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Pecten Industrial Project
Initial Study/Negative Declaration
City of San José, Santa Clara County, California

Prepared for:

City of San José
Planning Division
200 East Santa Clara Street
Tower, 3rd Floor
San José, CA 95113
408.535.3555

Contact: Nhu Nguyen, Planner I

Prepared by:

FirstCarbon Solutions
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Walnut Creek, CA 94597
925.357.2562

Contact: Mary Bean, Project Director
Alison Rondone, Project Manager

Report Date: January 11, 2023

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: Pecten Industrial General Plan Amendment

PROJECT FILE NUMBER: GP22-001 and ER22-150

PROJECT DESCRIPTION: The project is a General Plan Amendment (GPA) for a 3.62-acre site to change the land use designation from *Public/Quasi-Public* to *Heavy Industrial.* The project also includes a conforming rezoning for the site from the *R-1-8 Residential* Zoning District to the *HI – Heavy Industrial* Zoning District.

PROJECT LOCATION: The project site is located at the end of the Pecten Court cul-de-sac, southwest of the intersection of Interstate-680 (Sinclair Freeway) and Montague Expressway, in the City of San José.

ASSESSORS PARCEL NO: 092-080-16 **COUNCIL DISTRICT:** 4

APPLICANT CONTACT INFORMATION: Valley Oak Partners REF Pecten, LLC; 734 The Alameda, San Jose, CA 95126; (408)-640-0484

FINDING

The Director of Planning, Building and Code Enforcement finds the project described above will not have a significant effect on the environment. The attached Initial Study does not identify any potentially significant effects on the environment for which mitigation measures are required to mitigate the impacts to a less than significant level.

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

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

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** – 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.**

The project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on humans; therefore, no mitigation is required.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **Wednesday, February 1, 2023** any person may:

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

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

CHRISTOPHER BURTON, Director
Planning, Building and Code Enforcement

January 11, 2023 _____ _____

Date Deputy

Nhu Nguyen
Environmental Project Manager

Circulation period: January 12, 2023 to February 1, 2023

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Acronyms and Abbreviations

µg/m^3	micrograms per cubic meter
AB	Assembly Bill
ABAG	Association of Bay Area Governments
ACM	asbestos-containing material
ADA	Americans with Disabilities Act
Air Basin	San Francisco Bay Air Basin
APN	Assessor's Parcel Number
AQP	Air Quality Plan
ARB	California Air Resources Board
ATCM	Airborne Toxic Control Measures
BAAQMD	Bay Area Air Quality Management District
BART	Bay Area Rapid Transit District
BERD	Built Environment Research Directory
bgs	below ground surface
BMP	Best Management Practice
BRT	Bus Rapid Transit
BTU	British Thermal Unit
C&D	construction and demolition
CAA	Clean Air Act
CAAQS	California Ambient Air Quality Standards
Cal/EPA	California Environmental Protection Agency
CAL FIRE	California Department of Forestry and Fire Protection
CALGreen	California Green Buildings Standards Code
Cal/OSHA	California Occupational Safety and Health Administration
CalRecycle	California Department of Resources Recycling and Recovery
Caltrans	California Department of Transportation
CBC	California Building Standards Code
CCAA	California Clean Air Act
CDDD	Construction and Demolition Diversion Deposit
CDFW	California Department of Fish and Wildlife
CDMG	California Division of Mines and Geology
CEC	California Energy Commission
CEQA	California Environmental Quality Act
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CESA	California Endangered Species Act
CGS	California Geological Survey
CH_4	methane

CHL	California Historic Landmarks
CMP	Congestion Management Plan
CNDDB	California Natural Diversity Database
CNEL	Community Noise Equivalent Level
CNPS	California Native Plant Society
CO	carbon monoxide
CO_2	carbon dioxide
CPHI	California Points of Historical Interest
CPUC	California Public Utilities Commission
CRA	Cultural Resources Assessment
CRHR	California Register of Historical Resources
CWA	Clean Water Act
dB	decibel
dBA	A-weight decibel
DNL	Day-Night Level
DPM	diesel particulate matter
DTSC	California Department of Toxic Substances Control
DWR	California Department of Water Resources
EIA	Energy Information Administration
EIR	Environmental Impact Report
EPA	United States Environmental Protection Agency
ESA	Environmental Site Assessment
EV	electric vehicle
FAA	Federal Aviation Administration
FAR	floor area ratio
FCS	FirstCarbon Solutions
FEIR	Final Environmental Impact Report
FEMA	Federal Emergency Management Agency
FHSZ	Fire Hazard Severity Zone
FIRM	Flood Insurance Rate Map
FMMP	Farmland Mapping and Monitoring Program
FRAP	Fire and Resource Assessment Program
FTA	Federal Transit Administration
GHG	greenhouse gas
GHGRS	Greenhouse Gas Reduction Strategy
GIS	Geographic Information System
GPA	General Plan Amendment
GPD	gallons per day
H_2S	hydrogen sulfide

HCP	Habitat Conservation Plan
HDPE	high density polyethylene
HI	hazard index
HRI	Historical Resources Inventory
HSR	High-Speed Rail
in/sec	inches per second
IOU	investor-owned utility
ISO	Independent System Operator
kBTU	kilo-British Thermal Unit
kW	kilowatts
kWh	kilowatt-hour
LBP	lead-based paint
lbs	pounds
LCFS	Low Carbon Fuel Standard
L_{dn}	day/night average sound level
LEED®	Leadership in Energy and Environmental Design
L_{eq}	equivalent continuous noise level
LEV	Low Emission Vehicle
LID	Low Impact Development
L_{max}	maximum sound level
LOS	Level of Service
LRA	Local Responsibility Area
LRT	Light Rail Transit
LSE	load-serving entity
LUST	Leaking Underground Storage Tank
MBTA	Migratory Bird Treaty Act
mgd	million gallons per day
MLD	Most Likely Descendant
MM	Mitigation Measure
MOE	Measure of Effectiveness
MRP	Municipal Regional Stormwater NPDES Permit
MTC	Metropolitan Transportation Commission
MWh	megawatt-hours
N_2O	nitrous oxide
NAAQS	National Ambient Air Quality Standards
NAHC	Native American Heritage Commission
NCCP	Natural Community Conservation Plan
NESHAP	National Emission Standards for Air Pollution
NHTSA	National Highway Traffic Safety Administration

NO_2	nitrogen dioxide
NO_X	nitrogen oxides
NPDES	National Pollutant Discharge Elimination System
NPPA	Native Plant Protection Act
NRHP	National Register of Historic Places
NWIC	Northwest Information Center
OPR	Governor's Office of Planning and Research
OSHA	Occupational Safety and Health Administration
Pb	lead
PBCE	Planning, Building, and Code Enforcement
PCB	polychlorinated biphenyl
PDO	Parkland Dedication Ordinance
PG&E	Pacific Gas and Electric Company
PIO	Park Impact Ordinance
PLS	Public Land Survey
PM	particulate matter
PM_{10}	particulate matter, including dust, 10 micrometers or less in diameter
$PM_{2.5}$	particulate matter, including dust, 2.5 micrometers or less in diameter
ppm	parts per million
PPV	peak particle velocity
PRC	Public Resources Code
PRNS	Parks, Recreation, and Neighborhood Services
R&D	Research and Development
RCRA	Resource Conservation and Recovery Act
REC	Recognized Environmental Condition
rms	root mean square
ROG	reactive organic gases
RWF	Regional Wastewater Facility
RWQCB	Regional Water Quality Control Board
SB	Senate Bill
SCEC	Southern California Earthquake Center
SCVHP	Santa Clara Valley Habitat Plan
SJC	San José International Airport
SJFD	San José Fire Department
SJPD	San José Police Department
SMARA	Surface Mining and Reclamation Act
SO_2	sulfur trioxide
SO_X	sulfur oxides
SR	State Route

