a gated access road along the southeastern corner of the site would provide vehicular access from Building 2.

## **Building 2**

Building 2 would be a single-story building and consist of approximately 202,735 sf including 197,735 sf of warehouse, 2,500 sf of office space in the southwest corner of the building, and 2,500 sf of office space on a mezzanine floor. Building 2 would include 21 dock doors for trucks on the south side of the building and 27 trailer parking stalls would be provided immediately south of the dock doors. On-site surface parking would include 126 standard automobile stalls to the north and west of the building and 8 ADA stalls, 8 clean air vehicle stalls, 8 EV stalls, and 5 motorcycle stalls along the southwest corner of the site near the office entrance on Qume Drive. Additionally, 6 bicycle parking stalls would be located near the office entrance. Vehicular access to Building 2 would be provided by two 32-foot wide driveways at Qume Drive. Truck access would be limited to the southerly driveway and would be controlled by a steel rolling gate. Additionally, Building 1 would be accessed by the gated access road to its northeast.

## **Building 3**

Building 3 would be a single-story building and consist of approximately 83,751 sf including 81,251 sf of warehouse, 2,500 sf of office space in the northwest corner of the building, and 2,500 sf of office space on a mezzanine floor. Building 3 would include 10 dock doors for trucks on the south side of the building and 4 trailer parking spaces would be provided southwest of the dock doors. On-site surface parking would include 43 standard automobile stalls to the north and west of the building and 4 ADA stalls, 3 clean air vehicle stalls, 3 EV stalls, and 5 motorcycle stalls north of the building, near the office entrance. Additionally, 6 bicycle parking stalls would be located to the west of the office entrance, along Qume Drive. Vehicular access to Building 3 would be provided by three 32-foot wide driveways including two at Qume Drive and a gated driveway at McKay Drive. Truck access would be limited to the southerly driveway at Qume Drive and driveway at McKay Drive. Additionally, a Class I bikeway would be located southeast of Building 3, providing access between Commerce Drive and Automation Parkway.

## **Building 4**

Building 4 would be a single-story building and consist of approximately 69,825 sf including 67,325 sf of warehouse, 2,500 sf of office space in the northwest corner of the building, and 2,500 sf of office space on a mezzanine floor. **Table 3- 1: Building Summary** provides an overview of building warehouse area, dock doors, and parking. Building 4 would include 7 dock doors for trailer, box, and recycling trucks on the south side of the building. 7 trailer parking spaces would be provided south of the dock doors. On-site surface parking would include 43 standard automobile stalls to the east and west of the building and 4 ADA stalls, 3 clean air vehicle stalls, 3 EV stalls, and 3 motorcycle stalls west of the building, near the office entrance. Additionally, 6 bicycle parking stalls would be located next to the office entrance. Access to Building 4 would be provided by four 32-foot-wide driveways including two driveways at Commerce Drive

and two driveways at McKay Drive. Truck access would be limited to the westerly driveway at Commerce Drive and southerly driveway at McKay Drive.

## LANDSCAPE PLAN

The proposed landscaping plan and plant palette is provided as **Figure 3-4A: Proposed Landscape Plan**. The Project site currently has mature landscape vegetation including trees and shrubs along the site boundary. Project implementation would remove existing vegetation on-site, including 620 trees, 297 of which are Ordinance-sized trees. 51 existing trees would remain.

Tree removals would be in accordance with San José Municipal Code Section 13.32 which requires project applicants to obtain and comply with a Tree Removal Permit. Based on the City's Tree Replacement Ratios, the Project would require a total of 1,736 15-gallon replacement trees (or 868 24-inch box trees). The Project proposes to plant 339 new 24-inch box trees On-site and would pay in-lieu fees in accordance with the City's policy for the remaining 1,058 replacement trees. Additional landscaping throughout the site would include a mix of grasses, shrubs, and groundcover. Landscape coverage would be provided for the required 15-foot frontage setbacks along Qume Drive and Commerce Drive.

Overall, Project landscaping would cover approximately 21 percent (223,606 sf) of the Project site. The proposed landscape plan would meet the City of San José Water Efficient Landscape Requirements. Proposed features include a low flow irrigation system equipped with a weather based smart controller. On-site landscaping would meet State water efficient landscape standards and stage 2 drought restrictions. Final landscape plans would be subject to review during Development Plan Review to ensure compliance.

## OFF-SITE IMPROVEMENTS

As required by the City, the proposed Project would shift the existing curblines along the Commerce Drive and Qume Drive Project frontages approximately 10 feet inwards to achieve a future 40-foot curb-to-curb width along Qume Drive and Commerce Drive. The purpose of the roadway narrowing is to control vehicle speed and provide for traffic calming, while also improving the pedestrian experience by providing wider sidewalks and improved landscape features. To facilitate bicycle connectivity within the Project vicinity, a Class I bikeway would be located along the southeastern portion of Building 3, providing access between Commerce Drive and Automation Parkway.

## UTILITY INFRASTRUCTURE

Project implementation would require construction of on-site utility infrastructure to serve the proposed warehouse buildings. The Project would connect proposed utilities to existing off-site utility infrastructure in adjacent roadways, with the final sizing and design occurring during final building design and plan review.

**Water and Sewer.** The Project site is within the San José Water Company's jurisdictional boundaries. Although the Project site's existing use has connections to the utility system, the proposed Project would provide new connections to the municipal water system. The City of San José's Environmental Services Department provides sewer utility services to the Project site, and wastewater treatment occurs at the

San José-Santa Clara Regional Wastewater Facility (RWF). The RWF is jointly owned by the cities of San José and Santa Clara and is managed by the City of San José's Environmental Services Department.

**Stormwater Management.** The City of San José's Environmental Services Department is responsible for stormwater management within the City. The Project proposed four (4) new connections to existing storm drain main lines along Qume Drive and Commerce Drive project frontages and two storm drain lines connecting to the storm drain system via existing on-site connections at the corner of Commerce Drive and Qume Drive.

The proposed Project would incorporate on-site stormwater treatment features, through bioretention areas and flow-through planters. Stormwater on the northmost side of the property would be captured in bioretention areas by catch basins and conveyed to a 12-inch storm drain line located north of Building 1. Stormwater between Buildings 1 and 2 would be captured in bioretention areas by catch basins and conveyed to a 12-inch storm drain line located between Buildings 1 and 2. This 12-inch storm drain line would connect to the existing 24-inch public storm drain in Qume Drive, south of Concourse Drive. Stormwater south of Building 2 would be captured in bioretention areas by catch basins and conveyed to a 12-inch storm drain line located between Buildings 2 and 3. Stormwater north of Building 3 would be captured in bioretention areas by catch basins and conveyed to a 12-inch storm drain line located to the north of Building 3. Stormwater south of Building 3 would be captured in bioretention areas by catch basins and conveyed to 6 and 12-inch storm drain lines located south of Building 3. Stormwater east of Building 4 would be captured in bioretention areas by catch basins and conveyed to a 12-inch storm drain line located to the east of Building 4. This 12-inch storm drain line would connect to an existing on-site storm drain catch basin located at the corner of Commerce Drive and Qume Drive. Stormwater west of Building 4 would be captured in bioretention areas by catch basins and conveyed to a 12-inch storm drain line located to the west of Building 4.

**Dry Utilities and Solid Waste Management.** San José Clean Energy (SJCE), the City's Community Energy department, provides electrical power to the Project site. The Project would enroll in SJCE's TotalGreen Program, which provides 100 percent renewable energy to users. The proposed Project would connect to existing utility lines, with on-site facilities upgrades as required. Republic Services would provide solid waste collection services and recycling services to the Project site. Project construction and demolition waste would be diverted to exceed City requirements and least 75 percent of construction and demolition waste and 100 percent of metal would be recycled. The Project would provide covered trash enclosures throughout the site.

## PROJECT CONSTRUCTION

The Project would demolish existing on-site improvements, including three buildings totaling approximately 425,433 sf. The Project requires approximately 5,000 cubic yards of soil material to be exported from the Project site. The Project would be constructed over approximately 18 months, beginning in the second quarter of 2024. The Project would be constructed in one comprehensive phase and would follow a conventional construction sequence of demolition, site preparation, grading/earthwork, paving, building construction, and architectural coating. Operations would be anticipated to commence in the fourth quarter of 2025.

The Project would also be required to prepare a Storm Water Pollution Prevention Plan (SWPPP) under the National Pollution Discharge Elimination System (NPDES) General Construction Permit and the City's Municipal Code. The SWPPP would include best management practices (BMPs) to be implemented to prevent soil erosion and discharge of other construction-related pollutants that could contaminate nearby bodies of water.

It is anticipated that construction would typically occur five days a week (Monday through Friday) from 7:00 AM to 7:00 PM, however, the Site Development Permit includes a request for extended off-hour construction activities. These off-hour activities would include, but is not limited to, extending typical construction to Saturdays from 8:00 AM to 5:00 PM, and perform concrete pours during nighttime hours. The nighttime concrete pours would occur on up to 30 nights for Building 1, 25 nights for Building 2, 15 nights for Building 3, and 15 nights for Building 4. The nighttime concrete pours would utilize the following construction equipment: concrete mixer, concrete pump, concrete vibrator, generator, and air compressor.

Project design features (PDF) below include PDF NOI-1 construction noise measure, PDF NOI-2 extended construction hours, and PDF NOI-3 temporary wall barrier. PDF NOI-1 through PDF NOI-3 would minimize construction noise effects and would be conditions of approval for the Project.

### **Project Design Features**

#### **PDF NOI-1 Construction Noise Measure**

Prior to Grading Permit issuance, the Applicant shall demonstrate, to the satisfaction of the City of San Jose Director of Public Works or City Engineer that the Project complies with the following:

- Prohibit pile driving.
- Prohibit unnecessary idling of internal combustion engines. Post signs at gates and other places where vehicles may congregate reminding operators of the State's Airborne Toxic Control Measure (ATCM) limiting idling to no more than 5 minutes.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the Project site.
- Construction contracts specify that all construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers and other State required noise attenuation devices.
- Property owners and occupants located within 300 feet of the Project boundary shall be sent a notice, at least 15 days prior to commencement of construction activities, regarding the construction schedule of the proposed Project. A sign, legible at 50 feet shall also be posted at the Project construction site. All notices and signs shall be reviewed and approved by the Director of Planning, Building and Code Enforcement or Director's designee, prior to mailing or posting and shall indicate the dates and duration of construction activities, as well as provide a contact name and a telephone number for the Noise Disturbance Coordinator where residents can inquire about the construction process and register complaints.

- Prior to issuance of any Grading or Building Permit, the Contractor shall provide evidence that at all times during construction activities and on-site construction staff member will be designated as a Noise Disturbance Coordinator. The Noise Disturbance Coordinator is responsible for responding to complaints about construction noise. When a complaint is received, the Noise Disturbance Coordinator shall determine the cause (e.g., starting too early, bad muffler, etc.), implement reasonable measures to resolve the complaint, and document actions taken. All notices sent to residential units within 300 feet of the construction site and all signs posted at the construction site, shall include the contact name and the telephone number for the Noise Disturbance Coordinator.
- Construction haul routes shall be designed and clearly designated to avoid noise sensitive uses (e.g., residences, convalescent homes, etc.) to the extent feasible.

#### **PDF NOI-2      Extended Construction Hours**

San José requires approval of construction occurring outside of the hours of 7:00 AM to 7:00 PM, Monday through Friday and anytime on weekends, within 500 feet of existing residential land uses. The following measures would reduce noise impacts at nearby noise-sensitive receptors:

- Limit the active equipment during nighttime (10:00 PM to 7:00 AM) construction to the following construction equipment: concrete mixer, concrete pump, concrete vibrator, generator, and air compressor. Limit nighttime activity along the eastern boundary near sensitive receptors, as feasible.
- To the extent consistent with applicable regulations and safety considerations, operation of back-up beepers shall be avoided near sensitive receptors between 7:00 PM and 7:00 AM, and/or the work sites shall be arranged in a way that avoids the need for any reverse motions of trucks or the sounding of any reverse motion alarms during off hour work. If these measures are not feasible, equipment and trucks operating during off hours with reverse motion alarms must be outfitted with SAE J994 Class D alarms (ambient-adjusting, or “smart alarms” that automatically adjust the alarm to 5 dBA above the ambient near the operating equipment).
- Residences or other noise-sensitive land uses within 500 feet of construction sites shall be notified of the anticipated construction schedule occurring between 7:00 PM and 7:00 AM and on weekends (“off hours construction”), in writing, at least 15 days prior to the beginning of off hours construction. This notification shall specify the anticipated dates for all off hour construction and provide the contact information for the Noise Disturbance Coordinator.
- Designate a Noise Disturbance Coordinator that would be responsible for responding to any local complaints including about off hour construction noise within 48 hours. Any nuisance complaint reported during nighttime operations (7:00 PM and 7:00 AM) shall be deemed an urgent issue and shall be responded to immediately. The Coordinator would determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and institute reasonable measures to correct the problem. Conspicuously post a telephone number for the Coordinator at the construction site.

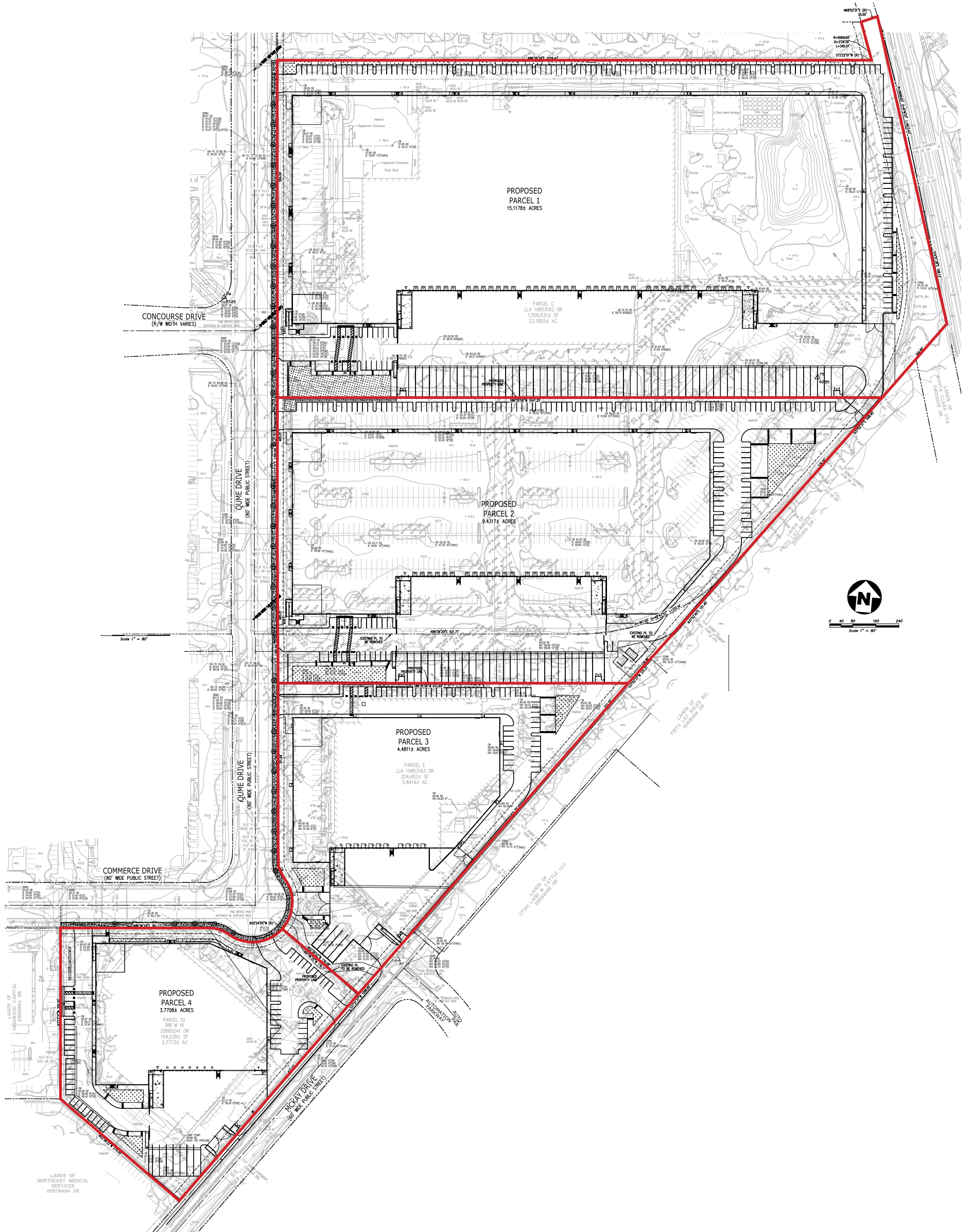


**PDF NOI-3      Temporary Noise Barrier**

Prior to the issuance of any demolition or grading permit that covers work within 500 feet of residences, the Applicant shall demonstrate to the Director of Planning Building and Code Enforcement or Director's Designee that the temporary construction noise barriers will be installed meeting the following requirements:

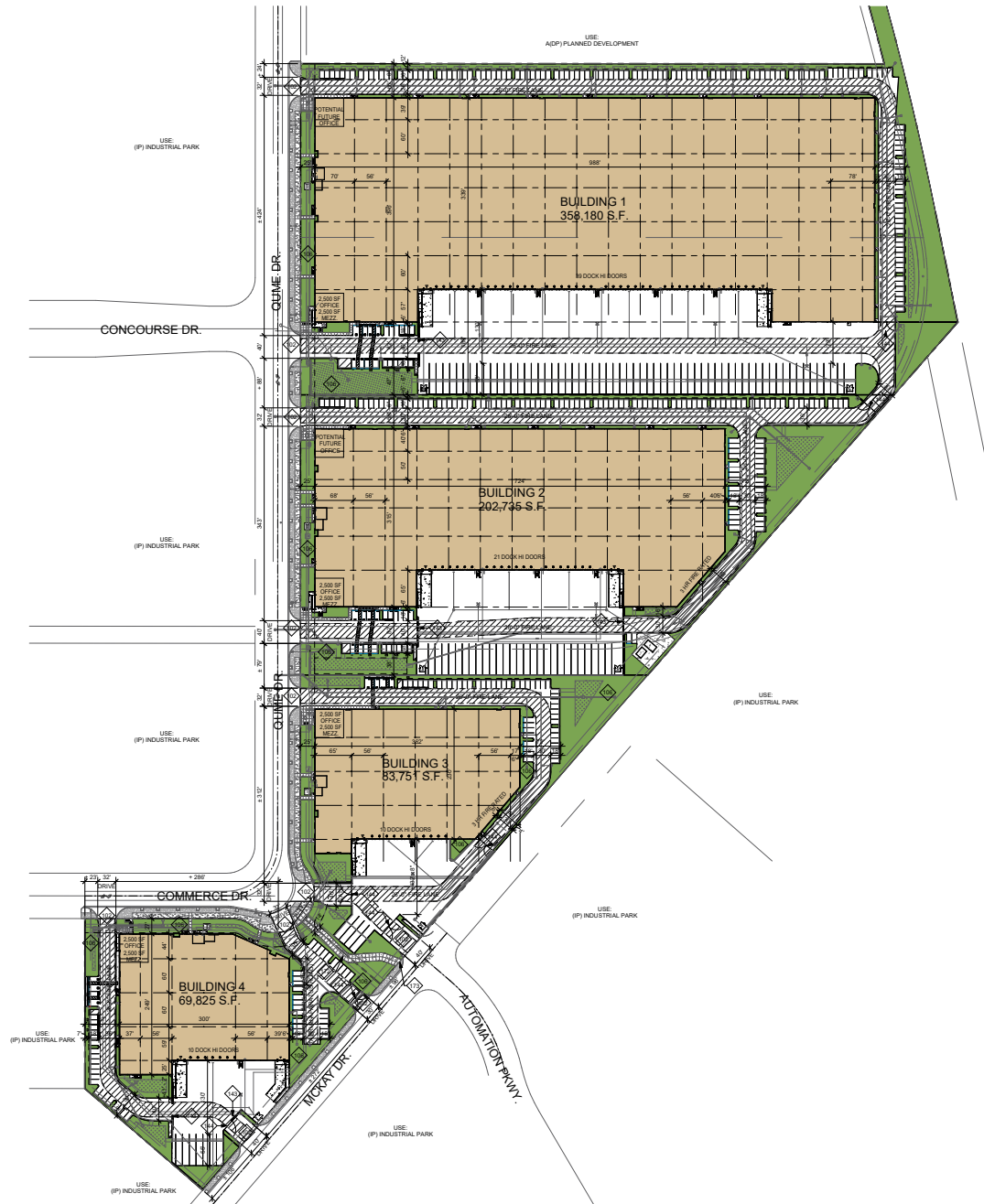
Prior to any construction activities within 500 feet of residences, a temporary noise barrier shall be erected along a portion of the Project boundary within 500 feet of residences (**see Figure 2-8: Temporary Noise Barrier Location** of the Draft EIR). The temporary noise barrier shall be 350 linear feet along the northern property boundary where it intersects with the eastern boundary; along the entire length (400 linear feet) of the eastern boundary; and 400 linear feet of the southeastern boundary. The temporary noise barrier shall be a minimum of 10 feet high. The temporary noise barrier shall remain in place from the demolition through vertical shell construction, not including paving, landscaping, glazing installations, roofing, and architectural coating (exterior and interior) and finishes.

