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# **696 Blossom Hill Road Project Initial Study / Mitigated Negative Declaration**

*File Number: H17-025*

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**March 2022**



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## MITIGATED NEGATIVE DECLARATION

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

**PROJECT NAME:** 696 Blossom Hill Road Project

**PROJECT FILE NUMBERS:** H17-025 and ER21-019

**PROJECT DESCRIPTION:** Site Development permit to remove five trees (two ordinance size and three non-ordinance size) on a vacant parcel and construct 23,649 square foot (sf) two-story commercial building and associated parking on an approximately 0.5-acre vacant parcel. The parcel was previously developed with a gas station with underground storage tanks that were removed from the site in 2015.

**PROJECT LOCATION:** The 0.5-acre project site is located at 696 Blossom Hill Road at the southeast corner of Blossom Hill Road and Cahalan Avenue in the City of San José.

**ASSESSORS PARCEL NO.:** 687-19-002

**COUNCIL DISTRICT:** 2

**APPLICANT CONTACT INFORMATION:** : EPG Properties, Attn: Louie Tsgarsis, 5049-A Almaden Expressway, San José, CA 95118, [pilioura@gmail.com](mailto:pilioura@gmail.com), (408) 391-7857

### FINDING

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

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

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

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

D. **BIOLOGICAL RESOURCES.**

**Impact BIO-1:** Project construction could directly or indirectly impact nesting birds protected under the Migratory Bird Treaty Act and the California Fish and Game Code.

**MM BIO-1:** The project would implement the following measures to avoid impacts to nesting migratory birds:

- **Avoidance:** The project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 30th (inclusive), as amended.
- **Nesting Bird Surveys:** If it is not possible to schedule demolition and construction between August 16th and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests shall be disturbed during project implementation. This survey shall be completed no more than 7 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 15th inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.
- **Buffer Zones:** If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction. The no-disturbance buffer shall remain in place until the biologist determines the nest is no longer active. If construction ceases for two days or more then resumes again during the nesting season, an additional survey shall be necessary to avoid impacts to active bird nests that may be present.

**Impact BIO-2:** The proposed project construction could directly impact roosting bats protected by the California Fish and Game Code.

**MM BIO-2:** No more than 30 days before the removal of trees on the project site, a qualified biologist shall conduct a roosting bat survey within the project footprint and a 50-foot buffer, including all suitable bat roosting habitat such as trees with exfoliating bark, bole cavities or hollows, dense foliage, etc. and buildings with roof tiles or suitable crevices. If no signs of bats are detected during the survey, no further surveys are warranted. If signs of bat occupancy (e.g., guano pellets or urine staining) are detected, a follow-up dusk emergence survey should be conducted by a qualified biologist no less than 30 days prior to any construction activities. A dusk emergence survey will help determine the number of bats present and will also include the use of acoustic equipment to determine species of bats present. If roosting bats are confirmed to be present, the biologist shall designate a construction/activity-free buffer zone around the roosting bats. If roosting bats cannot be avoided, a bat exclusion plan shall be developed in consultation with CDFW. Prior to the start of vegetation removal at the site, the project applicant shall submit a report indicating the results of the survey(s) and any designated buffer zones to the Director of Planning, Building and Code Enforcement or Director's Designee. The qualified biologist shall be contacted immediately if a roosting bat is discovered during project construction.

## E. CULTURAL RESOURCES

**Impact CUL-1:** Project construction could adversely impact buried archaeological resources.

**MM CUL-1: Monitoring:** All ground-disturbing activities (e.g., grading and excavation) shall be completed under the observation of a qualified archaeologist and Native American Monitor. The archaeologist must meet the U.S. Secretary of the Interior's Professional Qualifications and Standards, or be supervised by an archaeologist who does. The tribal monitor must be registered with the Native American Heritage Commissions for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3.). In the event prehistoric, or significant historical, archaeological resources are unearthed during ground-disturbing activities, Mitigation Measure CUL-2 and City of San José Standard Permit Conditions relating to the discovery of archaeological resources will be implemented.

**MM CUL-2: Treatment Plan.** In the event of Native American archaeological discovery, the project applicant, qualified archaeologist, and a Native American representative shall prepare an archaeological treatment plan that reflects permit-level detail pertaining to depths and locations of excavation activities. The treatment plan shall be prepared and submitted to the Director or Director's designee of the City of San José Department of Planning, Building, and Code Enforcement prior to any further ground disturbance being required. The treatment plan shall contain, at a minimum:

- Identification of the found resources;
- Treatment and curation next steps for the found resources;
- Detailed field strategy to record, recover, or avoid the finds, and additional mitigation to protect further anticipated resources;
- A data recovery plan, which may include archaeological excavation, such as test pits, hand excavation, or augering;
- Provisions for producing an archaeological report to be sent to the Northwest Information Center detailing the results of the archaeological discovery, and subsequent treatment and results.
- Evaluation and Data Recovery: The Supervising Environmental Planner and Historic Preservation Officer of the City of San José Department of Planning, Building, and Code Enforcement shall be notified of any finds during the grading or other construction activities. Any historic or prehistoric material identified in the project area during the earth-disturbing activities shall be evaluated for eligibility for listing as a Candidate City Landmark and/or in the California Register of Historic Resources. Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand auguring, and hand-excavation.
- The techniques used for data recovery shall follow the protocols identified in the project-specific Cultural Resources Treatment Plan. Data recovery shall include excavation and exposure of features, field documentation, and recordation.
- Final Reporting: Once all analyses and studies required by the project-specific Cultural Resources Treatment Plan have been completed, the project applicant, or representative, shall prepare a final report summarizing the results of the field investigation, data recovery activities and results, and compliance with the Cultural Resources Treatment Plan during all demolition, grading, building, and other construction activities. The report shall document the results of field and laboratory investigations and shall meet the Secretary of the Interior's Standards for Archaeological Documentation. The contents of the report shall

be consistent with the protocol included in the project-specific Cultural Resources Treatment Plan. The report shall be submitted to the Director of Planning, Building, and Code Enforcement for review and approval prior to issuance of any Certificates of Occupancy (temporary or final). Once approved, the final documentation shall be submitted to the Northwest Information Center at Sonoma State University, as appropriate.

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

**MM CUL-3: Dignified and Respectful Treatment** – Cultural Sensitivity Training Prior to Construction. Prior to issuance of the Grading Permit, the project shall be required to submit evidence that an Archaeological Monitoring Contractor Awareness Training was held prior to ground disturbance. The training shall be facilitated by the project archaeologist in coordination with a Native American representative registered with the Native American Heritage 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.F.

- F. ENERGY** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- G. GEOLOGY AND SOILS** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- H. GREENHOUSE GAS EMISSIONS--** The project would not have a significant impact on this resource, therefore no mitigation is required.
- I. HAZARDS AND HAZARDOUS MATERIALS--** The project would not have a significant impact on this resource, therefore no mitigation is required.
- J. HYDROLOGY AND WATER QUALITY--** The project would not have a significant impact on this resource, therefore no mitigation is required.
- K. LAND USE AND PLANNING** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- L. MINERAL RESOURCES** – The project would not have a significant impact on this resource,

therefore no mitigation is required.

- M. NOISE** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- N. POPULATION AND HOUSING** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- O. PUBLIC SERVICES** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- P. RECREATION** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- Q. TRANSPORTATION / TRAFFIC** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- R. TRIBAL CULTURAL RESOURCES** -- The project would not have a significant impact on this resource, therefore no mitigation is required.
- S. UTILITIES AND SERVICE SYSTEMS** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- T. WILDFIRE** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- U. MANDATORY FINDINGS OF SIGNIFICANCE**-- Cumulative impacts would be less than significant. The proposed Project would implement the identified mitigation measures and would have either have no impacts or less-than-significant impacts on biological and cultural resources, Therefore, the proposed Project would not contribute to any cumulative impact for these resources. The Project would not cause changes in the environment that have any potential to cause substantial adverse direct or indirect effects on human beings.

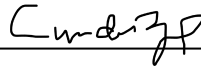
## **PUBLIC REVIEW PERIOD**

Before 5:00 p.m. on **Tuesday, April 12, 2022** any person may:

1. Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
2. Submit written comments regarding the information and analysis in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND.

Christopher Burton, Director  
Planning, Building and Code Enforcement

03/21/2022



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Date

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Deputy

Cassandra van der Zweep  
Environmental Project Manager

Circulation period: March 23, 2022 and ends on April 12, 2022



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**696 BLOSSOM HILL ROAD PROJECT  
INITIAL STUDY**

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## 1.0 BACKGROUND INFORMATION

**PROJECT TITLE:** 696 Blossom Hill Road Retail Project, San José, CA

**PROJECT FILE NO.:** H17-025

**PROJECT DESCRIPTION:** The City of San José has received an application for a Site Development Permit to allow the construction of a new 23,649 square foot (sf) two-story commercial building and associated parking on an approximately 0.5-acre vacant parcel. The parcel was previously developed with a gas station with underground storage tanks that were removed from the site in 2015.

**PROJECT LOCATION AND ASSESSOR'S PARCEL NUMBER(s):**  
696 Blossom Hill Road, San José, CA; APN: 687-19-002

**EXISTING GENERAL PLAN DESIGNATION:** Neighborhood/Community Commercial

**EXISTING ZONING:** CP – Commercial Pedestrian

**EXISTING LAND USE:** Vacant, undeveloped

### HABITAT CONSERVATION PLAN:

Land Cover Designation:	Urban - Suburban
Private Development Areas:	Area 4: Urban Development Equal to or Greater Than 2 Acres Covered
Fee Zone:	Urban Areas (No Land Cover Fee)
Survey Area	N/A

**SURROUNDING LAND USES / GENERAL PLAN / ZONING:**

Direction	Land Use	General Plan	Zoning
North	Residential	Residential Neighborhood	Single-Family Residential (Up to eight dwelling units per acre) (R-1-8) and Planned Development A(PD)
South	Commercial	Neighborhood /Community Commercial	Commercial Pedestrian (CP)
East	Commercial	Neighborhood /Community Commercial	Commercial Pedestrian (CP)
West	Commercial	Neighborhood /Community Commercial	Commercial Office (CO)

**PROJECT APPLICANT’S NAME AND ADDRESS:**

Louie Tsgarsis,  
 EPG Properties  
 5049-A Almaden Expressway,  
 San José, CA 95118

**LEAD AGENCY CONTACTS:**

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

City of San José,  
 PBCE – Planning Division.  
 City Hall – Tower – Third Floor,  
 200 East Santa Clara Street,  
 San José, CA 95113

## **2.0 INTRODUCTION**

San José Municipal Code Title 21 incorporates by reference and adopts the objectives, criteria and procedures for environmental review contained in the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq. and the CEQA Guidelines. This Initial Study of environmental impacts is being prepared to conform to the requirements of CEQA, the CEQA Guidelines (California Code of Regulations 15000 et. seq.), and the regulations and policies of the City of San José.

This Initial Study evaluates the potential environmental impacts, which might reasonably be anticipated to result from implementation of the proposed project. The City of San José is the Lead Agency under CEQA and has prepared this Initial Study to address the impacts of implementing the proposed project.

Hard copies of this IS/MND are available at City Hall and Dr. Martin Luther King Jr. Main Library in Downtown and the local library branch, Pearl Avenue Branch Library. To view the hard copy at City Hall, please contact the Planning Project Manager, Cassandra van der Zweep to schedule an appointment. Additionally, if requested, a hard copy will be mailed to you. Please allow time for printing and delivery.

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### 3.0 PROJECT DESCRIPTION

#### 3.1 PROJECT BACKGROUND

The project site is located in the City of San José (Figure 1) and is currently a vacant parcel. Previous development at the site consisted of a gas station with underground storage tanks that were removed from the site in 2015. The proposed project includes a Site Development Permit to construct a two-story mixed use (retail/office) building of 23,649 square feet.

#### 3.2 SITE DESCRIPTION

The project site at 696 Blossom Hill Road (APN 687-19-002) is 0.5-acre in size located in the San José Blossom Hill/Cahalan Avenue Urban Village planning area. The site is vacant and unpaved. Two trees are present on the interior of the site and the remainder of the site is bare soil with some ruderal grasses and ornamental shrubs. In addition to the interior trees, there are three additional trees adjacent to the southeast side of the parcel that are proposed to be removed with the project. Access on the site is currently limited due to a temporary chain link fence located around the site perimeter. Land uses surrounding the project site include residential uses to the north off Blossom Hill Road, and commercial uses to the east, south, and west.

Photo 1: View of the vacant parcel at 696 Blossom Hill Road looking southwest from Blossom Hill Road.





Photo 2. View the vacant parcel at 696 Blossom Hill Road looking east from Cahalan Avenue.



Photo 3. View of vacant parcel at 696 Blossom Hill Road looking northeast from southwest corner of project site.



### **3.3 PROPOSED PROJECT**

#### **3.3.1 Building**

The proposed project includes site preparation and the construction of a new 23,649-square foot, two-story commercial building (Figure 2). The new building will be oriented toward the site frontage along Blossom Hill Road, and parking and a trash enclosure would be located to the rear of the building along an access driveway off Cahalan Avenue.

The height of the new building is shown as 45 feet on the elevation plan sheet (Figure 4). Current floor plans anticipate four individual retail units on the first floor and six office units on the top floor. Existing sidewalks would be replaced with new, 12-foot wide sidewalks including street tree wells along the Cahalan Avenue and Blossom Hill Road frontages.

#### **3.3.2 Access and Parking**

Vehicle access to the site will be from an access driveway along the rear of the building and connecting to Cahalan Avenue. Alternatively, the site can be accessed from adjacent surface parking lot and drive aisles at the Sunrise Plaza Shopping Center (Figure 2). The proposed site plan shows a total of 14 parking stalls included as part of the project.

The proposed project provides 14 new parking spaces (Figure 2). A covenant of easement is proposed to arrange a shared parking agreement with the adjacent lots (APNS 687-19-002 and 687-19-032) to meet the City's parking requirement of 67 spaces. The existing commercial uses on the adjacent lots that will share parking require a total of 265 parking spaces. The new proposed building requires an additional 67 spaces, bringing the total spaces required for existing and proposed uses to 322 spaces. There are 606 spaces currently provided on-site. With an additional 14 spaces provided by the proposed project, the total spaces provided between the two parcels is 620, which exceeds the number of required spaces for the existing and proposed uses.

The project proposes six clean air vehicle spaces, eight bicycle spaces, three accessible parking spaces, and four motorcycle parking spaces on the site (Figure 2) which meets or exceeds the City parking requirements.

Pedestrian access to the building will be provided via sidewalks and walkways from the north, west, and southern sides of the building as shown on the site plan.

#### **3.3.3 Site Preparation and Grading**

Project construction would begin with the removal of the existing trees and an existing landscape planter feature along the southeast perimeter of the site. Minimal grading is anticipated with less than 1,000 cubic yards of material transport (import/export). The maximum depth of excavation for the project is approximately four feet for utility trenching and storm drain facilities.

### 3.3.4 Drainage and Stormwater

The project site (0.5 acre or 21,676 square feet) is currently vacant and contains 2,434 square feet of impervious surfaces including existing sidewalks, public, and private drive areas. Currently stormwater runoff at the site is absorbed on site and when saturated, stormwater runoff sheet flows to adjacent paved areas, ultimately entering the local storm drain system.

The proposed project would result in a total of approximately 21,512 square feet of new or replaced impervious surfaces; a net increase of about 19,078 square feet of impervious surface compared to current site conditions. The project creates or replaces more than 10,000 square feet of impervious surface, therefore it is required to include site design, source control, and on-site treatment measures in conformance with Provision C.3 of the Municipal Regional Stormwater Permit. To meet these requirements, the project includes concrete lined flow-through planters, lined and unlined bioretention areas and self-treating areas. These treatment measures provide for stormwater treatment across the entire site and are appropriately sized for each drainage management area (see Figure 3).

The proposed trash enclosure area is designed to drain to a new sanitary sewer line that connects to the exiting sanitary main in Blossom Hill Road. This area will be separated from the proposed on-site stormwater drainage system.

### Tree Removal and Proposed Landscaping

All five of the existing trees on-site are proposed to be removed with the project. These trees include three non-ordinance size, non-native crape myrtle (*Lagerstroemia*) trees, as well as one ordinance size, non-native Zelkova (*Zelkova serrata*) and one ordinance size, non-native olive (*Olea spp.*) tree.

The proposed landscape plan (Figure 6) currently shows a total of seven 24-inch box sized replacement trees, in accordance with the City's replacement requirements. The proposed crape myrtle replacement trees are located along the eastern and southern portions of the site. Six street trees are also shown on the Blossom Hill Road and Cahalan Avenue frontages. The actual tree type and number will be selected by City Arborist at the time the sidewalks are ready to be built.

### 3.3.5 Utilities

The project area is currently served by standard utility service extensions including storm drains, municipal sewer and water lines, and electrical lines. The project includes lateral connections to an existing 36-inch sanitary main in Blossom Hill Road as well as to a 12-inch stormwater main and a 21-inch water main in Cahalan Avenue, adjacent to the site. No other off-site utility improvements are anticipated to serve the proposed project. The project would not connect to existing recycled water lines as the nearest branch of recycled water pipeline is located over two miles east of the project site, east of the U.S. 101 highway.

### **3.3.6 Land Use and Zoning**

The Envision San José 2040 General Plan land use designation for the project site is *Neighborhood/Community Commercial*. The existing zoning designation for the existing parcels is *CP-Commercial Pedestrian*. The *CP-Commercial Pedestrian* zoning district is intended to provide support for pedestrian-oriented retail activity at a scale compatible with surrounding residential neighborhoods. The site is within the Blossom Hill/Cahalan Avenue Urban Village growth area in the General Plan, no Urban Village plan has been adopted for this growth area to date.

### **3.3.7 Construction Phasing and Information**

Construction is estimated to last approximately eleven months beginning in May of 2022 and ending in January 2023. The project applicant has voluntarily agreed to use heavy-duty off-road construction equipment that have internal combustion engines meeting U.S. EPA Tier IV Interim emissions standards (for equipment greater than 50-horsepower) this will be integrated into the Planning Permit as a Condition of Approval (see Section 4.3 for additional information).

Construction phasing is planned as follows:

- Site preparation – approximately one week
- Grading and earthwork – approximately three weeks
- Utility installation – approximately four weeks
- Foundation construction – approximately four weeks
- Building construction – approximately eight months
- Final grading and paving – approximately four weeks, starting approximately six weeks prior to building completion and completed by the time the building is done
- Landscaping – approximately two weeks, starting approximately two weeks prior to building completion and completed by the time the building is done

### **3.3.8 Permits and Approvals**

- City of San José -- Site Development Permit and Tree Removal Permit
- City of San José –Grading Permits, Minor Street Improvement Permits, and Other Public Works Clearances
- City of San José – Building Permits