SRA	State Responsibility Area
State Water Board	California State Water Resources Control Board
STC	Sound Transmission Class
TAC	toxic air contaminant
TCR	Tribal Cultural Resource
TDF	Travel Demand Forecasting
TDM	Transportation Demand Management
TIA	Traffic Impact Assessment
USACE	United States Army Corps of Engineers
USDA	United States Department of Agriculture
USFWS	United States Fish and Wildlife Service
USGS	United States Geological Survey
UST	underground storage tank
Valley Water	Santa Clara Valley Water District
VdB	vibration in decibels
VHFHSZ	Very High Fire Hazard Severity Zone
VMT	Vehicle Miles Traveled
VTA	Santa Clara Valley Transportation Authority
WGS	World Geodetic System

SECTION 1: INTRODUCTION

1.1 - PURPOSE

The purpose of this Draft Initial Study/Negative Declaration (Draft IS/ND) is to identify any potential environmental impacts from implementation of the proposed Pecten Industrial Project (proposed project) in the City of San José, California (the City). Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15367, the City of San José is the Lead Agency in the preparation of this Draft IS/ND, including any additional environmental documentation. The City of San José has discretionary authority over the proposed project.

The intended use of this document is to provide decision-makers with relevant environmental information to use in considering whether to approve the proposed project. The project applicant would require the following discretionary approvals to implement the proposed project:

- Approval of General Plan Amendment
- Approval of Rezoning

All documents referenced in this Draft IS/ND are available for review at City of San José Department of Planning, Building and Code Enforcement, 200 East Santa Clara Street, 3rd Floor Tower, San José, CA or online at: http://www.sanjoseca.gov/negativedeclarations.

1.2 - PUBLIC REVIEW PERIOD

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

City of San José
Department of Planning, Building and Code Enforcement
Attn: Nhu Nguyen
200 East Santa Clara Street
Tower, 3rd Floor
San José, California 95113
Phone: 408.535.6894
Email: Nhu.Nguyen@sanjoseca.gov

1.3 - CONSIDERATION OF THE INITIAL STUDY/NEGATIVE DECLARATION AND PROPOSED PROJECT

Following the conclusion of the public review period, the City will consider the adoption of a Final IS/ND for the proposed project at a regularly scheduled meeting. The City shall consider the IS/ND together with any comments received during the public review process. Upon adoption of the Final IS/ND, the City may proceed with project approval actions.

1.4 - DOCUMENT ORGANIZATION

Following this Section 1, Introduction; Section 2, Project Information provides project details such as project location, owner and applicant contact, land use and zoning information, and Habitat Plan designations and lists the required approvals and permits. Section 3, Project Description describes the general characteristics of the proposed project, provides details of the proposed development and construction schedule and includes additional land use and zoning information. Section 4, Environmental Setting, Checklist, and Impacts Discussion includes an environmental checklist, providing an overview of the potential impacts that may result from project implementation. Section 4 also provides a discussion and analysis that elaborates on the information contained in the environmental checklist along with justification for the responses provided in the environmental checklist.

SECTION 2: PROJECT INFORMATION

2.1 - PROJECT TITLE AND FILE NUMBER

Pecten Industrial Project
Planning File No.
Conforming Rezoning: C22-014
General Plan Amendment: GP22-001

2.2 - LEAD AGENCY CONTACT

Nhu Nguyen, Planner I
City of San José
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street
Tower, 3rd Floor
San José, California 95113
Phone: 408.535.6894
Email: Nhu.Nguyen@sanjoseca.gov

2.3 - PROJECT LOCATION

The 3.62-acre project site is located in the northern portion of the City of San José, Santa Clara County, California. The project site is located at the end of the Pecten Court cul-de-sac southwest of the intersection of Interstate-680 (I-680) (Sinclair Freeway) and Montague Expressway. Refer to Figure 1 and Figure 2.

2.4 - PROPERTY OWNER/PROJECT APPLICANT

VOP REF Pecten, LLC
734 The Alameda
San José, California 95126
Attn: Scott Connelly
Phone: 408.640.0484
Email: Scott@ValleyOakPartners.com

2.5 - ASSESSOR'S PARCEL NUMBER

APN 092-080-16

2.6 - ZONING DISTRICT AND GENERAL PLAN DESIGNATIONS

2.6.1 - Existing

The City of San José 2040 General Plan designates the project site "Public/Quasi-Public," and the site is in the R-1-8 Zoning District. Figure 4 depicts the existing General Plan land use designation and zoning district.

2.6.2 - Proposed

The project applicant, VOP REF Pecten, LLC, is proposing a General Plan Amendment (GPA) to change the General Plan land use designation from “Public/Quasi-Public” to "Heavy Industrial” and a Conforming Rezoning to rezone the site to the "Heavy Industrial” zoning district. Figure 5a and Figure 5b depicts the proposed General Plan land use designation and zoning district designations.

2.7 - HABITAT PLAN DESIGNATION

The Habitat Plan designates the project site with Urban-Suburban Development land cover type, in Zone 4, Urban Development equal to or greater than 2 acres.

2.8 - PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS

- General Plan Amendment
- Conforming Rezoning

SECTION 3: PROJECT DESCRIPTION

3.1 - EXISTING PROJECT SITE

Project Location

The project site is located in the northern portion of the City of San José, Santa Clara County, California, in an industrial area spanning the border of the cities of San José and Milpitas. The project site is located at the end of the Pecten Court cul-de-sac southwest of the intersection of I-680 (Sinclair Freeway) and Montague Expressway. Refer to Figure 1 and Figure 2.

Surrounding Land Uses

The site is bounded generally by Berryessa Creek along the southern perimeter, industrial development along the eastern and northern perimeters, and I-680 freeway to the east, more specifically the uses and surrounding jurisdictions include:

West	Self-storage facility and Research and Development (City of Milpitas)
North	Pecten Court and Montague Expressway (City of Milpitas); former cell tower
East	I-680 (City of San José)
South	Channelized Berryessa Creek

Existing Conditions On-Site

The approximately 3.62-acre project site is undeveloped and is enclosed with a chain link fence. The parcel is vacant but contains ornamental landscaping along its frontage with I-680. Vehicular access is taken from Pecten Court, which is located in the City of Milpitas. The parcel was previously used as a water supply well site and later for temporary trench spoil storage by San José Water Company (San José Water). A scan of the site was performed with ground-penetrating radar and revealed no residual infrastructure on-site.

Historical records indicate that the project site was used for growing row crops since at least 1939. The site historically was dry farmed and undeveloped as recently as 1953. From approximately 1968 to 1997, the southern portion of the project site was used as a former water supply well site and a large circulate water tank was installed, along with other equipment used for the San José Water well site. As of 1974, the southern portion of the site was paved and used as a parking lot and storage area for farm-related tanks and equipment. The property was used for temporary trench spoil storage from water main leak repairs within roadways throughout Santa Clara County for many years since the well site infrastructure was retired in 1997. As of 2006, the well site infrastructure was removed and the site became a vacant dirt lot with a moderate amount of surface vegetation, conditions which have remained relatively unchanged to date.