The temporary noise barrier shall have a sound transmission class (STC) of 25 or greater in accordance with the American Society for Testing and Materials (ASTM) Test Method E90. As an example, one method to achieve this would be a barrier consisting of steel tubular framing, welded joints, a layer of 18-ounce tarp, a two-inch thick fiberglass blanket, a half-inch thick weatherwood asphalt sheathing, and 7/16-inch sturdy board siding. Additionally, to avoid objectionable noise reflections, the source side of the noise barrier shall be lined with an acoustic absorption material meeting a noise reduction coefficient rating of 0.70 or greater in accordance with ASTM Test Method C423.



Source: KERT + WRIGHT, 2022

Figure 3-1: Proposed Vesting Tentative Map  
 Qume and Commerce Project  
 Initial Study

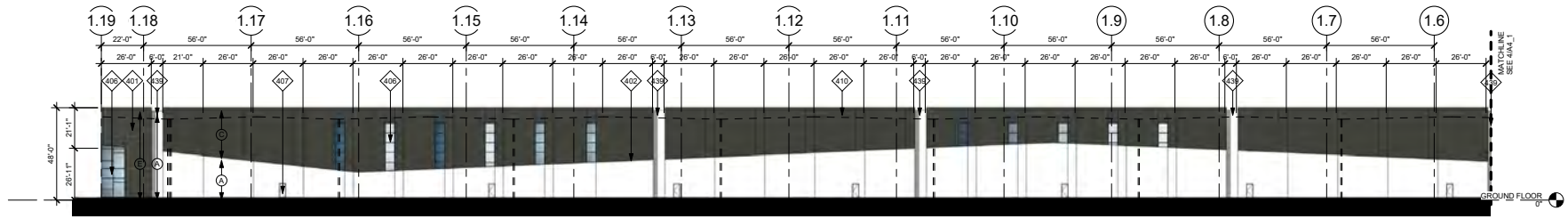


Source: Herdman, 2022

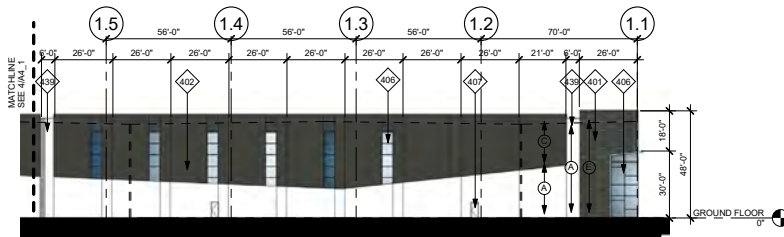
Figure 3-2: Overall Site Plan  
Qume and Commerce Project  
Initial Study



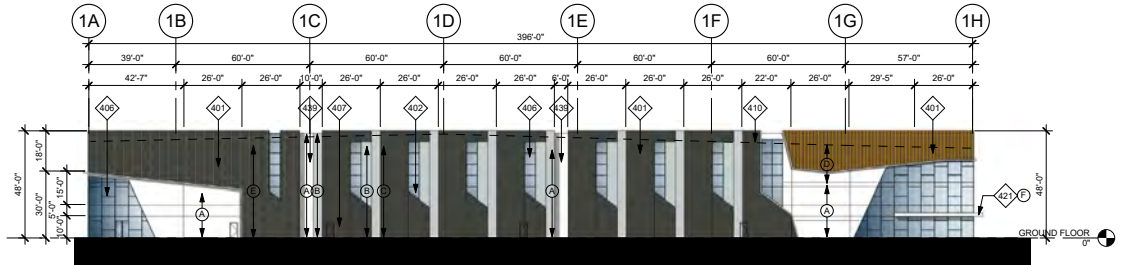
Not to scale



1 PROPOSED NORTH ELEVATION - BUILDING 1  
1" = 30'-0"



2 PROPOSED NORTH ELEVATION - BUILDING 1 - CONT.  
1" = 30'-0"

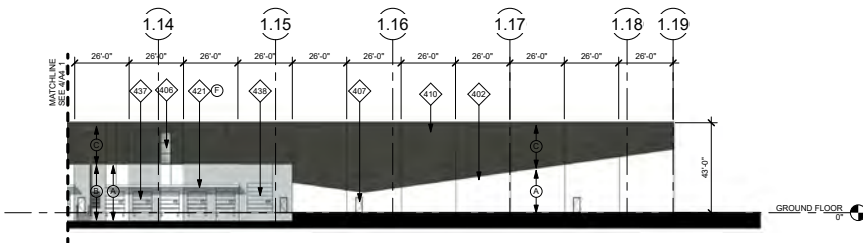


3 PROPOSED WEST ELEVATION - BUILDING 1  
1" = 30'-0"

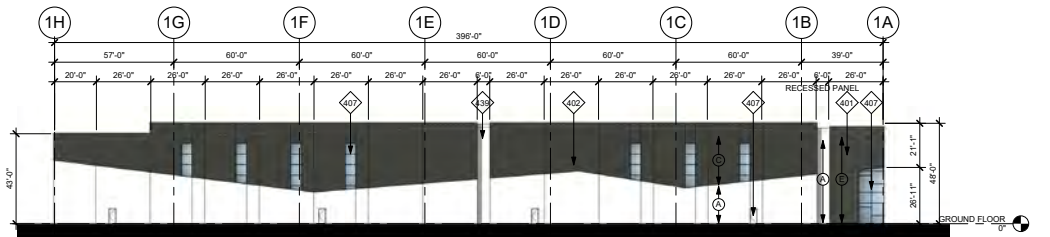


4 PROPOSED SOUTH ELEVATION - BUILDING 1  
1" = 30'-0"

7 RECESSED PANEL DETAIL, TYP.  
1" = 2'-0"



5 PROPOSED SOUTH ELEVATION - BUILDING 1 - CONT.  
1" = 30'-0"

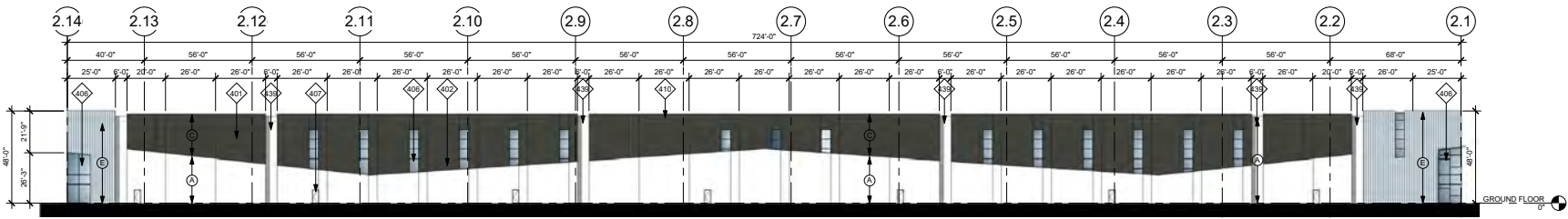


6 PROPOSED EAST ELEVATION - BUILDING 1  
1" = 30'-0"

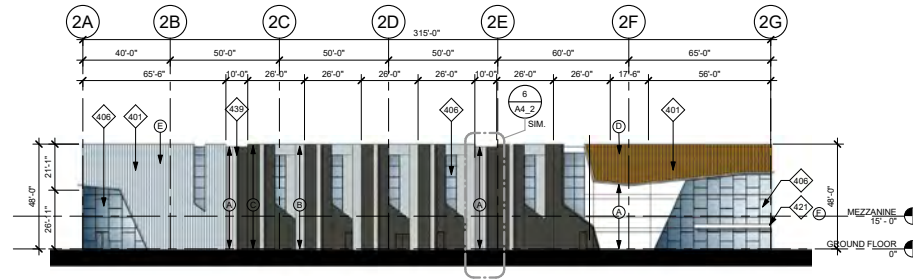
Source: Herdman, 2022

Figure 3-3A: Proposed Elevations  
Qume and Commerce Project  
Initial Study

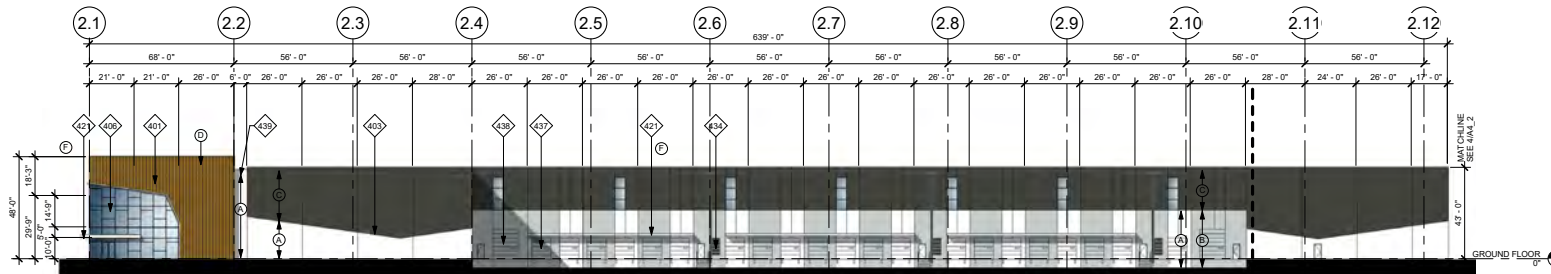
Not to scale



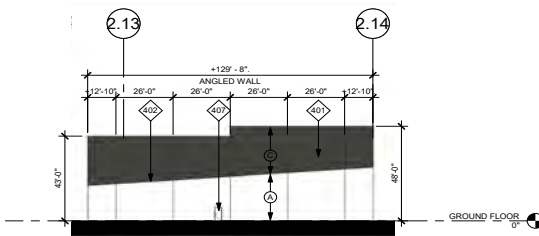
1 PROPOSED NORTH ELEVATION - BUILDING 2  
1" = 30'-0"



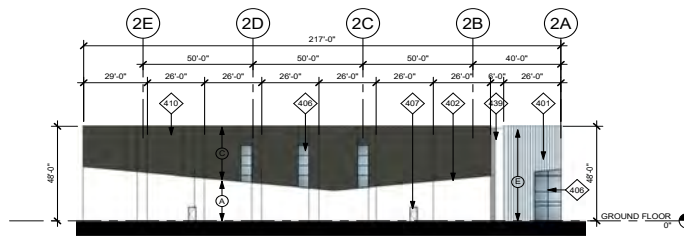
2 PROPOSED WEST ELEVATION - BUILDING 2  
1" = 30'-0"



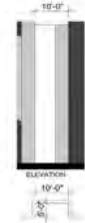
3 PROPOSED SOUTH ELEVATION - BUILDING 2  
1" = 30'-0"



4 PROPOSED SOUTHEAST ELEVATION - BUILDING 2  
1" = 30'-0"

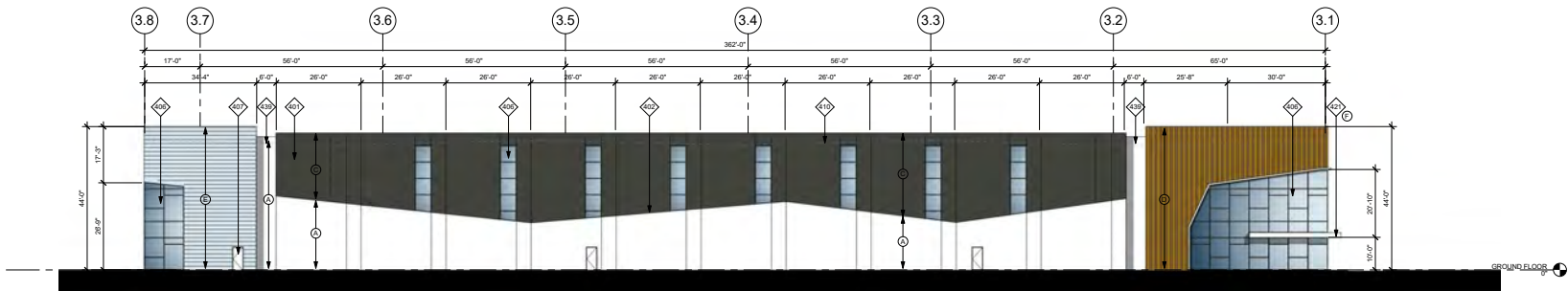


5 PROPOSED EAST ELEVATION - BUILDING 2  
1" = 30'-0"

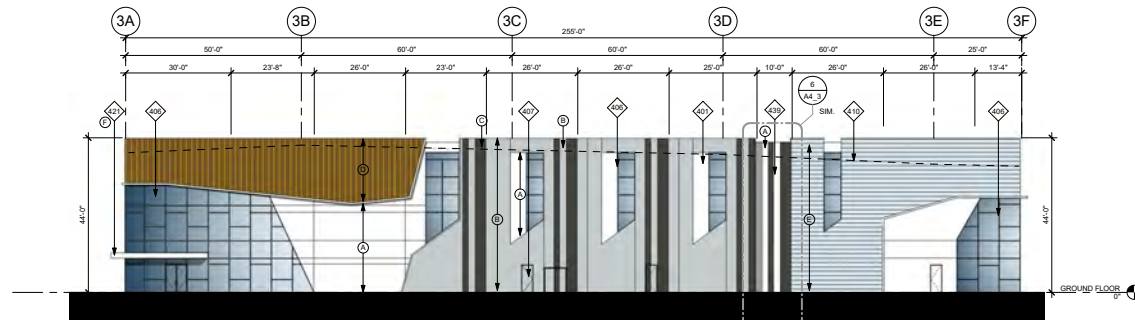


6 RECESSED PANEL DETAIL, TYP.  
1" = 20'-0"

Source: Herdman, 2022



PROPOSED NORTH ELEVATION - BUILDING 3



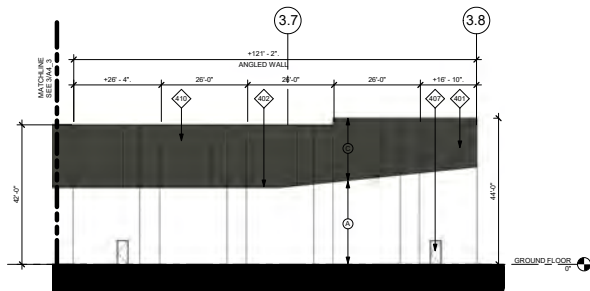
PROPOSED WEST ELEVATION - BUILDING 3



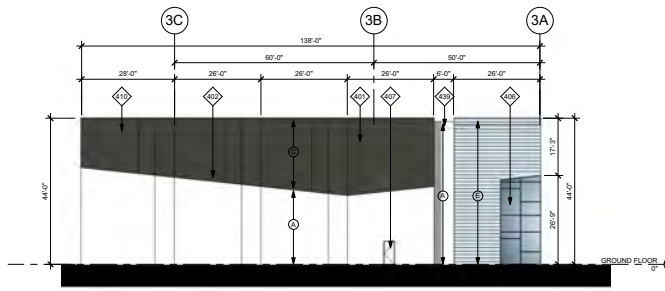
PROPOSED SOUTH ELEVATION - BUILDING 3



RECESSED PANEL DETAIL, TYP.



PROPOSED SOUTHEAST ELEVATION - BUILDING 3

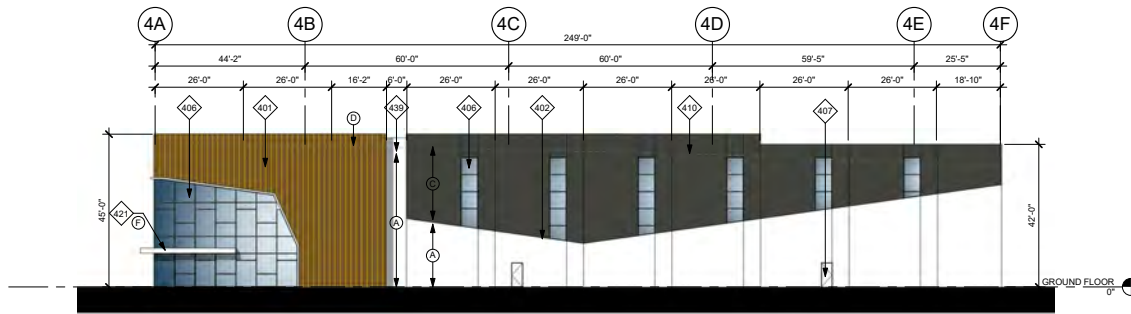


PROPOSED EAST ELEVATION - BUILDING 3

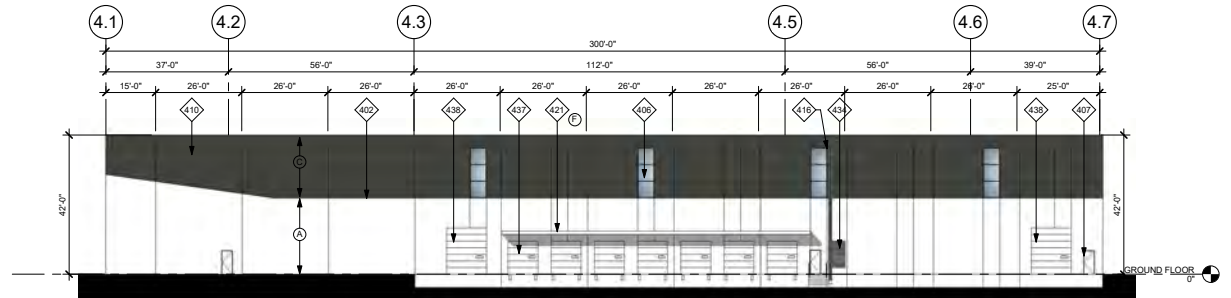
Source: Herdman, 2022

Figure 3-3C: Proposed Elevations  
Qume and Commerce Project  
Initial Study

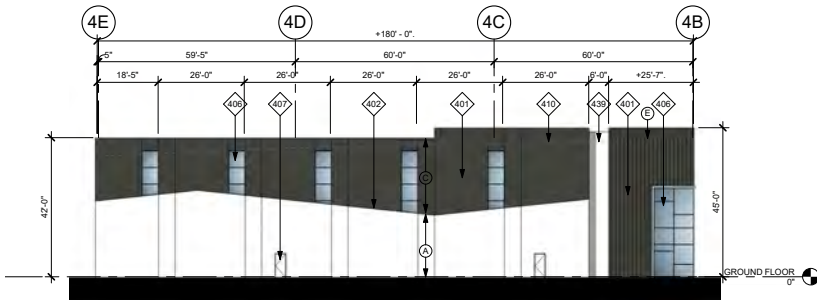
Not to scale



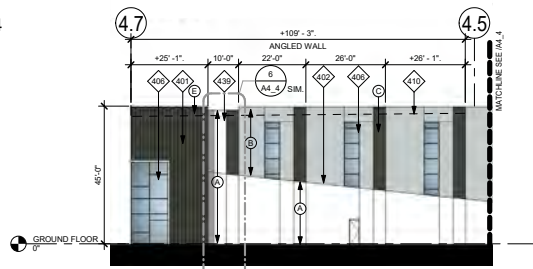
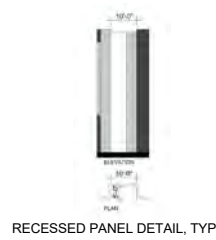
PROPOSED WEST ELEVATION-BUILDING 4