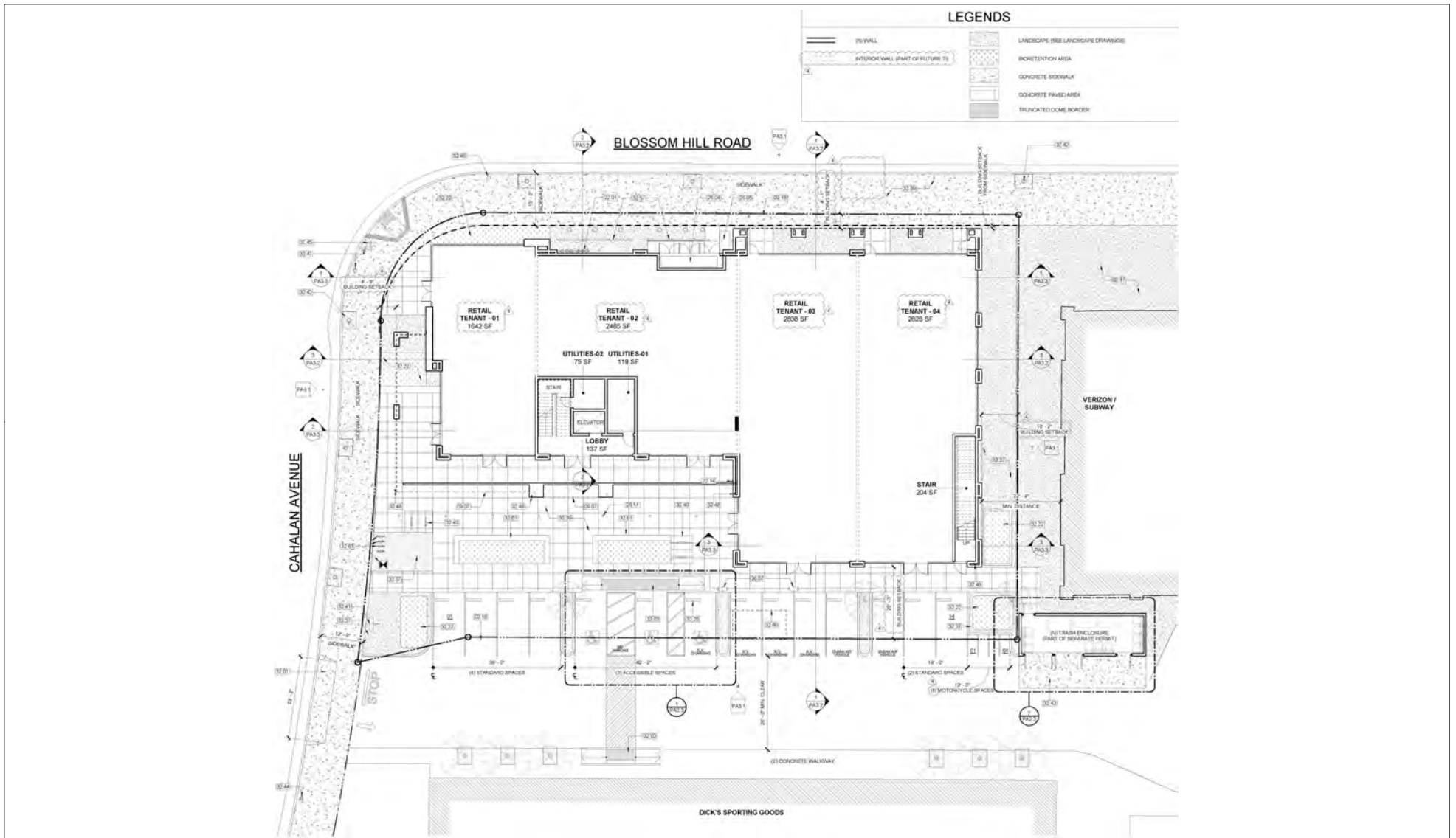
ESRI 2021; MIG 2021

 Project Boundary



**Figure 1 Regional Site Map**  
696 Blossom Hill Road Retail Project

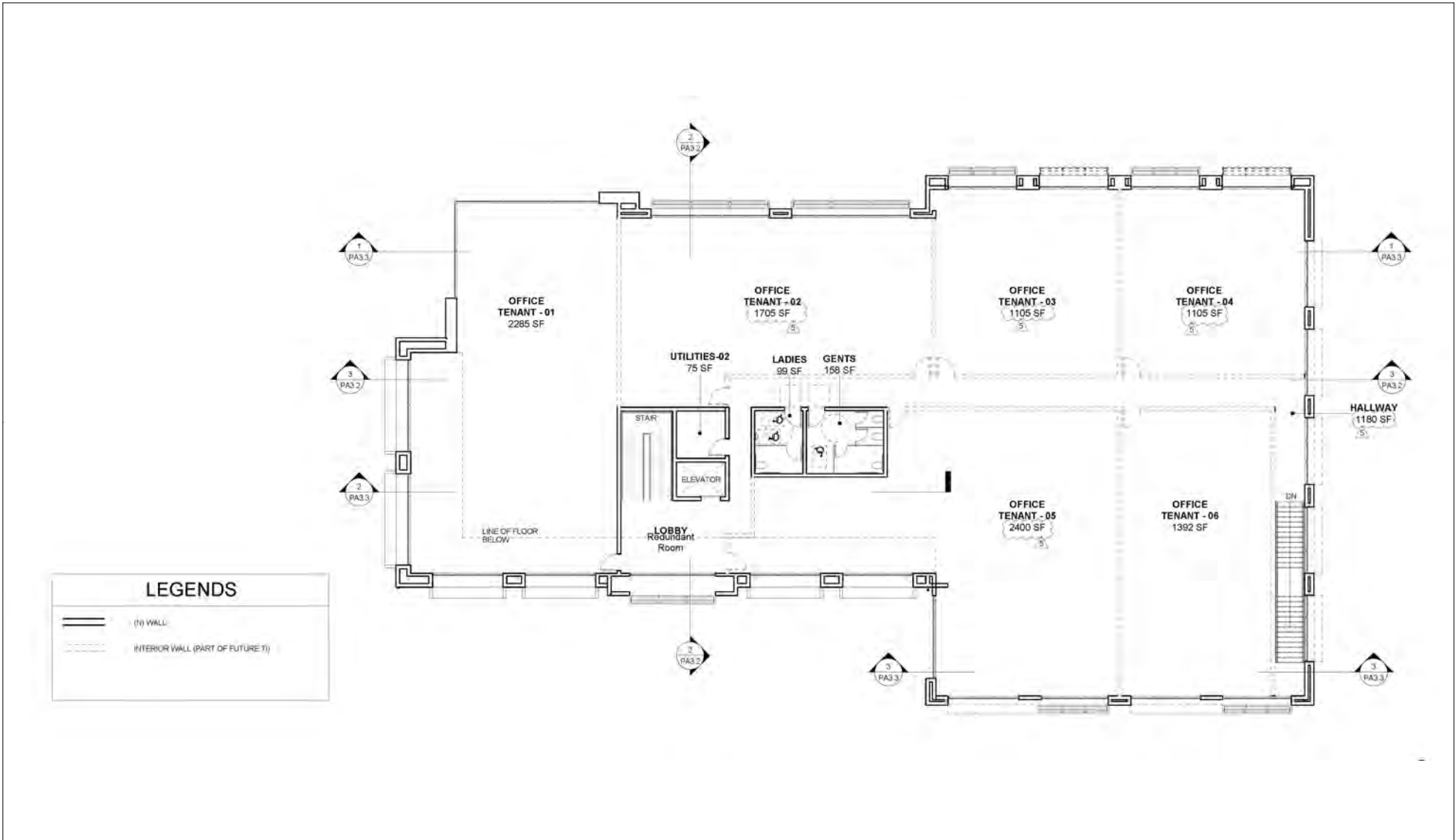




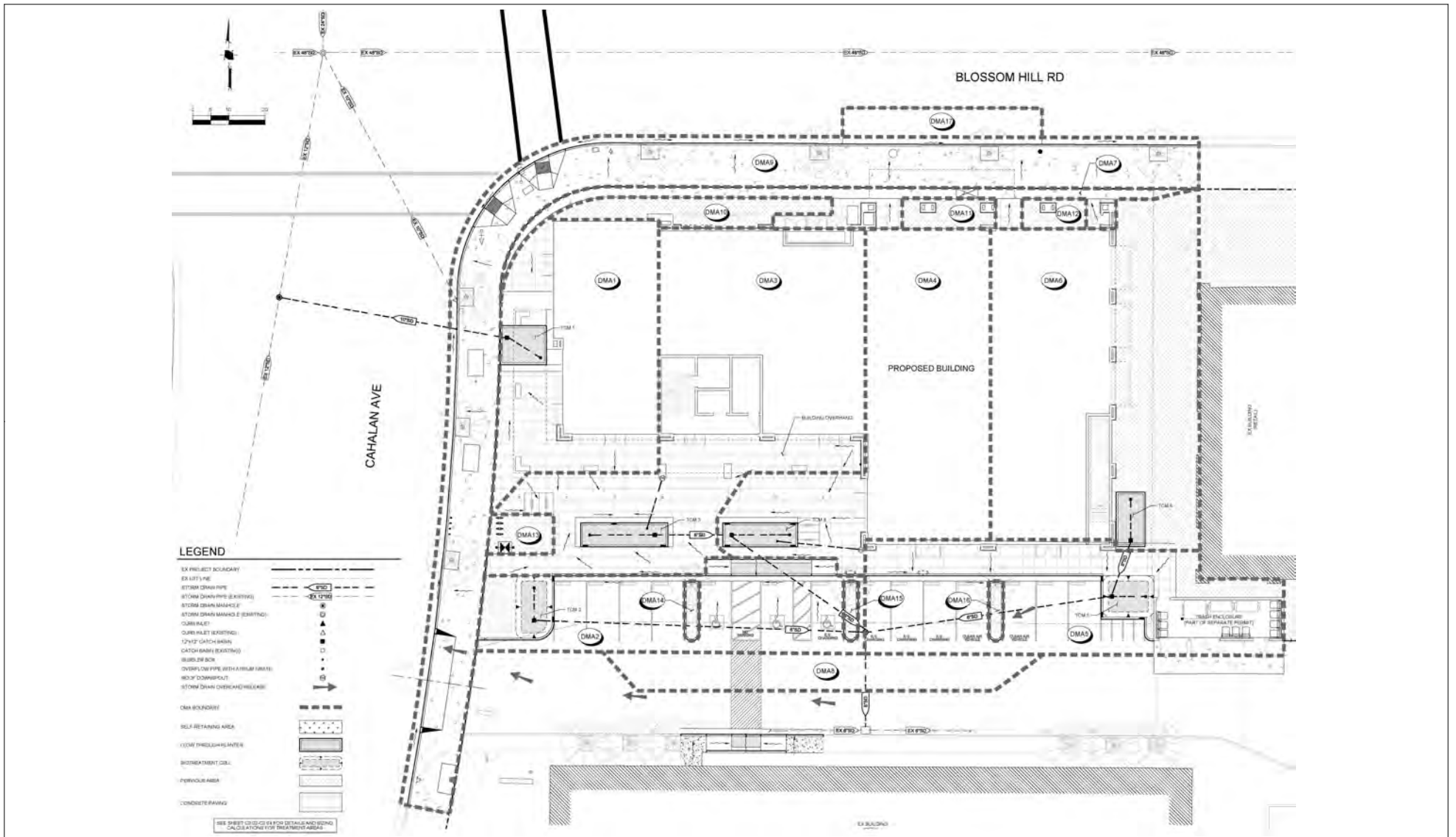
Source: EHA 12/6/2019

**Figure 2 Site Plan**

696 Blossom Hill Road Retail Project



**Figure 3** Second Floor Plan  
 696 Blossom Hill Road Retail Project



Source: EHA 12/6/2019

**Figure 4 Stormwater Control Plan**  
696 Blossom Hill Road Retail Project





**KEY NOTES**

- 00.00 CLASSIFIER 80 IMPREGATED CONCRETE FINISH (W/REINFCY. TYP.)
- 00.02 ALUMINUM COMPOSITE PANEL SYSTEM
- 00.20 CONCRETE PLASTER DECORATIVE FINISH TYP.
- 00.25 METAL PANEL CLADDING
- 00.31 DECORATIVE WOOD PANELS
- 07.00 FORMAL FINISH TYP.
- 08.01 ALUMINUM FRAMED GLASS FRONT SYSTEM TYP.
- 08.02 CEMENT PLASTER SYSTEM TYP.
- 08.03 CEMENT PLASTER REVEAL FIN.
- 08.04 METAL PANEL SYSTEM REVEAL TYP.
- 10.00 METAL FINISH TYP.
- 20.00 EXTERIOR WALL MOUNTED LIGHT FIXTURE
- 20.05 TRANSFORMER
- 20.07 WOOD SIGNAGE (SEE SCHEDULE)

**PAINT COLOR LEGEND**

- 00.00 A DENNIS WHITE PICKET FENCE LRV 67 MANUFACTURER: DUNN EDWARD FINISHES
- 00.00 B DORSET MCCLADES LRV 7 MANUFACTURER: DUNN EDWARD FINISHES
- 00.00 C DORSET FLOOR SACK LRV 4 MANUFACTURER: DUNN EDWARD FINISHES
- 00.00 D DORSET TRICK FLOOR LRV 81 MANUFACTURER: DUNN EDWARD FINISHES
- 00.00 E AL 20 CHAMPAGNE METALLIC 4 MM PE CORE PVS DURAMARK FC LARSON COMPOSITE PANEL MANUFACTURER: ALACOOL
- 00.00 F DORSET 5047 5047 ANCHOR LRV 14 MANUFACTURER: DUNN EDWARD FINISHES
- 00.00 G SLS CLASSIC BRONZE 4 MM PE CORE PVS DURAMARK FC LARSON COMPOSITE PANEL MANUFACTURER: ALACOOL

**SIGNAGE LEGEND**

- F# FUTURE TENANT SIGNAGE FOR FIRST FLOOR
- S# FUTURE TENANT SIGNAGE FOR SECOND FLOOR

**SIGNAGE SCHEDULE**

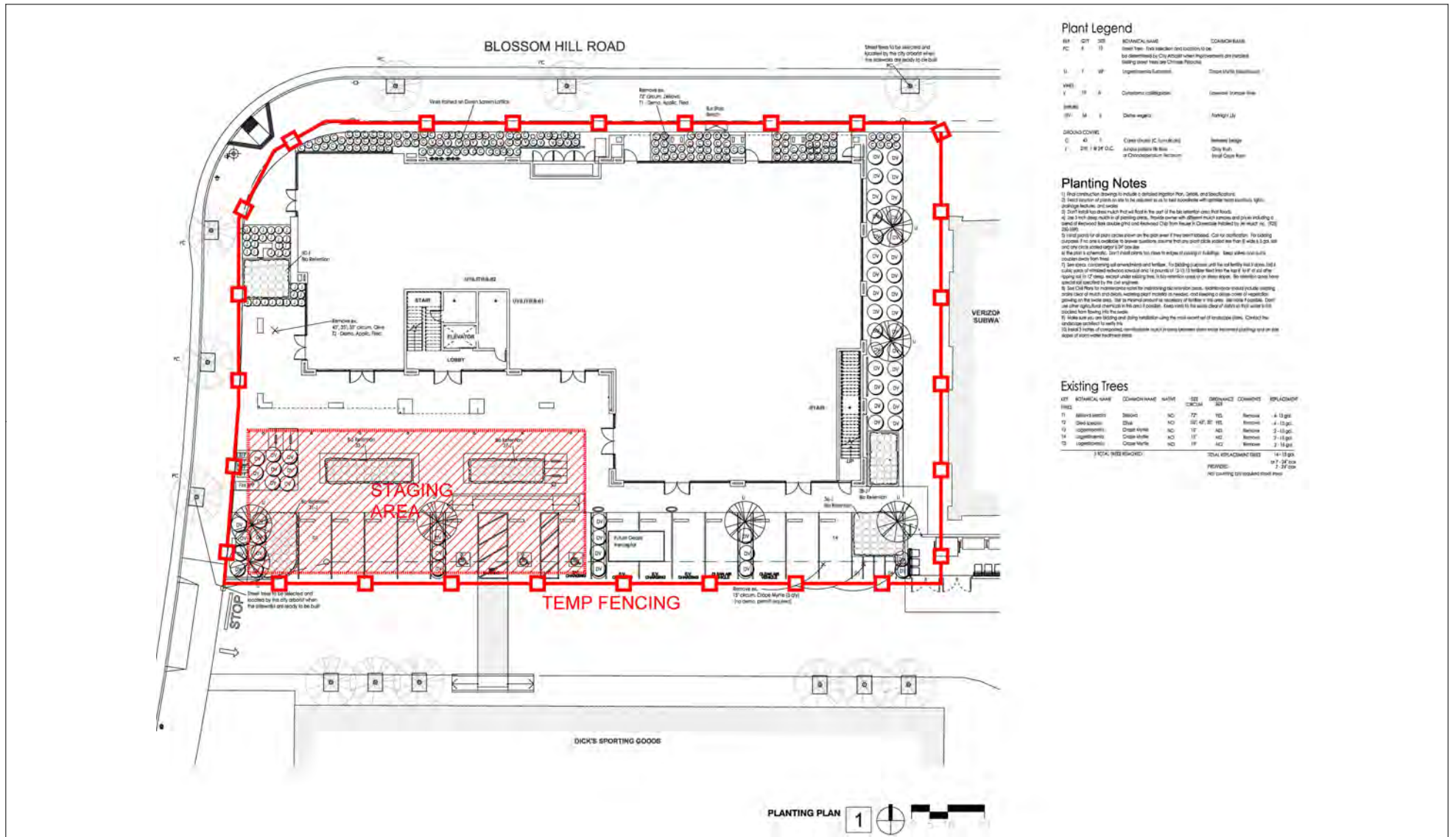
LEVEL	SIGNAGE #	OCCUPANCY FRONTAGE (FT)	MAX. AREA OF SIGNAGE (SF)	HEIGHT OR DEPTH (FT)	WIDTH (FT)
FIRST FLOOR METAL MARKER #1	F1	25.6	36.0	0	11.6
	F2	20.0	20.0	0	11.6
	F4	20.0	20.0	0	3.9
	F5	17.4	17.4	0	29.1
	F6	20.0	20.0	0	10.1
	F7	11.0	11.0	0	20.2
	F	10.0	10.0	0	11.6
	F8	10.0	10.0	0	11.6
	F10	10.0	10.0	0	16.5
	F11	20.0	20.0	0	9.3
	S1	30	17.5	0	3.9
S2	20.0	17.5	0	5.9	
S3	15.5	27.2	0	9.2	
S4	20.0	15.2	0	5.0	
S5.1	20.0	19.0	0	6.9	
S6.1	10.0	27.8	0	6.3	
S6	10.0	19.1	0	5.0	
S7	11.0	20.0	0	10.1	
S8	10.0	17.5	0	3.9	
S9	10.0	17.5	0	3.9	
S10	10.0	27.8	0	9.2	
S11	20.0	14.0	0	4.8	

\* PER CITY OF SAN JOSE SIGN ADJUSTMENT REGULATIONS

Source: DHA 12/09/2019



**Figure 5 Elevations**  
696 Blossom Hill Road Retail Project



### Plant Legend

SY	QTY	SYMBOLICAL NAME	COMMON NAME
PC	1	Small Tree - This location and location to be determined by City Arborist when improvements are installed being placed near City Concrete Retention	
U	1	Impatiens Submittal	Striped Impatiens
WEL	1	Constantin Column	Downward Arrow Tree
DRUM	1	Dutch Maple	Parrot Tree
DRUM	1	Dutch Maple	Parrot Tree
C	4	Corner Street (C. Formosa)	Japanese Maple
F	2	1/2" x 1/2" O.C. or 1/2" x 1/2" O.C.	Striped Maple / Small Maple

- ### Planting Notes
- 1) This plan shows planting to be installed in a limited Negative Plant, Green, and Street/Driveway.
  - 2) Final location of plants or site to be adjusted as to best coordinate with general horizontal, vertical, and/or slope.
  - 3) Don't plant too close to curb that will root in the joint of the sidewalk curb that could be damaged.
  - 4) Use 1/2" x 1/2" O.C. in all planting areas. Round corners with different radii to provide a smooth and pleasing planting area.
  - 5) Final plants for all plant codes shown on the plan must be approved by City Arborist. For coding purposes if a code is needed to show quantity, assume that you would like to plant more than 100 of a plant and use one of the codes listed in the table.
  - 6) The plan is a general guide. Final quantities, tree sizes, and spacing of planting must be approved by City Arborist.
  - 7) See notes concerning all trees and shrubs. For planting locations and final location of trees, see a copy of the plan and notes. All trees and shrubs must be planted in the top of the curb and not in the gutter. All trees and shrubs must be planted in the top of the curb and not in the gutter.
  - 8) See City Plan for information on the existing site and surrounding areas. All trees and shrubs must be planted in the top of the curb and not in the gutter.
  - 9) Make sure you are using and using vegetation using the most amount of landscape plants. Check the landscape architect for notes.
  - 10) See notes concerning all trees and shrubs. For planting locations and final location of trees, see a copy of the plan and notes.

### Existing Trees

KEY	SYMBOLICAL NAME	COMMON NAME	DATE	STATUS	REMARKS	REPLACEMENT
T1	Small Tree	Small Tree	NO	77	YES	Remove 4-12 gal
T2	Small Tree	Small Tree	NO	77	YES	Remove 4-12 gal
T3	Small Tree	Small Tree	NO	77	YES	Remove 4-12 gal
T4	Small Tree	Small Tree	NO	77	YES	Remove 4-12 gal
T5	Small Tree	Small Tree	NO	77	YES	Remove 4-12 gal
T6	Small Tree	Small Tree	NO	77	YES	Remove 4-12 gal
T7	Small Tree	Small Tree	NO	77	YES	Remove 4-12 gal
T8	Small Tree	Small Tree	NO	77	YES	Remove 4-12 gal
T9	Small Tree	Small Tree	NO	77	YES	Remove 4-12 gal
T10	Small Tree	Small Tree	NO	77	YES	Remove 4-12 gal
T11	Small Tree	Small Tree	NO	77	YES	Remove 4-12 gal
T12	Small Tree	Small Tree	NO	77	YES	Remove 4-12 gal
T13	Small Tree	Small Tree	NO	77	YES	Remove 4-12 gal
T14	Small Tree	Small Tree	NO	77	YES	Remove 4-12 gal
T15	Small Tree	Small Tree	NO	77	YES	Remove 4-12 gal
T16	Small Tree	Small Tree	NO	77	YES	Remove 4-12 gal
T17	Small Tree	Small Tree	NO	77	YES	Remove 4-12 gal
T18	Small Tree	Small Tree	NO	77	YES	Remove 4-12 gal
T19	Small Tree	Small Tree	NO	77	YES	Remove 4-12 gal
T20	Small Tree	Small Tree	NO	77	YES	Remove 4-12 gal

Source: Gregory Lewis Landscape Architect 1/20/2020

**Figure 6** Landscape Planting Plan  
696 Blossom Hill Road Retail Project



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#### 4.0 ENVIRONMENTAL IMPACT ANALYSIS

This section describes the existing environmental conditions on and near the project area, as well as environmental impacts associated with the proposed project. The environmental checklist, as recommended in the California Environmental Quality Act (CEQA) Guidelines, identifies environmental impacts that could occur if the proposed project is implemented.

The right-hand column in the checklist lists the source(s) for the answer to each question. The sources cited are identified at the end of this section. Mitigation measures are identified for all significant project impacts. Mitigation Measures are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guideline 15370).

**Important Note to the Reader:** The California Supreme Court in a December 2015 opinion [California Building Industry Association (CBIA) versus Bay Area Air Quality Management District, 62 Cal. 4th 369 (No. S 213478)] confirmed that CEQA, with several specific exceptions, is concerned with the impacts of a project on the environment, not the effects the existing environment may have on a project. Therefore, the evaluation of the significance of project impacts under CEQA in the following sections focuses on impacts of the project on the environment, including whether a project may exacerbate existing environmental hazards.

The City of San José currently has policies that address existing conditions (e.g., noise) affecting a proposed project, which are also addressed below. This is consistent with one of the primary objectives of CEQA and this document, which is to provide objective information to decision-makers and the public regarding a project as a whole. The CEQA Guidelines and the courts are clear that a CEQA document (e.g., EIR or Initial Study) can include information of interest even if such information is not an “environmental impact” as defined by CEQA.

Therefore, where applicable, in addition to describing the impacts of the project on the environment, this chapter will discuss project effects related to City policies pertaining to existing conditions. Such examples include, but are not limited to, locating a project near sources of air emissions that can pose a health risk to future residents or in a high noise environment.

## 4.1 AESTHETICS

### 4.1.1 Setting

At present, the project site is vacant, with the previous development (gas station) having been removed in 2015. The site is in an area zoned for commercial pedestrian uses. It is located within an urbanized area of southern San José, south of Interstate 85 along Blossom Hill Road, a major east-west commercial thoroughfare. The property is bordered by Blossom Hill Road and residential uses to the north and commercial uses to the east, south, and west.

The proposed project would remove five trees, the only remaining features onsite. The proposed building floor plan contains four individual retail units on the first floor and six office units on the top floor. The project would include parking to the south and walkways and landscaping surrounding the new building.

### 4.1.2 Thresholds of Significance

Thresholds are per the CEQA checklist plus one additional threshold below. In addition to the checklist questions in Appendix G of the CEQA Guidelines, the City also uses an increase of shade on public areas as a threshold of significance.

<b>AESTHETICS – Would the project:</b>				
<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### 4.1.3 Findings

- a) **Less Than Significant Impact.** The project site is located in an urbanized, commercial area in southern San José, the project site is not designated as a City

Scenic Gateway in the General Plan, and the nearest General Plan designated rural scenic corridor is located approximately four miles east on Silicon Valley Road. Therefore, the project would not impact any scenic vistas.

- b) **Less Than Significant Impact.** The project site is not located within view of a State-designated scenic route or highway. Additionally, the project's tree removals would be consistent with the City's tree replacement ratios and seven new trees are proposed on site.
- c) **Less Than Significant Impact.** The proposed project would be located in an urban developed area on a site that supports commercial uses. The two-story proposed building height is commensurate with other development in the area that is between one- to two-stories. Additionally, given the urbanized character of this infill site located in a pedestrian commercial pedestrian uses along Blossom Hill Road, the project would not degrade the existing visual character or quality of the site or its surrounding.
- d) **Less Than Significant Impact.** The proposed project would include exterior building and parking lot lighting. All proposed lighting sources are required to conform to the established policies as listed in the City of San José's Outdoor Lighting Policy 4-3 (2000) and Commercial Design Guidelines (1990), including partially shielded or downward-directed lights to ensure lighting does not spill over onto adjacent residential properties.

## 4.2 AGRICULTURE/FORESTRY RESOURCES

### 4.2.1 Setting

The proposed project is an infill development project in south San José within a highly urbanized area. There are no agricultural or forest lands on or near the project site.

### 4.2.2 Thresholds of Significance

The thresholds of significance are per the CEQA Guidelines:

<b>AGRICULTURE/FORESTRY RESOURCES – Would the project:</b>				
<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### 4.2.3 Findings

- a) **No Impact.** The proposed project is an infill development project on designated Urban and Built-Up Land, as shown on the Santa Clara County Important Farmland map (California Department of Conservation 2016). The site does not contain any Prime Farmland, Unique Farmland, or Farmland of Statewide Importance.

- b) No Impact.** The proposed project is an infill development project and the site is not zoned for agricultural use (City of San José Title 20 Zoning Ordinance). The site does not conflict with any zoning for agricultural use, nor does it contain lands under a Williamson Act contract.
- c) No Impact.** The proposed project is an infill development project and does not contain any forest land as defined in Public Resources Code section 4526, or timberland zoned Timberland Production as defined by Government Code Section 51104(g) (City of San José Title 20 Zoning Ordinance).
- d) No Impact.** As discussed in questions a-c, the project would not involve changes in the existing environment that could result in the loss or conversion of forest land, as no forest land is present on this infill property.
- e) No Impact.** As discussed in questions a-c, the project would not involve changes in the existing environment that could result in conversion of farmland or agricultural land, as no farmland or agricultural land is present on this infill property.



## 4.3 AIR QUALITY

This section provides a review of the air emissions associated with the project, discusses environmental regulations that are applicable to the project, and evaluates emissions relative to the CEQA Significance Thresholds established by the Bay Area Air Quality Management District (BAAQMD).

### 4.3.1 Setting

Air quality is a function of pollutant emissions and topographic and meteorological influences. Physical atmospheric conditions such as air temperature, wind speed, and topography influence air quality.

#### 4.3.1.1 Environmental Setting

The project site is located within the San Francisco Bay Area Air Basin (SFBAAB). The SFBAAB is a California Air Resources Board (CARB) defined management area covering all of Alameda, Contra Costa, Marin, Napa, Santa Clara, San Mateo, and San Francisco counties, and portions of Solano and Sonoma Counties. The topography and meteorology of the SFBAAB are characterized by the coast mountain ranges and the seasonal migration of the Pacific high-pressure cell. The City of San José is in the southern portion of the SFBAAB, within the Santa Clara Valley. Wind patterns in the Santa Clara Valley are influenced by terrain, resulting in a prevailing wind flow that is generally parallel to the valley's northwest-southeast orientation. During the daytime, winds generally flow from the ocean into the Bay Area and southward into the Santa Clara Valley, while at night winds generally flow northward out of the valley (BAAQMD 2017).