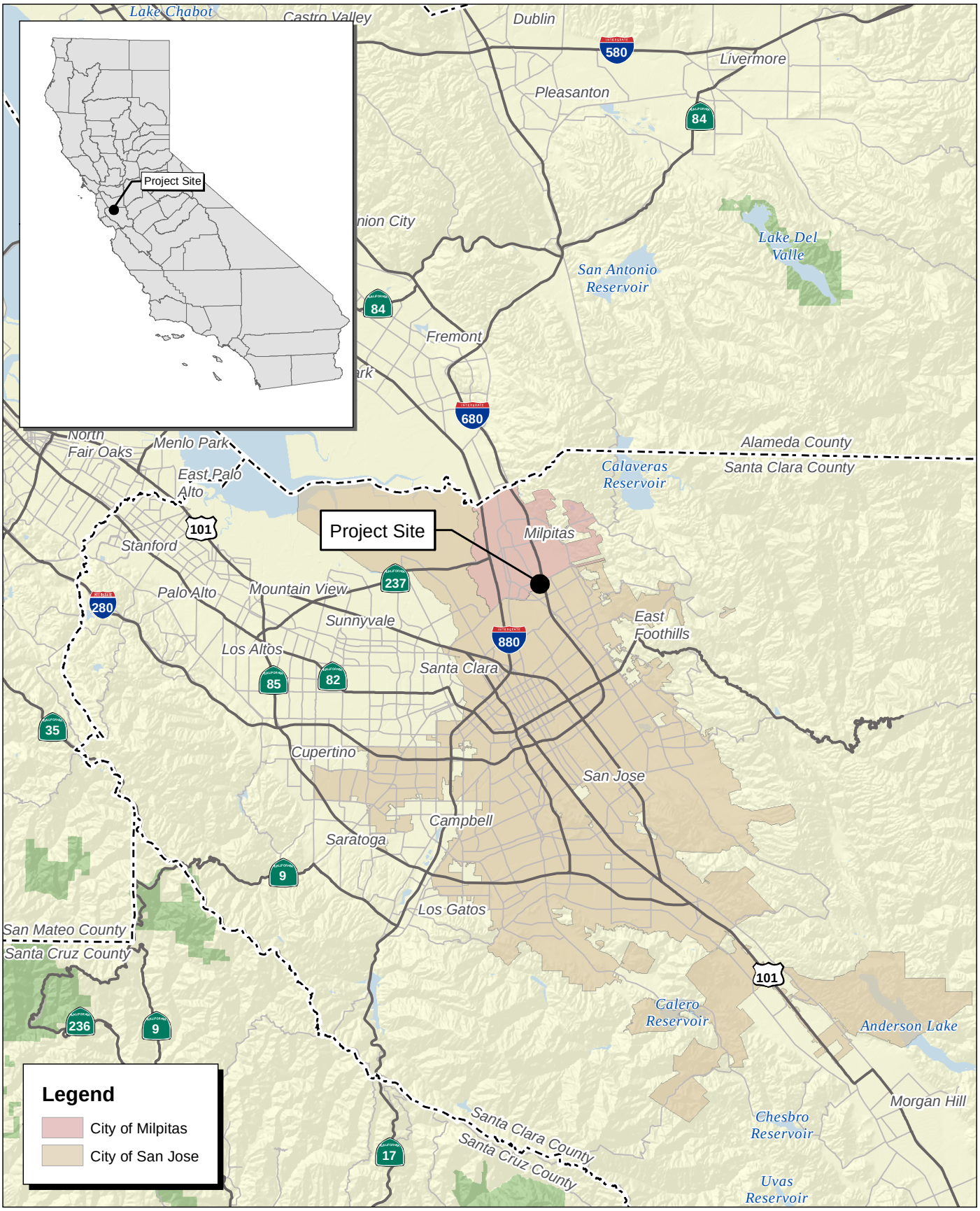
The current topography of the site can generally be characterized as relatively level to gently sloping and ranges from elevation 76 feet to elevation 78 feet (World Geodetic System [WGS]-84).[1] Depth of groundwater ranges from 17 to 18 feet below ground surface (bgs).

[1] The World Geodetic System is standard for GPS. ENGEO Incorporated, Preliminary Geotechnical Exploration, September 24, 2021.

Photographs of the site are provided in Figure 3.

3.2 - PROPOSED PROJECT

No specific development is proposed at this time. The project applicant is proposing a GPA to change the General Plan land use designation of the project site to “Heavy Industrial” and a Conforming Rezoning to rezone the site to the “Heavy Industrial” zoning district. This General Plan land use designation would support industrial development including the construction of a warehouse building, heavy and light manufacturing, solid waste transfer and processing stations, and other uses consistent with the Heavy Industrial zoning and General Plan designation.



Source: Census 2000 Data, The California Spatial Information Library (CaSIL).

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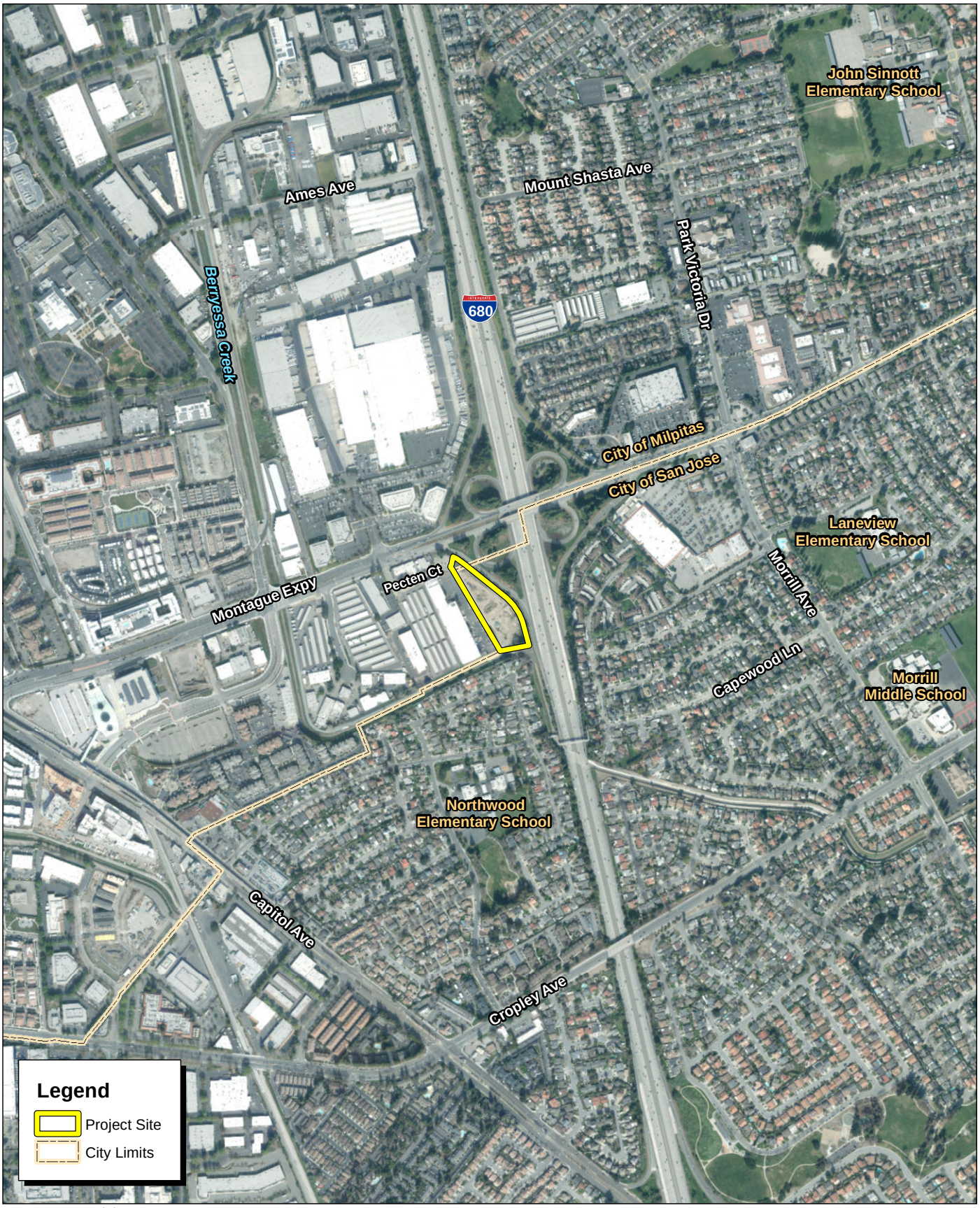
5 2.5 0 5 Miles

Figure 1
Regional Location Map



Source: ESRI Aerial Imagery.