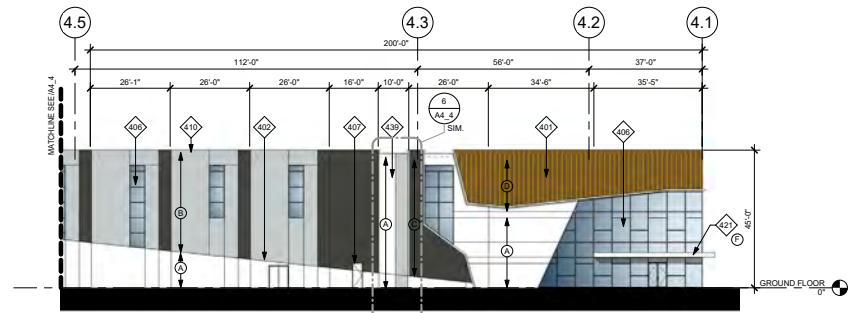
PROPOSED SOUTH ELEVATION - BUILDING 4



PROPOSED EAST ELEVATION - BUILDING 4



PROPOSED NORTHEAST ELEVATION - BUILDING 4



PROPOSED NORTH ELEVATION - BUILDING 4

Source: Herdman, 2022

Figure 3-3D: Proposed Elevations  
Qume and Commerce Project  
Initial Study

Not to scale



SYMBOL	BOTANICAL NAME	COMMON NAME
<b>TREES</b>		
	ARJUNUS 'MORRIS'	MORRIS STRAWBERRY TREE
	CERCIS OCCIDENTALIS	WESTERN REDBUD
	LAGERSTROEMIA 'PECCO'	PECCO CRAPPE WORT
	OLEA EUROPAEA 'MORNER'	MAJESTIC BEAUTY OLEA
	MICROBIOTUS EXCELSA	NEW ZEALAND CHRISTMAS TREE
	PISTACHIA CHINENSIS	CHINESE PISTACHE
	PLATANUS 'HISPANICA 'MORWOOD'	'MORWOOD' PLANE TREE
	QUERCUS DOUGLASSI	BLUE OAK
	QUERCUS MULLENBERGERI	CHINAPIN OAK
<b>SHRUBS &amp; PERENNIALS</b>		
<b>LARGE SHRUBS</b>		
	ARCTOSTAPHYLOS 'COMBARD MUMBY'	MANZANITA
	ERIODENDRON FASCICULATUM 'HARRISER LITTLE'	HARRISER LITTLE BUCKWOOD
	GREVILLEA 'NIGELLIF'	NIGELL'S GREVILLEA
	IBISIS VIBICINIFOLIUM	EVERGREEN CURRANT
	METRORELLES ARBUSTIVOLA 'DANIS GOLD'	GOLD TRIFOLIUM
	CAJASTERA MARITIMA	TREE MALLOW
	RHAMNUS CALIFORNICA	COFFEEBERRY
<b>MEDIUM-SMALL SHRUBS</b>		
	ARISTONOTUS 'BUSH RUNNER'	KANGAROO PAIR
	DIETES INDUCOS 'JOHN'S RUNNER'	FORTNIGHT LILY
	ERIODENDRON GRANDE RUBESCENS	RED BUCKWHEAT
	GREVILLEA 'SUPERB'	SUPERB GREVILLEA
	WALLENBERGERIA ROSEA	DEER GRASS
	WALLENBERGERIA 'MORRIS'	HEAVENLY SHAWBLOOM
	SALVIA LEUCOPHYLLA	PURPLE SAGE
<b>GROUNDCOVERS</b>		
	ACACIA REDOLENS 'DESERT CARPET'	PROSPERITY ACACIA
	ADENANTHEMUM COMPACTUM 'DORAL DRIFT'	FLAME BRUSH
	BACCHARIS PILLULARIS 'TIGERSON POINT'	SWAMP COYOTE BRUSH
	CELANOTHUS ORISEUS 'HORIZONTALIS 'YANKEE POINT'	'YANKEE POINT' SCANDOLIUS
	COPROSMA PETRAE 'VERDE VISTA'	'CREeping COPROSMA
	VERBENA PERUVIANA	PERUVIANA VERBENA
<b>STORMWATER</b>		
	CALLISTEMON VIMINALIS 'LITTLE JOHN' (BARKS, UPLAND)	'DWARF' BOTTLEBRUSH
	CORPUS DUGLASSI (BARKS, BARKS, UPLAND)	Barkley Sedg
	CHONORHETALUM TECTORIUM (BARKS, BARKS, UPLAND)	Small Cape Rush
	ARIZONA WICKS (BARKS, BARKS, UPLAND)	California Grey Rush
	WALLENBERGERIA 'COMPACTA' (BARKS, UPLAND)	Dragon Grass
	WALLENBERGERIA ROSEA (BARKS, UPLAND)	Deer Grass
	WALLENBERGERIA 'LITTLE SUN' (UPLAND)	LITTLE SUN COFFEEBERRY
<b>CA NATIVE HYDRATED MIX</b>		
	CALIFORNIA COASTAL WILDFLOWER MIX	PACIFIC COAST SEED
	MINE ORNAMENTAL FINE FEESLE MIX	PACIFIC COAST SEED
*FOR FULL PLANT SCHEDULE, SEE SHEET L1.02		
TOTAL LANDSCAPE AREA THAT IS BEING UTILIZED AS STORMWATER CONTROL MEASURES: 51.3%		

Source: Jett Landscape Architecture, 2022

Figure 3-4: Proposed Landscape Plan  
Qume and Commerce Project  
Initial Study



## 4.0 ENVIRONMENTAL ANALYSIS

### 4.1 Aesthetics

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>Except as provided in Public Resources Code Section 21099, would the project:</b>				
a) Have a substantial adverse effect on a scenic vista?				X
b) Substantially damage scenic resources, including but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?				X
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?			X	
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?			X	

#### EXISTING SETTING

The 32.80-acre Project site is currently developed with an industrial/business park complex containing three buildings totaling approximately 425,433 sf. Surface parking is available throughout the site and truck access and loading docks are located on the northwestern extent of 2350 Qume Drive and southwestern extent of 2150 Commerce Drive. There is existing landscaping and trees along the Qume Drive and Commerce Drive frontages and additional landscaping throughout the Project site.

The visual context of the Project area is predominantly urban, and there are a few undeveloped and underdeveloped properties within the area. The predominant character of the visual and aesthetic environment is that of an industrial business park area. Buildings and transportation infrastructure (i.e., freeways, and roadways) dominate the aesthetic character. The surrounding area is characterized by a mix of commercial, office, and industrial uses. All existing buildings are of similar industrial design and development scale and several surrounding properties include street trees and landscaping along the street frontages.

The City of San José is located in the Santa Clara Valley, bounded by the foothills of the Santa Cruz Mountains to the west, the Santa Teresa Hills to the south, and the Diablo Mountain Range to the east. The proposed Project is not located near scenic resources or corridors identified in the City of San José General Plan. As noted in the General Plan EIR, views of the hillsides and prominent peaks bordering the City are not consistently visible from within the City. The topography of the Project site is flat and

therefore does not provide scenic views of the Diablo foothills, approximately five miles east, or the Santa Cruz Mountains, approximately ten miles west, of the Project site. Due to its urban location, existing buildings, trees, and infrastructure (e.g., utility lines, elevated roadways, etc.) obscure viewpoints and viewsheds. Therefore, there are no views of identified scenic resources or corridors from the Project site or from roadways within the Project area due to existing development.

Sources of nighttime lighting on the Project site and within the Project area include lighting visible through windows and parking lot lighting. Sunlight or artificial light reflecting from finished surfaces such as window glass or other reflective materials can cause reflected light (glare). Existing buildings on the Project site are not highly reflective and do not generate substantial glare On-site.

## **APPLICABLE PLANS, POLICIES, AND REGULATIONS**

### **City of San José Municipal Code**

The City's Municipal Code includes several regulations associated with protection of the City's visual character and control of light and glare. Several sections of the Municipal Code include controls for lighting of signs and development adjacent to residential properties. These requirements call for floodlighting to have no glare and lighting facilities to be reflected away from residential use so that there would be no glare. The City's Zoning Ordinance (Title 20 of the Municipal Code) includes design standards, maximum building height, and setback requirements.

### **City Council Outdoor Lighting Policy 4-3**

City Council Policy 4-3 contains guidelines for the use of outdoor lighting. The purpose of this policy is to promote energy-efficient outdoor lighting on private development in the City of San José that provides adequate light for nighttime activities while benefiting the continued enjoyment of the night sky and continuing operation of the Lick Observatory by reducing light pollution and sky glow.

### **Envision San José 2040 General Plan**

- 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-1.12    Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
- Policy CD-1.13    Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban

places to live, work, and play and that lead to competitive advantages over other regions.

Policy CD-1.23 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).

## DISCUSSION

a) *Have a substantial adverse effect on a scenic vista?*

*And,*

b) *Substantially damage scenic resources, including but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?*

**No Impact.** The Project site is surrounded by a combination of industrial and commercial buildings with warehouse and office-style building design. The Project area is relatively flat and views of protected scenic viewsheds are limited. In addition, the Project site is not located along a State scenic highway or designated scenic corridor. The nearest Officially Designated State Scenic Highway is Highway 9 located approximately 12 miles southwest of the proposed Project site. Santa Clara County has two Eligible State Scenic Highway sections- Highway 280 and Highway 17- approximately 5 miles and 12 miles south of the Project site, respectively. The Project site would not be visible from these eligible State Scenic highway segments. The Project would not result in an adverse effect a scenic vista or damage scenic resources within a State-designated scenic highway. Thus, there would be no impact.

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

**Less than Significant Impact.** The Project site is located within an urbanized area and is surrounded by a combination of light-industrial and commercial buildings with an industrial warehouse design. Residential uses near the site are separated from the site by the fenced BART railway corridor. Project implementation would demolish the existing buildings within the Project site and construct four warehouse buildings. The maximum height of the buildings would be 48 feet, within the allowed height of 50 feet in the IP Zoning District and similar in scale to the existing buildings. See **Figures 3-3A** through **3-3D** for proposed elevations. Therefore, the proposed Project would not substantially degrade the existing visual character of the Project site and would remain consistent with the character of the surrounding area. Further, the proposed Project would be consistent with all applicable zoning requirements related to aesthetics, including maximum height, setbacks, and size.

The Project proposes to remove 620 trees, including 298 Ordinance-sized trees, to facilitate the construction of the Project. The trees would require a Tree Removal Permit and the proposed Project would be subject to replanting vegetation or payment of in-lieu fees in accordance with the City's tree replacement policy. Additionally, the Project proposes new landscaping along the Project's frontages and surface parking areas to enhance the visual appearance of the site. The nearest residential uses are located to the east, beyond the BART railway corridor and would not have direct views of the Project site because an existing sound barrier east of the BART corridor blocks views from the residential community to the Project site.

The proposed Project would be subject to the development standards for the Industrial Park Zoning District that requires a front building setback of 25 feet from the building and parking/circulation for passenger vehicles; side setback of zero feet from automobile parking and driveways, truck parking, and buildings; a rear setback of zero feet; and maximum building height of 50 feet. The proposed buildings would meet all setback requirements, and each have a maximum height of 48 feet, which is consistent with the applicable Zoning requirements. Further, the proposed landscape plan would include plantings throughout the Project site boundary and setback areas, consistent with the City of San José Industrial Zone landscape requirements. For these reasons, the proposed Project would not conflict with applicable zoning and regulations governing scenic quality. Thus, impacts would be less than significant.

*d) 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 Project site is currently developed with an office park composed of three buildings which are sources of lighting within the Project site. Additional existing ambient sources of nighttime lighting in the Project area include lighting of building exteriors and architectural accents, illumination through windows, landscape lighting, street lighting, parking lot lighting, and vehicle headlights. Glare within the Project area is created by the reflection of sunlight and electric lights from windows and building surfaces.

The proposed Project would include outdoor lighting on the site typical of an industrial warehouse development. Proposed lighting facilities would be reflected away from roadways to avoid potential off-site impacts of site lighting, consistent with the City's Municipal Code and City Council Development policies such as Outdoor Lighting on Private Developments (Policy 4-3). Further, while residential uses are located east of the Project site beyond the BART corridor, these uses would not experience lighting effects due to an existing boundary wall that blocks views of the Project site. Additionally, site lighting would be reflected downwards onto the site as required by City policy. Further, while the proposed Project would introduce new light sources, the existing Project site and surrounding area is urbanized and already illuminated. Therefore, proposed lighting conditions would be similar to those currently surrounding the Project site. Compliance with General Plan policies and existing regulations and adopted plans would avoid substantial light and glare impacts. Thus, impacts would be less than significant.

## 4.2 Agriculture and Forestry Resources

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

### EXISTING SETTING

The Project area is identified as urban and built-up land on the State of California Important Farmland Map.<sup>4</sup> Urban and built-up land is defined as land occupied by structures with a building density of at least one unit to a 1.5-acre parcel (or approximately six structures to a 10-acre parcel). Residential, industrial, institutional facilities, cemeteries, and sanitary landfills are common examples of Urban Built-Up Land. There is no designated farmland on or adjacent to the Project site. The Project site is also not subject to a Williamson Act contract.<sup>5</sup> Further, there is no designated forest land on or adjacent to the Project site or within the City.<sup>6</sup>

<sup>4</sup> California, State of, Department of Conservation. California Important Farmland Finder. Available at <https://maps.conservation.ca.gov/DLRP/CIFF/>. Accessed March 7, 2022.

<sup>5</sup> California, State of, Department of Conservation, Williamson Act/Land Conservation Act. Available at <http://www.conservation.ca.gov/dlrp/lca>. Accessed February 14, 2022.

<sup>6</sup> City of San Jose, 2011. Envision San Jose 2040 General Plan Draft Program EIR, Figure 3.1-3: Existing Land Uses (North).

## APPLICABLE PLANS, POLICIES, AND REGULATIONS

### Williamson Act

The Williamson Act (California Land Conservation Act of 1965) enables local governments to enter into contracts with private landowners for the purpose of restricting specific parcels of land to agricultural or related open space use. In return, landowners receive property tax assessments which are lower than full market value of the property because they are based on farming and open space uses.

### Farmland Mapping and Monitoring Program

The California Natural Resources Agency's Farmland Mapping and Monitoring Program (FMMP) provides maps and data to decision makers to assist them in making informed decisions regarding the planning of the present and future use of California's agricultural land resources.

### Forest Land and Timberland

Public Resources Code Section 12220(g) identifies forest land as land that can support a 10 percent native tree cover of any species, including hardwoods, under natural conditions, and that allows for management of one or more forest resources, including timber, aesthetics, fish and wildlife, biodiversity, water quality, recreation, and other public benefit.

Public Resources Code Section 4526 identifies timberland as land, other than land owned by the federal government and land designated by the board as experimental forest land, which is available for, and capable of, growing a crop of trees of a commercial species used to produce lumber and other forest products, including Christmas trees. Commercial species shall be determined by the board on a district basis.

## DISCUSSION

*a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?*

**No Impact.** The proposed Project site and surrounding areas are not designated as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance on the State of California Important Farmland Map, and therefore would not result in a conversion of documented agricultural lands to non-agricultural use. Therefore, no impacts would occur.

*b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?*

**No Impact.** The proposed Project site is not currently zoned for agricultural use and is not under a Williamson Act contract. Therefore, no impacts would occur.

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

**No Impact.** The Project site is not currently zoned for forest land, timberland, or timberland zoned for production. Therefore, improvements planned as part of the proposed Project would not conflict with existing zoning or cause rezoning of any such land. Therefore, no impacts would occur.

*d) Result in the loss of forest land or conversion of forest land to non-forest use?*

**No Impact.** The Project site does not contain forest land. Therefore, no impact would occur in regard to changing forest land to a non-forest use. Therefore, no impacts would occur.

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

**No Impact.** No designated agricultural or forest land is located within the Project site. Therefore, no impacts would occur.

### 4.3 Air Quality

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations. Would the project:</b>				
a) Conflict with or obstruct implementation of the applicable air quality plan?			X	
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?			X	
c) Expose sensitive receptors to substantial pollutant concentrations?		X		
d) Result in other emissions (such as those leading to odors adversely affecting a substantial number of people?			X	

The Project’s impact on air quality resources is evaluated in the Draft EIR. No further analysis is provided in this Initial Study.



#### 4.4 Biological Resources

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>Would the project:</b>				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?			X	
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?				X
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological				X
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?		X		
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?			X	
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?			X	

The Project’s impact on biological resources is evaluated in the Draft EIR. No further analysis is provided in this Initial Study.

## 4.5 Cultural Resources

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>Would the project:</b>				
a) Cause a substantial adverse change in the significance of a historical resource pursuant to in § 15064.5?			X	
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?		X		
c) Disturb any human remains, including those interred outside of dedicated cemeteries?			X	

The Project’s impact on cultural resources is evaluated in the Draft EIR. No further analysis is provided in this Initial Study.

## 4.6 Energy

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>Would the project:</b>				
a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?			X	
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?			X	

San José Clean Energy (SJCE), the City’s Community Energy department, provides electrical power to the Project site. The Project would enroll in SJCE’s TotalGreen program, which provides 100 percent renewable energy to users. The proposed Project would connect to existing utility lines, with on-site facilities upgrades as required. The Project is all electric (no natural gas). Energy calculations are provided in **Appendix G** of the Draft EIR. The analysis in this section is consistent with Appendix F of the CEQA Guidelines and CEQA Guidelines section 15126.2(b).

### APPLICABLE PLANS, POLICIES, AND REGULATIONS

#### Renewable Energy Standards

In 2002, California established its Renewable Portfolio Standard program<sup>7</sup> with the goal of increasing the annual percentage of renewable energy in the state’s electricity mix by the equivalent of at least 1 percent of sales, with an aggregate total of 20 percent by 2017. The California Public Utilities Commission subsequently accelerated that goal to 2010 for retail sellers of electricity (*Public Utilities Code* Section 399.15(b)(1)). Then-Governor Schwarzenegger signed Executive Order S-14-08 in 2008, increasing the target to 33 percent renewable energy by 2020. In September 2009, then-Governor Schwarzenegger continued California’s commitment to the Renewable Portfolio Standard by signing Executive Order S- 21- 09, which directs the California Air Resources Board under its AB 32 authority to enact regulations to help the State meet its Renewable Portfolio Standard goal of 33 percent renewable energy by 2020. In September 2010, the California Air Resources Board adopted its Renewable Electricity Standard regulations, which require all of the State’s load-serving entities to meet this target. In October 2015, then-Governor Brown signed into legislation Senate Bill 350, which requires retail sellers and publicly owned utilities to procure 50 percent of their electricity from eligible renewable energy resources by 2030. Signed in 2018, SB 100 revised the goal of the program to achieve the 50 percent renewable resources target by December 31, 2026, and to achieve a 60 percent target by December 31, 2030. SB 100 also established a further goal to have an electric grid that is entirely powered by clean energy by 2045. Under the bill, the State cannot increase carbon emissions elsewhere in the western grid or allow resource shuffling to achieve the 100 percent carbon-free electricity target.

<sup>7</sup> The Renewable Portfolio Standard is a flexible, market-driven policy to ensure that the public benefits of wind, solar, biomass, and geothermal energy continue to be realized as electricity markets become more competitive. The policy ensures that a minimum amount of renewable energy is included in the portfolio of electricity resources serving a state or country.

## **California 2007 Energy Action Plan Update**

The 2007 Energy Action Plan II is the State's principal energy planning and policy document. The plan describes a coordinated implementation strategy to ensure that California's energy resources are adequate, affordable, technologically advanced, and environmentally sound. In accordance with this plan, the state and its electricity providers would invest first in energy efficiency and demand-side resources, followed by renewable resources, and only then in clean conventional electricity supply to meet its energy needs.

## **Building Codes**

Energy conservation standards for new residential and nonresidential buildings were adopted by the California Energy Resources Conservation and Development Commission (now the California Energy Commission) in June 1977 and are updated every three years (Title 24, Part 6, of the California Code of Regulations). Title 24 requires the design of building shells and building components to conserve energy. The standards are updated periodically to allow for consideration and possible incorporation of new energy efficiency technologies and methods. On May 9, 2018, the CEC adopted the 2019 Building Energy Efficiency Standards, which took effect on January 1, 2020.

The 2019 Standards improve upon the previous 2016 Standards. Under the 2019 Title 24 standards, residential buildings are expected to be about 7 percent more energy efficient, and when the required rooftop solar is factored in for low-rise residential construction, residential buildings that meet 2019 Title 24 standards would use about 53 percent less energy than those built to meet the 2016 standards. Nonresidential buildings would use about 30 percent less energy than those built to meet the 2016 standards. The 2022 Standards were adopted in August 2021 and will go into effect in January 2023.

## **California Green Building Standards Code**

The California Green Building Standards Code (California Code of Regulations, Title 24, Part 11), commonly referred to as the CALGreen Code, is a statewide mandatory construction code that was developed and adopted by the California Building Standards Commission and the California Department of Housing and Community Development. CALGreen standards require new residential and commercial buildings to comply with mandatory measures under five topical areas: planning and design; energy efficiency; water efficiency and conservation; material conservation and resource efficiency; and environmental quality. CALGreen also provides voluntary measures (CALGreen Tier 1 and Tier 2) that local governments may adopt which encourage or require additional measures in the five green building topics. The current CALGreen Code was adopted in 2019 and took effect on January 1, 2020.

## **2006 Appliance Efficiency Regulations**

The California Energy Commission adopted Appliance Efficiency Regulations (Title 20, CCR Sections 1601 through 1608) on October 11, 2006. The regulations were approved by the California Office of Administrative Law on December 14, 2006. The regulations include standards for both Federally regulated appliances and non-Federally regulated appliances. While these regulations are now often viewed as "business-as-usual," they exceed the standards imposed by all other states and they reduce GHG emissions by reducing energy demand.

## California Utility Efficiency Programs (Senate Bill 1037 and Assembly Bill 2021)

SB 1037 and AB 2021 require electric utilities to meet their resource needs first with energy efficiency. California Utility Efficiency Programs have also set new targets for statewide annual energy demand reductions.

## City of San José Private Sector Green Building Policy

The San José City Council approved Policy 6-32 *Private Sector Green Building Policy* in October 2008 that establishes a baseline green building standard for private sector new construction within the City. Policy 6-32 is intended to enhance the public health, safety, and welfare of City residents, workers, and visitors by fostering practices in the design, construction, and maintenance of buildings that would minimize the use and waste of energy, water, and other resources. All projects are required to submit a Leadership in Energy and Environmental Design (LEED)<sup>8</sup>, GreenPoint<sup>9</sup>, or Build It Green checklist with the development proposal. Private developments are required to implement green building practices if they meet the Applicable Projects criteria defined by Council Policy 6-32 and shown in the

Table 4-1 below.

**Table 4-1: Green Building Practices**

Applicable Project	Effective as of January 1, 2009
Commercial/ Industrial – Tier 1	< 25,000 square-feet = LEED Applicable NC Checklist
Commercial/ Industrial – Tier 2	> 25,000 square-feet = LEED Silver
Residential < 10 units – Tier 1	GreenPoint or LEED Checklist
Residential > 10 Units – Tier 2	GreenPoint Rated 50 points or LEED Certified
High-Rise Residential (75' or higher)	LEED Certified

## Sustainable City Strategy

The Sustainable City Strategy is a statement of the City’s commitment to becoming an environmentally and economically sustainable city by ensuring that development is designed and built in a manner consistent with the efficient use of resources and environmental protection. Programs promoted under this strategy include recycling, waste disposal, water conservation, transportation demand management and energy efficiency.

## Climate Smart San José

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

- Transition to a renewable energy future

<sup>8</sup> Created by the U.S. Green Building Council, LEED is a certification system that assigns points for green building measures based on a 110-point rating scale.

<sup>9</sup> Created by Build It Green, GreenPoint is a certification system that assigns points for green building measures based on a 381-point scale for multi-family developments and 341-point scale for single-family developments.