The San Francisco Bay Area is generally characterized by a Mediterranean climate with warm, dry summers and cool, damp winters. The Mediterranean climate is seen along most of the West Coast of North America and is primarily due to a (typically dominating) high-pressure system, located off the west coast of North America, over the Pacific Ocean. During the summer and fall months the high-pressure ridge is at its strongest and therefore provides a more stable atmosphere. During the summer, daytime high temperatures near the coast are primarily in the mid-60s, whereas areas farther inland are typically in the high-80s to low-90s. Nighttime low temperatures on average are in the mid-40s along the coast and low to mid-30s inland. Wind patterns in Santa Clara County are influenced by local terrain, with a northwesterly sea breeze typically developing during the daytime. Winds are usually stronger in the spring and summer. Rainfall amounts are modest, ranging from 13 inches in the lowlands to 20 inches in the hills (BAAQMD 2019).

Varying topography and limited atmospheric mixing throughout the SFBAAB restrict air movement resulting in reduced dispersion and higher concentrations of air pollutants. The SFBAAB is most susceptible to air pollution during the summer when cool marine air flowing through the Golden Gate can become trapped under a layer of warmer air (a phenomenon known as an inversion) and is prevented from escaping the valleys and bays created by the Coast Ranges. Most of Santa Clara County, the county in which the proposed project is located, is

south of the cooler waters of the San Francisco Bay and far from the cooler marine air which usually reaches across San Mateo County in summer. Ozone frequently forms on hot summer days when the prevailing seasonal northerly winds carry ozone precursors southward across the county, causing health standards to be exceeded. Santa Clara County experiences many exceedances of the PM<sub>2.5</sub> standard each winter. This is due to the high population density, wood smoke, industrial and freeway traffic, and poor wintertime air circulation caused by extensive hills to the east and west that block wind flow into the region (BAAQMD 2019).

### Existing Conditions and Emissions Estimates

The project site has been vacant for the past seven years (since 2015) and does not contain any sources of air pollutants, such as direct or indirect stationary, mobile, or area-wide sources of pollutants<sup>1</sup>.

### Project Conditions and Emission Estimates

The proposed project would primarily produce air pollutants from employee and customer vehicle trips and the operation and use of small, area-wide sources such as landscaping equipment, architectural coating off-gassing, and consumer products use (e.g., window cleaners). The City passed an ordinance (Ord. No. 30502) in December 2020, which bans the use of natural gas in new commercial developments' operations, therefore the project will be limited to electricity for energy use. The project would not produce air pollutants from the operation of stationary or other industrial process-related equipment.

### **Sensitive Receptors**

Sensitive air quality receptors refer to specific subsets of the general population that are susceptible to the potential adverse health effects associated with poor air quality. In general, children, senior citizens, and individuals with pre-existing health issues, such as asthmatics, are considered sensitive receptors. Both CARB and the BAAQMD consider schools, schoolyards, parks and playgrounds, daycare facilities, nursing homes, hospitals, and residential areas as sensitive air quality land uses and receptors (BAAQMD 2017).

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<sup>1</sup> Man-made sources of pollutants are generally categorized by ownership or control (direct vs. indirect sources) and source type (stationary, mobile, or area-wide). The term "stationary source" generally refers to either discrete process operating equipment (e.g., a stack, a boiler, a hopper) or a specific type of facility (e.g., laundering, printing). The term mobile sources refers to automobiles, trucks, and other vehicles intended for "on-road" travel and other self-propelled machines such as construction equipment, boats, and all-terrain vehicles intended for "off-road" travel. The term "area-wide" sources refers to sources that individually emit small amounts of pollutants but are widely distributed and commonly operated (e.g., landscaping equipment, residential and small commercial heaters, consumer products such as cleaners and fertilizers). The degree to which the facility or operator owns and control such sources determines whether the source is a direct or indirect air pollutant source. Direct sources of emissions are sources that are owned or controlled by the facility such as process equipment and company-owned vehicles. Indirect sources of emissions are sources that are not owned or controlled by the facility, such as employee-owned vehicles and emissions associated with the materials and energy used delivered to the site.

The nearest sensitive receptors to the project site, are the residential homes to the north of the site, approximately 115 feet away. Additionally, there are residential uses to the southwest off San Lorenzo Drive and Cahalan Avenue, approximately 250 feet from the project site. All other uses surrounding the site to the east, west, and south are commercial uses. There are no schools or hospitals within 1,000 feet of the project site.

#### 4.3.1.2 Regulatory Setting

Federal, state, and local governments control air quality through the implementation of laws, ordinances, regulations, and standards. The federal and state governments have established ambient air quality standards for “criteria” pollutants considered harmful to the environment and public health. National Ambient Air Quality Standards (NAAQS) have been established for carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO<sub>2</sub>), ozone (O<sub>3</sub>), fine particulate matter (particles 2.5 microns in diameter and smaller, or PM<sub>2.5</sub>), inhalable coarse particulate matter (particles 10 microns in diameter and smaller, or PM<sub>10</sub>), and sulfur dioxide (SO<sub>2</sub>). California Ambient Air Quality Standards (CAAQS) are more stringent than the national standards for the pollutants listed above and include the following additional pollutants: hydrogen sulfide (H<sub>2</sub>S), sulfates (SO<sub>x</sub>), and vinyl chloride. In addition to these criteria pollutants, the federal and state governments have classified certain pollutants as hazardous air pollutants (HAPs) or toxic air contaminants (TACs), such as asbestos and diesel particulate matter (DPM).

The proposed project is located in the SFBAAB, an area of non-attainment for both the 1-hour and 8-hour state ozone standards, and the national 24-hour PM<sub>2.5</sub> standard. The SFBAAB is comprised of nine counties: all of Alameda, Contra Costa, Santa Clara, San Francisco, San Mateo, Marin, Napa, and the southern portions of Solano and Sonoma.

#### San José Envision 2040 General Plan Goals and Policies

- Policy MS-10.1 Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement feasible air emission reduction measures.
- Policy MS-10.2 Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region’s Clean Air Plan and State law.
- Policy MS-10.4 Encourage effective regulation of mobile and stationary sources of air pollution, both inside and outside of San José. In particular, support Federal and State regulations to improve automobile emission controls.
- Policy MS – 10.6: Encourage mixed land use development near transit lines and provide retail and other types of service-oriented uses within walking distance to minimize automobile dependent development.
- Policy MS – 10.7: Encourage regional and statewide air pollutant emission reduction through energy conservation to improve air quality.

- Policy MS-11.2: For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.
- Policy MS-11.6: Develop and adopt a comprehensive Community Risk Reduction Plan that includes: baseline inventory of toxic air contaminants (TACs) and particulate matter smaller than 2.5 microns (PM<sub>2.5</sub>), emissions from all sources, emissions reduction targets, and enforceable emission reduction strategies and performance measures. The Community Risk Reduction Plan will include enforcement and monitoring tools to ensure regular review of progress toward the emission reduction targets, progress reporting to the public and responsible agencies, and periodic updates of the plan, as appropriate.
- Policy MS-13.1: Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.

**4.3.2 Thresholds of Significance**

<b>AIR QUALITY – Would the project:</b>				
<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### 4.3.3 Findings

- a) **Less Than Significant Impact.** The proposed project would not conflict with nor obstruct implementation of BAAQMD 2017 Clean Air Plan (BAAQMD 2017a). The 2017 Clean Air Plan includes increases in regional construction, area, mobile, and stationary source activities, and operations in its emission inventories and plans for achieving attainment of air quality standards. Chapter 5 of the Clean Air Plan contains the BAAQMD’s strategy for achieving the plan’s climate and air quality goals. This control strategy is the backbone of the 2017 Clean Air Plan.

The proposed project consists of the construction of a new two-story commercial office and retail building approximately 23,649 square feet in size and only minor earthwork/grading is needed. The proposed project is consistent with the existing Envision San José 2040 General Plan land use designation of *Neighborhood Community Commercial* for the site. Additionally, the project would not propose any housing. Therefore, the project would not exceed the level of population or housing projected in county or regional planning efforts; thus, it would not have the potential to substantially affect housing, employment, and population projections within the region, which are the basis of the 2017 Clean Air Plan projections. Many of the control measures in the 2017 Clean Air Plan do not directly apply to the proposed project and the project is consistent with the applicable measures, as described further below. Therefore, the proposed project would not conflict with the 2017 Clean Air Plan. Furthermore, as described under b), below, the increase in regional emissions generated by the proposed Project would be less than the BAAQMD’s emissions thresholds. No impact would occur.

The 85 control strategies identified in the 2017 Clean Air plan are grouped by nine economic-based “sectors” as shown in Table 4-1, below<sup>2</sup>.

<b>Sector</b>	<b>No. of Measures</b>	<b>General Description of Sector Applicability</b>
Agriculture (AG)	4	Applies to sources of air pollution from agricultural operations include on and off-road trucks and farming equipment, aircraft for crop spraying, animal waste, pesticide and fertilizer use, crop residue burning, travel on unpaved roads, and soil tillage.
Buildings (BL)	4	Applies to residential, commercial, governmental, and institutional buildings, which generate emissions through energy use for heating, cooling, and operating the building, and from the materials used in building construction and maintenance

<sup>2</sup> The BAAQMD 2017 Clean Air Plan use the same economic sectors contained in CARB’s Scoping Plan.

<b>Table 4-1: BAAQMD 2017 Clean Air Plan Control Measure Sectors</b>		
<b>Sector</b>	<b>No. of Measures</b>	<b>General Description of Sector Applicability</b>
Energy (EN)	2	Applies to emissions of criteria pollutants, TACs, and GHGs from electricity generated and used within the Bay area, as well as GHG emissions from electricity generated outside the Bay area that is imported and used within the region
Natural and Working Lands (NW)	3	Applies to emissions from natural and working lands, including forests, woodlands, shrub lands, grasslands, rangelands, and wetlands.
Stationary Sources (SS)	40	Applies to stationary sources generally used in commercial and industrial facilities. Such sources are typically regulated through BAAQMD rulemaking, permitting, and enforcement programs
Super GHGs (SL)	3	Applies to emissions of methane, black carbon, and fluorinated gases
Transportation (TR)	23	Applies to on-road motor vehicles such as light-duty automobiles or heavy-duty trucks, as well as off-road vehicles, including airplanes, locomotives, ships and boats, and off-road equipment such as airport ground-support equipment, construction equipment and farm equipment.
Waste (WA)	4	Applies to emissions from landfills and composting activities.
Water (WR)	2	Applies to direct emissions from the treatment of water and wastewater at publicly owned treatment works and indirect emissions associated with the energy used to pump, convey, recycle, and treat water and wastewater throughout the Bay

Of the nine economic sectors, only four contain control measures that are relevant to the proposed project; most of these control strategies either do not directly apply to the project (e.g., stationary source measures) or are implemented at the local and regional level by municipal government and the BAAQMD. Table 4-2 lists the measures from the 2017 Clean Air Plan that are applicable to the project and describes project consistency with those measures..

<b>Table 4-2 Project Consistency with BAAQMD 2017 Clean Air Plan</b>	
<b>2017 Clean Air Plan Control Strategy</b>	<b>Project Consistency</b>
<b><u>Stationary Source Measures</u></b>	
38 – Fugitive Dust	The Applicant would implement BAAQMD-recommended fugitive dust control measures to abate dust from project construction activities as part of Standard Permit Conditions, listed below.
<b><u>Transportation Control Measures</u></b>	
2- Trip Reduction Program 9- Bicycle Access and Pedestrian Facilities 12- Smart Driving	The Applicant would provide information to commercial tenants on programs available to help reduce single occupancy vehicle trips (e.g. 511 Rideshare) and promote use of alternative modes of transportation (e.g., bicycle, carpool, transit). The proposed project would install bicycle racks or other designated bicycle storage areas into the project design
<b><u>Building Sector Measures</u></b>	
1 – Green Buildings	The Applicant would comply with the City’s Greenhouse Gas reduction strategy, including energy efficiency requirements for new buildings.
<b><u>Natural and Working Land Measure</u></b>	
2 – Urban Tree Planting	The landscaping plan includes trees which will help offset urban heat island effects.

As shown in Table 4-2, the project would be consistent with applicable control measures contained in the 2017 Clean Air Plan. The project would also support the primary goals of the 2017 Clean Air Plan, because it would not impede attainment of state and air quality standards in the SFBAAB nor would it increase disparities amount Bay Area communities in cancer health risk from TACs; see responses under b) and c) below, respectively. The project would not exceed the BAAQMD thresholds for construction or operational air pollutant emissions (see response under b) for additional information) and is infill development that provides users of the site with access to bicycle facilities and transit options (which will reduce vehicle trips). It also incorporates energy efficiency measures as a part of project design. The project is

consistent with the 2017 Clean Air Plan and, therefore, would not result in a significant impact related to consistency with the 2017 Clean Air Plan.

- b) Less than Significant Impact.** The proposed project would generate short-term construction and long-term operational emissions from construction equipment operations, vehicle trips, and landscaping equipment; however, as described below, project construction and operation would be consistent with all BAAQMD CEQA Guidelines screening criteria and would therefore not violate air quality standards, contribute to an air quality violation, or result in a significant air quality impact from project construction and operation emissions.

#### Short-Term Construction Emissions

Project construction would occur over an approximately 10-month period beginning in summer 2022. Construction would include site preparation, building construction (23,649 square feet), and paving and landscaping operations. Grading would be balanced onsite; the applicant would not import or export substantial amounts of soil or other material to or from the site (estimated to be less than 1,000 cubic yards). The proposed buildings would be constructed with traditional stick frame construction with steel braced/moment frames and would not require extensive building, coating, or infrastructure construction activities. Project utilities would connect to existing utility infrastructure onsite or from adjacent roadways.

Table 4-3 compares the proposed project against the BAAQMD's construction screening criteria for a "general office building" and/or "Strip Mall" land use.



<b>Criterion</b>	<b>Requirement</b>	<b>Project Consistency</b>
1) Land Use Type and Size	Project is below the applicable screening level shown in Table 3-1 “General Office Building” and “Strip Mall” construction screening size of 277,000 square feet. <sup>(B)</sup>	The proposed building size is 23,649 square feet, which is less than one-tenth of the 277,000 square foot BAAQMD screening size threshold.
2) Basic Construction Measures	Project design and implementation includes all BAAQMD “Basic Construction Mitigation Measures”	As noted above, the Applicant will include all BAAQMD “Basic Construction Mitigation Measures” and three BAAQMD “Additional Construction Mitigation Measures” (see Standard Permit Conditions below) into all project-related bid, contract, engineering, and site plan documents (e.g., construction drawings) as part of Standard Permit Conditions.
3) Demolition	Construction activities would not include demolition.	The existing site is vacant; therefore, no demolition activities are proposed.
4) Construction Phases	Construction does not include simultaneous occurrence of more than two construction phases (e.g., grading, paving, and building construction would occur simultaneously)	The project does not include simultaneous occurrence of more than two construction phases. The applicant will include this restriction on all project-related bid, contract, engineering, and site plan documents (e.g., construction drawings).
5) Multiple Land Uses	Construction does not include simultaneous construction of more than one land use type	The project is a mixed-use office/retail building; however, the building will be 23,649 square feet and is a single, two-story structure, on a site that is less than one acre in size.
6) Site Preparation	Construction does not require extensive site preparation	The total area to be disturbed is small as it is less than one acre and does not require significant site preparation since it is already level.

<b>Table 4-3 Project Consistency with BAAQMD Construction Screening Criteria<sup>(A)</sup></b>		
<b>Criterion</b>	<b>Requirement</b>	<b>Project Consistency</b>
7) Material Transport	Construction does not require extensive material transport and considerable haul truck activity (greater than 10,000 cubic yards)	The project would result in less than 1,000 cubic yards of material transport.
Table prepared by MIG using the following sources of information: BAAQMD 2017 (A) BAAQMD Screening Criteria from pg. 3-5 of BAAQMD CEQA Guidelines (BAAQMD 2017) (B) Construction screening level size from Table 3-1 of BAAQMD CEQA Guidelines (BAAQMD 2017)		

The BAAQMD *CEQA Guidelines* (2017) recommend a series of “Basic” and “Additional” measures to manage short-term construction emissions. For all projects, the BAAQMD recommends implementation of eight “Basic Construction Mitigation Measures” (BAAQMD 2017, pg. 8-4) to reduce construction emissions. These basic measures are also used to meet the Air District’s best management practices (BMPs) threshold of significance for construction fugitive dust emissions (i.e., the implementation of all basic construction measures renders fugitive dust impacts a less than significant impact). For project’s that exceed BAAQMD recommended CEQA significance thresholds, the BAAQMD recommends the implementation of up to 13 “Additional Construction Mitigation Measures” to reduce potential construction emission impacts to less than significant levels (BAAQMD 2017, pg. 8-5).

As shown in Table 4-3, the proposed project is below the BAAQMD’s construction screening size for “general office building” and “strip mall” land use types, is consistent with all other BAAQMD screening criteria, and includes all eight BAAQMD-recommended basic construction BMPs. Three additional BAAQMD recommended construction BMPs are identified that would further reduce the project’s potential construction emissions; however, these measures are not mandatory to avoid or reduce a potentially significant impact. The Applicant will include all these construction BMPs on all project-related bid, contract, engineering, and site plan documents (e.g., construction drawings). In addition, the proposed Site Development Permit will include these BMPs incorporated into the project as standard permit conditions to ensure implementation.

In addition to meeting the BAAQMD screening criteria identified in Table 4-3, the project Applicant has voluntarily agreed to use heavy-duty off-road construction equipment that have internal combustion engines meeting U.S. EPA Tier IV Final emissions standards (Section 3.3.8) as part of their project, described in the Project Description (Section 3.3.7). Internal combustion engines that meet U.S. EPA Tier IV

Final emissions standards have been shown to reduce PM and NOx emissions by approximately 90% and 40% when compared to engines that meet U.S. EPA Tier II emissions standards (CalEEMod, 2021). The project is sufficiently short in duration (i.e., approximately 11 months), and the use of U.S. EPA Tier IV equipment during project construction would be sufficient to ensure that construction criteria air pollutant emissions do not exceed BAAQMD thresholds of significance for construction emissions.

In accordance with the project description and City's Standard Permit Conditions, as listed below, the project, would result in a less than significant air quality impact from construction emissions.

### **Project Condition of Approval**

- Project construction equipment shall be rated Tier 4 or equivalent, and an air quality specialist would need to ensure that the equivalent equipment has a similar emissions reduction to equipment equipped with Tier 4 engines. Prior to the issuance of any demolition permits, the project applicant shall submit a construction operations plan, which includes specifications of the equipment to be used during construction and confirmation this requirement is met.

### **Standard Permit Conditions**

- Water all exposed surfaces (e.g., staging areas, soil piles, graded areas, and unpaved access roads) two times per day during construction and adequately wet demolition surfaces to limit visible dust emissions.
- Cover all haul trucks transporting soil, sand, or other loose materials off the project site.
- Use wet power vacuum street sweepers at least once per day to remove all visible mud or dirt track-out onto adjacent public roads (dry power sweeping is prohibited) during construction of the proposed project.
- Vehicle speeds on unpaved roads/areas shall not exceed 15 miles per hour.
- Complete all areas to be paved as soon as possible and lay building pads as soon as possible after grading unless seeding or soil binders are used.
- Minimize idling time of diesel powered construction equipment to two minutes and post signs reminding workers of this idling restriction at access points and equipment staging areas during construction of the proposed project.
- Maintain and properly tune all construction equipment in accordance with manufacturer's specifications and have a CARB-certified visible emissions evaluator check equipment prior to use at the site.

- Post a publicly visible sign with the name and telephone number of the construction contractor and City of San José Code Enforcement contact regarding dust complaints. This person shall respond and take corrective action within 48 hours. The publicly visible sign shall also include the contact phone number for the Bay Area Air Quality Management District to ensure compliance with applicable regulations.
- All excavation, grading, and / or demolition activities shall be suspended when average hourly wind speeds exceed 20 miles per hour.
- Wind breaks (e.g., fences, screens) with a maximum 50 percent air porosity shall be installed on the windward sides of actively disturbed construction areas, including between the project site and adjacent properties.
- Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.

#### Long-Term Operational Emissions

Once operational, the proposed project would generate emissions from area, energy, and mobile sources. Area source emissions would primarily be generated through the use of consumer products and landscaping equipment. Energy source emissions would be generated through the consumption of electricity, which would be used to power the building's lighting, heating and cooling, and appliances. Emissions associated with electricity consumption would be generated off-site and associated with the combustion of fuels used to create the electricity. Over time, the imbedded criteria air pollutant emissions associated with electricity consumption would decrease as the City procures and generates more electricity from renewable / carbon-free sources. Finally, mobile source emissions would be generated from the operation of motor vehicles used to travel to and from the site.

The proposed project size (23,649 square feet) is below the BAAQMD's operational screening size for "general office building" land use type of 346,000 square feet and 99,000 square feet for "strip mall" land use type. The proposed project also would not exceed BAAQMD screening criteria for carbon monoxide because the project will not create a significant traffic impact or conflict with the congestion management program (see Section 3.5), nor increase traffic volumes at nearby intersections to more than 44,000 vehicles per hour. The project consists of in-fill development, which would place new employees in a developed portion of the City and reduce urban sprawl. Infill projects have been shown to reduce vehicle miles traveled (and associated mobile source emissions) because they are located in proximity to other complementing land uses (e.g., residences and community serving land uses, such as grocery stores, day cares, etc.) and existing transit. Furthermore, as detailed in Appendix A, the project would be consistent with the City's Greenhouse Reduction Strategy (GHG Reduction Strategy). While the measures identified in the City's GHG

Reduction Strategy are primarily identified for the purposes of reducing greenhouse gas emissions, some of them also have the co-benefit of reducing criteria air pollutant emissions as well.

The BAAQMD's *CEQA Air Quality Guidelines* state that projects that are below their applicable screening criteria size would not result in the generation of operational-related criteria air pollutants and/or precursors that exceed the BAAQMD's operational criteria air pollutant threshold of significance, and result in a less than significant air quality impact from operational emissions.

In developing its CEQA significance thresholds, the BAAQMD considered the emission levels at which a project's individual emissions would be cumulatively considerable. The BAAQMD considers projects that result in emissions that exceed its CEQA significance thresholds to result in individual impacts that are cumulatively considerable and significant. Since the proposed project would not exceed any BAAQMD CEQA significance thresholds, the project would result in less than significant cumulative air quality impacts.

- c) **Less than Significant Impact.** The proposed project would construct a new two-story retail and office building on a vacant site. The project has the potential to emit TACs during construction; however, as discussed below, the risks and hazards from project TACs would be less than significant. The proposed project, when in operation, is not a sensitive land use and would not result in the placement of new sensitive receptors near sources of TAC, such as highways or stationary sources of equipment.<sup>3</sup> The project, therefore, would have no effect on the placement of sensitive receptors near TAC emissions sources.

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<sup>3</sup> An analysis of potential impacts associated with receptor exposure to existing sources of pollutants would have been required consistent with City General Plan Policy MS-11.1 if the project involved the placement of new sensitive receptors near sources of TACs. The project does not include sensitive receptors, therefore no consistency analysis with City General Plan Policy MS-11.1 is required. Furthermore, the California Supreme Court in *California Building Industry Association v. Bay Area Air Quality Management District*, 62 Cal.4th 369 (2015) ruled CEQA review is focused on a project's impact on the environment "and not the environment's impact on the project." The opinion also holds that when a project has "potentially significant exacerbating effects on existing environmental hazards" those impacts are properly within the scope of CEQA because they can be viewed as impacts of the project on "existing conditions" rather than impacts of the environment on the project. The Supreme Court provided the example of a project that threatens to disperse existing buried environmental contaminants that would otherwise remain undisturbed. The Court concluded that it is proper under CEQA to undertake an analysis of the dispersal of existing contaminants because such an analysis would be focused on how the project "would worsen existing conditions." The Court also found that the limited number of express CEQA provisions that require analysis of the impacts of the existing environment on a project – such as impacts associated with school siting and airports – should be viewed as specific statutory exceptions to the general rule that such impacts are not properly within CEQA's scope.