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1,000 500 0 1,000 Feet

Figure 2
Local Vicinity Map

Photograph 1: View of project site from Pecten Court cul-de-sac.

Photograph 2: View of center of project site.

Source: FirstCarbon Solutions, 2022.

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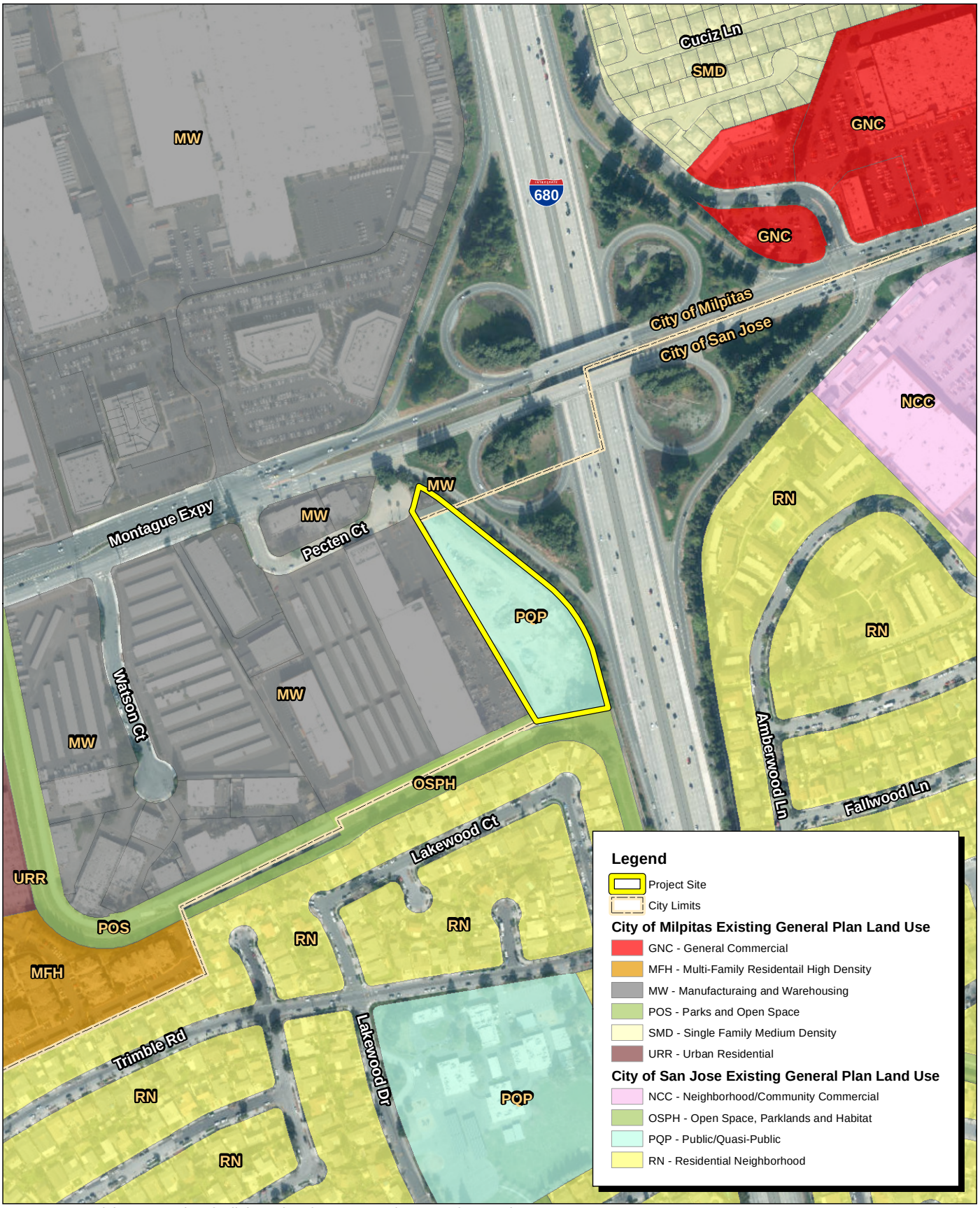
Figure 3
Project Site Photographs



Source: ESRI Aerial Imagery. City of Milpitas, City of San Jose, and County of Santa Clara.

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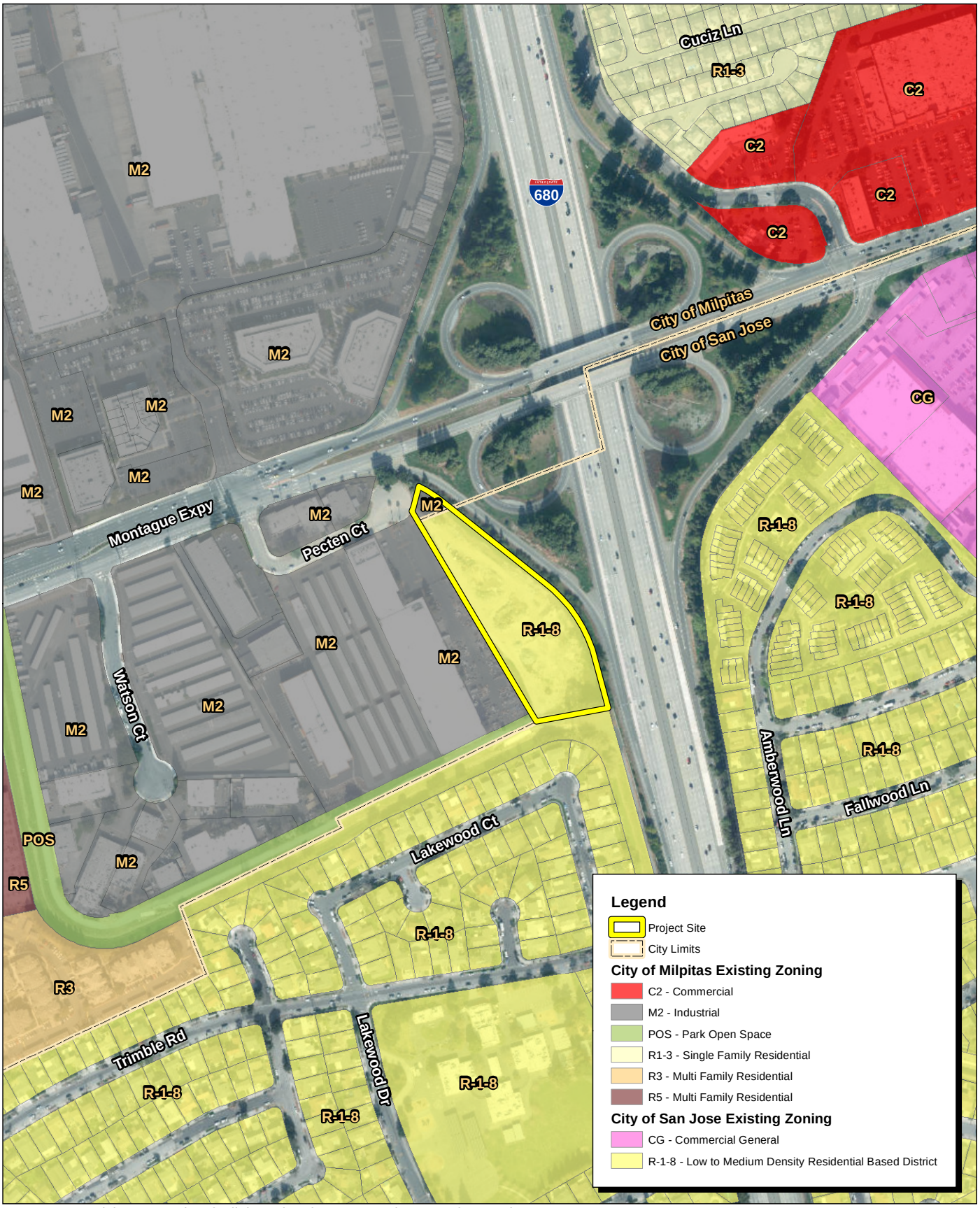
400 200 0 400
Feet

Figure 4a
Existing General Plan Land Use



Source: ESRI Aerial Imagery. City of Milpitas, City of San Jose, and County of Santa Clara.