- Embrace our California climate
- Densify our city to accommodate our future neighbors
- Make homes efficient and affordable for families
- Create clean, personalized mobility choices
- Develop integrated, accessible public transport infrastructure
- Create local jobs in our city to reduce vehicle miles traveled
- Improve our commercial building stock
- Make commercial goods movement clean and efficient

### **City of San José Smart Energy Plan**

In March 2001, the City of San José adopted a Smart Energy Plan which includes discussions and implementation steps for the following strategies:

- Explore regional energy solutions together with neighboring communities.
- Collaborate with neighboring communities to identify regional criteria for appropriate locations for new large, clean plants in Silicon Valley that do not harm residential communities.
- Explore creative energy partnerships among cities, the State, and federal governments, and the private sector to help ensure reliable supplies and achieve conservation.
- Reduce the City's energy demand through vigorous conservation efforts to achieve at least a 10 percent savings and encourage community conservation.
- Expand the City's model program for energy-efficient buildings to encourage long-term permanent conservation.
- Actively encourage small clean power plants in San José that can be located in appropriate industrial areas and publicly-owned lands, not in residential neighborhoods.
- Set clear predictable standards for clean energy generation projects within the City's authority and streamline the City's review and approval of appropriate power projects.

### **City Energy Programs**

The City also has a number of programs to further promote energy conservation among residents and businesses in the City.

#### **Silicon Valley Energy Watch (SVEW) program**

The City of San José, PG&E, and Ecology Action are part of the Silicon Valley Energy Watch program. The program assists cities, non-profits, small businesses, community organizations, professionals, and residents in the County to take advantage of cost-saving, energy-efficient technologies. SVEW offers free energy audits, targeted retrofits, technical assistance, education, and training.

#### **City of San José Green Building Policies**

In 2001, the San José City Council adopted a series of Green Building Policies to demonstrate the City's commitment to the environmental, economic, and social stewardship and to yield cost savings to city taxpayers through reduced operating costs, to provide healthy work environments for staff and visitors, and to contribute to the City's goals of protecting, conserving, and enhancing the region's environmental

resources. The Green Building Policy goals include a series in the category of energy and atmosphere. Energy and atmosphere policy goals are as follows:

- *Minimum Energy Performance*: establish the minimum level of energy efficiency for the base building and systems.
- *Optimize Energy Performance*: achieve increasing levels of energy performance above the minimum standard to reduce environmental impacts associated with excessive energy use.
- *Building Commissioning*: verify and ensure that the entire building is designed, constructed, and calibrated to operate as intended.
- *Measurement and Verification*: provide for the ongoing accountability and optimization of building energy and water consumption performance over time.
- *Renewable Energy*: encourage and recognize increasing levels of self-supply through renewable technologies to reduce environmental impacts associated with fossil fuel energy use.
- *Green Power*: encourage the development and use of grid-source, renewable energy technologies on a net zero pollution basis.
- *Reduce Ozone Depletion*: support early compliance with the Montreal Protocol by eliminating the use of CFC-based refrigerants and reducing the use of HCFCs and halons. As part of its promotion of Green Building policies, the City encourages participation in City sponsored organized educational and training events covering green building topics to increase the use of green building techniques in municipal, commercial, and residential building development projects in the City and create greater awareness of these practices.

## **Municipal Code**

The City's Municipal Code includes regulations associated with energy efficiency and energy use. City regulations include a Green Building Ordinance (Chapter 17.84) to foster practices to minimize the use and waste of energy, water and other resources in the City of San José, Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.10), requirements for Transportation Demand Programs for employers with more than 100 employees (Chapter 11.105), and a Construction and Demolition Diversion Deposit Program that fosters recycling of construction and demolition materials (Chapter 9.10).

In September 2019, San José City Council approved a building reach ordinance (No. 30311) that encourages building electrification and energy efficiency, requires solar-readiness on nonresidential buildings, and required electric vehicle-readiness and EV equipment installation. Additionally, in October 2019 City Council approved an ordinance (No. 30330) prohibiting natural gas infrastructure in new detached accessory dwelling units, single-family, and low-rise multi-family buildings. In December 2020 City Council approved an updated ordinance prohibiting natural gas infrastructure in all new construction in San José, starting on August 1, 2021. Cities may adopt amendments to the Green Building Standards which exceed the standards required by the State.

## **Envision San José 2040 General Plan**

The Envision San José 2040 General Plan includes policies applicable to all development projects in San José. The following policies are specific to energy use and energy efficiency and applicable to the Project.

---

Policy MS-1.1	Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City's Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction.
Policy MS-2.2	Encourage maximized use of on-site generation of renewable energy for all new and existing buildings.
Policy MS-2.3	Utilize solar orientation, (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
Action MS-2.8	Develop policies which promote energy reduction for energy-intensive industries. For facilities such as data centers, which have high energy demand and indirect greenhouse gas emissions, require evaluation of operational energy efficiency and inclusion of operational design measures as part of development review consistent with benchmarks such as those in EPA's EnergyStar Program for new data centers.
Action MS-2.11	Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings On-Sites to maximize the effectiveness of passive solar design).
Policy MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation or other area functions.
Policy MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
Policy MS-6.5	Reduce the amount of waste disposed in landfills through waste prevention, reuse, and recycling of materials at venues, facilities, and special events.
Policy MS-6.8	Maximize reuse, recycling, and composting citywide.
Policy MS-14.3	Consistent with the California Public Utilities Commission's California Long-Term Energy Efficiency Strategic Plan, as revised and when technological advances make it feasible, require all new residential and commercial construction to be designed for zero net energy use.
Policy MS-14.4	Implement the City's Green Building Policies (see Green Building Section) so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, and passive solar building design and planting of trees and other landscape materials to reduce energy



- Policy MS-14.5 Consistent with State and Federal policies and best practices, require energy efficiency audits and retrofits prior to or at the same time as consideration of solar electric improvements.
- Policy MS-17.2 Ensure that development within San José is planned and built in a manner consistent with fiscally and environmentally sustainable use of current and future water supplies by encouraging sustainable development practices, including low-impact development, water-efficient development and green building techniques. Support the location of new development within the vicinity of the recycled water system and promote expansion of the South Bay Water Recycling (SBWR) system in areas planned for new development. Residential development outside of the Urban Service Area can be approved only at minimal levels and only allowed to use non-recycled water at urban intensities. For residential development outside of the Urban Service Area, restrict water usage to well water, rainwater collection, or other similar sustainable practice. Non-residential development may use the same sources and potentially make use of recycled water, provided that its use will not result in conflicts with other General Plan policies, including geologic or habitat impacts. To maximize the efficient and environmentally beneficial use of water, outside of the Urban Service Area, limit water consumption for new development so that it does not diminish the water supply available for projected development in areas planned for urban uses within San José or other surrounding communities.
- Policy MS-18.5 Reduce citywide per capita water consumption by 25% by 2040 from a baseline established using the 2010 Urban Water Management Plans of water retailers in San José.
- Policy MS-18.7 Use the 2008 Water Conservation Plan as the data source to determine San José's baseline water conservation savings level.
- Policy MS-18.6 Achieve by 2040, 50 million gallons per day of water conservation savings in San José, by reducing water use and increasing water use efficiency.
- Policy MS-19.1 Require new development to contribute to the cost-effective expansion of the recycled water system in proportion to the extent that it receives benefit from the development of a fiscally and environmentally sustainable local water supply.
- Policy MS-19.4 Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.
- Action MS-19.10 Develop incentives to encourage the use of recycled water. Enact ordinances that ensure that new buildings in the vicinity of the SBWR pipeline are constructed in a manner suitable for connection to the recycled water system and that they use recycled water wherever appropriate.
- Policy IN-2.1 Utilize the City's Infrastructure Management System Program to identify the most efficient use of available resources to maintain its infrastructure and minimize the need to replace it.

Policy IN-5.3	Use solid waste reduction techniques, including source reduction, reuse, recycling, source separation, composting, energy recovery and transformation of to extend the lifespan of existing landfills and to reduce the need for future landfill facilities and to achieve the City's Zero Waste goals.
Policy PR-6.4	Consistent with the Green Vision, complete San José's trail network and where feasible develop interconnected trails with bike lanes to facilitate bicycle commuting and recreational uses.
Action PR-6.9	Obtain applicable Leadership in Energy and Environmental Design (LEED) Certification (or its equivalent) for new and existing parks and recreation facilities, as dictated by applicable City policies.
Policy LU-5.4	Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections, and including secure and convenient bike storage.
Policy TR-1.4	Through the entitlement process for new development fund needed transportation improvements for all modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.
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.

## DISCUSSION

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

**Less Than Significant.**

### Construction

The energy consumption associated with construction of the proposed Project includes primarily diesel fuel consumption from on-road hauling trips and off-road construction diesel equipment, and gasoline consumption from on-road worker commute and vendor trips. Temporary electric power for as-necessary lighting and electronic equipment (such as computers inside temporary construction trailers, and heating, ventilation, and air conditioning) would be powered by a generator. The amount of electricity used during construction would be minimal; typical demand would stem from the use of electrically powered hand tools and several construction trailers by managerial staff during the hours of construction activities. The majority of the energy used during construction would be from petroleum. This analysis relies on the construction equipment list and operational characteristics, as stated in Section 3.1, Air Quality and Section 3.4, Greenhouse Gas Emissions of the Draft EIR, as well as, **Appendix C1** and **Appendix F** of the Draft EIR.

**Table 4-2: Project Energy Consumption During Construction** quantifies the construction energy consumption for the Project, followed by an analysis of impacts based on those quantifications.

**Table 4-2: Project Energy Consumption During Construction**

Source	Project Construction Usage	Santa Clara County Annual Energy Consumption	Percentage Increase Countywide
<b>Electricity Use</b>	<b>Megawatt Hours (MWh)</b>		
Water Consumption	50.74	16,435,722	0.0031%
<b>Diesel Use</b>	<b>Gallons</b>		
On-Road Construction Trips <sup>1</sup>	80,495	103,305,684	0.0779%
Off-Road Construction Equipment <sup>2</sup>	56,299	103,305,684	0.0545%
<b>Construction Diesel Total</b>	<b>136,695</b>	<b>103,305,684</b>	<b>0.1324%</b>
<b>Gasoline</b>	<b>Gallons</b>		
On-Road Construction Trips <sup>1</sup>	60,597	604,762,380	0.0102%
1. On-road mobile source fuel use based on vehicle miles traveled (VMT) from CalEEMod and fleet-average fuel consumption in gallons per mile from EMFAC2017 in Santa Clara County. 2. Off-road mobile source fuel usage based on a fuel usage rate of 0.05 gallons of diesel per horsepower (hp)-hour from USEPA. Abbreviations: CalEEMod: California Emission Estimation Model; EMFAC: Emission Factor Model 2022. Sources: Energy Calculations in Appendix F of Draft EIR			

In total, construction of the Project would consume approximately 136,695 gallons of diesel and 60,597 gallons of gasoline. The Project’s fuel use from the entire construction period would increase fuel use in the County by approximately 0.13 percent for diesel and 0.01 percent for gasoline.

There are no unusual Project characteristics that would necessitate the use of construction equipment that would be less energy-efficient than at comparable construction sites in the region or state. In addition, some incidental energy conservation would occur during construction through compliance with State requirements that equipment not in use for more than five minutes be turned off. Construction equipment would also be required to comply with the latest EPA and CARB off-road engine emissions standards. These regulations are put in place for manufacturers to ensure each new engine, vehicle or equipment meets the latest emission standards. These engines use highly efficient combustion engines to minimize unnecessary fuel consumption.

A 0.13 percent increase in construction fuel demand is not anticipated to trigger the need for additional capacity. Fuel consumption is based on a conservative construction phasing and conservative estimates for annual construction fuel consumption. Longer phases would result in lower construction intensity and a lower annual fuel consumption, resulting in lower annual demand on energy supplies. Additionally, use of construction fuel would cease once the Project is fully developed. As such, Project construction would have a nominal effect on the local and regional energy supplies. Therefore, it is expected that construction fuel consumption associated with the Project would not be inefficient, wasteful, or unnecessary. Project construction would not substantially affect existing energy or fuel supplies, or resources and new capacity would not be required. Impacts would be less than significant in this regard.

**Operational**

The energy consumption associated with the Project operations would include building energy and water usage, as well as fuel usage from on-road vehicles. Note that this energy resources analysis is consistent with the analysis presented in **Section 3.1, Air Quality, and Section 3.4, Greenhouse Gases of the Draft**

EIR and Appendix C1 and F of the Draft EIR. Quantification of operational energy consumption are provided for the Project in Table 4-3: Annual Energy Consumption During Operations.

**Table 4-3: Annual Energy Consumption During Operations**

Source	Project Operational Usage	Santa Clara County Annual Energy Consumption	Percentage Increase Countywide
<b>Electricity Use<sup>1</sup></b>	<b>Megawatt Hour/Year (MWh/year)</b>		
Area	2,672	16,435,722	0.0163%
Water	734		0.0045%
<b>Total Electricity</b>	3,406		0.0207%
<b>Natural Gas Use<sup>1</sup></b>	<b>Terms/year</b>		
Area	24,579	459,720,764	0.0053%
<b>Diesel Use<sup>2</sup></b>	<b>Gallons/Year</b>		
Mobile	136,793	103,305,684	0.1324%
<b>Gasoline Use<sup>2</sup></b>	<b>Gallons/Year</b>		
Mobile	60,597	593,817,094	0.0102%
Notes:			
1. The electricity and natural gas usage are based on project-specific estimates and CalEEMod defaults. While the City of San José and new BAAQMD GHG thresholds have banned natural gas in new industrial development, the City and BAAQMD has not released guidance for updating CalEEMod. Therefore, natural gas usage from CalEEMod assumptions is still shown in table. The project would not actually use 24,579 therms/year natural gas and would instead have a higher electricity usage.			
2. Calculated based on the mobile source fuel use based on vehicle miles traveled (VMT) and fleet-average fuel consumption (in gallons per mile) from EMFAC2021 for operational year 2024.			
Abbreviations: CalEEMod: California Emission Estimation Model; EMFAC2021: California Air Resources Board Emission Factor Model; MWh: Megawatt-hour			
Source: Energy Calculations in Appendix F of Draft EIR			

PG&E provides electricity to the Project area. Electricity is currently used by the existing building on the Project site. However, for a more conservative approach the Project energy analysis does not take credit for baseline use. The Project site is expected to continue to be served by the existing PG&E electrical facilities. While PG&E facilities deliver electricity to the Project site, electricity used by the Project site could be sourced from San José Clean Energy (SJCE). The Project site would be enrolled in the Total Green program from SJCE. SJCE has invested in nearly 500 MW of new renewable energy and 10 MW of battery storage.<sup>10</sup> The Project’s anticipated electricity demand (approximately 3,406 MWh) would be nominal compared to the County’s available electricity consumption.<sup>11</sup> The Project would not actually use 24,579 therms/year of natural gas and would instead have a higher electricity usage. The projected electrical demand would not significantly impact SJCE’s level of service.

Santa Clara County annual gasoline fuel use in 2024 is estimated to be 593,817,094 gallons and diesel fuel use would be 103,305,683 gallons.<sup>12</sup> Expected Project operational use of gasoline and diesel would represent 0.13 percent of current gasoline use and 0.01 percent of current diesel use in the County.<sup>13</sup>

It should also be noted that the Project design and materials would comply with the 2019 Building Energy Efficiency Standards, which take effect on January 1, 2020, and/or future 2022 Building Energy Efficiency

<sup>10</sup> San Jose Clean Energy, *Energy Sources and Reliability*. Available at <https://sanjosecleanenergy.org/energy-sources/>. Accessed on March 7, 2022.

<sup>11</sup> The energy analysis does not take credit (i.e., reductions) for baseline uses historically on-site; this provides for a more conservative approach.

<sup>12</sup> Gasoline and diesel data from CARB EMFAC2021 database. Available at: <https://arb.ca.gov/emfac/emissions-inventory/088e1aac85b0ef7c1f5b261bc02111d5929485b3>. Accessed February 22, 2022.

<sup>13</sup> The Project would utilize 136,793 gallons of diesel divided by 103,305,684 gallons in the County equals 0.1324%. The Project would utilize 60,597 gallons of diesel divided by 593,817,094 gallons in the County which equals 0.0102%.

Standards depending on when construction permits are issued. Prior to issuance of a building permit, the City of San José would review and verify that the Project plans demonstrate compliance with the current version of the Building and Energy Efficiency Standards. Title 24 standards require energy conservation features in new construction (e.g., high- efficiency lighting, high-efficiency heating, ventilating, and air-conditioning (HVAC) systems, thermal insulation, double-glazed windows, water conserving plumbing fixtures).

Although the proposed Project does not include on-site renewable energy resources, the proposed buildings would be built in conformance with San José Council Policy 6-32 and the City's Green Building Measures. Additionally, the Project would also be required adhere to the provisions of CALGreen, which establishes planning and design standards for sustainable site development, energy efficiency (in excess of the California Energy Code requirements), water conservation, material conservation, and internal air contaminants. The insulation and design code requirements would minimize wasteful energy consumption.

None of the Project energy uses exceed one percent of Santa Clara County use. Therefore, it is expected that operational fuel and energy consumption associated with the Project would not be inefficient, wasteful, or unnecessary. Impacts would be less than significant in this regard.

*b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?*

**Less Than Significant Impact.** As stated above the Project would be required to be built in conformance with Council Policy 6-32. The Project would be required to comply with existing regulations, including applicable measures from the City's General Plan, or would be directly affected by the outcomes (vehicle trips and energy consumption would be less carbon intensive due to statewide compliance with future low carbon fuel standard amendments and increasingly stringent Renewable Portfolio Standards). As such, the Project would not conflict with any other state-level regulations pertaining to energy. The Project would comply with existing State energy standards and would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency.

## 4.7 Geology and Soils

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>Would the project:</b>				
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:			X	
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.			X	
ii) Strong seismic ground shaking?			X	
iii) Seismic-related ground failure, including liquefaction?			X	
iv) Landslides?				X
b) Result in substantial soil erosion or the loss of topsoil?			X	
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?			X	
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?			X	
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?				X
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?			X	

### EXISTING SETTING

A Geotechnical Investigation was prepared for the Project by Cornerstone Earth Group in May 2021, and is included as **Appendix J** of the Draft EIR. As required by Municipal Code Chapter 17.10, Geologic Hazard Regulations, the City Public Works Department shall review and approve the Geotechnical Investigation prior to issuance of final grading permits.<sup>14</sup>

<sup>14</sup> City of San Jose Municipal Code Chapter 17.10. Available at: [https://library.municode.com/ca/san\\_jose/codes/code\\_of\\_ordinances?nodeId=TIT17BUCO\\_CH17.10GEHARE\\_PT5GEEV\\_17.10.500APRE](https://library.municode.com/ca/san_jose/codes/code_of_ordinances?nodeId=TIT17BUCO_CH17.10GEHARE_PT5GEEV_17.10.500APRE). Accessed March 7, 2022.

## Soils and Groundwater

The Project site is in the Santa Clara Valley, which is flanked on the west by the Santa Cruz Mountains, on the east by the Diablo Range, and the San Francisco Bay to the north. The mountain ranges to the east and west consist of older Franciscan and related rocks and overlying sedimentary rocks ranging in age from the Cretaceous through Tertiary time. The valley's basin contains alluvial deposits derived from the Diablo Range and the Santa Cruz Mountains. Sediments in the site vicinity consist of mainly Holocene age continental deposits of unconsolidated to semi-consolidated alluvium and include some marine deposits near the coast.

The Project site lies at an elevation of approximately 62 to 71 feet above mean sea level (**Appendix J** of the Draft EIR) and is predominantly flat. Soil conditions at the Project site consist of alluvial deposits consisting of interbedded layers of silt loam, clay, and sand.<sup>15</sup>

## Seismicity and Seismic Hazards

The City is within the San Francisco Bay Area, which is recognized as a very seismically active area, capable of generating an earthquake with a magnitude 6.7 or greater. The San Andreas Fault system, including the Monte Vista Shannon Fault, exists within the Santa Cruz Mountains and the Hayward and Calaveras Fault systems exist within the Diablo Range. Development in the City is likely to be exposed to strong ground shaking within the useful lifetime of new development.

However, the Project area is not located within the Alquist-Priolo Earthquake Fault Zone<sup>16</sup> or the Santa Clara County Geologic Hazard Zone and no active faults have been mapped on the Project site. The nearest fault to the Project site is the Silver Creek Fault which is located approximately 2.5 miles to the west.<sup>17</sup> The Project site is not located within a designated Landslide Zone but is within a designated Liquefaction Zone.<sup>18</sup>

## APPLICABLE PLANS, POLICES, AND REGULATIONS

### Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Earthquake Fault Zoning Act (Act) was passed in 1972 to address the hazard of surface faulting to structures for human occupancy. The Alquist-Priolo Earthquake Fault Zoning Act regulates development and construction of buildings intended for human occupancy to avoid the hazard of surface fault rupture. The act categorizes faults as active (Historic and Holocene age), potentially active (Late Quaternary and Quaternary age), and inactive (pre-Quaternary age). The Earthquake Fault Zones indicate areas with potential surface fault-rupture hazards. Areas within the 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. This Act requires the

<sup>15</sup> California, State of, Department of Conservation. Web Soil Survey. Available at: <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>. Accessed February 4, 2022.

<sup>16</sup> California, State of, Department of Conservation. Regulatory Maps. <http://maps.conservation.ca.gov/cgs/informationwarehouse/index.html?map=regulatorymaps>. Accessed February 4, 2022.

<sup>17</sup> United States Geological Survey. U.S. Quaternary Faults. Available at <https://usgs.maps.arcgis.com/apps/webappviewer/index.html?id=5a6038b3a1684561a9b0aadf88412fcf>. Accessed March 7, 2022.