Risks and Hazards to Existing Receptors

Project-related construction activities would emit PM<sub>2.5</sub> and PM<sub>10</sub> from equipment exhaust. Nearly all the project's PM<sub>2.5</sub> emissions from equipment exhaust would be diesel particulate matter (diesel PM), a TAC; however, the project would not generate significant, sustained pollutant concentrations at sensitive receptor locations. As discussed under response b), the project Applicant would use heavy-duty off-road construction equipment that are equipped with combustion engines meeting U.S. EPA Tier IV Interim emissions standards, which would reduce PM and NO<sub>x</sub> emissions by approximately 90 percent and 40 percent, respectively, when compared to engines meeting U.S. EPA Tier II emissions standards. Construction activities would be relatively short in duration (i.e., lasting less than a year), would not require substantial earth moving / earth work, and the project would utilize later engine model years, which would reduce emissions (including diesel PM). The project's size is also well below the BAAQMD's screening criteria, and the project applicant would implement BAAQMD recommended construction BMPs to reduce fugitive dust emissions as outlined in the Standard Permit Conditions in b) above. In addition, because the site is vacant, no demolition is required. The project, therefore, would not expose sensitive receptors to substantial pollutant concentrations on an individual or cumulative basis.

- d) Less than Significant Impact.** Vehicle emissions, paving, and the use of common materials (paints, bonding agents, etc.) during project construction could cause intermittent odors. Project construction is short-term and temporary in nature and these typical construction odors are not considered significant. Once construction is completed, the project operations would not generate objectionable odors. The project is not anticipated to result in other emissions that would adversely affect a substantial number of people.

## 4.4 BIOLOGICAL RESOURCES

### 4.4.1 Environmental Setting

The project site is a vacant lot adjacent to an existing shopping center and is surrounded by roads and buildings. Vegetation on the site is limited to five trees, including one large olive tree (*Olea europaea*), one large Zelkova tree (*Zelkova serrata*), and three small ornamental trees along the eastern border of the site. There are also some ornamental shrubs along the southern border of the site, and weedy groundcover plants such as cheeseweed (*Malva parviflora*), common groundsel (*Senecio vulgaris*), and Jersey cudweed (*Pseudognaphalium luteoalbum*), although much of the lot is bare gravel.

Trees and landscaped areas may provide food and cover for wildlife adapted to an urban environment, including birds and small mammals such as mice. The project site has, in general, a low value for wildlife, due to the developed nature of the project area and lack of natural habitat. Two bird species were observed in the project area during the May 2021 site visit: black phoebe (*Sayornis nigricans*) and dark-eyed junco (*Junco hyemalis*).

### 4.4.2 Regulatory Setting

In addition to CEQA, other federal and state laws apply to the biological resources identified in this report. Each of these laws is identified and discussed below.

#### The Migratory Bird Treaty Act of 1918 (MBTA)

Under the MBTA, it is unlawful to “pursue, hunt, take, capture or kill; attempt to take, capture or kill; possess, offer to or sell, barter, purchase, deliver or cause to be shipped, exported, imported, transported, carried or received any migratory bird, part, nest, egg or product, manufactured or not.” In short, under the MBTA it is illegal to disturb a nest that is in active use, since this could result in killing a bird or destroying an egg. The United States Fish and Wildlife Service oversees implementation of the MBTA.

#### California Fish and Game Code Section 3503 and 3503.5

Pursuant to California Fish and Game Code Section 3503, it is unlawful to “take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by this code or any regulation made pursuant thereto.” Section 3503.5 provides similar protection specifically to raptors and their nests. Disturbance that causes nest abandonment and/or loss of reproductive effort is considered “taking” by CDFW.

#### California Fish and Game Code Section 4150

Pursuant to Fish and Game Code Section 4150, “[a]ll mammals occurring naturally in California which are not game mammals, fully protected mammals, or fur-bearing mammals, are nongame mammals. Nongame mammals or parts thereof may not be taken or possessed except as provided in this code or in accordance with regulations adopted by the commission.”

### Santa Clara Valley Habitat Plan

The Santa Clara Valley Habitat Plan was developed through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District (SCVWD), Santa Clara Valley Transportation Authority (VTA), U.S. Fish and Wildlife Service (USFWS), and California Department of Fish and Wildlife (CDFW). The Plan is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County. The HCP has been approved by the local partners, and has been effective since October 14, 2013.

The project site and immediate surroundings are entirely within the Urban-Suburban land cover type. Urban-Suburban land is comprised of areas where native vegetation has been cleared for residential, commercial, industrial, transportation, or recreational structures, and is defined as one or more structures per 2.5 acres. Vegetation found in the Urban-Suburban land cover type is usually in the form of landscaped residences, planted street trees, and parklands. The project site is also within the Urban Area equal to or greater than 2 acres covered. The site is not in a plant or wildlife survey area, or a habitat plan condition area.

### City of San José Tree Ordinance

The City of San José maintains the urban landscape partly by promoting the health, safety, and welfare of the City by controlling the removal of ordinance trees on private property (San José Municipal Code Section 13.32). A Tree Removal Permit is required if the tree is:

- a street tree;
- a designated heritage tree;
- an ordinance-size tree, live or dead; or
- any tree located on multifamily, commercial, industrial, or mixed-use property or in a common area. (City of San José 2021a)

There are no street trees or heritage trees on the project site but there are ordinance-size trees. An ordinance-size tree on private property is categorized as either:

- Single Trunk - 38 inches or more in circumference at 4 1/2 feet above ground, or
- Multi-trunk - The combined measurements of each trunk circumference, at 4 1/2 feet above ground, add up to 38 inches or more in circumference.

### Envision San José 2040 General Plan Policies

The following policies from the 2040 General Plan apply to the project:

- Policy MS-21.4 Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.



- Policy MS-21.5 As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse effect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.
- Policy MS-21.6 As a condition of new development, require the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.
- Policy ER-5.1 Avoid implementing activities that result in the loss of active native birds’ nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance of activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.
- Policy ER-5.2 Require that development projects incorporate measures to avoid impacts to nesting migratory birds.

**4.4.3 Thresholds of Significance**

The thresholds of significance are per the CEQA Guidelines:

<b>BIOLOGICAL RESOURCES – Would the project:</b>				
<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
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?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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 of U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<b>BIOLOGICAL RESOURCES – Would the project:</b>				
<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**4.4.4 Findings**

a) **Less Than Significant Impact with Mitigation.** The project would not impact special-status species because there is no habitat for special-status species on or near the project site. All of the special-status species with California Natural Diversity Database (CNDDDB) records within five miles of the site have specific habitat requirements such as specialized soils (i.e., serpentine or alkaline, etc.), wetlands or streams, marsh or riparian habitat, or other habitat features which are not present in the project area. The project site is in an urban area with predominantly roads, buildings, and landscape vegetation with limited habitat for native plants and wildlife.

There is habitat for native nesting birds adapted to urban environments in the project area. The trees and shrubs on and near the site could provide habitat for nesting birds, as could the eaves or roof tiles of nearby buildings. All native birds and their nests are protected by the Migratory Bird Treaty Act and the California Fish and Game Code. The proposed project could directly impact native birds and their nests if trees or other vegetation is removed during the bird nesting season. The project could also indirectly impact nesting birds in the project area if construction activities cause disturbance or nest abandonment. Mitigation Measure BIO-1 below would reduce potentially significant impacts to nesting birds to less than significant levels.

Roosting bats are protected by the California Fish and Game Code as nongame mammals. There is no habitat for a bat colony on or adjacent to the project site (caves or large tree cavities), but individual bats could use the trees on the site as a day roost. Both trees on the project site have peeling bark and the olive tree has several crevices that bats may use. Bats could also use the roof tiles of nearby buildings for roosting.

Mitigation Measure BIO-2 would prevent significant impacts from the project to roosting bats.

**Impact BIO-1:** Project construction could directly or indirectly impact nesting birds protected under the Migratory Bird Treaty Act and the California Fish and Game Code.

**Mitigation Measure BIO-1:** The project would implement the following measures to avoid impacts to nesting migratory birds:

- **Avoidance:** The project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 30th (inclusive), as amended.
- **Nesting Bird Surveys:** If it is not possible to schedule demolition and construction between August 16th and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests shall be disturbed during project implementation. This survey shall be completed no more than 7 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 15th inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.
- **Buffer Zones:** If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction. The no-disturbance buffer shall remain in place until the biologist determines the nest is no longer active. If construction ceases for two days or more then resumes again during the nesting season, an additional survey shall be necessary to avoid impacts to active bird nests that may be present.

**Impact BIO-2:** The proposed project could directly impact roosting bats protected by the California Fish and Game Code.

**Mitigation Measure BIO-2:** No more than 30 days before the removal of trees on the project site, a qualified biologist shall conduct a roosting bat survey within the project footprint and a 50-foot buffer, including all suitable bat roosting habitat such as trees with exfoliating bark, bole cavities or hollows, dense foliage, etc. and buildings with roof tiles or suitable crevices. If no signs of bats are

detected during the survey, no further surveys are warranted. If signs of bat occupancy (e.g., guano pellets or urine staining) are detected, a follow-up dusk emergence survey should be conducted by a qualified biologist no less than 30 days prior to any construction activities. A dusk emergence survey will help determine the number of bats present and will also include the use of acoustic equipment to determine species of bats present. If roosting bats are confirmed to be present, the biologist shall designate a construction/activity-free buffer zone around the roosting bats. If roosting bats cannot be avoided, a bat exclusion plan shall be developed in consultation with CDFW. Prior to the start of vegetation removal at the site, the project applicant shall submit a report indicating the results of the survey(s) and any designated buffer zones to the Director of Planning, Building and Code Enforcement or Director's Designee. The qualified biologist shall be contacted immediately if a roosting bat is discovered during project construction.

- b) **No Impact.** The proposed project would not impact riparian habitat or other sensitive natural communities because there are no such communities on or near the project site. The nearest creek is Canoas Creek, located approximately 0.25 mile to the east of the project site. Canoas Creek is channelized in the project area.
- c) **No Impact.** The proposed project would not impact state or federally protected wetlands because there are no wetlands on or near the project site.
- d) **No Impact.** The proposed project is an urban infill development at a site with existing fencing and surrounded by other urban developments and would not significantly impede the movement of wildlife, cause habitat fragmentation, or block a wildlife corridor. There are no native wildlife nursery sites in the project area.
- e) **Less Than Significant Impact.** The proposed project is an infill project surrounded by existing development. As described in response to Questions a) through d) above, the project would not impact special-status species, sensitive natural communities, protected wetlands, or wildlife movement. Therefore, the project is generally consistent with local ordinances and policies protecting biological resources.

Two of the five onsite trees are protected under the San José Tree Ordinance because they are ordinance-size (over 38 inches in circumference at 4½ feet above ground level). The olive tree on the site has three trunks totaling 144.5 inches (46.5+39+59) in circumference at 4 ½ feet above ground, and the Zelkova tree has one trunk totaling 79 inches in circumference at 4 ½ feet above ground. The project includes a tree removal request to remove the two ordinance size trees and three non-ordinance size trees on the commercial site.

The San José General Plan contains policies encouraging the preservation of mature trees on public and private property, particularly protected trees. Although the proposed project would remove the two ordinance size trees and three non-ordinance size trees on the site, the project includes a landscaping plan to replace the removed trees with seven 24-inch box crape myrtle trees (*Lagerstroemia Tuscarora*) on the

project site. With the planting of the replacement trees as proposed by the project and further described in the Standard Permit Condition below, the project would not conflict with these General Plan policies.

**Standard Permit Condition**

**Tree Replacement.** The removed trees would be replaced according to tree replacement ratios required by the City, as provided in Table 5-3 below, as amended.

<b>Table 5-3: Tree Replacement Ratios</b>				
<b>Circumference of Tree to be Removed</b>	<b>Type of Tree to be Removed</b>			<b>Minimum Size of Each Replacement Tree</b>
	<b>Native</b>	<b>Non-Native</b>	<b>Orchard</b>	
38 inches or more	5:1	4:1	3:1	15-gallon
19 up to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon

**Note:** Trees greater than or equal to 38-inch circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For Multi-family Residential, Commercial, and Industrial properties, a permit is required for removal of trees of any size.  
 A 38-inch tree equals 12.1 inches in diameter.  
 A 24-inch box tree equals two 15-gallon trees

Since all trees on-site would be removed, two ordinance, non-native trees would be replaced at a 4:1 ratio, and three non-ordinance, non-native trees would be replaced at a 2:1 ratio. As mentioned previously, there are five non-native trees onsite. The total number of replacement trees required to be planted would be 14 15-gallon trees. The species of trees to be planted would be determined in consultation with the City Arborist and staff from the Department of Planning, Building and Code Enforcement.

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

- The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the project site, at the development permit stage.
- Pay off-site tree replacement fee(s) to the City, prior to the issuance of grading permit(s), in accordance to the City Council approved Fee Resolution. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

There are also General Plan policies designed to avoid impacts to nesting birds. Mitigation Measure BIO-1, listed above, would prevent conflicts with these General Plan policies. Compliance with the Standard Permit Condition would ensure conformance with the City's local tree ordinance and therefore the project would have a less than significant impact.

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

The proposed project would not impact any species covered in the Habitat Plan because there is no suitable habitat for covered species on or near the project site. The project site and surrounding area are mapped in the Habitat Plan as having an urban-suburban land cover, and this land cover was verified in the field. With submission of the afore mentioned screening form and payment of applicable fees, the proposed project would not conflict with the Santa Clara Valley Habitat Plan. No other habitat conservation plan or natural community conservation plan applies to the project.

#### **Standard Permit Condition**

The project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant shall submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit.

## 4.5 CULTURAL & TRIBAL CULTURAL RESOURCES

### 4.5.1 Environmental Setting

The land surrounding the project site is in the traditional territory of the Ohlone (or Costanoans as they were known by the Spanish) Native American Tribe. The Ohlone lived in tribelets or nations that were dialect distinct from each other, autonomous, and territorially separated from each other. Each tribelet consisted of one or more permanent villages, with various seasonal temporary encampments located throughout their territory for the gathering of raw material resources, hunting and fishing. The Ohlone lived in extended family units in domed dwellings constructed from tule, grass, wild alfalfa, and ferns. The subsistence practices included the consumption of plant resources such as acorns, buckeyes, and seeds that were supplemented with the hunting of elk, deer, grizzly bear, mountain lions, sea lions, whales, and waterfowl. The Costanoan peoples practiced controlled burning on an annual basis throughout their territory as a form of land management to insure plant and animal yields for the coming year.

The first Europeans to reach the San Francisco area were Spanish explorers in 1769 as part of the Portolá expedition. In 1774, the de Anza expedition had set out to convert the Native American tribes to Christianity, resulting in the establishment of (among others) Mission San Francisco de Asis (Mission Dolores) (founded in 1776), Mission Santa Clara de Asis (founded in 1777) and Mission San José (founded in 1779). The El Camino Real (which runs through Santa Clara) became a heavily traveled route between the 21 California Missions. This route led to the establishment of inns and roadhouses to serve travelers along the way. In this historic period, the Ohlone people were subjugated and absorbed into the mission system for compulsory baptism and conversion to Christianity that resulted in the loss of their freedom of movement, their culture, and customs.

During this time, under the Mexican rule of California (1822 through 1848), large tracts of land were issued to private individuals, usually cattle ranchers and hide and tallow traders. The majority of what is now the County of Santa Clara was given away in 41 land grants. Three other land grants were given away prior to 1822 under Spanish rule. Hides and tallow from the livestock eventually comprised the first commercial export product and industry in the area.

The area of the project site was part of the Rancho Los Capitancillos Mexican land grant from Governor Juan B. Alvarado to Justo Larios in 1842. With the cession of California to the United States following the Mexican-American War, the 1848 Treaty of Guadalupe Hidalgo provided that the land grants would be honored. As required by the Land Act of 1851, a claim for Rancho Los Capitancillos was filed with the Public Land Commission in 1852. The grant was confirmed by the Commission 1854, by the US District Court in 1857, but reversed by the US Supreme Court, and then approved. The grant was patented to Charles Fossat in 1865.

San José, for nearly two centuries, was primarily a farming community and produced a significant amount of fruits and vegetables. By 1939 San José, with a population of 57,651, was the largest canning and dried-fruit packing center in the world with 18 canneries, 13 dried-fruit packing houses, and 12 fresh-fruit and vegetable shipping firms. San José also served as a distribution point for the prune and apricot industry. However, the growth of post-World War II

suburban development in the valley resulted in the disappearance of the orchards and a slump in the cannery industry. Vestiges of the old orchards remained, throughout the county, and as late as 1970 San José was still classified as partly rural by the US census, although the city had a population of 443,950.

The 1950s and 60s saw a boom in technology company throughout the Santa Clara Valley, partly due to parts of Stanford University being leased to high tech companies for 99 years, a move that is generally considered the start of the computer revolution in Santa Clara County. Journalist Don C. Hoefler first coined the term "Silicon Valley" to describe the region in a series of articles he wrote for Electronic News, a weekly industrial tabloid, in 1971. Also in 1971, Intel created the first microprocessor, the 4004-chip. San José grew with the technology boom, and became home to a number of technology companies. By 1990 San José's population reached 782,248 people, according to the US census, and was the 11th most populated city in the nation, surpassing San Francisco in population.

The project site today is located in a heavily urbanized area and has been disturbed by development and human activity at the project site.

#### **4.5.2 Record Searches**

##### *California Historical Resources Information System Search*

The California Historical Resources Information System (CHRIS) search, enacted by MIG, was completed June 4, 2021. The search identified two resources within the 0.25-mile search radius: A historic resource, the Timothy Cooney Farmhouse, to the east of the project site, and a Native American habitation site, including burials, south of project site. Neither resource has been formally evaluated for either the National Register of Historic Places (NRHP) or the California Register of Historic Resources (CRHR), although the archaeological site is likely to meet the criteria for inclusion on the CRHR. No additional resources either historic or prehistoric were identified within a quarter mile radius of the project site.

##### *Sacred Lands File Search*

A Sacred Land File (SLF) search was completed by the Native American Heritage Commission (NAHC) on May 3, 2021. It was returned negative results for known Tribal Cultural Resources (TCRs). Eight Native American Tribes with connections to the area were identified by the NAHC. As an extension of the SLF, twelve representatives of those tribes were contacted by MIG using email on May 7, 2021. One representative, Kanyon Sayers-Roods, of the Indian Canyon Band of Costanoan Ohlone People, replied, contacting MIG's archaeologist by email on June 1, 2021 regarding the presence of an archaeological resource in or near the project area, and recommended that a Native American Monitor and an Archaeologist be present on-site at all times. No responses were received from the other Tribal representatives.



### 4.5.3 Regulatory Setting

#### California Environmental Quality Act

Pursuant to CEQA, a historical resource is a resource listed in, or eligible for listing in, the California Register of Historical Resources (CRHR). In addition, resources included in a local register of historic resources or identified as significant in a local survey conducted in accordance with state guidelines are also considered historic resources under CEQA, unless a preponderance of the facts demonstrates otherwise. Per CEQA, the fact that a resource is not listed in or determined eligible for listing in the CRHR or is not included in a local register or survey shall not preclude a Lead Agency, as defined by CEQA, from determining that the resource may be a historic resource as defined in California Public Resources Code (PRC) Section 5024.1. CEQA applies to archaeological resources when (1) the archaeological resource satisfies the definition of a historical resource or (2) the archaeological resource satisfies the definition of a “unique archaeological resource.” A unique archaeological resource is an archaeological artifact, object, or site that has a high probability of meeting any of the following criteria:

1. The archaeological resource contains information needed to answer important scientific research questions and there is a demonstrable public interest in that information.
2. The archaeological resource has a special and particular quality such as being the oldest of its type or the best available example of its type.
3. The archaeological resource is directly associated with a scientifically recognized important prehistoric or historic event or person.

#### 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.

### Assembly Bill 52

Assembly Bill (AB) 52 specifies that a project that may cause a substantial adverse change in the significance of a tribal cultural resource, as defined, is a project that may have a significant effect on the environment. AB 52 requires a lead agency to begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project, if the tribe requests in writing to the lead agency, to be informed by the lead agency of proposed projects in that geographic area and the tribe requests consultation, prior to determining whether a negative declaration, mitigated negative declaration, or environmental impact report is required for a project.

At the time of the preparation of this Initial Study, two tribes have sent written requests for notification of projects to the City of San José and one verbal request has been made.

- On July 9, 2018, a representative of the Ohlone Indian Tribe, Inc., requested notification of projects in accordance with Public Resources Code Section 21080.3.1 subd (b). In response to a more specific verbal request in a meeting with City staff and the representative on July 12, 2018, clarification was received that such notification be sent only for projects in the City of San José that involve ground disturbing activities in Downtown, and that such requests may be sent via e-mail only for future projects require a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report. 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 electronically and via mail to Tamien Nation on July 19, 2021. Chairwoman Geary, on behalf of Tamien Nation requested AB 52 consultation for this project on August 24, 2021. The City and Tamien Nation virtually met on September 20, 2021 to consult on this project. City Staff and Tamien Nation concluded the project site has a high tribal cultural sensitivity and agreed upon the use of standard permit conditions and mitigation measures to include tribal monitoring of the site and a cultural awareness training. See Appendix B.

#### 4.5.4 Thresholds of Significance

The thresholds of significance are per the CEQA Guidelines:

<b>CULTURAL &amp; TRIBAL CULTURAL RESOURCES – Would the project:</b>				
<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Cause a substantial adverse change in the significance of an historical resource as defined in CEQA Guidelines §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines §15064.5?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Disturb any human remains, including those interred outside of dedicated cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) 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.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

#### 4.5.5 Findings

**a) No Impact.** There are no existing buildings that will be altered or demolished as a result of the project. There are no known built environment historic resources in the close vicinity. The Timothy Cooney Farmhouse, located at 725 Blossom Hill Road approximately 0.15 miles away from the project, is not easily visible from the project site and would not have its historic character changed as a result of the project. No adverse effect to a built environment historic resource would occur as a result of the project. The project would have no impact to historic resources.

**b) Less than Significant Impact with Mitigation.** There is a known, large, Native American habitation site with associated burials in the near vicinity of the project. Although the ground has previously been disturbed and developed, there is potential for archaeological resources to exist below or outside the previous area of

disturbance. In the event that unknown archaeological resources are present, construction activities have the potential to destroy or significantly damage archaeological resources which could be a significant impact. Mitigation Measures CUL-1, CUL-2, and CUL-3 will reduce this impact to a less than significant level.

**Impact CUL-1:** Project construction could adversely impact buried archaeological resources.

**Mitigation Measure CUL-1: Monitoring.** All ground-disturbing activities (e.g., grading and excavation) shall be completed under the observation of a qualified archaeologist and Native American Monitor. The archaeologist must meet the U.S. Secretary of the Interior's Professional Qualifications and Standards, or be supervised by an archaeologist who does. The tribal monitor must be registered with the Native American Heritage Commissions for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3.). In the event prehistoric, or significant historical, archaeological resources are unearthed during ground-disturbing activities, Mitigation Measure CUL-2 and City of San José Standard Permit Conditions relating to the discovery of archaeological resources will be implemented.

**Mitigation Measure CUL-2: Treatment Plan.** In the event of Native American archaeological discovery, the project applicant, qualified archaeologist, and a Native American representative shall prepare an archaeological treatment plan that reflects permit-level detail pertaining to depths and locations of excavation activities. The treatment plan shall be prepared and submitted to the Director or Director's designee of the City of San José Department of Planning, Building, and Code Enforcement prior to any further ground disturbance being required. The treatment plan shall contain, at a minimum:

- Identification of the found resources;
- Treatment and curation next steps for the found resources;
- Detailed field strategy to record, recover, or avoid the finds, and additional mitigation to protect further anticipated resources;
- A data recovery plan, which may include archaeological excavation, such as test pits, hand excavation, or augering;
- Provisions for producing an archaeological report to be sent to the Northwest Information Center detailing the results of the archaeological discovery, and subsequent treatment and results.
- Evaluation and Data Recovery: The Supervising Environmental Planner and Historic Preservation Officer of the City of San José Department of Planning, Building, and Code Enforcement shall be notified of any finds during the

grading or other construction activities. Any historic or prehistoric material identified in the project area during the earth-disturbing activities shall be evaluated for eligibility for listing as a Candidate City Landmark and/or in the California Register of Historic Resources. Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand auguring, and hand-excavation.