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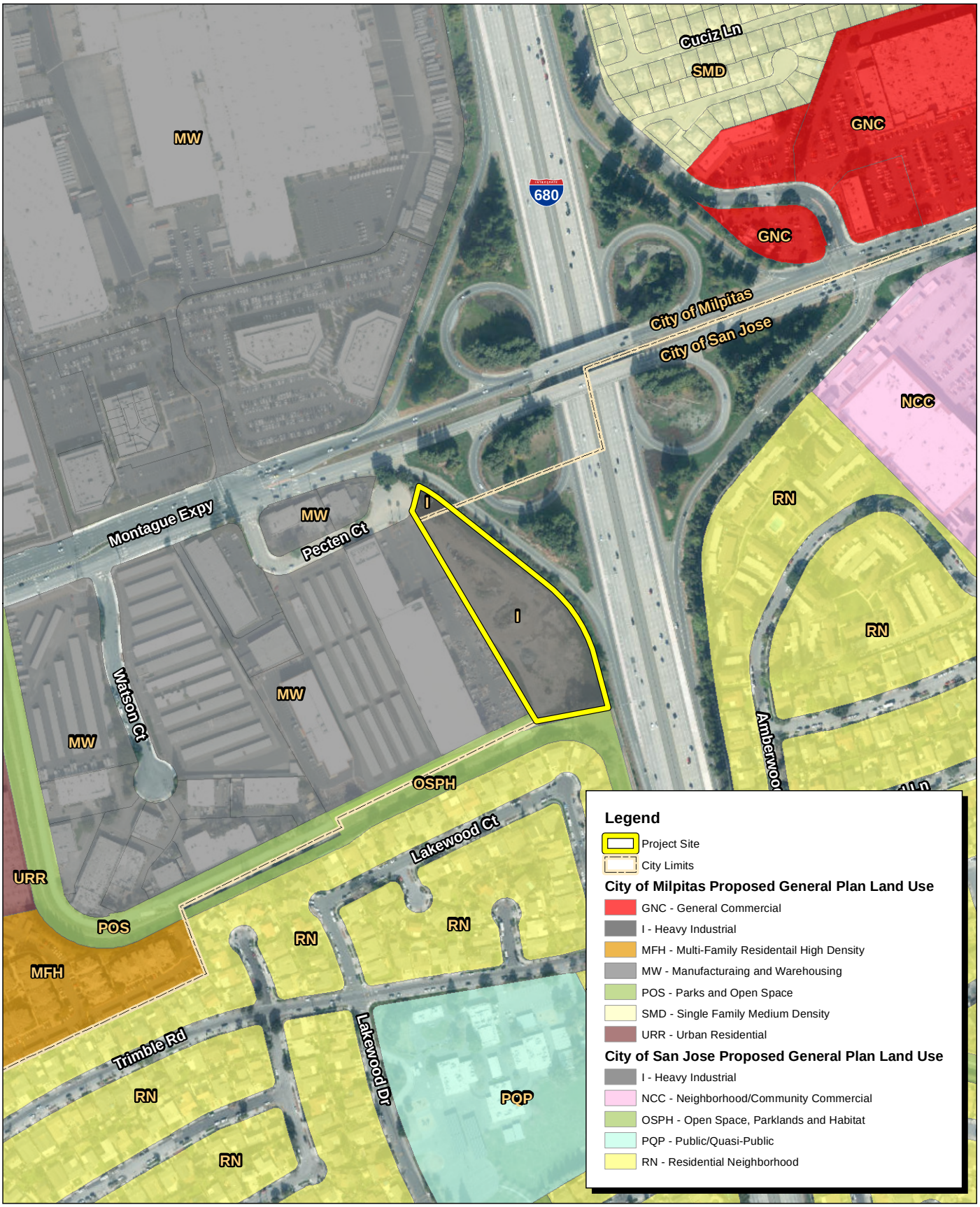
400 200 0 400
Feet

Figure 4b
Existing Zoning



Source: ESRI Aerial Imagery. City of Milpitas, City of San Jose, and County of Santa Clara.

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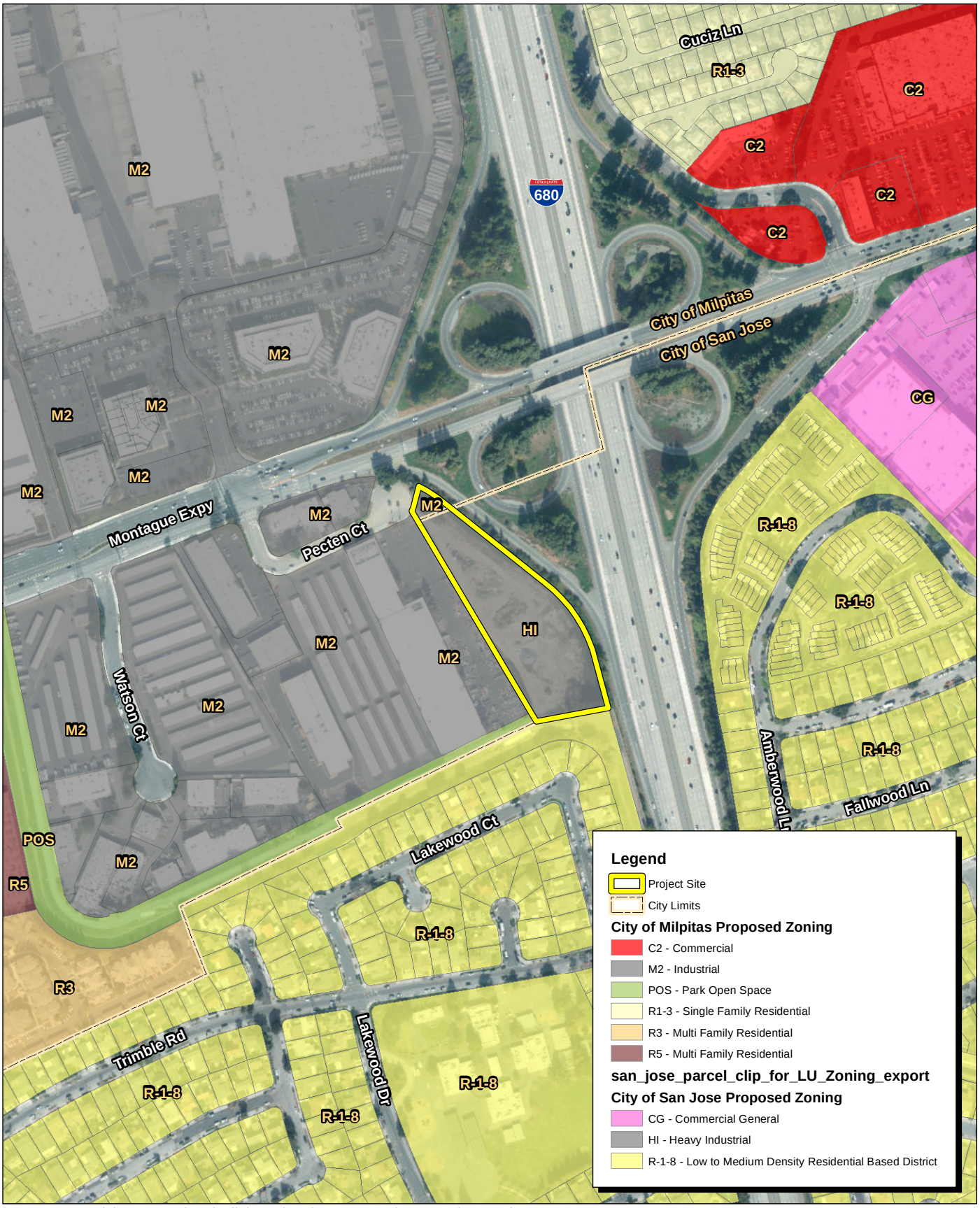
Feet

Figure 5a
Proposed General Plan Land Use



Source: ESRI Aerial Imagery. City of Milpitas, City of San Jose, and County of Santa Clara.