<sup>18</sup> City of San José. General Plan Environmental Impact Report, Figure 3.6-1. Available at <https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/completed-eirs/envison-san-jose-2040-general-plan-4-year/envison-san-jos-2040-general-plan>. Accessed February 4, 2022.

State Geologist to establish regulatory zones (Earthquake Fault Zones) around the surface traces of mapped active faults, and to publish appropriate maps that depict these zones. If an active fault is found, a structure for human occupancy cannot be placed over the trace of the fault and must be set back from the fault (typically 50 feet).

### **California Building Code**

The California Building Code (CBC), Part 2 of Title 24 of the California Code of Regulations (CCR), is based on the International Building Code and prescribes a standard for constructing safer buildings throughout the State of California. It contains provisions for earthquake safety based on factors including occupancy type, soil and rock profile, strength of the ground and distance to seismic sources. The Code is renewed on a triennial basis every three years; the current version is the 2016 Building Standards Code. Building permits for individual projects within the Plan Area would be reviewed to ensure compliance with the CBC.

### **City of San José Envision San José 2040 General Plan**

The City's General Plan includes the following policies applicable to all development projects in San José.

- Policy EC-3.1: Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.
- 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 storm water controls.
- Policy EC-4.2: Development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.
- Policy EC-4.4: Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
- Policy EC-4.5: Ensure that any development activity that requires grading does not impact adjacent properties, local creeks, and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 1 and April 30.



- 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.
- 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.

## DISCUSSION

- a) *Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:*
- b) *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.*

**Less than Significant Impact.** According to the California Department of Conservation Alquist-Priolo mapping data, the Project site is not located within an Alquist-Priolo Earthquake Fault Zone. There are no known active or potentially active faults trending towards or through the Project site. However, the Project site lies within the region affected by the active San Andreas Fault system, which influences faults throughout the region, including the Hayward and Calaveras faults. Several smaller faults including the Evergreen, Quimby, Piercy, and Clayton faults, are also found in the Project vicinity, primarily along the base of the San José Foothills. Although the Project is located within a seismically active region. The nearest active fault is located approximately 2.5 miles west of the Project site and at this distance, would not cause risk of loss, injury or death on-site due to fault rupture. Therefore, impacts would be less than significant.

- c) *Strong seismic ground shaking?*

**Less than Significant Impact.** The Project site is located within a seismically active region and strong seismic ground shaking could occur. The Project would be required to be in conformance with the California Building Code, City regulations, and other applicable seismic construction standards. Conformance with these standard engineering practices and design criteria would reduce the effects of seismic ground shaking. Furthermore, the Project would be built and maintained in accordance with a site-specific geotechnical report, as required by the General Plan EIR and outlined in the Standard Permit Condition below. The Geotechnical Report will be reviewed and approved by the City Geologist and shall determine the site-specific soil conditions and identify the appropriate design and construction techniques to minimize risks to people and structures, including but not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation is required to be consistent with State of California guidelines for the preparation of seismic hazard evaluation reports (CGS Special Publication 117A, 2008, and the Southern California Earthquake Center report, SCEC, 1999). As such impacts related to strong seismic ground shaking would be less than significant.

### **Standard Permit Conditions**

To avoid or minimize potential damage from seismic shaking, the Project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation.

The report shall be reviewed and approved by the City of San José Department of Public Works as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property On- site and off-site to the extent feasible and in compliance with the California Building Code.

*d) Seismic-related ground failure, including liquefaction?*

**Less than Significant Impact.** Liquefaction generally occurs as a “quicksand” type of ground failure caused by strong ground shaking. The primary factors influencing liquefaction potential include groundwater, soil type, relative density of the sandy soils, confining pressure, and the intensity and duration of ground shaking. As shown in Figure 3.6-1 in the General Plan EIR, the Project site is located in a State seismic hazard zone specific to liquefaction. All structures and foundations requiring building permits would be required to meet CBC requirements to withstand ground shaking, minimizing potential impacts resulting from liquefaction. Adherence to the CBC would ensure that the seismic-related ground failure, including liquefaction impacts would be less than significant.

*e) Landslides?*

**No Impact.** Landslides are mass movements of the ground that include rock falls, relatively shallow slumping and sliding of soil, and deeper rotational or transitional movement of soil or rock. The Project site is relatively flat and is not located in an area mapped as an earthquake-induced landslide hazard area as shown in Figure 3.6-1 in the City’s General Plan EIR. Therefore, there would be no impact.

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

**Less than Significant Impact.** Grading during the construction phase of the Project would displace soils and temporarily increase the potential for soils to be subject to wind and water erosion. However, erosion and loss of topsoil can be controlled using standard construction practices. Furthermore, the proposed Project would be required to implement Standard Permit Conditions described below to further reduce potential erosion impacts during construction. Therefore, impacts would be less than significant.

**Standard Permit Conditions**

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

*g) 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.** As discussed above, based on General Plan EIR Exhibit 3.6-1, the Project site is not within a designated Landslide Zone but does fall within a designated Liquefaction Zone. However, all structures and foundations requiring building permits would still be required to meet CBC requirements to withstand ground shaking, minimizing potential impacts resulting from liquefaction. Adherence to the CBC, City regulations, and other applicable standards would ensure that the seismic and liquefaction impacts are less than significant.

*h) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?*

**Less than Significant Impact.** The proposed Project would be required to be in conformance with the CBC, City regulations, and other applicable standards. Refer to response 4.7(a) for more information. Conformance with building code requirements and design criteria would reduce impacts related to expansive soil potential to a less than significant level.

*i) 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 Project would connect to the City sewer system and would not include the implementation of septic tanks or alternative wastewater disposal systems. Therefore, there would be no impact.

*j) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?*

**Less than Significant Impact.** The Project site has been previously graded and developed and does not support or contain any unique geologic features. Based on the age and type of surface soils, there is low potential to impact undiscovered paleontological resources during construction activities. While the Project site is located within a high sensitivity area (at depth) for paleontological resources as shown in Figure 3.11-1 in the City's General Plan EIR, subsurface testing and excavation in the Project area has failed to yield any evidence of paleontological deposits. However, the potential still exists for inadvertent discovery of paleontological resources during ground-disturbing activities. The General Plan EIR concluded that with implementation of existing regulations and adopted General Plan policies, new development within San José would have a less than significant impact on paleontological resources. As such, implementation of the following Standard Permit Condition would substantially reduce potential impacts to paleontological resources to a less than significant level.

### **Standard Permit Condition**

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

## 4.8 Greenhouse Gas Emissions

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>Would the project:</b>				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?			X	
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?			X	

The Project’s impact on greenhouse gas emissions is evaluated in the Draft EIR. No further analysis is provided in this Initial Study.

## 4.9 Hazards and Hazardous Materials

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

The Project’s impact on hazards and hazardous materials is evaluated in the Draft EIR. No further analysis is provided in this Initial Study.

## 4.10 Hydrology and Water Quality

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>Would the project:</b>				
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?			X	
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?				X
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:				
i. Result in substantial erosion or siltation on- or off-site?			X	
ii. Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite?			X	
iii. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?			X	
iv. Impede or redirect flood flows?				X
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?			X	
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?			X	

### EXISTING SETTING

The Project site is located in an urban area with connections to the City’s water and sewer infrastructure. The closest waterway to the Project site is Coyote Creek, which is located approximately 1.20-miles west of the Project site, and ultimately flows into the San Francisco Bay. The proposed Project is located within the Coyote Creek watershed, the largest watershed in Santa Clara County. The water quality of the river is directly affected by pollutants contained in stormwater runoff from a variety of urban and non-urban uses. Stormwater from urban uses contains metals, pesticides, herbicides, and other contaminants, such as oil, grease, asbestos, lead, and animal wastes. Pollutants from unidentified sources, known as “non-point” source pollutants, are washed from streets, construction sites, parking lots, and other exposed surfaces into storm drains.

The Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) classifies the Project site as within Flood Zone D. Zone D is considered an area of undermined but possible flood hazard.<sup>19</sup> Zone D is defined as being outside a 100-year floodplain.

The Project site is currently approximately 83 percent impervious (1,116,974sf).<sup>20</sup>

## **APPLICABLE PLANS, POLICIES, AND REGULATIONS**

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

### **Statewide Construction General Permit**

The SWRCB has implemented a NPDES Construction General Permit (CGP) for the State. Projects disturbing one acre or more of soil must obtain permit coverage under the CGP by filing a Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) with the SWRCB prior to commencement of construction. The CGP, which became effective July 1, 2010, includes requirements for training, inspections, record keeping, and for projects of certain risk levels, monitoring.

### **City of San José Grading Ordinance**

All development projects, whether subject to the CGP or not, shall comply with the City of San José's Grading Ordinance, which requires the use of erosion and sediment controls to protect water quality while the site is under construction. Prior to issuance of a permit for grading activity occurring during the rainy season (October 1 to April 30), the Project will submit to the Director of Public Works an Erosion Control Plan detailing BMPs that will prevent the discharge of stormwater pollutants.

### **Municipal Regional Stormwater NPDES Permit (MRP)/C.3 Requirement**

The San Francisco Bay RWQCB has also issued a Municipal Regional Stormwater NPDES Permit (MRP) [Permit Number CAS612008]. In an effort to standardize stormwater management requirements throughout the region, this permit replaces the formerly separate countywide stormwater permits with a regional permit for 77 Bay Area municipalities including the City of San José. Under the provisions of the MRP, redevelopment projects that create or replace 10,000 sf or more of impervious surfaces are required to design and install Low Impact Development (LID) controls to treat post-construction stormwater runoff from the site. Examples of LID controls include rainwater harvesting/re-use, infiltration, and biotreatment.

The MRP allows certain types of smart growth, high density, and transit-oriented development to use alternative means of treatment depending on specific criteria. Qualifying projects may apply for reduction

<sup>19</sup> Federal Emergency Management Agency. FEMA Flood Map Service Center: Search by Address. Accessed at <https://msc.fema.gov/portal/search#searchresultsanchor>. Accessed on January 30, 2022.

<sup>20</sup> City of San Jose, Stormwater Evaluation Form for the Qume and Commerce Project.

credits based on location and density criteria that allow non-LID treatment for a portion of the Project's runoff, but only after the applicant demonstrates why LID is infeasible for the project. The LID reduction credits are intended to allow Smart Growth projects greater flexibility in meeting stormwater treatment requirements, based on the inherent environmental benefits of Smart Growth and potential technical challenges of implementing LID treatment exclusively on high-density sites in urban areas.

### **Council Policy 6-29 Post-Construction Urban Runoff Management and Council Policy 8-14 Post--Construction Hydromodification Management**

The MRP mandates the City of San José use its planning and development review authority to require that stormwater management measures such as Site Design, Pollutant Source Control, and Treatment measures are included in new and redevelopment projects to minimize and properly treat stormwater runoff.

The City of San José's Post-Construction Urban Runoff Management Policy (Council Policy 6-29) implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. Policy 6-29 requires all new development and redevelopment project to implement post-construction Best Management Practices (BMP) and Treatment Control Measures (TCM) to the maximum extent practicable. This policy also established specific design standards for post- construction TCM for projects that create, add, or replace 10,000 sf or more of impervious surfaces.

The City's Post-Construction Hydromodification Management Policy (Council Policy 8-14) establishes an implementation framework for incorporating measures to control hydromodification impacts from development projects. Development projects that create and/or replace one acre or more of impervious surface and are located in a sub-watershed 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. The project includes 533,137 sf (12.24 acres) of impervious area. Therefore, the project will comply with the hydromodification requirements of Council Policy 8-14.

### **City of San José Envision San José 2040 General Plan**

The General Plan includes the following water quality policies applicable to the proposed Project:

- Policy ER-8.1: Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
- Policy ER-8.3: Ensure that private development in San José includes adequate measures to treat stormwater runoff.
- Policy ER-8.5: Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite.
- 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.
- 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.



## DISCUSSION

a) *Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?*

**Less than Significant Impact.** The proposed Project must comply with the C.3 Provision “New Development and Redevelopment” of the Municipal Regional Stormwater Permit (MRP) (NPDES Permit No. CAS612008) which aims to include appropriate source control, site design, and stormwater treatment measures in new development and redevelopment projects to address soluble and insoluble stormwater runoff pollutant discharges and prevent increases in runoff from projects. The provision requires regulated projects to include LID practices, such as pollutant source control measures and stormwater treatment features aimed to maintain or restore the site’s natural hydrologic functions. The MRP also requires that stormwater treatment measures are properly installed, operated and maintained.

### ***Construction Impacts***

Construction of the proposed Project would require compliance with the City’s standard permit conditions to prevent stormwater pollution and minimize potential sedimentation during construction. Measures include, but are not limited to the following:

### ***Standard Permit Conditions***

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

Implementation of these standard permit conditions would prevent stormwater pollution and minimize potential sedimentation during construction. Thus, construction period impacts related to water quality would be less than significant.

### **Post Construction Impacts**

Stormwater runoff would drain into treatment areas, including two bioretention areas by catch basins, prior to entering the storm drainage system. The on-site treatment facilities include flow through planters and unlined bioretention basins that would be numerically sized and required, as a condition of Project approval, to have sufficient capacity to treat the roof and parking lot runoff entering the storm drainage system, consistent with the NPDES requirements.

The General Plan EIR as supplemented, concluded that with the regulatory programs currently in place, stormwater runoff from new development would have a less than significant impact on stormwater quality. With implementation of a Stormwater Control Plan consistent with RWQCB and compliance with the City's regulatory policies pertaining to stormwater runoff, operation of the proposed Project would not violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality and impacts would be less than significant

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

**No Impact.** The Project site is located within the Santa Clara Valley Groundwater Basin which spans from Diablo Mountains in the east, Santa Cruz Mountains in the west, and the San Francisco Bay in the north. The Project site is currently supplied water by the San José Water Company. The proposed Project would continue to be served by the San José Water Company, which utilizes groundwater as one of their water supply sources. As discussed further in Section 4.19, Utilities and Service Systems, the Project would not decrease groundwater supplies in a manner that impedes with the sustainable groundwater management. Further, the Project site is not located within a natural or facility groundwater recharge area. Therefore, there would be no impact.

*c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:*

*d) Result in substantial erosion or siltation on- or off-site?*

**Less than Significant Impact.** There are no streams or rivers on the project site or in the project site vicinity which would be altered by the proposed Project. The closest waterway to the Project site is Coyote Creek, which is located approximately 1.20-miles west of the Project site. In addition, the proposed on-site flow through planters and bioretention basins would treat storm water runoff on-site prior to release into the storm drain system; therefore, minimizing the potential for substantial erosion or siltation to occur On-site or off site. Additionally, implementation of the standard permit conditions under threshold a) would further prevent any substantial erosion or siltation off-site. Thus, impacts would be less than significant.

*e) Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite?*

**Less than Significant Impact.** As shown in **Table 4-4: Impervious and Pervious On-Site Surface Area**, the Project site currently has approximately 1,116,974 sf of impervious surface area. Development of the proposed Project would result in approximately 1,226,239 sf of impervious surface area (approximately 83 percent impervious coverage on-site) The Project would result in a net addition of approximately 110,136 sf of impervious surface area.

The City has developed policies that implement Provision C.3, consistent with the Municipal Regional Permit. The City’s Post-Construction Urban Runoff Management Policy (6-29) establishes specific requirements to minimize and treat stormwater runoff from new and redevelopment projects. The City’s Post-Construction Hydromodification Management Policy (8-14) establishes an implementation framework for incorporating measures to control hydromodification impacts from development projects, including the rate or amount of surface runoff.

**Table 4-4: Impervious and Pervious On-Site Surface Area**

Site Surface	Existing Surface Area SF	Proposed Surface Area SF	Change
<b>Impervious Surfaces Total</b>	1,116,974	1,226,239	+110,136
<b>Pervious Surfaces Total</b>	351,897	252,994	- 110,136

Note: Impervious Surface Area represents site specific conditions excludes public streets  
 Source: Herdman Architecture + Design, 2022.

In accordance with Provision C.3, the proposed Project would be required to obtain a State Construction General Permit and incorporate site design, source control, and treatment system requirements across the site. Proposed site design features include directing runoff from roofs and sidewalks to landscape areas, planting trees near parking areas, and creating new pervious areas through landscaping. Source control measures would include beneficial landscaping, water efficient irrigation systems, and good housekeeping. Treatment systems proposed include bioretention area, sized to control the off-site stormwater flow rate consistent with City’s C.3 requirements. Per City review for compliance with these requirements, the proposed Project would not substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite, and impacts would be less than significant.

*f) 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?*

**Less than Significant Impact.** Where development or redevelopment results in an increase in impervious surfaces, increased runoff could exceed the capacity of local storm drain systems. As discussed above, 76 percent of the Project site is currently impervious. The proposed Project would increase this to 83 percent, with an increase of 110,136 sf of impervious surface area.

The Project would be required to comply with the C.3 Provision of the MRP which provides specific design requirements for capacity including: the implementation of stormwater BMPs, volume control design, flow hydraulic design, and combination flow and volume design. As required by the C.3 Provision of the MRP, a Storm Water Management Plan (SWMP) would be reviewed and approved by the City of San José Public Works Department, Environmental Programs Division.

The Project includes site design measures such as directing runoff from roofs and sidewalks to landscaped areas and planting trees adjacent to impervious areas. Source control measures include beneficial landscaping, efficient use of water in irrigation systems, good housekeeping, and labeling storm drains.

Compliance with the C.3 Provision of the MRP would ensure that the proposed Project would not exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff and impacts would be less than significant.

*g) Impede or redirect flood flows?*

**No Impact.** Per the Santa Clara Valley Habitat Plan, the Project is not located within a stream setback zone and would not alter the course of a stream or river, and therefore there would be no impacts.

*h) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?*

**Less than Significant Impact.** The Project is located outside of the tsunami inundation area mapped by the Association of Bay Area Governments.<sup>21</sup> Furthermore, the General Plan EIR concludes that the City of San José would avoid substantial effects from a possible seiche due to the location of salt restoration areas proximate to the San Francisco Bay. These salt ponds would minimize the effects of a potential seiche, limiting the impacts from a seiche within areas proposed for development within the General Plan, including the Project site.

The proposed Project would not place structures in a 100-year flood zone. However, the Project site is located within Flood Zone D, which is an area of undetermined but possible flood zone hazard outside of the 100-year floodplain. The Project would develop four speculative warehouse buildings with end-uses that could include use of limited hazardous materials and substances such as cleaners, paints, solvents, and fertilizers and pesticides for site landscaping. Operations would include the use and storage of cleaning supplies and maintenance chemicals in small quantities, similar to other businesses nearby and would not generate substantial hazardous emissions or chemical releases that would affect surrounding uses. Additionally, the Project site is relatively flat so the potential for risk release of pollutants due to Project inundation is unlikely. Therefore, due to the geographic location of the Project and the lack of pollutants present on the Project site, there is minimal risk of inundation and minimal risk of release of pollutants due to inundation. Potential impacts are less than significant based on these standards.

*i) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?*

**Less than Significant Impact.** Water quality impacts other than those described in response 4.10(a) above are not anticipated with implementation of the proposed Project. The Project site is over one acre and the Project would be required to obtain an NPDES General Permit for Construction Activities. Project construction would require compliance with Santa Clara County's water quality guidelines and the City's Grading Ordinance and water quality guidelines to protect water quality through the use of erosion and sediment controls. Following compliance with local and State regulations and permitting requirements, impacts would be less than significant.

<sup>21</sup> Association of Bay Area Governments, Resilience Program data. Available at <https://mtc.maps.arcgis.com/apps/webappviewer/index.html?id=4a6f3f1259df42eab29b35dfcd086fc8>. Accessed January 30, 2022.

## 4.11 Land Use and Planning

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>Would the project:</b>				
a) Physically divide an established community?			X	
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?			X	

### EXISTING SETTING

The 32.80-acre Project site is currently developed with three buildings totaling approximately 425,433 sf. Existing uses On-site include research and development, industrial business park, and office. The Project site is bound by an industrial/business park to the north, McKay Drive and industrial uses to the south and southeast, the BART railway corridor to the east with residential uses beyond, and Qume Drive with a range of industrial and commercial uses to the west. Residential uses beyond the BART corridor are part of a different community and do not share roads or provide access to the Project site. There is existing landscaping and trees along the Qume Drive and Commerce Drive frontages and additional landscaping throughout surface parking areas. Surface parking stalls are throughout the site and are accessed via eight driveways on Qume Drive and Commerce Drive.

### Existing Land Use Designation and Zoning

The Project site is designated as Industrial Park (IP) by the General Plan, which allows for warehousing and distribution uses. The Project site is in the Industrial Park (IP) Zoning District which also allows for warehouse/distribution facilities.

### APPLICABLE PLANS, POLICIES, AND REGULATIONS

#### Santa Clara Valley Habitat Plan

The City is under the jurisdiction of the Santa Clara Valley Habitat Plan (Habitat Plan), a collaborative effort intended to protect and enhance ecological diversity and function within a large section of Santa Clara County, while allowing for currently planned development and growth. The Habitat Plan provides a framework for the protection of natural resources while streamlining and improving the environmental permitting process for both private and public development, including activities such as road, water, and other infrastructure construction and maintenance work. The Habitat Plan is intended to provide environmental benefit by resulting in the creation of a number of new habitat reserves larger in scale and more ecologically valuable than the fragmented, piecemeal habitats yielded by mitigating projects on an individual basis.

#### City of San José General Plan

The following policies in the General Plan have been adopted for the purpose of avoiding or mitigating land use impacts resulting from planned development within the City.