- The techniques used for data recovery shall follow the protocols identified in the project-specific Cultural Resources Treatment Plan. Data recovery shall include excavation and exposure of features, field documentation, and recordation.
- Final Reporting: Once all analyses and studies required by the project-specific Cultural Resources Treatment Plan have been completed, the project applicant, or representative, shall prepare a final report summarizing the results of the field investigation, data recovery activities and results, and compliance with the Cultural Resources Treatment Plan during all demolition, grading, building, and other construction activities. The report shall document the results of field and laboratory investigations and shall meet the Secretary of the Interior's Standards for Archaeological Documentation. The contents of the report shall be consistent with the protocol included in the project-specific Cultural Resources Treatment Plan. The report shall be submitted to the Director of Planning, Building, and Code Enforcement for review and approval prior to issuance of any Certificates of Occupancy (temporary or final). Once approved, the final documentation shall be submitted to the Northwest Information Center at Sonoma State University, as appropriate.
- Curation: Upon completion of the final report required by the project-specific Cultural Resources Treatment Plan, all recovered archaeological materials not identified as tribal cultural resources by the Native American monitor, shall be transferred to a long-term curation facility. Any curation facility used shall meet the standards outlined in the National Park Services' Curation of Federally Owned and Administered Archaeological Collections (36 CFR 79). The project applicant shall notify the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement of the selected curation facility prior to the issuance of any Certificates of Occupancy (temporary or final). To the extent feasible, and in consultation with the Native American representative, all recovered Native American/tribal cultural resources and artifacts shall be reburied on-site in an area that is unlikely to be disturbed again. Treatment of materials to be curated shall be consistent with the protocols included in the project-specific Cultural Resources Treatment Plan.
- All archaeological materials recovered during the data recovery efforts shall be cleaned, sorted, catalogued, and analyzed following standard

archaeological procedures, and shall be documented in a report submitted to the Director of Planning, Building and Code Enforcement and the NWIC.

**Mitigation Measure CUL-3: Dignified and Respectful Treatment – Cultural Sensitivity Training Prior to Construction.** Prior to issuance of the Grading Permit, the project shall be required to submit evidence that an Archaeological Monitoring Contractor Awareness Training was held prior to ground disturbance. The training shall be facilitated by the project archaeologist in coordination with a Native American representative registered with the Native American Heritage 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.

### **Standard Permit Conditions**

In the event that archeological resources (e.g. prehistoric, historic, tribal cultural 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 or the Director's Designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist in consultation with a Native American Representative registered with the Native American Heritage Commission 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 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.

- c) **Less than Significant Impact:** The nearby project area contains known Native American burials, and there is potential for additional burials to be present in previously undisturbed soils in the project area. Disturbing human remains could be a significant impact. Implementation of City of San José Standard Permit Conditions relating to the discovery of human resources will reduce this impact to a less than significant level.

### **Standard Permit Conditions**

In the event that human remains are discovered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped. The Santa Clara County Coroner shall be notified and make a determination as to whether the remains are of Native American origin or whether an investigation into the cause of death is required. If the remains are determined to be Native American, the Coroner will notify the Native American Heritage Commission (NAHC) immediately. Once

the NAHC identifies the most likely descendants, the descendants will make recommendations regarding proper burial, which will be implemented in accordance with Section 15064.5(e) of the CEQA Guidelines.

### **TRIBAL CULTURAL RESOURCES**

**d-e) Less than Significant Impact with Mitigation.** The presence of known archaeological resources in the vicinity of the project site that are Native American in origin indicates that there is a high potential for additional Native American resources (tribal cultural resources) in the project area. Disturbance of TCRs would constitute a significant impact. Implementation of Mitigation Measures CUL-1 through CUL-3 described in Cultural Resources Section 4.5 above as well as Standard Permit Conditions, would ensure the appropriate monitoring and assessment of any encountered resources. With implementation of these measures, the potential encounter of tribal cultural resources would be reduced to less than significant.



## **4.6 ENERGY**

### **4.6.1 Setting**

Energy consumption is closely tied to the issues of air quality and greenhouse gas (GHG) emissions, as the burning of fossil fuels and natural gas for energy has a negative impact on both, and petroleum and natural gas currently supply most of the energy consumed in California.

In general, California's per capita energy consumption is relatively low, in part due to mild weather that reduces energy demand for heating and cooling, and in part due to the government's proactive energy efficiency programs and standards. According to the California Energy Commission's (CEC) 2015 Integrated Energy Policy Report, Californians consumed about 280,500 gigawatt hours (GWh) of electricity in 2014 and 13,240 million British thermal units (BTU) of natural gas in 2013. The CEC estimates that by 2025, California's electricity consumption will reach between 297,618 GWh and 322,266 GWh, an annual average growth rate of 0.54 to 1.27 percent, and natural gas consumption is expected to reach between 12,673 million and 13,731 million BTU by 2024, an average annual growth rate of -0.4 to 0.33 percent (CEC 2015).

In 2019, total electricity use in Santa Clara County was 16,664 million kilowatt hours (kWh), including 12,852 million kWh of consumption for non-residential land uses (CEC 2020a). Natural gas consumption was 459 million therms in 2019, including 215 million therms from non-residential uses (CEC 2020b). Pacific Gas and Electric Company (PG&E) is San José's energy utility provider, furnishing both natural gas and electricity for residential, commercial, industrial, and municipal uses.

Energy conservation refers to efforts made to reduce energy consumption to preserve resources for the future and reduce pollution. It may involve diversifying energy sources to include renewable energy, such as solar power, wind power, wave power, geothermal power, and tidal power, as well as the adoption of technologies that improve energy efficiency and adoption of green building practices. Energy conservation can be achieved through increases in efficiency in conjunction with decreased energy consumption and/or reduced consumption from conventional energy sources.

### **4.6.2 Thresholds of Significance**

The thresholds of significance are per the CEQA Guidelines:

<b>ENERGY – Would the project:</b>				
<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### 4.6.3 Findings

**a) Less than Significant Impact.** Construction activities associated with the proposed project would require the use of heavy-duty, off-road equipment and construction-related vehicle trips that would combust fuel, primarily diesel and gasoline. Heavy-duty construction equipment would be required to comply with CARB’s airborne toxic control measures, which restrict heavy-duty diesel vehicle idling to five minutes. Since petroleum use during construction would be temporary and needed to conduct development activities, it would not be wasteful or inefficient.

Once construction activities have concluded, the proposed project would involve the operation of a new retail/office building. These land uses would consume energy in the form of electricity for building processes (e.g., heating and cooling, lighting, etc.) and petroleum products (e.g., gasoline and diesel) associated with vehicle trips to and from the site made by employees and customers. Although the proposed project would increase energy demand at the site over the long term, it would do so in an efficient manner. The proposed building would be constructed to current 2019 Title 24 Building Code Standards, which include standards for energy efficiency in Part 11 of the Title 24 Building Code Standards – also known as the California Green Building Standards Code (CALGreen Code). The 2019 Title 24 Building Code Standards took effect in January 1, 2020. The project would also be subject to the City’s Green Building Ordinance (Chapter 17.84) and Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.10). The project would use energy in an efficient manner; it would not be wasteful or unnecessary. The project provides two electric vehicle (EV) charging stations and four EV charging parking spaces, consistent with building reach ordinance (Ordinance No. 30311). The proposed project would result in additional energy consumption associated with transportation (e.g., gasoline and diesel fuels and electricity used to power vehicles). As discussed previously, however, the project would install EV charging stations and have dedicated EV parking spaces. Electricity is considered an efficient form of energy, because it can be generated from renewable sources (e.g., solar and wind). This project element would facilitate the expansion of EV infrastructure throughout the city and help facilitate additional use of EVs over the years. As such, the

project would support using transportation energy in an efficient manner. The proposed project's energy consumption would not be wasteful, inefficient, or unnecessary. This impact would be less than significant.

**b) Less than Significant Impact.** The proposed project would not conflict with nor obstruct a state or local plan adopted for the purposes of increasing the amount of renewable energy or energy efficiency. As discussed under response a), the proposed project would be constructed using current 2019 Building Energy Standards and California Green Building Standards. Furthermore, Section 4.8, Greenhouse Gas Emissions, states the proposed project would not conflict with the City's Greenhouse Gas Reduction Strategy. The proposed project would not conflict with nor obstruct a state or local plan adopted for the purposes of increasing the amount of renewable energy or energy efficiency. The impact is considered less than significant.

## 4.7 GEOLOGY AND SOILS

### 4.7.1 Setting

The project site is located within the seismically active San Francisco Bay Area region. According to the California Geological Services (CGS) California Earthquake Hazards Zone Application (EQ Zapp) mapping tool, the site is not located in an Alquist-Priolo Earthquake Fault Zone and no known active faults are located on the project site (CGS 2021). However, due to the presence of active faults in the region, the site may be subject to strong ground shaking in the event of an earthquake. The nearest major active faults are the Hayward fault located 6.5 miles northeast, the Calaveras Fault located nine miles northeast, and the San Andreas Fault located 9.5 miles southwest (CGS 2021).

### 4.7.2 Thresholds of Significance

The thresholds of significance are per the CEQA Guidelines:

<b>GEOLOGY AND SOILS – Would the project:</b>				
<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i. Rupture of a known earthquake fault, as described 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.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ii. Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii. Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iv. Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

<b>GEOLOGY AND SOILS – Would the project:</b>				
<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**4.7.3 Findings**

- a) The project site is located in a seismically active area and the proposed structures would be designed and constructed in conformance with the 2019 California Building Code Guidelines to avoid or minimize potential damage from seismic shaking.
  - i. **Less Than Significant Impact.** According to the CGS EQ Zapp mapping tool, project site is not located within a State of California Earthquake Fault Hazard Zone and no known active faults cross the site (CGS 2021).
  - ii. **Less Than Significant Impact.** The project site is located within the seismically active San Francisco Bay Area region and may be subject to strong seismic ground shaking in the event of a major earthquake on any of the region’s active faults. To avoid or minimize potential damage from seismic shaking, the project would be designed and constructed in accordance with the 2019 California Building Code standards. The project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed, and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The report should also include, but not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation. See the Standard Permit Condition as noted in response iii, below. Preparation and approval of the geotechnical investigation report would reduce potential impacts related to strong seismic ground shaking to less than significant.

- iii. Less Than Significant Impact.** According to the CGS EQ Zapp mapping tool, the project site is located within a Liquefaction Hazard Zone (CGS 2021). Therefore, the project applicant shall prepare a geotechnical investigation report addressing the potential hazard of liquefaction and submit the report to the City Geologist for approval prior to issuance of a grading permit or Public Works Clearance (City of San José 2019). This requirement is outlined in the Standard Permit Condition below. Preparation and approval of the geotechnical investigation report would reduce potential impacts related to liquefaction to less than significant.

#### **Standard Permit Condition**

To avoid or minimize potential damage from seismic shaking, the project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the City of San José Department of Public Works as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.

- iv. No Impact.** The project site is flat with no appreciable vertical relief and would not be subject to landslides.
- b) Less Than Significant Impact.** As discussed in Section 4.9.3, Hydrology and Water Quality, the project 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 the issuance of a permit for grading activity that occurs during the rainy season (October 1 to April 30, inclusive), an Erosion Control Plan must be submitted to the City Department of Public Works detailing BMPs that will minimize soil erosion during construction activities. Compliance with these requirements would ensure the project would not result in substantial soil erosion or the loss of topsoil.
- c) Less Than Significant Impact.** See response to question a). The proposed project site does not contain any other known soil or geologic hazards.
- d) Less Than Significant Impact.** The project site contains clay soils that have not been tested for expansion potential. The project site is located in a Liquefaction Hazard Zone (CGS 2021); therefore, the project is required to prepare a geotechnical investigation report for City approval (City of San José 2019). The geotechnical investigation report shall investigate the expansion potential of on-site soils and include recommendations for minimizing any potential for soil instability if there are

expansive soils present on-site. The Standard Permit Condition requiring preparation of Geotechnical Investigation and incorporation of the report's recommendations into the project's design and construction. Compliance with these requirements would ensure the project would not result in substantial adverse impacts related to expansive soils.

- e) **No Impact.** The project does not propose septic tanks or other alternative wastewater disposal systems. The project would connect to an existing sanitary sewer main in Blossom Hill Road.
- f) **Less than Significant Impact.** The project site has been previously developed through grading, excavation, and other construction and demolition activities and does not currently contain unique geologic features.

Paleontological resources are the remains of prehistoric life preserved in the geologic record as fossils. Per Figure 3.11-1 of the City's General Plan EIR, the project site is located in a high sensitivity area (at depth) for paleontological resources. As a result, there is potential for inadvertent discovery of paleontological resources during ground-disturbing activities. According to the General Plan EIR, with existing regulations and General Plan policies, including Policy ER-10.1 and Policy ER-10.3, new development within the City would result in less than significant impacts to paleontological resources (City of San José 2011b). As a standard permit condition requirement, the project will be required to comply with existing regulations, programs, and General Plan policies to protect paleontological resources. If paleontological resources are encountered during project construction, the project would implement the following City of San José Standard Permit Condition, which would reduce this impact 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**

### **4.8.1 Setting**

The CARB and other state agencies are currently working on regulations and other initiatives to implement a Climate Change Scoping Plan. Senate Bill (SB) 32 was signed into law in September 2016. The recently signed SB 32 legislation amends provisions of AB 32, the California Global Warming Solutions Act of 2006 (Health and Safety Code Division 25.5), to require CARB to ensure that statewide greenhouse gas (GHG) emissions are reduced to 40 percent below the 1990 levels by 2030.

The City of San José updated its strategy for greenhouse gas reduction in alignment with Senate Bill (SB) 32, which established an interim statewide greenhouse gas reduction goal for 2030 to meet the long-term target of carbon neutrality by 2045 (Executive Order B-55-18). SB 32 expands upon Assembly Bill (AB) 32, the Global Warming Solutions Act of 2006, and requires a reduction in greenhouse gas emissions of at least 40% below the 1990 levels by 2030.

The City's 2030 Greenhouse Gas Reduction Strategy (2030 GHGRS) is a comprehensive update to the city's original GHGRS and reflects the plans, policies, and codes as approved by the City Council. The strategy builds on the City's Envision San José 2040 General Plan and Climate Smart San José-- these plans expanded the City's Green Vision to advance urban sustainability. Leveraging these existing plans and supporting policy and program frameworks, the 2030 GHGRS provides a set of strategies and additional actions for achieving the 2030 target.

As described in the Air Quality Section 4.3, there are no existing emissions sources at the project site. The proposed project would emit air pollutants, including GHGs, from employee vehicle trips and the operation and use of small, and area-wide sources such as landscaping equipment, architectural coating off-gassing, consumer products use (e.g., window cleaners). The project would also result in the generation of GHG emissions from other utility-related operations (e.g., the conveyance and use of water, wastewater, electricity, and solid waste).



### 4.8.2 Thresholds of Significance

The thresholds of significance are per the CEQA Guidelines:

<b>GREENHOUSE GAS EMISSIONS – Would the project:</b>				
<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### 4.8.3 Findings

Global warming and global climate change are the result of GHG emissions worldwide; individual projects do not generate enough GHG emissions to influence global climate change. Thus, the analysis of GHG emissions is by nature a cumulative analysis focused on whether an individual project’s contribution to global climate change is cumulatively considerable.

Per CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the Lead Agency and must be based to the extent possible on scientific and factual data. The proposed project was evaluated for consistency with the City’s GHG Reduction Strategy (see Table 4-1, below). The GHG Reduction Strategy identifies GHG emissions reduction measures to be implemented by development projects in three categories: built environment and energy, land use and transportation, and recycling and waste reduction. Some measures are mandatory for all proposed development projects and others are voluntary. Voluntary measures could be incorporated as mitigation measures for proposed projects, at the City’s discretion. Since the project is consistent with the General Plan land use designation for the site and the land use assumptions of the GHG Reduction Strategy, compliance with the mandatory measures and voluntary measures required by the City would ensure its consistency with the GHG Reduction Strategy. Projects that are consistent with the GHG Reduction Strategy would have a less than significant impact related to GHG emissions.

**a - b) Less than Significant Impact.** The proposed project would emit GHGs during construction and operation; however, the project would result in a less than significant GHG impact because the project would not exceed thresholds of significance recommended by the BAAQMD (see Air Quality Section 4.3.3).

Neither the City nor BAAQMD have an adopted threshold of significance for construction-related GHG emissions, although BAAQMD recommends quantifying emissions and disclosing that GHG emissions would occur during construction. BAAQMD also encourages the incorporation of best management practices to reduce GHG emissions during construction where feasible and applicable. Best management practices assumed to be incorporated into construction of the project include but are not limited to using local building materials (at least ten percent) and recycling or reusing at least 50 percent of construction waste or demolition materials. Because project construction would be temporary and would not result in a permanent increase in GHG emissions that would interfere with the implementation of SB 32, the increase in emissions would be considered less than significant. Additionally, the project would be consistent with the City of San José's qualified 2030 GHG reduction strategy as discussed in Appendix A. The 2030 GHG reduction strategy is considered a qualified Climate Action Plan, and conformance with the plan's checklist confirms the project's impacts on GHGs would be less than significant under CEQA.

As discussed in Appendix A, the project would: be consistent with the project site's City General Plan use and density, implement green building measures (e.g. ,a photovoltaic array on 50% of the roof area), incorporate pedestrian and bicycle site design features to help reduce vehicular travel to and from the site, include water conservation and urban forestry measures, not conflict with any of the City's GHG reduction strategies, and provide space for organic waste in the trash enclosure (supporting the City's zero waste goal).

As shown in Appendix A, the project would be consistent the City's GHG Reduction Strategy; the project would also be consistent with the BAAQMD's 2017 Clean Air Plan (See Table 4-2). The project, therefore, would result in a less than significant GHG impact.

## 4.9 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based in part on a Phase I Environmental Site Assessment (ESA) titled, “Phase I Environmental Site Assessment Blossom Hill Road Retail 620 Blossom Hill Road San José, Santa Clara County, California 95125,” prepared by Ninyo & Moore on July 3, 2017 and is included here as Appendix C. This Phase I ESA was completed for 620 Blossom Hill Road, another location in the shopping center; however, the Phase I ESA investigated 696 Blossom Hill Road as part of the site assessment.

### 4.9.1 Environmental Setting

The proposed project is a commercial infill development project in an urbanized area. Historically, the project site and surrounding lands were used for agriculture from approximately the 1930s until 1965, when the existing shopping center was constructed (Ninyo & Moore 2017). From 1965 to present, several additional buildings were constructed and reconstructed, resulting in the current seven buildings of the strip mall.

The project site is the located of a former Unocal 76 gas station (Ninyo & Moore 2017). In 1964, two 10,000-gallon gasoline USTs and one 280-gallon waste oil UST were installed. In 1985, three new USTs, consisting of two 12,000-gallon gasoline USTs, and one 520-gallon waste oil UST, replaced the USTs installed in 1964. According to the Santa Clara County Department of Environmental Health (SCCDEH), the USTs were upgraded with proper leak detection, spill/overflow protection and corrosion protection in 1995. Groundwater contamination investigations occurred initially in 1988 and 1990, and again in 2004 and 2005, and a soil gas survey occurred in 1997. The three USTs, piping and dispensers were eventually removed on April 23, 2015. Twelve soil samples were collected following removal and were reported to have maximum concentrations of 12.9 part per million (ppm) total petroleum hydrocarbons as gasoline (TPHg), 141 ppm chromium, 128 ppm nickel, 47.6 ppm zinc and 4.4 ppm lead; all other chemicals of concern were not reported to be present above the laboratory reporting limits. The SCCDEH issued case closure notices for the removed USTs. According to the Ninyo & Moore Phase I ESA, the former Unocal Station is not considered a REC.

### 4.9.2 Regulatory Setting

#### **Federal**

##### United States Environmental Protection Agency

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

### Comprehensive Environmental Response, Compensation, and Liability Act

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) provides a Federal “Superfund” to clean up uncontrolled or abandoned hazardous-waste sites as well as accidents, spills, and other emergency releases of pollutants and contaminants into the environment. Through CERCLA, the EPA was given power to seek out those parties responsible for any release and assure their cooperation in the cleanup.

### Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act (RCRA) enacted in 1976 governs the disposal of solid waste and hazardous materials. The Resource Conservation and Recovery Act gives the EPA the power to control the generation, transportation, treatment, storage, and disposal of hazardous substances that cannot be disposed of in ordinary landfills. It also allows for each state to apply their own hazardous waste programs instead of implementing the federal program on the condition that the state’s program is just as strict in its requirements. This state program must be permitted by the EPA in order to be used.

## State

### California Environmental Protection Agency

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

### Regional Water Quality Control Board

The RWQCB oversees cases involving groundwater contamination within the San Francisco Bay Area from Spills, Leaks, Incidents and Clean-up (SLIC) cases while the County of Santa Clara’s Department of Environmental Health would oversee most leaking underground storage tank (LUST) cases. In the incidence of a spill at a project site, the applicant would notify the County of Santa Clara and a lead regulator (County, RWQCB or DTSC) would be determined.

### Cortese List

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

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

1. All hazardous waste facilities subject to corrective action pursuant to Section 25187.5 of the Health and Safety Code.
2. All land designated as hazardous waste property or border zone property pursuant to Article 11 (commencing with Section 25220) of Chapter 6.5 of Division 20 of the Health and Safety Code.
3. All information received by the Department of Toxic Substances Control pursuant to Section 25242 of the Health and Safety Code on hazardous waste disposals on public land.
4. All sites listed pursuant to Section 25356 of the Health and Safety Code.

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

1. All underground storage tanks for which an unauthorized release report is filed pursuant to Section 25295 of the Health and Safety Code.
2. All solid waste disposal facilities from which there is a migration of hazardous waste and for which a California regional water quality control board has notified the Department of Toxic Substances Control pursuant to subdivision (e) of Section 13273 of the Water Code.
3. All cease and desist orders issued after January 1, 1986, pursuant to Section 13301 of the Water Code, and all cleanup or abatement orders issued after January 1, 1986, pursuant to Section 13304 of the Water Code, that concern the discharge of wastes that are hazardous materials.

The proposed project site is on the Hazardous Waste and Substances Sites (Cortese) List (Ninyo and Moore 2017).

#### California Department of Toxic Control

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

## **Local**

### **Emergency Operations and Evacuation Plans**

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

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

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

- Policy EC-7.1: For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.
- Policy EC-7.2: Identification of existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users shall be provided as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines, and standards.
- Policy EC-7.5: On development and redevelopment sites, all sources of imported fill shall have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and state requirements.
- Policy EC-7.9: Ensure coordination with the County of Santa Clara Department of Environmental Health, Regional Water Quality Control Board, Department of Toxic Substances Control or other applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists.
- Policy 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.

- Policy EC-7.11: Require sampling for residual agricultural chemicals, based on the history of land use, on sites to be used for any new development or redevelopment to account for worker and community safety during construction. Mitigation to meet appropriate end use such as residential or commercial/industrial shall be provided.
- Policy CD-5.8: Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.

**4.9.3 Thresholds of Significance**

The thresholds of significance are per the CEQA Guidelines:

<b>HAZARDS AND HAZARDOUS MATERIALS – Would the project:</b>				
<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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 for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<b>HAZARDS AND HAZARDOUS MATERIALS – Would the project:</b>				
<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
f) Impair implementation of or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**4.9.4 Findings**

- a) **Less Than Significant Impact.** The proposed project is a commercial infill development with no industrial uses proposed. The project would not involve routine transport, use, or disposal of hazardous materials. The project may use small quantities of fertilizers and pesticides for landscaping and household cleansers and other chemicals for cleaning purposes. These materials would be stored and used in accordance with the manufacturer’s specifications.
  
- b) **Less Than Significant Impact.** The proposed project is a commercial infill development and no industrial uses are proposed. The project proposes to excavate and grade the site for the installation of underground utilities and building foundation. Grading and construction activities would involve the use of hazardous materials, including but not limited to petroleum-based fuels, including diesel fuels, solvents, and paints. The project would be subject to applicable health and safety standards, compliance with which would reduce the project’s potential impacts from construction-related transport, use, and disposal of hazardous materials to less than significant. In addition, while the project site previously contained LUSTs associated with the former Unocal 76 gas station, the LUSTs were removed from the site in 2015 and no further action is required at this time to remediate contaminated soils, according to the SCCDEH (Ninyo & Moore 2017). Therefore, disturbance of on-site soils would not lead to the release of hazardous materials into the environment and would result in a less than significant impact.
  
- c) **No Impact.** There are no schools located within one-quarter mile of the project site. The closest school, Frost Elementary School, is approximately 0.5 miles southeast of the project site (San José Unified School District 2021; Google Maps 2021).
  