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400 200 0 400
Feet

Figure 5b
Proposed Zoning

SECTION 4: SETTING, ENVIRONMENTAL CHECKLIST AND IMPACTS

This section describes the existing environmental conditions in and near the project area, as well as environmental impacts associated with the proposed project. The environmental checklist, as recommended in the 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, if any, are identified for all significant project impacts. "Mitigation Measures" are measures that minimize, avoid, or eliminate a significant impact (CEQA Guidelines § 15370).

Note to the Reader: In a December 2015 opinion (*California Building Industry Association [CBIA] v. BAAQMD*, 62 Cal.4th 369 (No. S 213478)), the California Supreme Court confirmed that CEQA, with several specific exceptions, is concerned with the impacts of a project on the environment and 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 IS) can include information of interest even if such information is not an "environmental impact" as defined by CEQA.

Therefore, although not required by CEQA, this chapter will also discuss "planning considerations" that relate 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, in a floodplain, in a geologic hazard zone, in a high noise environment, or on/adjacent to sites involving hazardous substances. This additional discussion is provided for informational purposes only.

4.1 - AESTHETICS

4.1.1 - Environmental Setting

The project site is undeveloped and is enclosed with a chain link fence. Ornamental landscaping is located along the I-680 frontage on the eastern side of the property and the site consists of a graded and graveled area in the process of being re-vegetated by non-native invasive plant species. Figure 3 provides photographs of the project site.

Applicable Plans, Policies, and Regulations

State Scenic Highways Program

The State Scenic Highways Program is managed by the California Department of Transportation (Caltrans) and is designed to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. The nearest officially designated scenic highway is a portion of Mission Boulevard/Bernal Avenue, located approximately 9 miles to the north.[2] The project site is not visible from this officially designated State Scenic Highway due to intervening structures and vegetation.

Outdoor Lighting Policy (City Council Policy 4-3)

The City of San José's Outdoor Lighting Policy (City Council Policy 4-3) and City of San José Interim Lighting Policy Broad Spectrum Lighting for Private Development promote energy efficient outdoor lighting on private development to provide adequate light for nighttime activities while benefiting the continued enjoyment of the night sky and continuing operation of the Lick Observatory by reducing light pollution and sky glow.

City's Scenic Corridors Diagram

The City's General Plan defines scenic vistas in the City of San José as views of and from the Santa Clara Valley, surrounding hillsides, and urban skyline. Scenic urban corridors, such as segments of major highways that provide gateways into the City, can also be defined as scenic resources by the City. The designation of a scenic route applies to routes affording especially aesthetically pleasing views.

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects within the City. The following policies are specific to aesthetic resources and are applicable to the proposed project.

Envision San José 2040 General Plan Relevant Aesthetic Policies

Policies	Description
Policy CD-1.1	Require the highest standards of architecture and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.

[2] California Department of Transportation (Caltrans). 2022. California State Scenic Highway System Map. Website: https://caltrans.maps.arcgis.com/apps/webappviewer/index.html?id=465dfd3d807c46cc8e8057116f1aacaa. Accessed April 19, 2022.

Envision San José 2040 General Plan Relevant Aesthetic Policies

Policies	Description
Policy CD-1.7	Require developers to provide pedestrian amenities, such as trees, lighting, recycling and refuse containers, seating, awnings, art, or other amenities, in pedestrian areas along project frontages. When funding is available, install pedestrian amenities in public rights-of-ways.
Policy CD-1.8	Create an attractive street presence with pedestrian-scaled building and landscaping elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity throughout the City.
Policy CD-1.11	To create a more pleasing pedestrian-oriented environment, for new building frontages, include design elements with a human scale, varied and articulated facades using a variety of materials, and entries oriented to public sidewalks or pedestrian pathways. Provide windows or entries along sidewalks and pathways; avoid blank walls that do not enhance the pedestrian experience.
Policy CD-1.12	Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
Policy CD-1.13	Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.
Policy CD-1.17	Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.
Policy CD-1.18	Encourage the placement of loading docks and other utility uses within parking structures or at other locations that minimize their visibility and reduce their potential to detract from pedestrian activity.
Policy CD-1.19	Encourage the location of new and relocation of existing utility structures into underground vaults or within structures to minimize their visibility and reduce their potential to detract from pedestrian activity. When above-ground or outside placement is necessary, screen utilities with art or landscaping.
Policy CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
Policy CD-1.24	Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse effect on the health and longevity of such trees through design measures, construction, and best maintenance practices. When tree preservation is not feasible, include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.

Envision San José 2040 General Plan Relevant Aesthetic Policies

Policies	Description
Policy H-3.1	Require the development of housing that incorporates the highest possible level of amenities, fit and finish, urban design and architectural quality.
Policy H-3.2	Design high density residential and mixed residential/commercial development, particularly development located in identified Growth Areas, to: 5. Use architectural elements or themes from the surrounding neighborhood when appropriate. 7. Create a building scale that does not overwhelm the neighborhood.

4.1.2 - Environmental Checklist and Impact Discussion

Except as provided in Public Resources Code Section 21099, would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
1. Have a substantial adverse effect on a scenic vista?	☐	☐	☒	☐
2. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic building within a State Scenic Highway?	☐	☐	☐	☒
3. In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (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?	☐	☐	☒	☐
4. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☒	☐

Impact Discussion

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

Less than significant impact. The City's General Plan states that San José contains scenic resources that include the broad sweep of the Santa Clara Valley, the hills and mountains that frame the Valley floor, the baylands, and the urban skyline itself, particularly high-rise development. Although no development is planned under the proposed project, the change in land use density could intensify the height and massing of future development permitted on this project site and may increase the height and massing of on-site structures. However, given the relatively small size of the project site and its adjacency to a highway, future development would not be anticipated to obstruct scenic

views. The Heavy Industrial zoning designation is intended for industrial uses with nuisance or hazardous characteristics which for reasons of health, safety, environmental effects, or general welfare are best segregated from other uses. In addition, warehouse retail uses may be allowed where they are compatible with adjacent industrial uses and will not constrain future use of the subject site for industrial purposes. Future redevelopment of the site would likely not block views from parts of the surrounding areas. Moreover, because the scenic vistas surround the City, a single development would not create blockage of the surrounding views. Future redevelopment of the site would require project-specific environmental review to ensure consistency with the Municipal Code and General Plan policies. The design review process would reduce potential impacts to scenic vistas to less than significant. Therefore, based on the potential for future redevelopment, the project may have a less than significant impact to a scenic vista.

2) Would the project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State Scenic Highway?

No impact. The nearest highway is I-680, located immediately to the east. This segment of I-680 is neither an officially designated nor eligible State Scenic Highway. The project site is not visible from I-680 due to intervening vegetation. In addition, the project site is not located along any scenic corridors identified the City's Scenic Corridors Diagram. Future development on the project site under the proposed GPA and Conforming Rezoning would have no impact on scenic resources within a scenic route. No impact would occur.