- Policy CD-1.12: Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
- Policy CD-1.18: Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent, and to the extent feasible, avoid impacts of headlights on adjacent land uses.
- Policy CD-1.24: 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-2.3: Enhance pedestrian activity by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Corridors, Main Streets, and other locations where appropriate.
- a. Include attractive and interesting pedestrian-oriented streetscape features such as street furniture, pedestrian scale lighting, pedestrian oriented way-finding signage, clocks, fountains, landscaping, and street trees that provide shade, with improvements to sidewalks and other pedestrian ways.
  - b. Strongly discourage drive-up services and other commercial uses oriented to occupants of vehicles in pedestrian-oriented areas. Uses that serve the vehicle, such as car washes and service stations, may be considered appropriate in these areas when they do not disrupt pedestrian flow, are not concentrated in one area, do not break up the building mass of the streetscape, are consistent with other policies in this Plan, and are compatible with the planned uses of the area.
  - c. Provide pedestrian connections as outlined in the Community Design Connections Goal and Policies.
  - d. Locate retail and other active uses at the street level.
  - e. Create easily identifiable and accessible building entrances located on street frontages or paseos.
  - f. Accommodate the physical needs of elderly populations and persons with disabilities.

- g. Integrate existing or proposed transit stops in project designs.

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).

**DISCUSSION**

*a) Physically divide an established community?*

**Less than Significant Impact.** The Project site is developed with three existing industrial use buildings and associated automobile parking. The proposed Project would be in an urban area with similar surrounding land uses and would be consistent with the mix of surrounding uses. Residential uses are located east of the Project site and are separated from the Project site by the BART railway corridor and fences. The Project would redevelop the existing industrial/business park complex containing three existing buildings with a four-building industrial development. No change in land use patterns would occur and the project would not physically divide an established community as it is replacing an aging industrial development with a new, modern industrial development. Therefore, the proposed Project would have a less than significant impact.

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

**Less than Significant Impact.** The City’s General Plan land use designation for the Project site is Industrial Park (IP). The IP land use designation allows for a FAR range of up to 10.0 (2 to 15 stories). Consistent with the IP designation, the Project has a net FAR of 0.51 and has a maximum height of 48 feet. Additionally, the proposed Project would be consistent with applicable General Plan goals and policies concerning industrial development, transportation, and sustainability. A consistency analysis is provided in **Table 4- 5: General Plan Consistency.**

**Table 4-5: General Plan Consistency**

General Plan Policy		Consistency Analysis
Land Use Element		
<b>Policy LU-6.1:</b>	Prohibit conversion of lands designated for light and heavy industrial uses to non-industrial uses. Prohibit lands designated for industrial uses and mixed industrial-commercial uses to be converted to non-employment uses.	The Project site has a General Plan land use designation of IP and is similarly zoned IP. The Project proposes four industrial warehouse/distribution buildings, which would be consistent with allowable uses within the IP land use designation and zoning district. Further, the Project would provide employment opportunities On-site. Therefore, the Project would not convert land designated for industrial uses to non-employment uses. The Project would be consistent with or otherwise would not conflict with this policy.
<b>Policy LU-6.4:</b>	Encourage the development of new industrial areas and the redevelopment of existing older or marginal industrial areas with new industrial uses, particularly in locations which facilitate efficient	The Project site is developed with an industrial/business park complex constructed between the late-1970s and early-1980s. Project implementation would redevelop the site with industrial uses and would remain consistent with

General Plan Policy	Consistency Analysis
<p>commute patterns. Use available public financing to provide necessary infrastructure improvements as one means of encouraging this economic development and revitalization.</p>	<p>allowable uses On-site. The Project would be within 0.51-mile of I-680 and 1.0-mile of I-880, which are key transportation corridors and commute routes. The Project would be consistent with or otherwise would not conflict with this policy.</p>
<p><b>Policy LU-6.8:</b> Reserve industrial areas for industrial and compatible support uses, while recognizing that industrial uses come in a variety of types and forms. Allow nonindustrial uses which are only incidental to and totally compatible with primary industrial uses in exclusively industrial areas. Consider allowing supportive, non-industrial activities, such as retail sales of materials manufactured or stored On-site.</p>	<p>The proposed Project would maintain industrial uses on the Project site, consistent with the site’s General Plan land use designation and zoning of IP. The Project would be consistent with or otherwise would not conflict with this policy.</p>
<p><b>Policy LU-7.2:</b> Seek out industrial uses that are environmentally sustainable or create environmentally beneficial products in order to maintain a healthful environment and preserve natural resources.</p>	<p>The proposed Project would develop four industrial warehouse/distribution buildings that would be built in conformance with San José Council Policy 6-32 and the City’s Green Building Measures. The Project would also adhere to the provisions of CALGreen which establishes standards for sustainable site development and energy efficiency, in excess of the California Energy Code requirements. Therefore, the Project would introduce industrial uses that promote sustainability and energy efficiency. The Project would be consistent with or otherwise would not conflict with this policy.</p>
Community Design Element	
<p><b>Policy CD-1.12:</b> Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.</p>	<p>The proposed Project includes architectural design features consistent with high-quality industrial warehouse buildings. Further, landscape features would enhance site character and design on site and along Project frontages. Therefore, the Project would be consistent with or otherwise would not conflict with this policy.</p>
<p><b>Policy CD-1.24:</b> 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</p>	<p>While the proposed Project would remove 620 On-site trees, a majority of existing landscapes have not been properly maintained, resulting in excessive canopy raising, root damage, insufficient irrigation, and clearance pruning.<sup>22</sup> Project implementation would introduce high-quality landscape features, including 339 new 24-inch box</p>

<sup>22</sup> Personal communication with Jesse Markman, Jett Landscape Architecture + Design on February 25, 2022.



General Plan Policy	Consistency Analysis
provide transitions between land uses, and shade pedestrian and bicycle areas.	trees and maintain 51 existing on-site trees. Landscape design would complement the proposed site layout, including pedestrian walkways and bicycle paths On-site and along Project frontages. Therefore, the Project would be consistent with or otherwise would not conflict with this policy.
<b>Policy CD-2.3:</b> Enhance pedestrian activity by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Corridors, Main Streets, and other locations where appropriate.	The proposed landscape design features would enhance the pedestrian experience On-site and along Project frontages. Therefore, the Project would be consistent with or otherwise would not conflict with this policy.
<b>Policy CD-4.9:</b> 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).	The proposed Project would include design features complementary in type, form, scale, and character with surrounding industrial/commercial developments. Specifically, buildings would incorporate decorative canopies and a range of complementary exterior paint colors and materials for façade articulation. Therefore, the Project would be consistent with or otherwise would not conflict with this policy.

As demonstrated above, the Project would be consistent with or otherwise would not conflict with applicable General Plan policies.

The Project site is zoned as Industrial Park (IP). The City’s Development standards for the IP Zoning District apply to the proposed Project site and require a minimum lot area of 10,000 sf, a minimum street frontage of 60 feet, and a maximum building height of 50 feet. Consistent with the zoning regulations, the Project is located on a 32.80-acre lot with appropriate street frontages and maximum building height of 48 feet. Further, the proposed Project would meet setback requirements for the IP zone that require a front building setback of 15 feet and parking and circulation setback of 20 feet; side setback of zero feet from automobile parking and driveways, zero feet from truck parking, and zero feet from buildings; and a rear setback of zero feet.

The proposed Project would be consistent with development standards for the IP zoning district, as provided in the Municipal Code. Therefore, the Project would not conflict with any land use plan, policy, or regulation. A less than significant impact would occur and no mitigation is required.

The proposed Project is located within the SCVHP study area; however, it is not designated as a natural community area or identified as an important habitat for endangered and threatened species and native vegetation has been cleared for residential, commercial, industrial, transportation, and recreational structures. As such, the proposed Project would comply with the General Plan land use, Zoning designation, and SCVHP. Impacts would be less than significant.

## 4.12 Mineral Resources

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				X

### EXISTING SETTING

Mineral resources known to exist in and near the Santa Clara Valley include cement, sand, gravel, crushed rock, clay, and limestone. Santa Clara County has also supplied a significant portion of the nation’s mercury over the past century. According to the Surface Mining and Reclamation Act of 1975 (SMARA), the State Mining and Geology Board has designated the Communications Hill Area, bounded generally by the Union Pacific Railroad, Curtner Avenue, State Route 87, and Hillsdale Avenue as containing mineral deposits which are of regional significance as a source of construction aggregate materials. The Project is not located within the Communications Hill area.

Neither the State Geologist nor the State Mining and Geology Board has classified any other areas in San José as containing mineral deposits which are either of statewide significance or the significance of which requires further evaluation. Therefore, other than the Communications Hill area cited above, San José does not have mineral deposits subject to SMARA.

### APPLICABLE PLANS, POLICIES, AND REGULATIONS

#### 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, after receiving classification information from the State Geologist, to designate lands containing mineral deposits of regional or statewide significance.

Pursuant to the mandate of the SMARA, the State Mining and Geology Board (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.

## DISCUSSION

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

**No Impact.** The General Plan identifies the area around Communications Hill as the only area in the City containing mineral deposits of regional significance by the State Mining and Geology Board under SMARA. The proposed Project site is located approximately 7 miles north of Communication Hill. The proposed Project is not located in an area known to contain regionally significant mineral resources and would not result in the loss of the availability of a known mineral resource of regional value. Thus, no impacts would occur.

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

**No Impact.** The Project site is not located in an area that has been identified by the City of San José as a locally important mineral resource recovery site. Thus, no impacts would occur.

### 4.13 Noise

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>Would the project result in:</b>				
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?			X	
b) Generation of excessive groundborne vibration or groundborne noise levels?			X	
c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?			X	

The Project’s impact on noise and vibration is evaluated in the Draft EIR. No further analysis is provided in this Initial Study.

## 4.14 Population and Housing

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>Would the project:</b>				
a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?			X	
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?				X

### EXISTING SETTING

The California Department of Finance estimates that the population of the City of San José is approximately 1,029,782 persons as of January 1, 2021 and that there are 3.14 residents per household in San José.<sup>23</sup> According to the General Plan EIR, the City estimates approximately 138,442 additional households in San José by 2035 to a total of 429,350 households in 2035. The Association of Bay Area Governments (ABAG) is responsible for forecasting changes to the Bay Area population and prepares population projections. Based on the most recent data, the City is projected to have a population of approximately 1,283,360 persons by 2035.<sup>24</sup> The unemployment rate for the City of as of December 2021 was 3.2 percent and the 2019 annual average unemployment rate in the City was 2.6 percent.<sup>25</sup>

### APPLICABLE PLANS, POLICIES, AND REGULATIONS

#### California Government Code Sections 65580–65589

California Government Code Sections 65580–65589.8 include provisions related to the requirements for housing elements of local government general plans. Among these requirements, some of the necessary elements include an assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. Additionally, to assure that counties and cities recognize their responsibilities in contributing to the attainment of the state housing goals, the statute calls for local jurisdictions to plan for, and allow the construction of, a share of the region’s projected housing needs.

<sup>23</sup> California Department of Finance. Table 2: E-5 City/County Population and Housing Estimates, 1/1/2021. Available at: <http://www.dof.ca.gov/Forecasting/Demographics/Estimates/e-5/>. Accessed February 1, 2022.

<sup>24</sup> Association of Bay Area Governments, Projections 2040 by Jurisdiction. Available at . <http://projections.planbayarea.org/>. Accessed March 7, 2022.

<sup>25</sup> State of California Employment Development Department. Available at: <https://www.labormarketinfo.edd.ca.gov/data/unemployment-and-labor-force.html>. Accessed February 1, 2022.

## Regional Transportation Plan/ Sustainable Community Strategy

The Regional Transportation Plan (RTP)/ Sustainable Community Strategy (SCS) for the Bay Area region, Plan Bay Area 2050, was adopted on October 21, 2021. Plan Bay Area 2050 connects the elements of housing, the economy, transportation and the environment through 35 strategies and an associated implementation plan.<sup>26</sup>

### DISCUSSION

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

**Less Than Significant Impact.** The Project proposes four industrial warehouse/distribution buildings with approximately 694,491 sf of total warehouse space and 20,000 sf of total office space. While no end users have been identified, the buildings are programmed and designed to attract users such as logistics, e-commerce, warehouse/distribution, and wholesaling, industrial services. Based on the City's employee generation rate for industrial space, the proposed Project would include an estimated total of 715 employees on-site.<sup>27,28</sup> The existing on-site employee population is approximately 1,150 people. Accordingly, Project implementation would not result in increased jobs on-site and would not induce direct population growth within the City. On-site employees during both construction and operational phases of the Project are expected to come from the surrounding area. Further, the Project would not include infrastructure expansion with the potential to induce indirect population growth. Therefore, the Project would not induce substantial unplanned growth within the Project area and a less than significant impact would occur.

*b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?*

**No Impact.** The 32.80-acre Project site is developed with an existing industrial/business park complex. Project implementation would not result in the removal of any residential units or displacement of people such that construction of replacement housing would be required. Thus, no impacts would occur.

<sup>26</sup> Association of Bay Area Governments, 2022. Final Plan Bay Area. Available at <https://www.planbayarea.org/finalplan2050>. Accessed March 7, 2022.

<sup>27</sup> City of San José. Envision 2040 General Plan Draft EIR. Available at <https://www.sanjoseca.gov/home/showpublisheddocument/22041/636688304350830000>. Accessed March 7, 2022.

<sup>28</sup> The City calculates one job per 1000 SF of industrial space. (City of San José Envision 2040, 2011) (714,491 SF industrial) / 1,000 SF = 715 jobs)

## 4.15 Public Services

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>Would the project result in:</b>				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
i) Fire protection?			X	
ii) Police protection?			X	
iii) Schools?			X	
iv) Parks?				X
v) Other public facilities?				X

### EXISTING SETTING

#### Fire Protection Services

Fire protection services in the City are provided by the San José Fire Department (SJFD). The City has 33 fire stations.<sup>29</sup> The nearest fire station to the Project site is Station 23 located at 1771 Vía Cinco de Mayo, approximately 0.5-mile northeast of the Project site. The next closest fire station to the Project site is Station 5, located at 1380 North 10<sup>th</sup> Street, approximately 2 miles south of the Project site.

SJFD had 17,343 fire and other incidents in the City in 2018. The average travel time in 2018 was 14 minutes and 39 seconds for fire and other incidences and just over nine minutes for medical incidents.<sup>30</sup> According to current SJFD protocols, fires in structures that are four stories or taller in height require responses from more than one fire station.

#### Police Protection

Police protection services are provided to the Project site by the San José Police Department (SJPD). The SJPD headquarters are located at 201 West Mission Street, approximately 3.2 miles southwest of the Project site.

<sup>29</sup> City of San José. About SJFD. Available at: <https://www.sanjoseca.gov/your-government/departments/fire-department>. Accessed on January 26, 2022.

<sup>30</sup> City of San José San José Fire Department. City-Wide Response Metrics. Available at: [https://sj-admin.s3-us-west-2.amazonaws.com/2019\\_0000\\_SanJoseFire\\_Statistics.pdf](https://sj-admin.s3-us-west-2.amazonaws.com/2019_0000_SanJoseFire_Statistics.pdf). Accessed on January 26, 2022.

## Schools

The Project is located within the Orchard Elementary School District (OESD) and East Side Union High School District (ESUHSF) boundaries. Students in the Project area attend Orchard Elementary School (grades TK-8) and Independence High School (grades 9-12).<sup>31 32</sup>

## Parks

The City's Department of Parks, Recreation, and Neighborhood Services is responsible for the development, operation, and maintenance of all City park facilities. The City operates and maintains a total of 3,537 acres of regional and neighborhood/community-serving parkland, including approximately 199 neighborhood-serving parks and 10 regional parks<sup>33</sup>. The closest park to the Project site is Brooktree Park located at Flickinger Road and Fallingtree Avenue, approximately 0.25 miles east of the Project site. The Project site is located approximately 0.3 miles north of Gran Paradiso Park. The closest Regional Park is Overfelt Gardens located 2.65 miles southeast of the Project site.

## Other Public Facilities, Libraries

The San José Public Library System consists of one main library and 23 branch libraries. The main library, Dr. Martin Luther King, Jr. Library, is located at 150 East San Fernando Street, approximately 4 miles south of the Project site. The nearest library branches to the Project site are listed below.<sup>34</sup>

- Berryessa Branch Library located at 3355 Noble Avenue, approximately 2.5 miles east of the Project site.
- Educational Park Branch Library located at 1772 Educational Park Drive, approximately 2.6 miles southeast of the Project site.

## APPLICABLE PLANS, POLICIES, AND REGULATIONS

### Police Services

All law enforcement agencies within California are organized and operate in accordance with the applicable provisions of the California Penal Code. This code sets forth the authority, rules of conduct, and training for police officers.

### Fire Protection

The California Fire Code contains regulations relating to construction and maintenance of buildings and the use of premises. Fire hazards are addressed mainly through the application of the State Fire Code that addresses access, including roads, and vegetation removal in high fire hazard areas, fire hydrants, automatic sprinkler systems, fire alarm systems, fire and explosion hazards safety, and many other general and specialized fire safety requirements for new and existing buildings and premises.

<sup>31</sup> San José Unified School District. School Site Locator. Available at: <http://apps.schoolsitetlocator.com/?districtcode=25499#>. Accessed on January 26, 2022.

<sup>32</sup> East Side Union High School District. District Boundary Map. Available at: <http://www.esuhd.org/Community/Boundaries/index.html>. Accessed on January 26, 2022.

<sup>33</sup> City of San José. Fast Facts. November 12, 2020. Available at: <https://www.sjcity.net/DocumentCenter/View/22597/Fast-Fast-2020>.

<sup>34</sup> City of San José Public Library. Locations and Hours. Available at: <https://www.sjpl.org/locations>. Accessed on January 26, 2022.



### ***California Occupational Safety and Health Administration***

In accordance with California Code of Regulations Title 8 Sections 1270 "Fire Prevention" and 6773 "Fire Protection and Fire Equipment" the California Occupational Safety and Health Administration (Cal/OSHA) has established minimum standards for fire suppression and emergency medical services. The standards include, but are not limited to, guidelines on the handling of highly combustible materials, fire hose sizing requirements, restrictions on the use of compressed air, access roads, and the testing, maintenance, and use of all fire-fighting and emergency medical equipment.

### ***California Health and Safety Code***

State fire regulations are set forth in Sections 13000 et seq. of the California Health and Safety Code. This includes regulations for building standards (as also set forth in the California Building Code), fire protection and notification systems, fire protection devices such as extinguishers and smoke alarms, high-rise building and childcare facility standards, and fire suppression training.

### **Schools**

#### ***Senate Bill 50***

SB 50 (1998), which is funded by Proposition 1A, limits the power of cities and counties to require mitigation of developers as a condition of approving new development and provides instead for a standardized fee. SB 50 generally provides for a 50/50 state and local school facilities match. SB 50 also provides for three levels of statutory impact fees. The application level depends on whether state funding is available; whether the school district is eligible for state funding; and whether the school district meets certain additional criteria involving bonding capacity, year-round schools, and the percentage of moveable classrooms in use.

California Government Code sections 65995-65998 sets forth provisions to implement SB 50. Specifically, in accordance with Section 65995(h), the payment of statutory fees is "deemed to be full and complete mitigation of the impacts of any legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization...on the provision of adequate school facilities." The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code.

Pursuant to Government Code section 65995(i), "A state or local agency may not deny or refuse to approve a legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization as defined in Section 56021 or 56073 on the basis of a person's refusal to provide school facilities mitigation that exceeds the amounts authorized pursuant to this section or pursuant to Section 65995.5 or 65995.7, as applicable."

California Education Code Section 17620(a)(1) states that the governing board of any school district is authorized to levy a fee, charge, dedication, or other requirement against any construction within the boundaries of the district, for the purpose of funding the construction or reconstruction of school facilities.

**California Government Code, Section 65995(b), and Education Code Section 17620**

SB 50 amended California Government Code Section 65995, which contains limitations on Education Code Section 17620, the statute that authorizes school districts to assess development fees within school district boundaries. Government Code Section 65995(b)(3) requires the maximum square footage assessment for development to be increased every two years, according to inflation adjustments. On January 27, 2016, the State Allocation Board (SAB) approved increasing the allowable amount of statutory school facilities fees (Level I School Fees) from \$3.36 to \$3.39 per square foot of assessable space for residential development of 500 sf or more, and from \$0.54 to \$0.55 per square foot of chargeable covered and enclosed space for commercial/industrial development (State Allocation Board, 2016). School districts may levy high fees if they apply to the SAB and meet certain conditions.

**City of San José Envision San José 2040 General Plan**

The City’s General Plan includes the following public services policies applicable to the proposed Project:

- Policy CD-5.5: Include design elements during the development review process that address security, aesthetics, and safety. Safety issues include, but are not limited to, minimum clearances around buildings, fire protection measures such as peak load water requirements, construction techniques, and minimum standards for vehicular and pedestrian facilities and other standards set forth in local, state, and federal regulations.
- Policy ES-2.2: Construct and maintain architecturally attractive, durable, resource-efficient, and environmentally healthful library facilities to minimize operating costs, foster learning, and express in built form the significant civic functions and spaces that libraries provide for the San José community. Library design should anticipate and build in flexibility to accommodate evolving community needs and evolving methods for providing the community with access to information sources. Provide at least 0.59 sf of space per capita in library facilities.
- Policy ES-3.1: Provide rapid and timely Level of Service response time to all emergencies:
1. For police protection, use as a goal a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls.
  2. For fire protection, use as a goal a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.
- Policy ES-3.9: Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly-visible and accessible spaces.
- Policy ES-3.11: Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.