- d) **Less than Significant Impact.** The project site is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 (Cortese List). The project site is included in the State Water Resources Control Board’s (State Water Board) GeoTracker database as a LUST cleanup site connected to the former



Unocal 76 gas station (T0608590626, T0608502224, and T06008501535) (State Water Board 2021).

See Section 4.8.1, Setting, above. The project site is the location of a former Unocal 76 gas station and three LUSTs (two gasoline and one waste oil) (Ninyo & Moore 2017). From 1988 to 2015, several rounds of soil and groundwater sample testing found contaminants had leaked from the USTs into the surrounding environment. Excavation of contaminated soils occurred in 1995. A soil gas survey was conducted in 1997. Initial groundwater contamination investigation occurred in 1988 and 1990, and groundwater monitoring was performed from 2004 through 2005. Following removal of the three LUSTs, piping, and dispensers in 2015, additional soil samples were taken. Following review of the soil sampling results, the SCCDEH decided not to reopen the previously closed fuel leak case nor open a new fuel lake case for the site. As a result, the three separate listings of the site in the GeoTracker database have a status of “Completed – Case Closed,” and no further action is required. Therefore, the proposed project’s location on a former LUST site would not create a significant hazard to the public or the environment.

No other sites are listed within a 1,000-foot radius of the project site.

- e) **No Impact.** The project site is not located within an airport land use plan, nor is it located within two miles of a public airport (County of Santa Clara 2021; Google Maps). The proposed project would not result in a safety hazard to airport operations.
- f) **Less Than Significant Impact.** The proposed commercial infill development project would comply with all applicable adopted emergency or evacuation plans, including the City of San José Emergency Operations Plan (EOP) (City of San José 2021b). The project would not create any barriers to emergency or other vehicle movement in the area and would be designed to incorporate all applicable San José Fire Code requirements.
- g) **No Impact.** The project would not expose people or structures to risk from wildland fires as the project site is located in a highly urbanized area that is not in the proximity of wildlands (CAL FIRE 2021).

## 4.10 HYDROLOGY AND WATER QUALITY

### 4.10.1 Setting

#### 4.10.1.1 Environmental Setting

##### Stormwater Quality

The water quality of streams, creeks, ponds, and other surface water bodies can be greatly affected by pollution carried in contaminated surface runoff. Pollutants from unidentified sources, known as non-point source pollutants, are washed from building roofs, streets, construction sites, parking lots, and other exposed surfaces into storm drains. Urban stormwater runoff often contains contaminants such as oil and grease, plant debris and animal waste, pesticides, litter, and heavy metals. In sufficient concentration, these pollutants have been found to adversely affect the aquatic habitats to which they drain.

There are no waterways present on the project site; however, Canoas Creek runs near the project site approximately 1,200 feet to the east. According to the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM), the project site is not located within a 100-year floodplain.<sup>4</sup> The project site is located in Flood Hazard Zone D, a zone that applies to areas with undetermined flood hazard. The project site is flat and surrounded by other developed properties and existing roads.

Currently, the project site is approximately 9.5 percent impervious (approximately 2,434 square feet of impervious surface area), allowing for infiltration of rainfall into the surface soils over the majority of the surface of the site. However, when the surface soils become saturated, stormwater runoff sheet flows across the site to adjacent paved areas and enters the City's storm drain system untreated. From the City's storm drain system, the untreated runoff enters Canoas Creek, Guadalupe River, and ultimately the San Francisco Bay. The project proposes a total of approximately 21,512 square feet of impervious surface area consisting of replaced and new roof, paved parking, sidewalk, patio, driveway, and street areas. As such, the project would result in a net increase in impervious surface area on-site of approximately 19,078 square feet. To reduce and treat runoff from these new impervious surface areas on-site, the following features have been incorporated into the project design:

##### Landscape Design Measures

- Direct runoff from roofs, sidewalks, and patios to landscaped areas
- Plant trees adjacent to and in parking areas and adjacent to other impervious areas

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<sup>4</sup> FEMA. FIRM Map 06085C0401H. May 18, 2009.

### Site Design Measures

- Maintain some pervious areas in altered form (i.e., landscaping, parking area)
- Parking not provided in excess of minimum code requirements

### Source Control Measures

- Beneficial landscaping
- Use water efficient irrigation systems
- Label storm drains
- Connect the following features to sanitary sewer:
  - Covered trash/recycling enclosures
- Good housekeeping (e.g., sweep pavement and clean catch

### Treatment Systems

#### *Low Impact Development Treatment*

Impervious surfaces located in 17 Drainage Management Areas (DMAs) would drain to the following stormwater treatment control features that are sized and designed per the design criteria listed in the Santa Clara Valley Urban Runoff Pollution Prevention Program C.3 Stormwater Handbook:

- Self-retaining areas
- Flow-through planters (lined and unlined)
- Bioretention areas (lined and unlined)
- Self-treating landscape areas

#### *4.10.1.2 Regulatory Setting*

### **Federal and State**

The federal Clean Water Act and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality. Regulations set forth by the (EPA) and the State Water Resources Control Board 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 of 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 Regional Water Quality Control Board (RWQCB).

### National Flood Insurance Program

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

### Statewide Construction General Permit

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

## **Regional and Local**

### San Francisco Bay Basin Plan

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

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

The San Francisco Bay RWQCB has issued a Municipal Regional Stormwater NPDES Permit (Permit Number CAS612008) (MRP). In an effort to standardize stormwater management requirements throughout the region, this permit replaces the formerly separate citywide municipal stormwater discharge permits with a regional discharge permit for 77 Bay Area municipalities, including the City of San José. Under Provision C.3 of the MRP, new and redevelopment projects that disturb more than 10,000 square feet are required to include site design, pollutant source control, and on-site runoff treatment controls in new and redevelopment projects to manage post-construction stormwater runoff. The MRP requires on-site post-

construction runoff to be treated by using Low Impact Development (LID) treatment controls, such as biotreatment facilities. The Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) assists co-permittees, such as the City of San José, implement the provisions of the MRP.

The project will create or replace approximately 21,512 square feet of impervious surface area, a net increase of 19,078 square feet compared to existing conditions. Based its size and land use, the project is required to comply with the LID stormwater management requirements of Provision C.3 of the Municipal Regional Permit.

In addition to water quality controls, the MRP requires all new and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks. Projects may be deemed exempt from the permit requirements if they do not meet the size threshold, drain into tidally influenced areas or directly into the Bay, drain into hardened channels, or are infill projects in subwatersheds or catchments areas that are greater than or equal to 65 percent impervious (per the Santa Clara Permittees Hydromodification Management Applicability Map). The project would not create or replace one acre or more of impervious surface and the site is located within a subwatershed that is greater than 65 percent impervious. Therefore, the project is not subject to the hydromodification requirements of the MRP (City of San José 2019).

#### City of San Jose Post-Construction Urban Runoff Management Policy (Policy 6-29)

The project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of BMPs including site design measures, source control measures, and numerically-sized LID stormwater treatment controls to minimize stormwater pollutant discharges.

#### City of San José Post-Construction Hydromodification Management Policy (Policy 8-14)

Policy 8-14 implements the hydromodification management (HM) provisions of the MRP by requiring applicable new and redevelopment projects in the City to construct appropriate HM controls in conformance with the MRP design standards. As previously stated, the subject project meets the screening for exemption from the HM requirements of the MRP, and therefore of Policy 8-14.

#### Envision San José 2040 General Plan

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

*Policy EC-5.1:* The City shall require evaluation of flood hazards prior to approval of development projects within a Federal Emergency Management Agency (FEMA) designated floodplain. Review new development and substantial improvements to existing structures to ensure

it is designed to provide protection from flooding with a one percent annual chance of occurrence, commonly referred to as the “100-year” flood or whatever designated benchmark FEMA may adopt in the future. New development should also provide protection for less frequent flood events when required by the State.

*Policy EC-5.3:* Preserve designated floodway areas for non-urban uses.

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

*Policy 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-8.4:* Assess the potential for surface water and groundwater contamination and require appropriate preventative measures when new development is proposed in areas where storm runoff will be directed into creeks upstream from groundwater recharge facilities.

*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 ER-9.5:* Protect groundwater recharge areas, particularly creeks and riparian corridors.

*Policy ER-9.6:* Require the proper construction and monitoring of facilities that store hazardous materials in order to prevent contamination of the surface water, groundwater and underlying aquifers. In furtherance of this policy, design standards for such facilities should consider high groundwater tables and/or the potential for freshwater or tidal flooding.

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

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

**4.10.2 Thresholds of Significance**

The Hydrology and Water Quality thresholds of significance are per the CEQA Guidelines:

<b>HYDROLOGY AND WATER QUALITY – Would the project:</b>				
<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ii. Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iv. Impede or redirect flood flows.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### 4.10.3 Findings

*Would the project:*

- a) **Less than Significant Impact.** The project would not disturb more than one acre of land and, therefore, is not required to obtain coverage under the Construction General Permit. As stated above, the project site is not creating or replacing more than one acre of impervious surfaces and is mapped as a subwatershed that is greater than 65 percent impervious. Therefore, the project is not subject to the hydromodification requirements of the MRP or Council Policy 8-14.

With implementation of stormwater control measures as part of the project design, the proposed project would be consistent with the MRP and with Council Policy 6-29 and would not violate water quality standards. The project's Stormwater Control Plan and numeric sizing calculations were reviewed by the City's Public Works Department, which provided comments to ensure project stormwater control measures are in conformance with City Policy 6-29. The proposed project is not subject to RWQCB Waste Discharge Requirements; therefore, the project would not violate waste discharge requirements.

Implementation of the following measures, consistent with the Construction General Permit, MRP, and City requirements, would reduce potential construction impacts to surface water quality to less than significant levels.

#### **Standard Permit Conditions**

- The applicant shall develop, implement, and maintain a Storm Water Pollution Prevention Plan (SWPPP) to control the discharge of storm water pollutants including sediments associated with construction activities.
- The project shall incorporate Best Management Practices (BMPs) to control the discharge of storm water pollutants including sediments associated with construction activities.
- The project applicant shall comply with the City of San José Grading Ordinance, including 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. The following specific BMPs will be implemented to prevent storm water pollution and minimize potential sedimentation during construction:
  - Restrict grading to the dry season (May 1 to September 30) or meet City requirements for grading during the rainy season.
  - Utilize on-site sediment/erosion control BMPs to retain sediment on the project site;
  - Utilize stabilized construction entrances and/or wash racks;



- Implement damp street sweeping;
- Provide temporary cover of disturbed surfaces to help control erosion during construction;
- Provide permanent cover to stabilize the disturbed surfaces after construction has been completed.

With the implementation of the measures listed above, the project would not substantially degrade water quality.

The project would receive water supplies from a municipal provider and would not directly use groundwater. Therefore, the project would not conflict with a sustainable groundwater management plan.

**b) Less than Significant Impact.** Water use at the site would be associated with site landscaping and use of the office/retail building. A municipal water service (San José Water Company) would provide water supplies for the project. The project would not directly connect to groundwater for project water supplies and, as a result, would not create a groundwater deficit. Stormwater captured on-site in landscaped areas, including self-treating areas, may contribute to groundwater recharge as storm water percolates into the underlying soils.

**c) Less than Significant Impact.**

**i. Less than Significant Impact.** The project site is flat and currently consists of pervious soils with small areas of impervious surfaces (i.e., sidewalks). Ground disturbance would be required for site preparation, grading, and construction of the proposed project. Ground disturbance would disturb soils and increase the potential for wind or water related erosion and sedimentation at the site until construction is complete. The MRP and the City's urban runoff policies and Municipal Code allow the City to implement erosion control measures through the grading and building permit process. The General Plan FEIR concluded that with the regulatory programs currently in place the potential impacts of accelerated erosion during construction would be less than significant. The City will require the project to comply with all applicable regulatory programs pertaining to construction-related erosion. This would ensure the project would not alter the existing drainage pattern of the site in a manner that results in substantial erosion or siltation on- or off-site.

**ii. Less than Significant Impact.** While the project would result in a net increase in impervious surfaces on-site, the project proposes to incorporate stormwater control measures, including flow-through planters, bioretention areas, and self-treating landscape areas. These on-site stormwater control features have been designed to meet applicable MRP design standards to reduce runoff volumes and rates and with City's ordinances and policies pertaining to the conveyance of stormwater runoff. Therefore, while the

project would alter the existing drainage pattern of the site through the addition of impervious surface area, runoff would be controlled in a manner that would not result in on-site flooding.

- iii. Less than Significant Impact.** Though the project would alter the site's existing drainage pattern through the addition of impervious surface area, project stormwater control measures would capture and treat stormwater runoff on-site prior to conveyance to the City's storm drain system. The project's proposed stormwater control features have been designed to meet City requirements for on-site stormwater control, and therefore, the project would not contribute runoff which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff.
- iv. No Impact.** According to FEMA FIRM mapping, the project site is in Flood Zone D, defined as areas with possible but undetermined flood hazard. As such, the project site is not located within a 100-year floodplain and would, therefore, not redirect or impede flood flows.
- d) No Impact.** The project is not located within any designated flood hazard, tsunami, or seiche zones, as the site is not located near a large body of water or San Francisco Bay. Therefore it has no potential to release pollutants due to project inundation during these types of events.
- e) No Impact.** See response to question a) above. The project would not conflict with nor obstruct implementation of a water quality control plan or sustainable groundwater management plan.

## 4.11 LAND USE AND PLANNING

### 4.11.1 Setting

The project site was previously occupied by a gas station with underground storage tanks. The tanks have been removed and all soil cleanup and remediation activities have been completed (see Section 4.9.4), and the site is now vacant. The site is surrounded by residential uses to the north across Blossom Hill Road, and by commercial uses to the east, south, and west.

#### 4.11.1.1 General Plan and Zoning Designations

##### Envision San José 2040 General Plan

The project site is currently designated Neighborhood Community/Commercial and within the Blossom Hill/Cahalan Avenue Urban Village Area under the Envision San José 2040 General Plan. The Neighborhood Community/Commercial land use designation allows for a very broad range of commercial activity, including commercial uses that serve the communities in neighboring areas, such as neighborhood serving retail and services and commercial/professional office development. Uses allowed under this designation typically have a strong connection to and provide services and amenities for the nearby community and should be designed to promote that connection with an appropriate urban form that supports walking, transit use, and public interaction. General office uses, hospitals, and private community gathering facilities are also allowed in this designation.

##### Zoning Ordinance

The project site is currently zoned CP – Commercial Pedestrian District which is a zoning district intended to support pedestrian-oriented retail activity at a scale compatible with surrounding residential neighborhoods. This district is designed to support the goals and policies of the general plan related to Neighborhood Business Districts. The CP Commercial Pedestrian District also encourages mixed residential/commercial development where appropriate, and is designed to support the commercial goals and policies of the General Plan in relation to Urban Villages. This district is also intended to support intensive pedestrian-oriented commercial activity and development consistent with General Plan Urban Design policies.

#### 4.11.1.2 Applicable Plans, Policies and Regulations

##### Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes policies and actions aimed at avoiding or mitigating an environmental effect, as listed in the applicable sections of this Initial Study. Relevant policies adopted for the purpose of avoiding or mitigating land use impacts resulting from planned development within the City are summarized below.

*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-1.15:* Consider the relationship between street design, use of the public right-of-way, and the form and uses of adjoining development. Address this relationship in the Urban Village Planning process, development of new zoning ordinances, and the review of new development proposals in order to promote a well-designed, active, and complete visual street environment.

*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).

*Policy CD-7.1:* Support intensive development and uses within Urban Villages and Corridors, while ensuring an appropriate interface with lower-intensity development in surrounding areas and the protection of appropriate historic resources.

**Santa Clara Valley Habitat Plan**

The Santa Clara Valley Habitat Plan was developed through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District (Valley Water), Santa Clara Valley Transportation Authority (VTA), U.S. Fish and Wildlife Service (USFWS), and California Department of Fish and Wildlife (CDFW). The Plan is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County. The HCP has been approved by the local partners and has been effective since October 14, 2013.

The project site and immediate surroundings are entirely within the Urban-Suburban land cover designation in the HCP. Urban-Suburban land is comprised of areas where native vegetation has been cleared for residential, commercial, industrial, transportation, or recreational structures, and is defined as one or more structures per 2.5 acres. Vegetation found in the Urban-Suburban land cover type is usually in the form of landscaped residences, planted street trees, and parklands. The project site is also within the Urban Area Equal to or Greater Than 2 Acres Covered category of the Private Development Areas designated in the Plan. The site is not in a designated Fee Zone, a Plant or Wildlife Survey Area, or a Habitat Plan Condition Area as designated in the Plan.

**4.11.2 Thresholds of Significance**

The thresholds of significance are per the CEQA Guidelines:

<b>LAND USE AND PLANNING – Would the project:</b>				
<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### 4.11.3 Findings

- a) **Less than Significant Impact.** The project area consists of a variety of land uses, including commercial and residential uses. The project proposes to construct an office/retail building in an existing commercial/retail center, similar to those existing in the vicinity. The project would not physically divide the existing community and would be compatible with the existing office, commercial and residential uses within the same commercial center and in the vicinity of the site along the Blossom Hill Road and Cahalan Avenue corridors.
- b) **Less than Significant Impact.** The project site is designated Neighborhood Community/Commercial in the City's General Plan. Properties with this designation are intended for commercial uses, including retail, and professional/office development intended to serve neighborhoods. The proposed project, as a mixed-use office/retail building intended to serve surrounding neighborhoods, is consistent with this designation.

In addition to the policies of the Envision San José General Plan, the proposed project would be required to comply with the San José Commercial Design Guidelines, which includes parameters for setbacks, building design, landscaping, screening, and lighting, all of which are factors in ensuring land use compatibility.

See Section 4.4, Biological Resources. Project construction activities, including the removal of five trees, present potentially significant biological resources impacts related to tree removal, nesting birds, and roosting bats. However, the project is required to replace the trees to be removed in accordance with the City's Tree Replacement ratios which would reduce impacts from the removal of ordinance-size trees to less than significant, and the project shall comply with Mitigation Measures BIO-1 and BIO-2, which would reduce potential impacts to nesting birds and roosting bats to less than significant.

The project site is located within the bounds of the HCP and the proposed project is a covered activity under the Plan. However, the project would not conflict with any provisions or requirements of the Plan.

See Section 4.10, Hydrology and Water Quality. All potential project impacts related to hydrology and water quality would be reduced to less than significant levels with compliance with existing policies and regulations, including the MRP and the City's Post-Construction Urban Runoff Management Policy (Policy 6-29).

## 4.12 MINERAL RESOURCES

### 4.12.1 Setting

Extractive resources known to exist in and near the Santa Clara Valley include sand, gravel, rock, clay, and limestone. Santa Clara County has also supplied a significant portion of the nation’s mercury over the past century. Pursuant to the mandate of the Surface Mining and Reclamation Act of 1975 (SMARA), the State Mining and Geology Board has not designated any other area besides the Communications Hill area within San José as containing mineral deposits which are either of statewide significance or the significance of which requires further evaluation.

### 4.12.2 Thresholds of Significance

The thresholds of significance are per the CEQA Guidelines:

<b>MINERAL RESOURCES – Would the project:</b>				
<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### 4.12.3 Findings

- a) **No Impact.** The proposed project is located outside of the Communications Hill area within the City of San José. The Communications Hill area is approximately three miles north of the project site. Therefore, the site area does not have mineral deposits subject to SMARA.
- b) **No Impact.** As discussed above, the site area is located outside of the Communications Hill Area within San José and does not have mineral deposits subject to SMARA.

## 4.13 NOISE

### 4.13.1 Setting

The decibel scale (dB) is a unit of measurement that indicates the relative amplitude of a sound. Sound levels in dB are calculated on a logarithmic basis. An increase of 10 dB represents a tenfold increase in acoustic energy, while 20 dB is 100 times more intense, 30 dB is 1,000 times more intense, etc. In general, there is a relationship between the subjective noisiness or loudness of a sound and its amplitude, or intensity, with each 10 dB increase in sound level perceived as approximately a doubling of loudness. There are several methods of characterizing sound. The most common method is the “A-weighted sound level,” or dBA. This scale gives greater weight to the frequencies of sound to which the human ear is typically most sensitive. Thus, most environmental measurements are reported in dBA, meaning decibels on the A-scale.

Sound levels are typically not steady and can vary over a short time period. The equivalent noise level (Leq) is used to represent the average character of the sound over a period of time. The Leq represents the level of steady noise that would have the same acoustical energy as the sum of the time-varying noise measured over a given time period. Leq is useful for evaluating shorter time periods over the course of a day. The most common Leq averaging period is hourly, but Leq can describe any series of noise events over a given time period. Variable noise levels are values that are exceeded for a portion of the measured time period. Thus, L01 is the level exceeded one percent of the time and L90 is the level exceeded 90 percent of the time. The L90 value usually corresponds to the background sound level at the measurement location.

Noise exposure over the course of an entire day is described by the day/night average sound level, or DNL, descriptor. This descriptor represents the 24-hour noise impact on a community. For DNL, the 24-hour day is divided into a 15-hour daytime period (7 a.m. to 10 p.m.) and a nine-hour nighttime period (10 p.m. to 7 a.m.) and a 10 dB “penalty” is added to measure nighttime noise levels when calculating the 24-hour average noise level. For example, a 45 dBA nighttime sound level would contribute as much to the overall day-night average as a 55 dBA daytime sound level. The artificial penalty imposed during DNL calculations are intended to account for a receptor’s increased sensitivity to sound levels during quieter nighttime periods.

#### 4.13.1.1 Environmental Setting

The project site is vacant and surrounded by a mix of commercial and residential land uses. Noise in the area is largely influenced by traffic on Blossom Hill Road, a six-lane divided road with bicycle lanes and a key east-west connector in southeast San José. According to the City’s General Plan EIR, vehicle traffic along Blossom Hill Road generates a noise level of 70 dBA DNL at 75 feet under both 2008 and 2035 conditions.



## **Sensitive Receptors**

Sensitive noise receptors are areas sensitive to changes in the ambient noise environment, such as schools other institutional land uses (e.g., hospitals), residential areas, and parks. As described in Section 3.3, Air Quality, the project site is near residential areas on Blossom Hill Road and Cahalan Avenue that could be sensitive to potential changes in the noise environment resulting from the proposed project.

### *4.13.1.2 Regulatory Setting*

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

The City of San José Zoning Ordinance of the Municipal Code establishes that the noise generated by commercial uses adjacent to a property used or zoned for residential purposes shall not exceed 55 dBA Lmax, and where adjacent to a property used or zoned for commercial or other non-residential purposes shall not exceed 60 dBA Lmax (Section 20.40.600). The City of San José Zoning Ordinance also limits construction activities within 500 feet of a residence to the hours of 7:00 A.M. to 7:00 P.M., Monday thru Friday (Section 20.100.450).

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

The Noise Element of the Envision San José 2040 General Plan is designed to minimize the impact of noise on people through noise reduction and suppression techniques and land use policies (General Plan Goal EC-1). Table 4-5 of the General Plan identifies 70 dBA DNL as the normally acceptable exterior noise exposure level for office buildings, business commercial, and professional office land uses. The General Plan (Policy EC-1.1) sets an acceptable exterior noise level of 60 dBA DNL or less for residential and most institutional land uses; the acceptable interior standard for residential and institutional land uses is 45 dBA DNL.

<b>Table 4-4 City of San José Land Use Compatibility Guidelines for Community Noise</b>						
Land Use Category	Exterior Noise Exposure (DNL in Decibels [dBA])					
	55	60	65	70	75	80
Residential, Hotels and Motels, Hospitals and Residential Care <sup>1</sup>						
Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds						
Schools, Libraries, Museums, Meeting Halls, Churches						
Office Buildings, Business Commercial, and Professional Offices						
Sports Arena, Outdoor Spectator Sports						
Public and Quasi-Public Auditoriums, Concert Halls, Amphitheaters						
<i>Source: City of San José General Plan, Envision San José 2040. Table EC-1 (City of San José 2011).</i>						
<sup>1</sup> Noise mitigation to reduce interior noise levels pursuant to Policy EC-1.1 is required.						
	<b>Normally Acceptable</b> – Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements.					
	<b>Conditionally Acceptable</b> – Specified land use may be permitted only after detailed analysis of the noise reduction requirements and needed noise insulation features included in the design.					
	<b>Unacceptable</b> – New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies.					