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

Less than significant impact. The project site contains undeveloped land and is surrounded by urban development and infrastructure. Because no development is proposed under the project, the existing visual character of the site and its immediate surroundings would not change.

Future development on the site under the proposed land use designation could alter the existing visual character of the site and its surroundings by introducing structures and infrastructure. However, future development on the site would be required to (1) conform to the City's Design Guidelines and (2) undergo project-specific design review. Future development of the proposed site would also require separate environmental review to address the specific impacts of a proposed project. Any future development would be subject to review and approval by the City to ensure it meets the local design and aesthetic standards. For these reasons, the proposed project would not conflict with applicable regulations governing scenic quality, resulting in a less than significant impact.

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

Less than significant impact. The project site is undeveloped and there are no existing sources of light and glare. No development is proposed under the project. Future development under the

proposed GPA and Conforming Rezoning may increase the amount of light and glare than what is currently existing. Sources of light and glare for future development would be required to conform to the City's Outdoor Lighting policies to decrease impacts. Future development of the proposed site would require separate environmental review to address the lighting and glare impacts of the specific project. The impact would be less than significant.

Mitigation Measures

None required.

4.2 - AGRICULTURAL AND FORESTRY RESOURCES

4.2.1 - Environmental Setting

The project site is undeveloped and does not support agricultural or forest land uses. The project site is surrounded on all sides by urban development and infrastructure. The project area is mapped as "urban/built-up land" by the California Department of Conservation Farmland Mapping and Monitoring Program (FMMP) and is not considered to be important farmlands.

Applicable Plans, Policies, and Regulations

In California, agricultural land is given consideration under CEQA. According to Public Resources Code Section 21060.1, "agricultural land" is identified as Prime Farmland, Farmland of Statewide Importance, or Unique Farmland, as defined by the United States Department of Agriculture (USDA) land inventory and monitoring criteria, as modified for California. CEQA also requires consideration of impacts on lands that are under Williamson Act contracts. The project area is identified as "urban/built-up land" on the Santa Clara County Important Farmlands Map. The project site is already developed and in a highly urbanized area. Therefore, General Plan policies for agriculture do not apply for this project. Finally, the California Department of Forestry and Fire Protection's (CAL FIRE) Fire and Resource Assessment Program assesses the amount, extent, and conditions of California's forests and rangelands, and identifies alternative management and policy guidelines. The Program includes updates on drought and tree mortality, houses GIS data and maps, and includes guidance on fire hazard severity zones by mapping areas of significant fire hazards based on fuels, terrain, weather, and other relevant factors.[3]

4.2.2 - Environmental Checklist and Impact Discussion

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
1. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to nonagricultural use?	☐	☐	☐	☒
2. Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒

[3] Governor's Office of Planning and Research (OPR). 2022. ResilientCA.org. Fire and Resource Assessment Program (FRAP). Website: https://resilientca.org/projects/1846ff66-187f-4865-a97a-38cad24bacf8/. Accessed August 5, 2022.

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
3. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	☐	☐	☐	☒
4. Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒
5. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to nonagricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒

Impact Discussion

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

No impact. The project site is undeveloped and does not support agricultural or forest land uses. The project site is surrounded on all sides by urban development and infrastructure. The project area is mapped as "urban/built-up land" California Department of Conservation FMMP. This condition precludes the conversion of Important Farmland to nonagricultural use. No impact would occur.

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

No impact. The project site is zoned "R-1-8," which is not an agricultural zoning designation. The project site does not support agricultural land use activities and, thus, is would not be eligible for a Williamson Act contract. This precludes the possibility of conflicts with agricultural zoning or a Williamson Act contract. No impact would occur.

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

No impact. Conversion of the site's land use designation to "Heavy Industrial" and future redevelopment of the project site would not impact forest resources since the site does not contain any forest land as defined in Public Resources Code Section 12220(g), timberland as defined by Public Resources Code Section 4526, or property zoned for Timberland Production as defined by

Government Code Section 51104(g). There would be no impact as a result of the proposed project or future redevelopment of the site.

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

No impact. The project site contains undeveloped land and does not contain forest land. This condition precludes the loss or forest land; therefore, no impact would occur.

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

No impact. As per the discussion above, the proposed project would not involve changes in the existing environment which, due to their location or nature, could result in conversion of farmland or forest land, since none are present on this infill property. There would be no impact as a result of the proposed project or future redevelopment of the site.

Mitigation Measures

None required.

4.3 - AIR QUALITY

4.3.1 - Environmental Setting

The project is located within the San Francisco Bay Area Air Basin (Air Basin). The Air Basin is approximately 5,600 square miles in area and consists of nine counties that surround the San Francisco Bay, including all of Alameda, Contra Costa, Marin, San Francisco, San Mateo, Santa Clara, and Napa counties; the southwestern portion of Solano County; and the southern portion of Sonoma County. The San Francisco Bay Area (Bay Area) has a Mediterranean climate characterized by mild, dry summers and mild, moderately wet winters, moderate daytime onshore breezes, and moderate humidity. Microclimates arise as a result of variation in regional topography, oceanic currents, and onshore winds. These factors are responsible for low interannual and daily temperature variability relative to other regions in the State.[4]

Air quality is a function of both the rate and location of pollutant emissions under the influence of meteorological conditions and topographic features. Atmospheric conditions such as wind speed, wind direction, and air temperature inversions interact with the physical features of the landscape to determine the movement and dispersal of air pollutant emissions and, consequently, their effect on air quality. A primary factor in air quality is the mixing depth (the vertical air column available for diluting contaminant sources). Generally, the air temperature decreases with height, creating a gradient from warmer air near the ground to cooler air at elevation caused by the sun converting large amounts of energy to sensible heat at the ground, which warms the air at the surface. The warm air rises in the atmosphere, where it expands and cools. Sometimes, however, the temperature of air increases with height. This condition is known as a temperature inversion because the atmosphere's temperature profile is “inverted” from its usual state. Over the Air Basin, the frequent occurrence of temperature inversions limits mixing depth and, consequently, limits the availability of air for dilution.

The Bay Area Air Quality Management District (BAAQMD) is the local agency authorized to regulate stationary air quality sources in the Bay Area, including regulating emissions of criteria pollutants, toxic air contaminants (TACs), and emissions that may cause a public nuisance, such as odors. The federal Clean Air Act (CAA) and the California Clean Air Act (CCAA) mandate the control and reduction of specific air pollutants. Under these Acts, the United States Environmental Protection Agency (EPA) and the California Air Resources Board (ARB) have established ambient air quality standards for specific "criteria" pollutants, designed to protect public health and welfare. Primary criteria pollutants include carbon monoxide (CO), reactive organic gases (ROG), nitrogen oxides (NO_X), particulate matter (PM_{10}), sulfur dioxide (SO_2), and lead (Pb). Secondary criteria pollutants include ozone (O_3), and fine particulate matter ($PM_{2.5}$). California has also established standards for TACs, such as visibility-reducing particles, sulfates, hydrogen sulfide, and vinyl chloride. Table 1 presents the National Ambient Air Quality Standards (NAAQS) and California Ambient Air Quality Standards Ambient Air Quality Standards (CAAQS) for these aforementioned air pollutants. Note that there are no State or federal ambient air quality standards for ROGs, benzene, or diesel particulate matter (DPM).

[4] Ackerly, David, Andrew Jones, Mark Stacey, Bruce Riorden. 2018. San Francisco Bay Area Summary Report, California’s Fourth Climate Change Assessment.