- Policy PR-1.1: Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents
- Policy PR-1.2: Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.

## DISCUSSION

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

b) *Fire protection?*

**Less than Significant Impact.** The proposed Project would demolish the existing industrial/business park complex containing three buildings totaling approximately 425,433 sf and construct four warehouse buildings totaling approximately 714,419 sf. While this is an increase in building area on the Project site, the proposed use is similar to existing and surrounding uses On-site, on a previously developed site, and thus, would not significantly change the demand for fire services for the Project site. Although the SJFD is not currently meeting response time objectives, it is anticipated that the planned construction and/or relocation of stations as described in the General Plan, would improve response times.

The General Plan found with implementation of Policy ES-3.1 through ES-3.26, there would be a less than significant impact to police and fire services. Furthermore, the proposed Project is within the requirements of the General Plan designation and would be constructed in accordance with current Building codes, Fire Codes, and City policies to avoid unsafe building conditions and promote public safety. Thus, impacts would be less than significant.

c) *Police protection?*

**Less than Significant Impact.** Police protection services would be provided by the SJPD. The proposed Project would demolish the existing three office/warehouse buildings consisting of approximately 425,433 sf and construct four new buildings totaling approximately 714,419 sf. While this is an increase in building area on the Project site, the proposed use is similar to existing and surrounding uses on-site, on a previously developed site, and thus, would not result in a demand for police services beyond the area that the SJPD currently serves. Further, as discussed in Section 4.14, Population and Housing, the Project would not induce substantial unplanned population growth within the City in a manner that could impact service ratios. Therefore, the Project would not increase police response times to the Project site or other areas served by the SJPD or result in the construction of new police facilities. The Project does not propose or require new or physically altered police protection facilities. Compliance with the General Plan policies would help to ensure that the SJPD meets and maintains the City's response time objectives over the long-term. Thus, impacts would be less than significant.

*d) Schools?*

**Less than Significant Impact.** The Project site is located within the OESD and ESUHSD boundaries. As discussed in Section 4.14, Population and Housing, the proposed Project would not generate enough population growth within the City to cause an increase in demand for services within OESD or ESUHSD. Further, the proposed Project would not result in population growth and would not increase students in the OESD or ESUSD beyond what was anticipated in the General Plan.

State Law (Government Code Section 65996) specifies an acceptable method of offsetting a Project's effect under CEQA on the adequacy of school facilities is the payment of a school impact fee prior to the issuance of a building permit. OESD and ESUHSD collect impact fees from new developments under the provisions of SB 50. Payment of the applicable impact fees by the Project Applicant, and ongoing revenues that would come from property taxes, sales taxes, and other revenues generated by the Project, would fund improvements associated with school services. Under the provisions of SB 50, a Project's impacts on school facilities are fully mitigated via the payment of the requisite new school construction fees established pursuant to Government Code Section 65995. The proposed Project would not induce population growth that would increase the number of school children attending public schools in the Project area and would comply with State law regarding school impacts. Thus, impacts would be less than significant.

*e) Parks?*

**No Impact.** The closest park to the Project site is Brooktree Park located at Flickinger Road and Fallingtree Avenue, approximately 0.25-mile east of the Project site. The Project would not induce substantial population growth in the Project vicinity such that there would be an increased demand on local parks. Visitors and on-site employees may visit nearby park facilities, however, these visits would not impact increase the use of local parks to a degree that causes deterioration. Therefore, the Project would not require the construction of recreational facilities which might have an adverse physical effect on the environment and there would be no impact.

*f) Other public facilities?*

**No Impact.** The proposed Project would not result in substantial population growth within the City. The General Plan EIR concluded that development and redevelopment allowed under the General Plan would be adequately served by existing and planned library facilities. Given that the existing and planned library facilities would adequately serve planned growth in the City, there would be no impact.

## 4.16 Recreation

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>Would the project:</b>				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?				X

### EXISTING SETTING

The City of San José manages a total of 3,257 acres of regional and neighborhood/community serving parkland. The City has over 1,909 neighborhood-serving parks and 10 regional parks.<sup>35</sup> The closest park to the Project site is Brooktree Park located at Flickinger Road and Fallingtree Avenue, approximately 0.25 miles east of the Project site. The Project site is located approximately 0.3 miles north of Gran Paradiso Park. The closest Regional Park is Overfelt Gardens located 2.65 miles southeast of the Project site.

### APPLICABLE PLANS, POLICIES, AND REGULATIONS

#### The Quimby Act

The Quimby Act (California Government Code § 66477) authorizes cities and counties to adopt ordinances requiring new development to dedicate land or pay fees or provide a combination of both for park improvements.

#### Parkland Dedication Ordinance and Park Impact Ordinance

The City of San José enacted the Parkland Dedication Ordinance (PDO)<sup>36</sup> (Municipal Code Chapter 19.38) in 1988 to help meet the demand for new neighborhood and community parkland generated by the development of new residential subdivisions. In 1992, the City Council adopted the Park Impact Ordinance (PIO)<sup>37</sup>, which is similar to the PDO, but applies to new non-subdivided residential projects such as apartment buildings. These ordinances are consistent with provisions of the California Quimby Act (GC § 66477), Mitigation Fee Act (GC § 66000), Subdivision Map Act (GC § 66410), and associated federal statutes.

Consistent with these ordinances, housing developers are required to dedicate land, improve parkland, and/or pay a parkland fee in lieu of land dedication for neighborhood and community parks under the

<sup>35</sup> City of San José. Fast Facts. November 12, 2020. Available at: <https://www.sicity.net/DocumentCenter/View/22597/Fast-Fast-2020>

<sup>36</sup> City of San José Municipal Code Title 19.38

<sup>37</sup> City of San José Municipal Code Title 14.25

PDO and PIO. Pursuant to these ordinances a residential project's parkland obligation under the PDO and PIO is equivalent in value or property to three acres for every 1,000 new residents added by the housing development, pay an in-lieu fee, construct new park facilities, or a provide combination of these.

### City of San José Envision San José 2040 General Plan

The City's General Plan includes the following public services policies applicable to the Project:

- Policy PR-1.1: Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
- Policy PR-1.2: Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
- Policy PR-1.3: Provide 500 square feet per 1,000 population of community center space.
- Policy PR-2.4: To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a ¼ mile radius of the Project site that generates the funds.
- Policy PR-2.5: Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.

### DISCUSSION

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

**No Impact.** While employees of and visitors to the Project site could visit nearby parks and recreation facilities, this relatively low number of people, combined with the City's on-going park operation and maintenance plans (for which this proposed Project would contribute to by way of property taxes), would not result in a substantial physical deterioration of parks or other recreation facilities. Therefore, there would be no impact.

*b) Refer to Section 4.16 Public Services, Discussion Impact A(iii). 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?*

**No Impact.** The Project does not include demolition or construction of any recreational facilities. As such, the proposed Project would not require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment. Therefore, there would be no impact in this regard.

### 4.17 Transportation

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>Would the project:</b>				
a) Conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?			X	
b) Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?		X		
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?				X
d) Result in inadequate emergency access?				X

The Project’s impact on transportation is evaluated in the Draft EIR. No further analysis is provided in this Initial Study.

### 4.18 Tribal Cultural Resources

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>Would the project:</b>				
a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is: i) Listed or eligible for listing in the California			X	
i) 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)?			X	
ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?			X	

#### EXISTING SETTING

Native American resources in this part of Santa Clara County have been found near areas populated by oak, buckeye, laurel, and hazelnut, as well as near a variety of plant and animal resources. Typically, these sites are also found near watercourses and bodies of water. The Project site is located on a flat terrace in an open area and approximately two miles from any major predevelopment watercourse. There are no known Native American resources within or adjacent to the Project area.

#### APPLICABLE PLANS, POLICIES, AND REGULATIONS

##### Assembly Bill 52

The primary intent of AB 52 is to include consultation with California Native American Tribes early in the environmental review process and to establish a new category of resources related to Native Americans that require consideration under CEQA, known as tribal cultural resources.

##### Health and Safety Code, Sections 7050 and 7052

Health and Safety Code Section 7050.5 declares that, in the event of the discovery of human remains outside a dedicated cemetery, all ground disturbances must cease and the county coroner must be



notified. Section 7052 establishes a felony penalty for mutilating, disinterring, or otherwise disturbing human remains, except by relatives.

### **Penal Code Section 622.5**

Penal Code Section 622.5 provides misdemeanor penalties for injuring or destroying objects of historic or archaeological interest located on public or private lands but specifically excludes the landowner.

### **Government Code Section 6254(r)**

Government Code explicitly authorizes public agencies to withhold information from the public relating to Native American graves, cemeteries, and sacred places maintained by the Native American Heritage Commission.

### **Government Code Section 6250 et seq**

Records housed in the Information Centers of the California Historical Resources Information System (CHRIS) are exempt from the California Public Records Act Government Code Section 6254.10 According to Government Code, nothing within an environmental document requires disclosure of records that relate to archaeological site information and reports maintained by, or in, the possession of, the Department of Parks and Recreation, the State Historical Resources Commission, the State Lands Commission, the Native American Heritage Commission, another state agency, or a local agency, including the records that the agency obtains through a consultation process between a California Native American tribe and a state or local agency

### **Native American Graves Protection and Repatriation Act of 1990**

The Native American Graves Protection and Repatriation Act (NAGPRA) of 1990 sets provisions for the intentional removal and inadvertent discovery of human remains and other cultural items from federal and tribal lands. It clarifies the ownership of human remains and sets forth a process for repatriation of human remains and associated funerary objects and sacred religious objects to the Native American groups claiming to be lineal descendants or culturally affiliated with the remains or objects. It requires any federally funded institution housing Native American remains or artifacts to compile an inventory of all cultural items within the museum or with its agency and to provide a summary to any Native American tribe claiming affiliation. Native American Heritage Commission, Public Resources Code Sections 5097.9 – 5097.991 Section 5097.91 of the Public Resources Code (PRC) established the Native American Heritage Commission (NAHC), whose duties include the inventory of places of religious or social significance to Native Americans and the identification of known graves and cemeteries of Native Americans on private lands. Under Section 5097.9 of the PRC, a state policy of noninterference with the free expression or exercise of Native American religion was articulated along with a prohibition of severe or irreparable damage to Native American sanctified cemeteries, places of worship, religious or ceremonial sites or sacred shrines located on public property. Section 5097.98 of the PRC specifies a protocol to be followed when the NAHC receives notification of a discovery of Native American human remains from a county coroner. Section 5097.5 defines as a misdemeanor the unauthorized disturbance or removal of archaeological, historic, or paleontological resources located on public lands. California Native American Graves Protection and Repatriation Act of 2001 Codified in the California Health and Safety Code Sections 8010–8030, the California Native American Graves Protection Act (NAGPRA) is consistent with the federal NAGPRA. Intended to “provide a seamless and consistent state policy to ensure that all California Indian human remains and cultural items be treated with dignity and respect,” the California NAGPRA also

encourages and provides a mechanism for the return of remains and cultural items to lineal descendants. Section 8025 established a Repatriation Oversight Commission to oversee this process. The act also provides a process for non–federally recognized tribes to file claims with agencies and museums for repatriation of human remains and cultural items.

### **City of San José Envision San José 2040 General Plan**

The City’s General Plan includes policies applicable to all development projects in San José. The following policies are specific to tribal cultural resources and are applicable to the proposed Project.

#### ***Tribal Cultural Resources***

- Policy ER-10.1: For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
- Policy ER-10.2: Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon their discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.
- Policy ER-10.3: Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.
- Policy IP-12.3: Use the Environmental Clearance process to identify potential impacts and to develop and incorporate environmentally beneficial actions, particularly those dealing with the avoidance of natural and human-made hazards and the preservation of natural, historical, archaeological and cultural resources.

### **DISCUSSION**

- a) *Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:*
- i) *Listed or eligible for listing in the California:*
  - ii) *A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1,*

*the lead agency shall consider the significance of the resource to a California Native American tribe?*

**Less than Significant Impact.** Previously unknown unrecorded archeological deposits could be discovered during ground disturbing construction activities. Project implementation activities such as Project site clearing, preparation, excavation, grading, trenching, boring etc. could potentially encounter buried tribal resources. Should this occur, the ability of the deposits to convey their significance, either as containing information about prehistory or history, as possessing traditional or cultural significance to the Native American or other descendant communities, would be materially impaired. The General Plan goals and policies include direction for the protection of such resources. However, future ground-disrupting activities within the Project site could have the potential to uncover and damage or destroy unknown resources.

### ***Standard Permit Conditions***

**Subsurface Cultural Resources.** If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist in consultation with a Native American Tribal representative registered with the Native American Heritage Commission for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3 shall examine the find. The archaeologist in consultation with the Tribal representative shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to Director of PBCE or the Director's designee and the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.

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

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

The proposed Project, with implementation of the Standard Permit Conditions to protect archaeological and tribal resources in the unlikely event they are discovered during construction grading and excavation activities, would result in a less than significant impact to tribal cultural resources.

Assembly Bill (AB) 52 requires lead agencies to conduct formal consultations with California Native American tribes during the CEQA process to identify tribal cultural resources that may be subject to significant impacts by a project. Where a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. This consultation requirement applies only if the tribes have sent written requests for notification of projects to the lead agency.

- On July 9, 2018, a representative of the Ohlone Indian Tribe, Inc., requested notification of projects in accordance with Public Resources Code Section 21080.3.1 subd (b). In a meeting with City staff and the representative on July 12, 2018, clarification was received that such notification be sent only for projects in the City of San José that involve ground disturbing activities in Downtown, and that such requests may be sent via e-mail only for future projects require a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report. As this project is not in Downtown, no notification was sent to the Ohlone Indian Tribe, Inc.
- On June 17, 2021, Chairwoman Geary of the Tamien Nation verbally requested AB52 notification and the written notice received June 28, 2021, requesting notification of projects in accordance with Public Resources Code Section 21080.3.1 subd (b), for all proposed projects that require a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report. Accordingly, AB52 notification was sent via mail to Tamien Nation on October 19, 2021 with a follow up email on December 8, 2021. The City did not receive any requests for consultation nor additional information.

Additionally, the City sent the Notice of Preparation to all tribes affiliated with the San José geographic region and no comments were received during the Notice of Preparation period or during the preparation of this document. The Project would not have a significant impact on tribal cultural resources.

## 4.19 Utilities and Service Systems

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>Would the project:</b>				
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?				X
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?			X	
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				X
d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?				X
e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?				X

A Water Supply Assessment (WSA) was prepared by San Jose Water April 2022 to address available water supplies and Project water demand, and whether projected supplies will be sufficient to meet Project demand, in existing to existing and planned uses throughout the San Jose Water Service Area. The WSA is included as Appendix M of the Draft EIR.

### EXISTING SETTING

The Project site is located within the Urban Service Area of the City of San José and is currently served by City services. Utilities and services are furnished to the Project site by the following providers:

**Wastewater Treatment:** Wastewater treatment and disposal is provided by the San José/Santa Clara Regional Wastewater Facility (RWF), formerly known as the San José /Santa Clara Water Pollution Control Plant (WPCP). Sanitary sewer lines are maintained by the City of San José. There is an existing 8" VCP sanitary sewer main along Qume Drive and Commerce Drive project frontages and a 21" RCT sanitary sewer main along McKay Drive project frontage, which may serve the proposed site.

**Water Service:** Water service in the City is provided by San José Water Company (SJWC).

**Storm Drainage:** City of San José. There is an existing 18" RCP and 24" RCP storm drain main along Qume Drive project frontage, an 18" RCP storm drain main along Commerce Drive project frontage, and a 42" RCP storm drain main along McKay Drive project frontage, which may serve the proposed site.

**Solid Waste:** Republic Services for garbage, recycling and yard trimmings.

**Natural Gas & Electricity:** SJCE (provider) and PG&E (distributor)

**Telecommunications:** AT&T, Comcast, Viasat, Frontier, and Spectrum

## **APPLICABLE PLANS, POLICIES, AND REGULATIONS**

### **STATE**

#### **Assembly Bill 341 (2011)**

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

#### **Assembly Bill 1826 (2014)**

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

#### **Senate Bill 1383 (2016)**

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

#### **Assembly Bill 939**

Assembly Bill 939 (AB 939) established the CIWMB (now CalRecycle) and required all California counties to prepare integrated waste management plans. AB 939 required all municipalities to divert 50 percent of the waste stream by the year 2000.

#### **California Green Building Standards Code**

In January 2010, the State of California adopted the California Green Building Standards Code that establishes mandatory green building standards for all buildings in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resource efficiency, and indoor environmental quality. These standards include a mandatory set of guidelines, as well as more rigorous voluntary measures, for new construction projects to achieve specific green building performance levels:

- Reducing indoor water use by 20 percent;
- Reducing wastewater by 20 percent;

- Recycling and/or salvaging 65 percent of nonhazardous construction and demolition (“C&D”) debris, or meeting the local construction and demolition waste management ordinance, whichever is more stringent; and
- Providing readily accessible areas for recycling by occupant.

## LOCAL

### Construction and Demolition Diversion Deposit Program

The demolition permit of the 3 existing on-site structures will trigger the payment of a Construction and Demolition Diversion Deposit (CDDD), which 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 C&D processing facility. Reuse and donation require acceptable documentation, such as photos, estimated weight quantities, and receipts from donations centers stating materials and quantities.

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

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

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

### Urban Water Management Plan

Pursuant to the State Water Code, water suppliers providing water for municipal purposes to more than 3,000 customers or supplying more than 3,000 acre-feet (approximately 980 million gallons) of water annually must prepare and adopt an 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, and opportunities for water transfers, and contingency plans for drought events. The City of San José adopted its most recent UWMP in 2015. Water service to the downtown area is provided by the San José Water Company, which gets its water from a variety of sources including groundwater (approximately 40 percent), imported surface water (approximately 50 percent), and local mountain surface water (approximately 10 percent).<sup>38</sup>

---

<sup>38</sup> San Jose Water Company, 2015. *Urban Water Management Plan*.

## **San José Zero Waste Strategic Plan/Climate Smart San José**

The Climate Smart San José Plan provides a comprehensive approach to achieve sustainability through new technology and innovation. The Zero Waste Strategic Plan outlines policies to help the City of San José foster a healthier community and achieve its Climate Smart San José goals, including its communitywide goal of carbon neutrality by 2030. Climate Smart San Jose also includes ambitious goals for economic growth, environmental sustainability and an enhanced quality of life for San José residents and businesses.

### **Private Sector Green Building Policy**

The City of San José's Green Building Policy for private sector new construction encourages building owners, architects, developers, and contractors to incorporate meaningful sustainable building goals early in building design process. This policy establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. It is also intended to enhance the public health, safety, and welfare of San José residents, workers, and visitors by fostering practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water and other resources in the City of San José.

### **City of San José Envision San José 2040 General Plan**

The City's General Plan includes the following utility and service policies applicable to the Project:

- Policy MS-1.4: Foster awareness in San José's business and residential communities of the economic and environmental benefits of green building practices. Encourage design and construction of environmentally responsible commercial and residential buildings that are also operated and maintained to reduce waste, conserve water, and meet other environmental objectives.
- Policy MS-3.2: Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply as building codes permit.
- Policy MS-3.3: Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.
- Policy IN-3.3: Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.
- Policy IN-3.5: Require development which will have the potential to reduce downstream LOS to lower than "D", or development which would be served by downstream lines already operating at a LOS lower than "D", to provide mitigation measures to improve the LOS to "D" or better, either acting independently or jointly with other developments in the same area or in coordination with the City's Sanitary Sewer Capital Improvement Program.
- Policy IN-3.7: Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.



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

## DISCUSSION

a) *Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?*

### Water Supply

**No Impact.** Water service to the Project site is currently provided by SJWC. The proposed Project would be consistent with planned growth in the General Plan, in that it would be consistent with the development type and intensity planned for the Project area. SJWC estimated that the total water demand for its service area could reach approximately 40,965 AF per year (AFY) by 2040.<sup>39</sup>

Based on the WSA, the proposed project would have a water demand of approximately 357,246, gpd.<sup>40</sup> This is equivalent to approximately 400.0 AFY.<sup>41</sup> This is higher than the existing water use, of approximately 6.2 AFY, in part due to a change in land use from office to warehouse. Water demand associated with the proposed Project would represent a 0.32 percent increase in total system wide 2020 water production.<sup>42</sup> An increase in water demand was accounted for in the 2020 UWMP, which projected a 12.2 percent increase between actual 2020 demand and estimated 2045 demand. Further, The Project is consistent with the considerations of the General Plan EIR which serves as the basis for UWMP projections. Therefore, Project demand is within normal growth projections for water demand in the SJWC system. In addition, implementation of the 2040 General Plan policies, existing regulations and local programs would ensure that the proposed Project would reduce water consumption including expansion of the recycled water system and implementation of water conservation measures. Thus, relocation or construction of new or expanded water facilities would not be needed and there would be no impact.

### Wastewater

**No Impact.** According to the General Plan EIR, buildout of General Plan is estimated to generate 30.8 mgd of average dry weather influent flow.<sup>43</sup> As discussed in the General Plan EIR, the San José-Santa Clara RWF provides wastewater treatment services for the Project area.

Implementation of the 2040 General Plan policies, existing regulations and local programs would ensure that the San José-Santa Clara RWF has sufficient treatment capacity to accommodate planned growth, as well as reduce the potential for future exceedances of the RWQCB effluent limit. The Project is consistent with the considerations of the General Plan EIR and would not increase wastewater generation beyond what was previously analyzed in the General Plan EIR, so the treatment capacity of the San José-Santa Clara RWF would not be exceeded as a result of the proposed Project or the Project's contribution to existing treatment commitments. Thus, the treatment capacity of the RWF as a result of

<sup>39</sup> San José Water Company, June 2021. 2020 Urban Water Management Plan. Available at: <https://www.sjwater.com/sites/default/files/2021-07/2020%20UWMP%20FINAL%20with%20Appendices.pdf> . Accessed on March 8, 2022.