The Envision 2040 General Plan contains the following noise and vibration policies that apply to the proposed project.

*Policy EC-1.1:* Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state, and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include:

Interior Noise Levels: The City’s standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected Envision General Plan traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan.

Exterior Noise Levels: The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (Table 4-5).

*Policy EC-1.2:* Minimize the noise impacts of new development on land uses sensitive to increased noise levels by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible.

The City considers significant noise impacts to occur if a project would:

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

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

*Policy EC-1.6:* Regulate the effects of operational noise from existing and new industrial and commercial development on adjacent uses through noise standards in the City's Municipal Code.

*Policy EC-1.7:* Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would involve substantial noise generating activities such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing continuing more than 12 months.

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

### 4.13.2 Thresholds of Significance

This assessment uses the CEQA Guidelines and the limitations set by various City regulations as stated above in the regulatory setting as the thresholds of significance.

<b>NOISE – Would the project result in:</b>				
<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Generation of substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of the in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### 4.13.3 Findings

- a) **Less than Significant Impact.** This section discusses the proposed project’s potential to generate temporary construction and permanent operational noise levels that could exceed applicable City standards.

Temporary Construction Noise Levels

The proposed project would generate construction noise from the following sources:

- Heavy equipment operations at the project site. Some heavy equipment would consist of mobile equipment such as a loader, excavator, etc. that would move around work areas; other equipment would consist of stationary equipment (e.g., generators, air compressors) that would generally operate in a fixed location until work activities are complete. Heavy equipment generates noise from engine operation, mechanical systems, and components (e.g., fans, gears, propulsion of wheels or tracks), and other sources such as back-up alarms. Mobile equipment generally operates at different loads, or power outputs, and produce higher or lower noise levels depending on the operating load. Stationary equipment generally operates at a steady power output that produces a constant noise level.

- Vehicle trips, including worker, vendor, and haul truck trips. These trips would occur on the roads that provide access to the Project site, primarily Blossom Hill Road.

Since project-specific construction equipment information is not available at this time, potential construction-related noise impacts can only be evaluated based on the typical construction activities associated with a small commercial development project. Table 4-6 presents the estimated, worst-case noise levels that could occur from the operation of typical construction equipment.

As shown in Table 4-6, the worst-case  $L_{eq}$  and  $L_{max}$  noise levels associated with the operation of a dozer, excavator, or scraper, etc. are predicted to be approximately 87 and 91 dBA, respectively, at a distance of 25 feet from the equipment operating area. At an active construction site, it is not uncommon for two or more pieces of construction equipment to operate in the same area at the same time. The concurrent operation of two or more pieces of construction equipment would result in noise levels of approximately 90 dBA  $L_{eq}$  and 94 dBA  $L_{max}$  at a distance of 25 feet from equipment operating areas and 85 dBA  $L_{eq}$  and 88 dBA  $L_{max}$  at a distance of 50 feet from equipment operating areas<sup>5</sup>. These maximum noise levels would occur for a short period time (less than one month).

As grading and earthwork (approximately three weeks) is completed and building construction begins, work activities would require less large heavy-duty equipment (i.e., grader), and generate lower construction noise levels. Typical construction activities would generate noise levels at nearby residential areas (135 feet across Blossom Hill Road and 200 feet southwest on Cahalan Avenue) of up to approximately 72 dBA and 69 dBA  $L_{eq}$ , respectively, which is similar to the existing traffic noise levels on Blossom Hill Road (70 dBA DNL).

The City's Municipal Code does not establish a numeric limit for temporary construction noise levels; however, Section 20.100.450 limits hours of construction within 500 feet of a residential unit to the hours of 7:00 A.M. to 7:00 P.M., Monday through Friday, unless alternative hours are expressly allowed in a Development Permit or other planning approval. The project site is located, at closest, approximately 135 feet from residences across Blossom Hill Road and approximately 215 feet from residences on Cahalan Avenue (southwest of the site). Therefore, these construction hour limits would apply to the proposed project. In addition, City General Plan Policy EC-1.7 requires construction operations to use best available noise suppression devices and techniques.

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<sup>5</sup> As shown in Table 4-6 a single bulldozer provides a sound level of 81 dBA  $L_{eq}$  at a distance of 50 feet; when two identical sound levels are combined, the noise level increases to 84 dBA  $L_{eq}$  and when three identical sound levels are combined, the noise level increases to 86 dBA  $L_{eq}$ . These estimates assume no shielding or other noise control measures are in place at or near the work areas.

<b>Table 4-5: Typical Construction Equipment Noise Levels (dBA)</b>							
<b>Equipment</b>	<b>Reference Noise Level at 50 Feet (<math>L_{max}</math>)<sup>(A)</sup></b>	<b>Percent Usage Factor<sup>(B)</sup></b>	<b>Predicted Noise Levels (<math>L_{eq}</math>) at Distance<sup>(C)</sup></b>				
			<b>25 Feet</b>	<b>50 Feet</b>	<b>100 Feet</b>	<b>135 Feet</b>	<b>200 Feet</b>
Backhoe	80	0.4	82	76	70	67	64
Bulldozer	85	0.4	87	81	75	72	69
Compact Roller	80	0.2	79	73	67	64	61
Compressor	80	0.4	82	76	70	67	64
Concrete Mixer	85	0.4	87	81	75	72	69
Crane	85	0.16	83	77	71	68	65
Delivery Truck	85	0.4	87	81	75	72	69
Excavator	85	0.4	87	81	75	72	69
Generator	82	0.5	85	79	73	70	67
Gradall	85	0.4	87	81	75	72	69
Grader	85	0.4	87	81	75	72	69
Man Lift	85	0.2	84	78	72	69	66
Paver	85	0.5	88	82	76	73	70
Pneumatic Tools	85	0.5	88	82	76	73	70
Scraper	85	0.4	87	81	75	72	69
Tractor	84	0.4	86	80	74	71	68
Vac-Truck	85	0.4	87	81	75	72	69
Welder/Torch	74	0.4	76	70	64	61	58

Sources: Caltrans 2013, FHWA, 2010.

(A)  $L_{max}$  noise levels based on manufacturer's specifications.

(B) Usage factor refers to the amount of time the equipment produces noise over the time period.

(C) Estimate does not account for any atmospheric or ground attenuation factors. Calculated noise levels based on Caltrans 2013:  $L_{eq}$  (hourly) =  $L_{max}$  at 50 feet -  $20\log(D/50) + 10\log(UF)$ , where:  $L_{max}$  = reference  $L_{max}$  from manufacturer or other source; D = distance of interest; UF = usage fraction or fraction of time period of interest equipment is in use.

To reduce construction noise levels at adjacent residential and commercial properties, the project applicant has incorporated the following Standard Permit Conditions for construction noise control BMPs into the project:

### **Standard Permit Conditions**

**Construction-Related Noise.** Noise minimization measures include, but are not limited to, the following:

- i. Limit construction hours to between 7:00 A.M. and 7:00 P.M., Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.
- ii. Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
- iii. Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- iv. Prohibit unnecessary idling of internal combustion engines.
- v. Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- vi. Utilize “quiet” air compressors and other stationary noise sources where technology exists.
- vii. Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site.
- viii. Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of “noisy” construction activities to the adjacent land uses and nearby residences.
- ix. If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
- x. Designate a “disturbance coordinator” who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.
- xi. Limit construction to the hours of 7:00 A.M. to 7:00 P.M. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.

Construction outside of these hours may be approved through a development permit based on a site-specific “construction noise mitigation plan” and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.

City General Plan Policy EC-1.7 considers a significant construction noise impact to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months. The proposed project’s construction activities are expected to last approximately 10 months. In addition, the construction noise control BMPs listed above require the use of construction management and equipment controls to reduce potential noise from construction activities. These BMPs restrict work hours in accordance with the Municipal Code, and require equipment include standard noise attenuation features such as engine shields and mufflers and would alert nearby properties to planned construction activities (to reduce potential for activities to unexpectedly annoy or interfere with nearby land use activities. These BMPs would ensure the proposed project construction activities comply with the City’s Municipal Code and General Plan and do not result in a substantial, temporary increase in the ambient noise levels that exists in the vicinity of the project. This impact would be less than significant.

#### Permanent Operational Noise Levels

Once constructed, the proposed project would generate noise from daily activities typical of a retail/commercial office building, including on-site vehicle trips, operation of HVAC units, landscaping and maintenance activities, waste-disposal truck traffic, etc. The City’s Zoning Ordinance of the Municipal Code (Section 20.40.600) establishes that the noise generated by commercial uses shall not exceed 55 dBA and 60 dBA  $L_{max}$  when adjacent to a property used or zoned for residential or commercial (or other non-residential purposes), respectively. The proposed project would not exceed City noise standards for the following reasons:

- On-site automobile maneuvering and parking, as well as other miscellaneous automobile noise sources such as doors closing and engine start-up and revving, would occur approximately 35 feet from the closest adjacent exterior and at least 150 feet from residential receptors and would not generate substantial noise levels at adjacent commercial property lines.
- Rooftop-mounted HVAC units would be located in the center of the proposed building and fully concealed behind a parapet wall that would shield each HVAC unit from the street and reduce potential HVAC unit noise levels at adjacent property lines.
- Mechanical equipment such as retail equipment and building elevator machinery would be housed in mechanical/storage closets and would not contribute to exterior noise levels generated by the Project site.



- Other miscellaneous noise sources such as refuse collection, landscaping activities, and human speech not substantially contribute to the overall noise generated from on-site activities due to their limited and intermittent operations (e.g., landscaping) and/or generally low noise levels (e.g., human speech).
- A Transportation Analysis was prepared (Hexagon 2022) and found that the project would result in 516 new daily trips, including 37 new trips (27 inbound and 10 outbound) during the A.M. peak hour and 55 new trips (23 inbound and 32 outbound) during the P.M. peak hour. These trips would be distributed onto the local roadway system in proximity of the project site. Caltrans considers a doubling of total traffic volume to result in a three dBA increase in traffic-related noise levels (Caltrans 2013). The proposed project is located in a developed portion of the city that is already subject to ample traffic from other land uses in its proximity. The project would result in substantially less than a doubling of peak hour and daily traffic volumes on Blossom Hill Road. The project, therefore, would not result in a substantial, permanent increase in noise levels along the roadways used to access the project.

Project noise-generating activities would occur during normal business hours, i.e., during the daytime and early evening, and would be intermittent in nature, i.e., they would not produce substantial, persistent noises that increase the noise levels that currently existing without the project. The project, therefore, would not result in the exposure of people to noise levels that exceed standards or result in a substantial, permanent increase in ambient noise levels in the vicinity of the project. This impact is considered less than significant.

#### Land Use Compatibility/Noise Exposure

The California Supreme Court in *California Building Industry Association v. Bay Area Air Quality Management District*, 62 Cal.4th 369 (2015) ruled that CEQA review is focused on a project's impact on the environment "and not the environment's impact on the project." Per this ruling, a Lead Agency is not required to analyze how existing conditions might impact a project's future users or residents; however, a Lead Agency may elect to disclose information relevant to a project even if it not is considered an impact under CEQA. Furthermore, the City's General Plan sets noise standards for receiving land uses which require evaluation for consistency and compliance even if such evaluation is not required by CEQA.

As described above, the ambient noise levels at the project site are assumed to be up to 70 CNEL within 75 feet of center of Blossom Hill Road. This value equals, but does not exceed, the normally acceptable exterior noise exposure level (70 DNL) for office buildings, business commercial, and professional office land uses established by the General Plan. The existing ambient noise environment at the project site is, therefore, considered acceptable. Furthermore, standard construction techniques for new commercial development typically provide a minimum exterior to interior noise attenuation (i.e., reduction) of 25 to 32 dBA with windows closed, which is sufficient to meet the 50 dBA

$L_{eq}$  standard for occupied rooms established by the California Green Building Standards Code.<sup>6</sup>

For these reasons, the existing ambient noise level at the proposed project is considered acceptable, and noise reduction control measures are not required for the project.

**b) Less than Significant Impact.** Site construction and development would involve the use of construction equipment such as graders and pavers that could expose people and structures to groundborne vibration.

The potential for ground-borne vibration and noise is typically greatest when vibratory or large equipment such as rollers, impact drivers, or bulldozers are in operation. For the proposed project, large equipment would primarily operate during site preparation, grading, and paving work; no specific vibration-inducing equipment is proposed for the project (e.g., vibratory roller or vibratory pile drive). This equipment would, at worst-case and for very limited period of times, operate adjacent to the site’s property lines and within approximately 25 of commercial buildings that generally surround the site; however, most site work would occur at least 50 feet or more from project property lines and adjacent buildings. Potential construction vibration levels were estimated for worst-case equipment operations (25 feet from adjacent buildings) and average equipment operations based on the distance from the center of the site to adjacent buildings (approximately 90 feet). A summary of predicted construction vibration levels is presented in Table 4-7.

<b>Table 4-6: Potential Ground-borne Vibration Levels</b>		
<b>Equipment</b>	<b>PPV<sup>(A)</sup> (Inches/Second) at Distance</b>	
	<b>25 Feet (Worst-Case)</b>	<b>90 Feet (Typical)</b>
Large Bulldozer	0.089	0.017
Small Bulldozer	0.03	0.006
Loaded Truck	0.076	0.014
Jackhammer	0.035	0.007

Source: MIG (See Appendix D, Sheet 2)  
 (A) Estimated PPV calculated as:  $PPV(D) = PPV(ref) * (25/D)^{1.3}$  where PPV(D)= Estimated PPV at distance; PPVref= Reference PPV at 25 ft; D= Distance from equipment to receiver; and n= ground attenuation rate (1.3 for competent sands, sandy clays, silty clays, and silts).

As shown in Table 4-6, potential construction vibration levels would not exceed the City’s threshold established by General Plan Policy EC-2.3 (0.20 inches/second PPV). Although

<sup>6</sup> The U.S. Department of Housing and Urban Development (HUD) Noise Guidebook and supplement (2009a, 2009b) includes information on noise attenuation provided by building materials and different construction techniques. As a reference, a standard exterior wall consisting of 5/8-inch siding, wall sheathing, fiberglass insulation, two by four wall studs on 16-inch centers, and 1/2-inch gypsum wall board with single strength windows provides approximately 35 dBs of attenuation between exterior and interior noise levels. This level of noise reduction may be approximately 2 to 3 dB less for vehicle traffic noise frequencies but will still be sufficient to meet the 50 dBA  $L_{eq}$  standard for occupied areas.

vibrations may be perceptible at adjacent building locations when equipment is operated in close proximity to the buildings, the vibrations would not be disturbing, excessive, or offensive because they would occur during the allowable hours set forth by the City's Municipal Code, be short and intermittent in duration (lasting only a few hours each day and no more than a few days or week in total near specific building locations and be below the City's vibration threshold. Thus, the proposed project would not generate excessive, construction-related ground-borne vibration or noise levels.

- c) **No Impact.** The project is not within an airport land use plan area or within two miles of a public or private airport for which a land use plan has not been adopted, nor is it located within the vicinity of a private air strip. The closest airport, Reid-Hillview Airport, is located approximately six miles north of the proposed project site. Norman Y. Mineta San José International is located approximately eight miles north of the proposed project site. The proposed project would not expose people working in the project area to excessive airport-related noise levels.

## 4.14 POPULATION AND HOUSING

### 4.14.1 Setting

According to the US Census Bureau, the City of San José has a population of approximately 1,021,795 people, including 325,114 households (U.S. Census Bureau 2019). The City’s population is projected to reach 1,379,108 by the year 2040 (Center for the Continuing Study of the California Economy 2015). The proposed project is intended to provide office spaces and retail services within the City of San José.

### 4.14.2 Thresholds of Significance

The thresholds of significance are per the CEQA Guidelines:

<b>POPULATION AND HOUSING – Would the project:</b>				
<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### 4.14.3 Findings

- a) **Less than Significant Impact.** The proposed project consists of an infill development project that would construct a two-story mixed-use office and retail building on an approximately 0.5-acre vacant lot that previously contained a gas station. The number of tenant spaces in the proposed building would limit the number of retail and office business to approximately ten. The site is located in a highly-developed urban area of San José and thus would not result in substantial unplanned population growth.
- b) **No Impact.** The proposed project consists of an infill mixed-use development project and would not displace any existing housing units, necessitating the construction of replacement housing.

**4.15 PUBLIC SERVICES**

**4.15.1 Setting**

Fire Protection: Fire protection services are provided to the proposed project by the San José Fire Department (SJFD). The closest fire station to the project site is Station 12, approximately one-half mile southwest of the project site.

Police Protection: Police protection services are provided by the San José Police Department (SJPD) with the nearest substation located approximately 3.1 miles east of the project site.

Schools: The proposed project site is located in the San José Unified School District within the boundaries for Allen at Steinbeck Elementary (0.55 miles southwest), Castillero Middle School (2.6 miles southwest) and Gunderson High School (one-half mile northwest).

Parks: The City parks nearest the project site are Playa Del Ray Park, which is located approximately one-quarter mile to the northwest, and Cahalan Park, located approximately 1,500 feet to the southwest. Marshall Cottle Park is a 287-acre Santa Clara County Park facility featuring trails, green space and picnic areas, as well as a historic ranch. The park is located approximately 0.6 miles north of the project site.

The thresholds of significance are per the CEQA Guidelines:

<b>PUBLIC SERVICES – Would the project:</b>				
<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ii. Police Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii. Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv. Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
v. Other Public Facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

#### 4.15.2 Findings

- i. **Less Than Significant Impact.** The project proposes to increase retail/office use square footage at the site by approximately 23,649 square feet and would not result in a significant increase in demand for fire protection services to the site. The project is currently served by the SJFD and the proposed project would not create demand for new fire protection facilities nor would it significantly impact response times or other fire protection performance objectives in the area. The project applicant would incorporate California Fire Code and City of San José Fire Code requirements into project designs and would consult with the SJFD so that appropriate fire safety measures are followed.
- ii. **Less Than Significant Impact.** The project proposes to increase retail and/office use square footage at the site by approximately 23,649 square feet and would not result in a significant increase demand for police protection services to the site. The project site is currently served by the SJPD and the proposed project would not create demand for new police facilities nor would it significantly impact response times or other police performance objectives in the area.
- iii. **No Impact.** The proposed project would not increase enrollment at local schools because no housing is proposed. No new school facilities or changes to existing school facilities would be needed.
- iv. **No Impact.** No public parks would be affected by the proposed commercial/office project as the project would not increase demand at existing parks. There would be no adverse impact to existing parks.
- v. **No Impact.** The proposed project would not increase the local population; therefore, it would not increase the demand for public services such that new facilities or changes in existing facilities would be needed.

## 4.16 RECREATION

### 4.16.1 Setting

The City of San José provides parklands, open space, and community facilities for public recreation and community services. Park and recreation facilities vary in size, use, and type of service, often providing regional and neighborhood uses. The nearest park to the project site is Playa Del Ray Park, which is located approximately one-quarter mile to the northwest. Other parks include Cahalan Park located approximately 1,500 feet to the southwest, and Vista Park located approximately 4,300 feet to the northwest. The closest regional park is Alum Rock Park, located approximately 1.3 miles to the southwest and owned and operated by the City of San José, and Marshall Cottle Park, owned and operated by the Santa Clara County Parks Department, is located approximately 0.61 miles to the north.

### 4.16.2 Thresholds of Significance

The thresholds of significance are per the CEQA Guidelines:

<b>RECREATION – Would the project:</b>				
<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### 4.16.3 Findings

- a) **No Impact.** The proposed project is an infill development project for a mixed-use office and retail building and would not increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated.
- b) **No Impact.** The proposed project does not include recreational facilities, nor would it require the construction or expansion of recreational facilities.

## 4.17 TRANSPORTATION

A Transportation Analysis was prepared for the project by Hexagon Transportation Consultants (March 2022). The Transportation Analysis addressed Vehicle Miles Traveled (VMT), project trip generation estimates, vehicular site access and on site circulation, pedestrian, bicycle and transit facilities, and parking. The Transportation Analysis is included as Appendix E.

### 4.17.1 Setting

#### 4.17.1.1 Environmental Setting

Regional access to the project site is provided by State Route 85 located 0.5 miles to the east, State Route 87 located 0.95 miles to the northwest, State Route 17 located six miles west, U.S. Route 101 located 2.7 miles to the northeast, and Almaden Expressway located 1.55 miles west of the project site. Arterial streets that provide access to the site include Blossom Hill Road, Cahalan Avenue, Blossom Avenue, Santa Teresa Boulevard, and Snell Avenue.

Blossom Hill Road and Cahalan Avenue provide direct access to the project site. Cahalan Avenue would provide the primary vehicular access to the project site, with secondary access provided by an interior strip mall road accessed via Blossom Hill Road. Vehicles accessing the site from Cahalan Avenue from the south would make a right turn onto an existing driveway, while vehicles entering Cahalan Avenue from the north would make a left turn onto the driveway, to access an interior strip mall road. Westbound and eastbound traffic on Blossom Hill Road can access the strip mall by making right or left hand turns at the traffic signal and make a right-hand turn within the strip mall to access the strip mall road immediately south of the project site. There is currently no stop sign or stop/yield surface markings where the existing driveway meets Cahalan Avenue; the project would add a stop line marking at this location. There is an existing two-way traffic signal providing access from Blossom Hill Road to the strip mall, and there are stop line markings on the strip mall roads.

Blossom Hill Road is a six-lane, east-west arterial road with a Main Street designation per the City's General Plan. Main Streets play an important commercial and social role for local neighborhood areas, supporting retail and service activities that serve the local neighborhood residents, and providing an urban street space for social community gathering and recreational activities. Cahalan Avenue is a two-lane street with the Local Connector Street designation per the City's General Plan. Local Connector Streets accommodate low to moderate volumes of through traffic and automobiles, bicycles, pedestrians, and trucks are prioritized equally.

The proposed project will have a total of 620 parking spaces available to employees and customers of the new commercial office/retail building, with 14 parking spaces located on-site, and supplemented by the existing 606 parking spaces on adjacent parcels that serve the existing strip mall bounded by Blossom Hill Road and Cahalan Avenue. Per applicable City of San José development standards (City of San José Title 20 Zoning Ordinance), the project would provide three ADA accessible spaces, six clean air vehicles spaces, eight bicycle parking spaces (one additional space beyond what is required by Code), and four motorcycle parking spaces. The parking provided by the project meets the Municipal Code requirements for cars and bicycles.



#### 4.17.1.2 Regulatory Setting

##### Envision San José 2040 General Plan Policies

The City's General Plan includes the following transportation policies applicable to the proposed project:

*Policy TR-1.1:* Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT).

*Policy TR-1.2:* Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.

*Policy TR-1.4:* Through the entitlement process for new development, fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.

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

*Policy TR-2.3* Construct crosswalks and sidewalks that are universally accessible and designed for use by people of all abilities.

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

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

*Policy TR-5.3:* Development projects' effects on the transportation network will be evaluated during the entitlement process and will be required to fund or construct improvements in proportion to their impacts on the transportation system. Improvements will prioritize multimodal improvements that reduce VMT over automobile network improvements.

- Downtown. Downtown San José exemplifies low-VMT with integrated land use and transportation development. In recognition of the unique position of the Downtown as the transit hub of Santa Clara County, and as the center for financial, business, institutional and cultural activities, Downtown projects shall support the long-term development of a world class urban transportation network.

*Policy TR-6.5:* Design freight loading and unloading for new or rehabilitated industrial and commercial developments to occur off of public streets. In Downtown and urban areas, particularly on small commercial properties, more flexibility may be needed.

*Policy TR-8.4:* Discourage, as part of the entitlement process, the provision of parking spaces significantly above the number of spaces required by code for a given use.

*Policy TR-8.7:* Encourage private property owners to share their underutilized parking supplies with the general public and/or other adjacent private developments.

*Policy TR-10.3:* Encourage participation in car share programs for new development in identified growth 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.

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

#### *Transportation Analysis Policy (2018)*

In 2013 the State of California passed Senate Bill 743 (SB 743), which eliminated automobile Level of Service (LOS) from transportation analysis under CEQA and replaced it with Vehicle Miles Traveled (VMT) (City of San José 2011a). This shift from LOS to VMT is intended to focus on the reduction of GHG emissions, the creation of multimodal networks, and the promotion of integrated land uses. The City Council adopted City Council Policy 5-1, entitled “Transportation Analysis Policy,” on February 27, 2018. City Council Policy 5-1 aligned the City of San José’s transportation analysis with State law, and the major strategies, goals, and policies of the Envision San José 2040 General Plan. The new policy established VMT as the City’s metric for CEQA transportation analysis.

According to City Council Policy 5-1, a project must include a detailed evaluation of the VMT generated by the proposed project unless it meets screening criteria for project types the City Council finds would further City goals and policies and would not result in significant transportation impacts. These project types include: Small Infill Projects; Local-Serving Retail; Local-Serving Public Facilities; Transit Supportive Projects in Planned Growth Areas with Low VMT and High Quality Transit; Restricted Affordable, Transit Supportive Residential Projects in Planned Growth Areas with High Quality Transit; and Transportation Projects that Reduce or Do Not Increase VMT.

The City has determined that the project meets the Interim Period pipeline provision in City Council Policy 5-1 that allows an application to move forward using the City’s previous policy, (City Council Policy 5-3 - Transportation Impact Policy) which uses LOS as the threshold for determining significance of an impact under CEQA, if the project application was deemed

complete prior to the effective date of the new policy. Based on City Council Policy 5-3, a Transportation Analysis was prepared (Hexagon 2022) and found that this project would result in 516 new daily trips, including 37 new trips (27 inbound and 10 outbound) during the A.M. peak hour and 55 new trips (23 inbound and 32 outbound) during the P.M. peak hour. It was concluded that the project would be in conformance with City Council Policy 5-3 and no significant impact would occur. However, even if City Council Policy 5-1 is applied to the project, it would be screened out under the Local Serving Retail screening criteria because the project proposes 9,573 square feet of retail space, which is below the screening criteria of less than 100,000 square feet without drive-through operations. Therefore, the retail use would be expected to result in a less than significant VMT impact and would be in conformance with Policy 5-1. The City has determined that a VMT analysis is not required for the proposed office space (9,992 square feet) since the project application was submitted in 2017 before Council Policy 5-1 was adopted.

**4.17.2 Thresholds of Significance**

This assessment uses the CEQA Guidelines and the limitations set by various City regulations as stated above in the regulatory setting as the thresholds of significance. Following the passage of Senate Bill (SB) 743, which mandates that jurisdictions no longer use “level of service” to conduct transportation impact analysis under CEQA in favor of a vehicles miles traveled (VMT) metric in 2013, the City of San José crafted and approved City Council Policy 5-1, in 2018. The San José City Council Policy 5-1 established VMT as the City’s metric for CEQA transportation analysis and, as stated above in the Regulatory Setting section, requires “development projects to conduct a Local Transportation Analysis (LTA) to analyze their conformance with the multimodal transportation strategies, goals, and policies in the General Plan and address adverse effects to the transportation system.”

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

### 4.17.3 Findings

- a) **Less than Significant Impact.** A Transportation Analysis was prepared (Hexagon 2022) and found that the project would result in 516 new daily trips, including 37 new trips (27 inbound and 10 outbound) during the A.M. peak hour and 55 new trips (23 inbound and 32 outbound) during the P.M. peak hour. The City's Department of Public Works reviewed the projected traffic for the project and found the project would conform with City Council Policy 5-3 and no significant traffic impacts would result. While LOS is no longer the metric for determining transportation impacts under CEQA, a City may review potential changes in LOS for consistency with City transportation and traffic-related policies. Conformance with City Council Policy 5-3 would ensure that the project would not conflict with a program, plan, ordinance, or policy addressing the City's circulation system.

The Transportation Analysis found that the project site's access and on-site circulation were generally adequate.

#### Transit Facilities

VTA bus line 27, that would support multi-modal travel to and from the site, is located on the project frontage on Blossom Hill Road. The project would not physically remove or inhibit access to any bus stops in the area, nor would the project conflict with any planned transit improvements. Therefore, implementation of the proposed project would not conflict with any program, plan, ordinance or policy addressing transit facilities.

#### Roadways

As described in Section b) below, the proposed project would result in a less than significant increase in vehicle trips on the surrounding roadways. The project would not conflict with any planned or ongoing roadway improvements within the area. Therefore, the proposed project would not conflict with any program, plan, ordinance or policy addressing roadways.

#### Bicycle Facilities

The project would not remove or inhibit access to any existing bicycle facilities. Class II striped bike lanes are present on Cahalan Avenue between Blossom Hill Road and Santa Teresa and on Blossom Hill Road between Meridian Avenue and Cottle Road. The project would not remove any bicycle facilities and includes eight short-term bicycle parking spaces. The proposed project would not conflict with any program, plan, ordinance or policy addressing bicycle facilities.

#### Pedestrian Facilities

The project would provide pedestrian access to the site along Blossom Hill Road and Cahalan Avenue, new sidewalks would be 15 feet wide and 12 feet wide, respectively. Internal walkways, and benches on-site would be provided for pedestrian use. The project would not conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities.

- b) Less than Significant Impact.** The proposed project is a mixed-use office/retail development that would generate daily traffic. As noted above, the Interim Period pipeline provision in City Council Policy 5-1 allows an application to move forward using the City's previous policy (City Council Policy 5-3) if the project application was deemed complete prior to the effective date of the new policy. Hexagon Transportation Consultants conducted a Transportation Analysis and found that this project would result in 516 new daily trips, including 37 new trips (27 inbound and 10 outbound) during the A.M. peak hour and 55 new trips (23 inbound and 32 outbound) during the P.M. peak hour. The City has determined that the project would be in conformance with City Council Policy 5-3 and no significant impact would occur. However, even if City Council Policy 5-1 is applied to the project, it would qualify under the Local Serving Retail screening criteria for developments less than 100,000 square feet and without drive-through operations (Hexagon 2022) and would not be an impact. Additionally, the City determined a VMT analysis is not required for the proposed office space since the project application was submitted in 2017 before Council Policy 5-1 was adopted (Hexagon 2022).
- c) Less than Significant Impact.** The project is a two-story commercial development surrounded by strip mall and, therefore, is compatible with the surrounding commercial land uses. Primary vehicular access to the site would be provided via a driveway off Cahalan Avenue. The new driveway would replace the existing driveway in the same location and would be designed to meet City's standards for commercial driveways. As a result, the project would not increase hazards due to a design feature.
- d) Less than Significant Impact.** The project is a commercial infill development consisting of a two-story commercial building and associated site improvements (e.g., landscaping and parking). Primary access to the project site would be provided by a driveway off Cahalan Avenue, and secondary access would be provided by an interior drive aisle via Blossom Hill Road. The project would not create inadequate emergency access as the existing driveway access from Cahalan Avenue and existing roadway access from interior drive aisles would be maintained. Driveway widths and all other emergency access needs (i.e., fire department access road and property line clearance) conform to City requirements.

## 4.18 UTILITIES AND SERVICE SYSTEMS

### 4.18.1 Setting

#### Regulatory Framework

##### State

##### Assembly Bill 939 (1989)

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

##### Assembly Bill 341 (2011)

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

##### Assembly Bill 1826 (2014)

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

##### Senate Bill 1383 (2016)

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

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

In January 2010, the State of California adopted the California Green Building Standards Code (“CALGreen”), establishing mandatory green building standards for all buildings in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resources efficiency, and indoor environmental quality. These standards include the following mandatory set of measures, as well as more rigorous

voluntary guidelines, for new construction projects to achieve specific green building performance levels:

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

## **Local**

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

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

### Construction and Demolition Diversion Deposit Program

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

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

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

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

Utilities and services are furnished to the proposed project site by the following providers:

*Wastewater Treatment*

Wastewater from the City of San José is treated at the San José – Santa Clara Regional Wastewater Facility (the Facility). The Facility is a regional wastewater treatment facility serving eight tributary sewage collection agencies and is administered and operated by the City of San José’s Department of Environmental Services. The Facility provides primary, secondary, and tertiary treatment of wastewater and has the capacity to treat 167 million gallons of wastewater a day. The Facility cleans an average of 110 million gallons of wastewater per day and serves 1.4 million residents.<sup>7</sup>

*Water Service*

San José Water Company (SJWC) provides water services to the proposed project site. There is an existing 21-inch water main along Cahalan Avenue near the project site that is available to serve the project.

*Storm Drainage System*

Stormwater drainage from the project site would be conveyed to existing City of San José storm drain lines in Cahalan Avenue and Blossom Hill Road.

*Solid Waste*

Solid waste collection and recycling services are available to all businesses from a franchised hauler by the City of San José. Republic Services collects solid waste from all businesses under agreement with the City and would provide service to the project.

*Natural Gas and Electricity*

Natural gas and electricity are provided to the site by PG&E.

**4.18.2 Thresholds of Significance**

The thresholds of significance are per the CEQA Guidelines:

<b>UTILITIES AND SERVICE SYSTEMS – Would the project:</b>				
<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

<sup>7</sup> City of San Jose Environmental Services Dept. webpage. <https://www.sanjoseca.gov/your-government/environment/water-utilities/regional-wastewater-facility>. Accessed August 31, 2020.



<b>UTILITIES AND SERVICE SYSTEMS – Would the project:</b>				
<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**4.18.3 Findings**

- a) **Less Than Significant Impact.** The proposed project is an infill commercial development project with office/retail uses and would increase net water demands and wastewater generation over existing conditions because the project site is currently vacant. The increase in water demands would be minimal and would not require or result in the construction of new water or supply facilities or any expansion of existing facilities. The City’s Public Works Department has reviewed the project proposal and determined the surrounding sanitary sewer mains have adequate capacity to serve the proposed development. Therefore, project wastewater generation would not require or result in the construction of new wastewater conveyance or treatment facilities or expansion of existing facilities.

As described in Section 4.10, Hydrology and Water Quality, the project proposal incorporates pollutant source control measures and on-site stormwater treatment control measures, including flow-through planters, bioretention areas, and self-treating areas. These measures, which are presented in the project’s Stormwater Control Plan have been reviewed by the City of San Jose and found to be compliant with City stormwater control requirements. The project would not require the relocation or construction of new stormwater drainage facilities or the expansion of existing facilities.

Existing electric power, natural gas, and telecommunications infrastructure, including overhead lines, electric power vaults and boxes, and gas service lines, exist in

proximity to the project site along Blossom Hill Road and Cahalan Avenue. The project would connect to these existing utilities and would not require nor result in the construction of new electric power, natural gas, or telecommunications facilities or any expansion of existing facilities.

- b) Less Than Significant Impact.** The project would receive municipal water service from the San José Water Company (SJWC). Using CalEEMod (Version 2020.4.0), MIG has calculated that the project is estimated to use approximately 3,466,388 gallons (10.64 acre-feet) of water per year, or approximately 9,497 gallons of water per day<sup>8</sup> based on modeled General Office Building and Strip Mall/Regional Shopping Center land use types. The project would represent an increase in water usage compared to the former gas station use on the site. According to the SJWC's Draft 2020 Urban Water Management Plan (2021), the SJWC's overall water demand for commercial uses between actual 2020 water usage and estimated 2045 water usage is anticipated to increase by 30 percent from 4,645 million gallons per year to 6,045 million gallons per year. The project's estimated 3.47 million gallons per year water use is a small portion of this projected increase in water demand from commercial uses. Further, the project is required to comply with existing regulations related to water use, including water conservation measures. Therefore, the project would not generate a water demand that exceeds water supplies that are available to serve the project into the future.
- c) Less Than Significant Impact.** See question a) above. Adequate capacity is available to serve the project demand and the project would not significantly impact wastewater treatment services.
- d) Less Than Significant Impact.** The General Plan EIR concluded that the increase in solid waste generated by full build out of the General Plan would not cause the City to exceed the capacity of existing landfills. The proposed project is consistent with the General Plan land use designation of the site (Neighborhood/Community Commercial) and, therefore, would have a less than significant impact related to solid waste disposal.
- e) Less than Significant Impact.** The proposed project would comply with all federal, state, and local statutes and regulations related to solid waste. The project is required to comply with the City's Construction and Demolition Diversion (CDD) Program, which ensures that at least 75 percent of construction and demolition debris is recovered and diverted from landfills.

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<sup>8</sup> The project's retail use is anticipated to use 937,017 gallons of water per year for indoor use and 574,301 gallons per year in outdoor use (landscaping), resulting in a total water use of 1,511,318 gallons per year through operation of 12,650 square feet of retail space (including auxiliary). The project's office use is anticipated to use 1,955,070 gallons per year for indoor use through operation of 10,999 square feet of office space (including auxiliary). In total, the project is estimated to use 3,466,388 gallons per year, or 10.64 acre-feet per year.

### 4.19 WILDFIRE

#### 4.19.1 Setting

The project site is located in a highly urbanized area in the southern portion of the City of San José. Wildland areas are located immediately to the south and east of the City limits in the foothills of the Santa Cruz Mountains and the Diablo Range. The nearest Fire Hazard Severity Zone is located approximately 1.42 miles southwest of the project site, and the nearest Very High Fire Hazard Severity Zone is located four miles southwest of the project site.<sup>9</sup>

#### 4.19.2 Thresholds of Significance

The thresholds of significance are per the CEQA Guidelines:

<b>WILDFIRE – If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:</b>				
<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

#### 4.19.3 Findings

**a) - d) No Impact.** The proposed project is a commercial infill development located in a highly urbanized area. The nearest Very High Fire Hazard Severity Zone

<sup>9</sup> Cal Fire. Fire Hazard Severity Zones Maps. <https://egis.fire.ca.gov/FHSZ/>. Accessed August 31, 2021.

(VHFHSZ) is located approximately four miles to the southwest of the project site in the City of Los Gatos.

**4.20 MANDATORY FINDINGS OF SIGNIFICANCE**

**4.20.1 Thresholds of Significance**

The thresholds of significance are per the CEQA Guidelines:

<b>MANDATORY FINDINGS OF SIGNIFICANCE - - Would the project:</b>				
<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**4.20.2 Findings**

- a) **Less Than Significant Impact with Mitigation.** The project will be built in a developed area of the City of San Jose and except for the potential of the site to support nesting birds and roosting bats, the project will not harm biological resources. Mitigation measures are included in the project to protect nesting birds and roosting bats during construction (see BIO-1 and BIO-2 in Section 4.4 Biology). Although the project site does not contain obvious historic or cultural resources, there could be unknown buried resources exposed during site grading and preparation. Therefore, Mitigation Measures CUL-1 requiring archaeological and Native American monitoring, CUL-2 protecting archaeological and tribal cultural resources and CUL-3 requiring cultural sensitivity training shall be implemented. Standard Permit Conditions shall be implemented to protect unanticipated archaeological resources

and human remains, water quality, and paleontological resources and comply with HCP requirements.

With implementation of mitigation measures and Standard Permit Conditions, the project would have a less than significant impact on biological resources and on important examples of the major periods of California history or prehistory.

- b) Less Than Significant Impact.** The proposed project involves the construction of a two-story retail/office building at the former location of a gas station that has since been removed from the site. It would not contribute to cumulative impacts on any issues that are directly related to project construction and operation including aesthetics, biology, cultural resources, geology and soil, and hydrology.

The BAAQMD considers projects that result in emissions that exceed its CEQA significance thresholds to result in individual impacts that are cumulatively considerable and significant. Since the proposed project would not exceed any BAAQMD CEQA significance thresholds, the project would result in less than significant cumulative air quality impacts.

The proposed project would emit GHGs during construction and operation; however, the project would result in a less than significant GHG impact because the project would not exceed thresholds of significance recommended by the BAAQMD and would be consistent with the City of San José's qualified GHG reduction strategy as discussed in Section 4.8, Greenhouse Gases.

The project would not result in the exposure of people to noise levels that exceed standards or result in a substantial, permanent increase in ambient noise levels in the vicinity of the project.

The project proposes 9,573 square feet of retail space, which meets the screening criterion for local-serving retail developments (100,000 s.f. or less and without drive-through operations). Therefore, the retail use would be expected to result in a less-than-significant VMT impact. The City has determined that a VMT analysis is not required for the proposed office space (9,992 square feet) since the project application was submitted in 2017 before Council Policy 5-1 was adopted. Cumulative impacts of the project on traffic and transportation are considered less than significant and not cumulatively considerable.

- c) Less Than Significant Impact.** The project shall adhere to all applicable City policies and ordinances. Further, the project will be required to implement Standard Permit Conditions and mitigation measures which would reduce or eliminate environmental effects that could cause substantial adverse effects on human beings. In addition to the Standard Permit Conditions noted in response a), above, additional Standard Permit Conditions and a Condition of Approval would protect air quality, minimize construction related noise, and protect humans from geologic/seismic hazards.

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## 5.0 REFERENCES

- Bay Area Air Quality Management District (BAAQMD). 2017. California Environmental Quality Act Air Quality Guidelines. San Francisco, CA. June 2010, updated May 2017.
- . 2017a. Clean Air Plan: Spare the Air, Cool the Climate. BAAQMD, Planning, Rules, and Research Division. April 19, 2017. <  
[http://www.baaqmd.gov/~media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a\\_-\\_proposed-final-cap-vol-1-pdf.pdf?la=en](http://www.baaqmd.gov/~media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a_-_proposed-final-cap-vol-1-pdf.pdf?la=en)>
- . 2019. “In Your Community”. Santa Clara County. Accessed June 14, 2021. Web. Updated February 14, 2019. <https://www.baaqmd.gov/about-the-air-district/in-your-community/santa-clara-county>
- California Emissions Estimator Model (CalEEMod). 2021. CalEEMod Version 2020.4.0. Appendix D Default Data Tables. May 2021. <http://www.caleemod.com/>
- California Department of Forestry and Fire Protection (CAL FIRE). 2021. Fire Hazard Severity Zone Viewer. Accessed May 25, 2021. <https://egis.fire.ca.gov/FHSZ/>
- California Department of Conservation. 2016. Santa Clara County Important Farmland. Division of Land Resource Protection. Farmland Mapping and Monitoring Program.
- California Department of Fish and Wildlife (CDFW). 2021 California Natural Diversity Database, Rarefind 5. May.
- California Department of Transportation (Caltrans). 2013. Technical Noise Supplement to the Traffic Noise Analysis Protocol. September 2013.
- California Geological Survey (CGS). 2021. EQ Zapp: California Earthquake Hazards Zone Application. Accessed May 26, 2021. <https://maps.conservation.ca.gov/cgs/EQZApp/app/>
- California State Parks, 2021. Office of Historic Preservation. <http://ohp.parks.ca.gov/> Accessed June 10, 2021
- Calisphere, 2021. Diseño del Rancho los Capitancillos: Santa Clara Co., Calif. <https://calisphere.org/item/ark:/13030/hb5j49n9wn/> . Accessed June 10, 2021
- Center for the Continuing Study of the California Economy. 2015. *Final Report Projection of Jobs, Population and Employed Residents to 2040 for the City of San Jose*. Accessed August 25, 2021. <https://www.sanjoseca.gov/home/showpublisheddocument/22459/636688923063730000>
- City of San José. Title 20 Zoning Ordinance.
- . 2011a. Envision San José 2040 General Plan. November 1, 2011.
- . 2011b. Draft Program Environmental Impact Report for the Envision San José 2040 General Plan. June 2011.
- . 2017. San José’s History. <https://www.sanJose.org/pdf/visit-san-José-san-Josés-history> Accessed June 10, 2021



- . 2018. Council Policy 5-1, Transportation Analysis Policy.  
<https://www.sanJoseca.gov/home/showpublisheddocument/28459/636691896044230000>
- . 2019. Brendin Christolear (HMH) Response to Memorandum from Jason Yan, Public Works. Subject: 696 Blossom Hill Road – H17-025 & 3-09394. February 1, 2019.
- . 2021. Personal Communication, Planning Building and Code Enforcement. T.-C. Le, email to C. Lau, email February 17 at 4:03 pm.
- . 2021a. Tree Removal Permits. Accessed at: <https://www.sanJoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/tree-removal-permits>
- . 2021b. Local Emergency Plans. Accessed May 26, 2021.  
<https://www.sanJoseca.gov/your-government/departments/emergency-management/local-emergency-plans>
- . 2021c. Fire Department Stations. Accessed May 26, 2021.  
<https://www.sanJoseca.gov/your-government/departments-offices/fire/stations>
- . 2021d. San José – Santa Clara Regional Wastewater Facility. Accessed May 25, 2021.  
<https://www.sanJoseca.gov/your-government/environment/water-utilities/regional-wastewater-facility>
- . 2021e. Recycling & Garbage. Businesses. Accessed May 25, 2021.  
<https://www.sanJoseca.gov/your-government/environment/recycling-garbage/garbage-recycling-for-businesses>
- County of Santa Clara. 2021. Airport Land Use Commission. Comprehensive Land Use Plans and Associated Documents. Accessed May 27, 2021.  
<https://www.sccgov.org/sites/dpd/Commissions/ALUC/Pages/ALUC.aspx>
- Eaton Hall Architecture. 2021. Project Plans Submittal. December 12.
- Federal Emergency Management Agency (FEMA). 2009. FEMA FIRM Map 06085C0401H, effective May 18, 2009. Accessed May 26, 2021. <https://msc.fema.gov/portal/home>
- Google Maps. 2021.
- Hexagon Transportation Consultants. 2022. Transportation Analysis for the Proposed Commercial Development at 696 Blossom Hill Road in San Jose, CA. March 1.
- Kroeber, A.L. 1976. Handbook of the Indians of California, New York. Dover Publications, Inc.
- Levy, Richard. 1987. Costanoan in R.F. Heizer (ed.) Handbook of North American Indians. Vol. 8: California: 485-495. Washington D.C. Smithsonian Institute.
- Northwest Information Center (NWIC), Sonoma State University. 2017. California Historical Resources Information System - Record Search, File No. 20-2092. June 4, 2021.
- National Park Service (NPS). 2018. National Register of Historic Places.  
<https://www.nps.gov/subjects/nationalregister/index.htm>. Accessed June 10, 2021

- Native American Heritage Commission (NAHC). 2021. Sacred Lands File Search, May 3, 2021. Accessed June 10, 2021
- . 2021. Digital Atlas of California Native Americans  
<https://cnra.maps.arcgis.com/apps/View/index.html?appid=03512d83d12b4c3389281e3a0c25a78f&extent=-130.0858,31.7873,-109.6622,42.6447> Accessed June 10, 2021
- Ninyo & Moore. 2017. Phase I Environmental Site Assessment Blossom Hill Road Retail 620 Blossom Hill Road San José, Santa Clara County, California 95125. July 3, 2017.
- Santa Clara Valley Habitat Plan. 2012. County of Santa Clara, City of San José, City of Morgan Hill, City of Gilroy, Santa Clara Valley Water District, Santa Clara Valley Transportation Authority.
- . 2021. *Habitat Agency Geobrowser*.
- State Water Resources Control Board (State Water Board). 2021. GeoTracker.  
<https://geotracker.waterboards.ca.gov/>
- San José Unified School District. 2021. SchoolSite Locator. Accessed May 27, 2021.  
<http://apps.schoolsitelocator.com/?districtcode=25499#>
- San José Water Company. 2019. Service Area and Water Supply Sources. Accessed May 25, 2021. [https://www.sjwater.com/sites/default/files/2019-03/Service%20Area%20and%20Water%20Supply%20Sources%20Map\\_11x17.pdf](https://www.sjwater.com/sites/default/files/2019-03/Service%20Area%20and%20Water%20Supply%20Sources%20Map_11x17.pdf)
- . 2021. Draft 2020 Urban Water Management Plan. Accessed June 18, 2021.  
<https://www.sjwater.com/sites/default/files/2021-05/2020%20UWMP%20with%20Appendices%20%281%29.pdf>
- U.S. Census Bureau. 2019. *QuickFacts San José city, California*. Accessed May 24, 2021.  
<https://www.census.gov/quickfacts/fact/table/sanJosécitycalifornia/PST045219>
- U.S. Federal Highway Administration (FHWA). 2010. “Construction Noise Handbook, Chapter 9 Construction Equipment Noise Levels and Ranges.” *U.S. Department of Transportation FHWA*. May 20, 2010. Web. April 3, 2014.  
[http://www.fhwa.dot.gov/environment/noise/construction\\_noise/handbook/handbook09.cfm](http://www.fhwa.dot.gov/environment/noise/construction_noise/handbook/handbook09.cfm)
- U.S. Fish and Wildlife Service (USFWS). 2021. National Wetlands Inventory Wetland Mapper. Accessed at: <https://www.fws.gov/wetlands/data/mapper.html>

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