<sup>40</sup> San José Water, Water Supply Assessment Qume and Commerce Project, April 2022

<sup>41</sup> 357,246 gpd \* 365 days = 130,394,790 gallons per year \* 1 acre foot per 325,851 gallons = 400.167 AFY

<sup>42</sup> San José Water, Water Supply Assessment Qume and Commerce Project, April 2022

<sup>43</sup> City of San José. Draft Program Environmental Impact Report for the Envision San José 2040 General Plan. June 2011. P.656

the proposed Project would be sufficient and would not require relocation or construction of new or expanded wastewater facilities and there would be no impact.

### **Stormwater**

**No Impact.** As discussed in Section 4.10, Hydrology and Water Quality, implementation of the proposed Project would increase impervious surfaces On-site. The General Plan EIR as supplemented, concluded that with the regulatory programs currently in place, stormwater runoff from new development would have a less than significant impact on stormwater quality. With implementation of a Stormwater Control Plan consistent with RWQCB and compliance with the City's regulatory policies pertaining to stormwater runoff, operation of the proposed Project would not require or result in the relocation or construction of new stormwater drainage and there would be no impact.

### **Electric Power, Natural Gas, and Telecommunications Facilities**

**No Impact.** As the Project site is currently operating as existing industrial/business park complex and is surrounded by urban uses, infrastructure on the Project site is already established. As discussed above, PG&E provides the electrical facilities for the Project site while the electricity is sourced from SJCE. SJCE would provide these services for the proposed Project. Telecommunications would continue to be provided by AT&T, Comcast, Viasat, Frontier, and Spectrum. Therefore, the proposed Project would not require or result in the relocation or construction of new or expanded water, wastewater treatment or storm drainage, electric power or telecommunications facilities and there would be no impact.

*b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?*

**Less than Significant Impact.** As discussed above, water service in the City is provided by SJWC. The proposed Project would generate a water demand of 357,246 gpd.<sup>44</sup> An increase in water demand was accounted for in the 2020 UWMP, which projected a 12.2 percent increase between actual 2020 demand and estimated 2045 demand. The Project is consistent with the considerations of the General Plan EIR and is within normal growth projections for water demand in the SJWC system. According to the General Plan EIR, water demand could exceed water supply with implementation of the General Plan during dry and multiple dry years after 2025. However, implementation of the 2040 General Plan policies, existing regulations and local programs would ensure that build out of the General Plan, which includes consideration of development at the Project site, would ensure water demand would not exceed water supply. Thus, impacts would be less than significant.

*c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?*

**No Impact.** As discussed in the General Plan EIR, the San José-Santa Clara RWF provides wastewater treatment services for the Project area. The City has approximately 38.8 mgd of excess treatment capacity and planned growth in the City is not expected to exceed the City's allotted capacity. Implementation of the 2040 General Plan policies, existing regulations and local programs would ensure that the

<sup>44</sup> Envision San Jose 2040 General Plan EIR, 2011.

San José- Santa Clara RWF has sufficient treatment capacity to accommodate planned growth, as well as reduce the potential for future exceedances of the RWQCB effluent limit. Therefore, the projected wastewater demand of the Project, by itself, would not result in an exceedance of capacity at the RWF. Thus, the treatment capacity of the RWF would not be exceeded as a result of the proposed Project or the Project's contribution to existing treatment commitments, and therefore there would be no impacts.

*d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?*

*And,*

*e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?*

**No Impact.** Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California IWMB in 1996 and was reviewed in 2004 and 2007. According to the IWMP, Santa Clara County has adequate disposal capacity beyond 2022. 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 City landfills approximately 700,000 tons per year of solid waste including 578,000 tons per year at landfill facilities in San José. In 2019, there were approximately 600,000 tons of material generated in San José that was disposed in various landfills throughout the State. Newby Island, however, only received approximately 290,000 of that tonnage. The total permitted landfilling capacity of the five operating landfills in the City is approximately 5.3 million tons per year.<sup>45</sup>

The proposed Project would generate approximately 218.6 pounds per day (ppd) of solid waste, a net increase of approximately 158.2 ppd over the existing development.<sup>46,47</sup> The General Plan EIR concluded that the increase in solid waste generated by full buildout under the General Plan would not cause the City to exceed the capacities of the operating landfills that serve the City. Compliance with the General Plan policies, existing regulations, and local programs would ensure that the proposed Project would not result in significant impacts to landfill capacities to accommodate the City's increased service population. Therefore, there would be no impact.

<sup>45</sup> City of San José. Envision San José 2040 General Plan DEIR. Page 664

<sup>46</sup> CalRecycle, 2019. Estimated Solid Waste Generation Rates. Available at: <https://www2.calrecycle.ca.gov/wastecharacterization/general/rates>. Accessed March 7, 2022.

<sup>47</sup> Existing condition = 141,267 sf \*(1.42 lb/100 sf/day)/100 = 60.4 ppd. Proposed Project = 694,491 sf warehouse\*(1.42 lb/100 sf/day)/100 + 20,000 sf office\*(0.006 lbs/day/sq ft) = 218.6 ppd. Net increase = 218.6 ppd – 60.4 ppd = 158.2 ppd

## 4.20 Wildfire

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:</b>				
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?				X
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?				X
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?				X
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?				X

### EXISTING SETTING

The proposed Project is not located within a Very High Fire Hazard Severity Zone (VHFHSZ) within a State Responsibility Area (SRA) or a Local Responsibility Area (LRA).<sup>48</sup> The proposed Project is also outside of the Santa Clara County Wildland Urban Interface Fire Area.<sup>49</sup> The nearest VHFHSZ is approximately four miles southeast of the Project site. See **Figure 4-1: Fire Hazard Severity Zones** and **Figure 4-2: Santa Clara County Wildland Urban Interface Area**.

The City has adopted an Emergency Operations and Evacuation Plan, which includes standard operating procedures for hazards, including urban/wildland interface fires. The Plan identifies the responsibilities of City personnel and coordination with other agencies to ensure the safety of San José citizens in the event of a fire, geologic, or other hazardous occurrence.

### APPLICABLE PLANS, POLICIES, AND REGULATIONS

#### Wildland-Urban Interface Fire Area Standards in the California Building Code

The 2007 California Building Code requires that any new buildings proposed in State Responsibility Areas, Local Agency Very-High Fire Hazard Severity Zone, or Wildland-Urban Interface Area (as designated by the enforcing agency) be constructed to meet the Wildland-Urban Interface Fire Area Building Standards. The California Building Code establishes minimum standards for materials and material assemblies in order to

<sup>48</sup> California Department of Forestry and Fire Protection, 2022. FHSZ View. Available at: <https://egis.fire.ca.gov/FHSZ/>. Accessed March 7, 2022.

<sup>49</sup> County of Santa Clara. Santa Clara County Wildland Urban Interface Fire Area. Available at: [https://plandev.sccgov.org/sites/g/files/exjcpb941/files/WUIFA\\_Adopted\\_Map.pdf](https://plandev.sccgov.org/sites/g/files/exjcpb941/files/WUIFA_Adopted_Map.pdf). Accessed on February 4, 2022.

provide a reasonable level of exterior wildfire exposure protection for buildings in wildland-urban interface areas.

### **City of San José Emergency Operations Plan**

The City of San Jose Emergency Operations Plan (EOP) was adopted in March 2019 and provides an overview of the City’s approach to emergency operations. It identifies emergency response policies, describes the response and recovery organization, and assigns specific roles and responsibilities to City departments, agencies, and community partners. The EOP has the flexibility to be used for all emergencies and will facilitate response and recovery activities in an efficient and effective way

### **City of San Jose Envision San José 2040 General Plan**

The City’s General Plan includes the following wildfire policies applicable to the Project:

- Policy EC-8.1: Minimize development in very high fire hazard zone areas. Plan and construct permitted development so as to reduce exposure to fire hazards and to facilitate fire suppression efforts in the event of a wildfire.
- Policy EC-8.2: Avoid actions which increase fire risk, such as increasing public access roads in very high fire hazard areas, because of the great environmental damage and economic loss associated with a large wildfire.
- Policy EC-8.3 For development proposed on parcels located within a very high fire hazard severity zone or wildland-urban interface area, continue to implement requirements for building materials and assemblies to provide a reasonable level of exterior wildfire exposure protection in accordance with City-adopted requirements in the California Building Code.

## **DISCUSSION**

*a) Substantially impair an adopted emergency response plan or emergency evacuation plan?*

**No Impact.** The City has adopted an Emergency Operations and Evacuation Plan, which includes standard operating procedures for hazards, including urban/wildland interface fires. Because the Project site is located in the “Non-Very High Fire Hazard Safety Zone” and is outside of the Wildland Urban Interface Fire Area, the proposed Project would not substantially impair the City’s Emergency Operations and Evacuation Plan. Further, the Emergency Operations and Evacuation Plan does not identify evacuation routes within the City. Evacuation would be managed and coordinated by the City Police Department as needed. Thus, no impacts would occur.

*b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?*

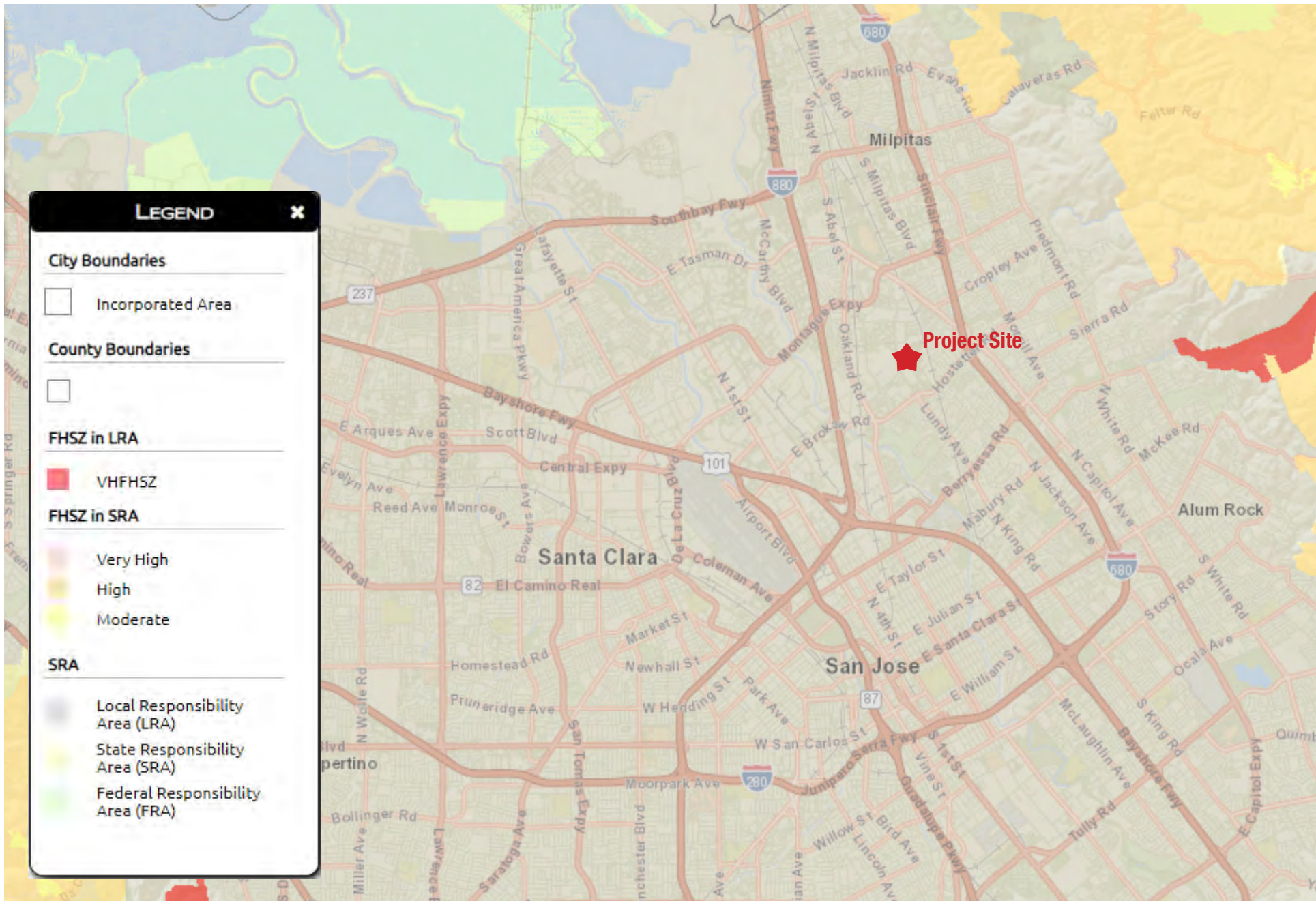
**No Impact.** The Project site is located in a non-VHFHSZ and is outside of the Wildland Urban Interface Fire Area. In addition, the Project site is relatively flat and in an urbanized area with industrial and commercial buildings. Accordingly, the Project site would not be at risk of exacerbated wildfire risks due to slope, prevailing winds, or other landscape factors. The nearest VHFHSZ is approximately four miles southeast of the Project site. Thus, no impacts would occur.

*c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?*

**No Impact.** As previously discussed, all proposed Project components (including infrastructure, roads, etc.) would be located within the boundaries of the Project site, and impacts associated with the development of the Project within this footprint area analyzed throughout this document. Additionally, as part of the City’s process, the City would review all plans for adequate fire suppression, fire access, and emergency evacuation. Adherence to standard City policies would result in no impacts.

*d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?*

**No Impact.** As discussed above, the Project site is zoned in the “Non-Very High Fire Hazard Safety Zone” and outside of the Wildland Urban Interface Fire Area. In addition, the Project site is relatively flat and the proposed On-site flow through storm drains and bioretention basins would limit the release of stormwater from the site; therefore, the proposed Project site would not expose people to flooding or landslides as a result of runoff, post-fire slope instability or drainage changes. Thus, no impacts would occur.

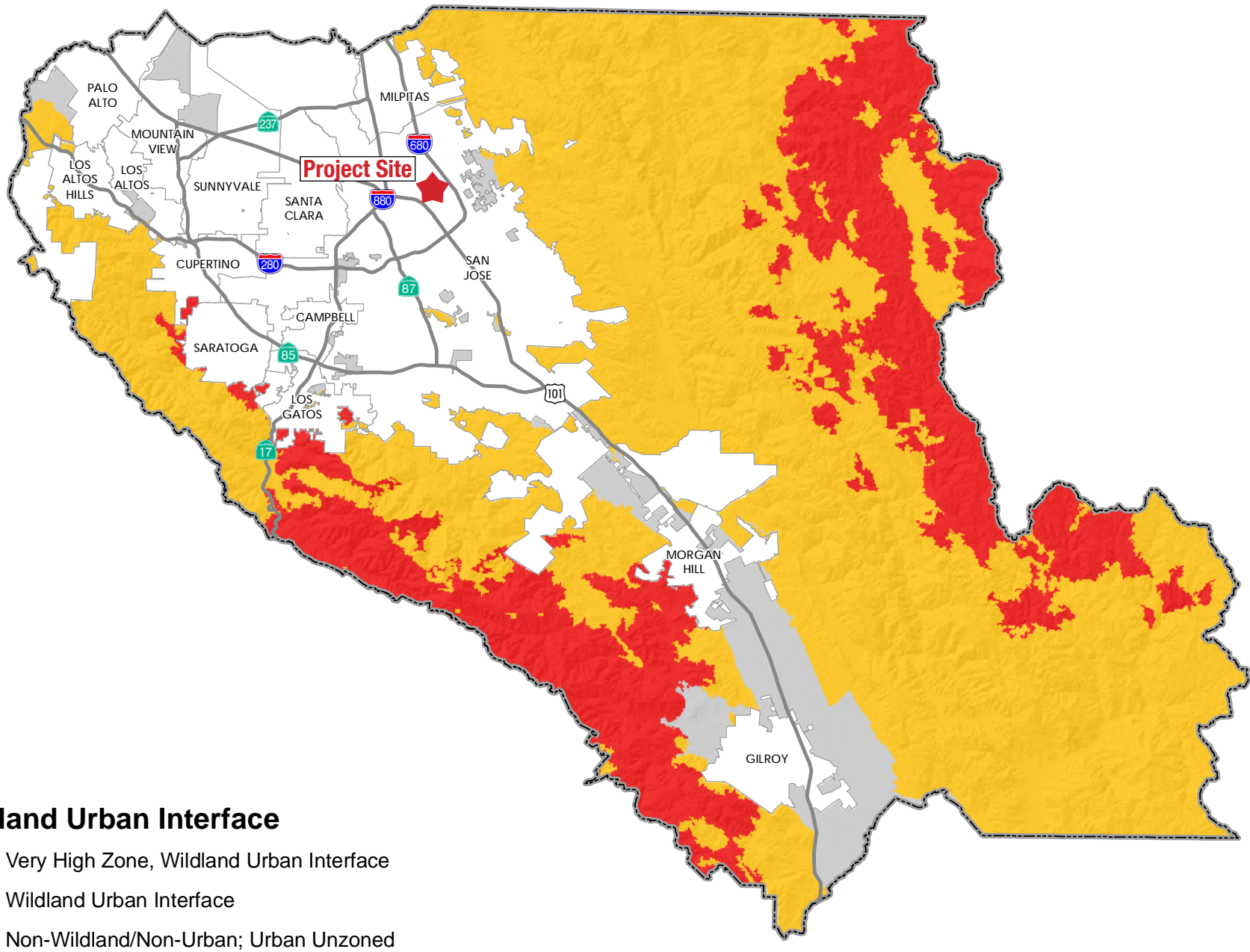


Source: CALFIRE, 2022

Figure 4-1: Fire Hazard Severity Zone  
Qume and Commerce Project  
Initial Study



Not to scale



Source: County of Santa Clara, 2009

Figure 4-2: Santa Clara County Wildland Urban Interface Fire Area  
 Qume and Commerce Project  
 Initial Study



Not to scale



## 5.0 REFERENCES

- Association of Bay Area Governments, Resilience Program data. Available at <http://gis.abag.ca.gov/website/Hazards/?hlyr=tsunami>. Accessed October 21, 2020.
- California, State of, Department of Conservation, California Important Farmland Finder. Available at <https://maps.conservation.ca.gov/dlrp/ciff/>. Accessed October 21, 2020.
- California, State of, Department of Conservation. Earthquake Zones of Required Investigation San José West Quadrangle. Available at <https://gis.data.ca.gov/datasets/e837baf101a0449089a62b320e27510a>. Accessed October 21, 2020.
- California, State of, Department of Conservation. Regulatory Maps. Available at <http://maps.conservation.ca.gov/cgs/informationwarehouse/index.html?map=regulatorymaps>. Accessed October 21, 2020.
- California, State of, Department of Conservation, Web Soil Survey. Available at <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>. Accessed October 21, 2020.
- California, State of, Department of Conservation, Williamson Act/Land Conservation Act. Available at <http://www.conservation.ca.gov/dlrp/lca>. Accessed October 21, 2020.
- California Department of Finance. Table 2: E-5 City/County Population and Housing Estimates, 1/1/2020. Available at <http://www.dof.ca.gov/Forecasting/Demographics/Estimates/e-5/>. Accessed October 21, 2020.
- California Department of Forestry and Fire Protection. FHSZ Viewer. Available at <https://egis.fire.ca.gov/FHSZ/>. Accessed October 21, 2020.
- California Department of Forestry and Fire Protection. VHFHSZ in LRA. Available at <https://gis.data.ca.gov/datasets/789d5286736248f69c4515c04f58f414>. Accessed on October 21, 2020.
- CalRecycle. 2019. Estimated Solid Waste Generation Rates. Available at <https://www2.calrecycle.ca.gov/WasteCharacterization/General/Rates>. Accessed October 21, 2020.
- City of San José. Code of Ordinances. Available at [https://library.municode.com/ca/san\\_jose/codes/code\\_of\\_ordinances](https://library.municode.com/ca/san_jose/codes/code_of_ordinances). Accessed October 21, 2020.
- City of San José. Draft Program Environmental Impact Report for the Envision San José 2040 General Plan. June 2011.
- City of San José. Envision San José 2040 General Plan. November 2011.
- City of San José Public Library. Locations and Hours. Available at <https://www.sjpl.org/locations>. Accessed October 21, 2020.
- County of Santa Clara. Santa Clara County Wildland Urban Interface Fire Area. Available at [https://www.sccgov.org/sites/dpd/DocsForms/Documents/WUIFA\\_Adopted\\_Map.pdf](https://www.sccgov.org/sites/dpd/DocsForms/Documents/WUIFA_Adopted_Map.pdf). Accessed October 21, 2020.

East Side Union High School District. District Boundary Map. Available at <http://www.esuhd.org/Community/Boundaries/index.html>. Accessed October 21, 2020.

Federal Emergency Management Agency. FEMA Flood Map Service Center: Search by Address. Available at <https://msc.fema.gov/portal/search#searchresultsanchor>. Accessed October 21, 2020.

San José Fire Department. Stations. Available at <https://www.sanjoseca.gov/your-government/departments/fire-department/stations>. Accessed October 21, 2020.

San José Unified School District. School Site Locator. Available at <http://apps.schoolsitelocator.com/?districtcode=25499#>. Accessed October 21, 2020