Table 1: Federal and State Air Quality Standards in the San Francisco Bay Air Basin

Air Pollutant	Averaging Time	California Standard	Federal Standard[a]
Ozone	1 Hour	0.09 ppm	—
	8 Hour	0.070 ppm	0.070 ppm[f]
Nitrogen dioxide[b] (NO_2)	1 Hour	0.18 ppm	0.100 ppm
	Annual	0.030 ppm	0.053 ppm
Carbon monoxide (CO)	1 Hour	20 ppm	35 ppm
	8 Hour	9.0 ppm	9 ppm
Sulfur dioxide[c] (SO_2)	1 Hour	0.25 ppm	0.075 ppm
	3 Hour	—	0.5 ppm
	24 Hour	0.04 ppm	0.14 (for certain areas)
	Annual	—	0.030 ppm (for certain areas)
Lead[e]	30-day	1.5 µg/m^3	—
	Quarter	—	1.5 µg/m^3
	Rolling 3-month average	—	0.15 µg/m^3
Particulate matter (PM_{10})	24 hours	50 µg/m^3	150 µg/m^3
	Mean	20 µg/m^3	—
Particulate matter ($PM_{2.5}$)	24 Hour	—	35 µg/m^3
	Annual	12 µg/m^3	12.0 µg/m^3
Visibility-reducing particles	8 Hour	See note below[d]	
Sulfates	24 Hour	25 µg/m^3	—
Hydrogen sulfide	1 Hour	0.03 ppm	—
Vinyl chloride[e]	24 Hour	0.01 ppm	—

Notes:
µg/m^3 = micrograms per cubic meter
30-day = 30-day average
Annual = Annual Arithmetic Mean
ppm = parts per million (concentration)
Quarter = Calendar quarter

[a] Federal standard refers to the primary national ambient air quality standard, or the levels of air quality necessary, with an adequate margin of safety to protect the public health. All standards listed are primary standards except for 3-Hour SO_2, which is a secondary standard. A secondary standard is the level of air quality necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant.

[b] To attain the 1-hour nitrogen dioxide national standard, the 3-year average of the annual 98th percentile of the 1-hour daily maximum concentrations at each site must not exceed 100 parts per billion (0.100 ppm).

[c] On June 2, 2010, a new 1-hour SO_2 standard was established and the existing 24-hour and annual primary standards were revoked. To attain the 1-hour national standard, the 3-year average of the annual 99th percentile of the 1-hour

Air Pollutant	Averaging Time	California Standard	Federal Standard[a]

daily maximum concentrations at each site must not exceed 75 part per billion (ppb). The 1971 SO_2 national standards (24-hour and annual) remain in effect until 1 year after an area is designated for the 2010 standard, except that in areas designated nonattainment for the 1971 standards, the 1971 standards remain in effect until implementation plans to attain or maintain the 2010 standards are approved.

[d] Visibility-reducing particles: In 1989, the ARB converted both the general Statewide 10-mile visibility standard and the Lake Tahoe 30-mile visibility standard to instrumental equivalents, which are "extinction of 0.23 per kilometer" and "extinction of 0.07 per kilometer" for the Statewide and Lake Tahoe Air Basin standards, respectively.

[e] The ARB has identified lead and vinyl chloride as "toxic air contaminants" with no threshold level of exposure for adverse health effects determined. These actions allow for implementing control measures at levels below the ambient concentrations specified for these pollutants.

[f] The EPA Administrator approved a revised 8-hour ozone standard of 0.07 ppb on October 1, 2015. The new standard went into effect 60 days after publication the Final Rule in the Federal Register. The Final Rule was published in the Federal Register on October 26, 2015, and became effective on December 28, 2015.

Source:
California Air Resources Board (ARB). 2016. Ambient Air Quality Standards. May 4. Website: https://ww2.arb.ca.gov/sites/default/files/2020-07/aaqs2.pdf. Accessed August 9, 2022.

Air quality monitoring stations operated by the ARB and BAAQMD measure ambient air pollutant concentrations in the Air Basin. In general, the Air Basin experiences low concentrations of most pollutants compared to federal or State standards.

Both the EPA and ARB use ambient air quality monitoring data to designate areas according to their attainment status for criteria air pollutants. These designations identify the areas with air quality problems and initiate planning efforts for improvement. The three basic designation categories are nonattainment, attainment, and unclassified. "Attainment" status refers to those regions that are meeting federal and/or State standards for a specified criteria pollutant. "Nonattainment" refers to regions that do not meet federal and/or State standards for a specified criteria pollutant. "Unclassified" refers to regions with insufficient data to determine the region's attainment status for a specified criteria air pollutant. Each standard has a different definition, or "form" of what constitutes attainment, based on specific air quality statistics. For example, the federal 8-hour CO standard is not to be exceeded more than once per year; therefore, an area is in attainment of the CO standard if no more than one 8-hour ambient air monitoring values exceeds the threshold per year. In contrast, the federal annual $PM_{2.5}$ standard is met if the 3-year average of the annual average $PM_{2.5}$ concentration is less than or equal to the standard.

Table 2 shows the current attainment designations for the Air Basin. The Air Basin is designated as nonattainment for the State ozone, PM_{10}, and $PM_{2.5}$, standards and the national ozone and $PM_{2.5}$ standards.

Table 2: San Francisco Bay Area Air Basin Attainment Status

Pollutant	State Status	National Status
Ozone	Nonattainment	Nonattainment
CO	Attainment	Attainment
NO_2	Attainment	Attainment
SO_2	Attainment	N/A

Pollutant	State Status	National Status
PM_{10}	Nonattainment	Unclassified
$PM_{2.5}$	Nonattainment	Nonattainment
Sulfates	Attainment	N/A
Hydrogen Sulfates	Unclassified	N/A
Visibility-reducing Particles	Unclassified	N/A
Lead	N/A	Attainment

Notes:
CO = carbon dioxide
N/A = information not available.
NO_2 = nitrogen dioxide
PM_{10} = particulate matter, including dust, 10 micrometers or less in diameter
$PM_{2.5}$ = particulate matter, including dust, 2.5 micrometers or less in diameter
SO_2 = sulfur trioxide
Source: Bay Area Air Quality Management District (BAAQMD). 2017. Air Quality Standards and Attainment Status. January 5. Website: http://www.baaqmd.gov/research-and-data/air-quality-standards-and-attainment-status. Accessed May 18, 2021.

Air pollution does not affect every individual in the population in the same way, and some groups are more sensitive to adverse health effects than others are. Land uses such as residences, schools, day care centers, hospitals, nursing and convalescent homes, and parks are considered the most sensitive to poor air quality because the population groups associated with these uses have increased susceptibility to respiratory distress or, as in the case of residential receptors, their exposure time is greater than that for other land uses. Therefore, these groups are referred to as sensitive receptors. Exposure assessment guidance typically assumes that residences would receive exposure to air pollution 24 hours per day, 350 days per year, for 70 years. BAAQMD defines sensitive receptors as children, adults, and seniors occupying or residing in residential dwellings, schools, day care centers, hospitals, and senior care facilities.

The project site is vacant and no sensitive receptors currently exist on the project site. The closest sensitive receptors to the proposed project are the residences located to the south of the project site.

Applicable Plans, Policies and Regulations

Federal Clean Air Act

The federal CAA establishes pollutant thresholds for air quality in the United States and the EPA administers it at the federal level. The EPA is responsible for establishing the NAAQS, which are required under the federal CAA and have been established for six major air pollutants: CO, NO_X, ozone, PM_{10}, $PM_{2.5}$, SO_X, and lead.

California Clean Air Act

In addition to being subject to federal requirements, California has its own more stringent regulations under the CCAA, which is administered by the ARB at the State level under the California EPA (Cal/EPA). The ARB is responsible for meeting the State requirements of the Federal Clean Air

Act, administering the CCAA, and establishing the California Ambient Air Quality Standards (CAAQS). The CCAA requires all air districts in the State to achieve and maintain CAAQS.

Clean Air Plan

The BAAQMD is primarily responsible for assuring that the NAAQS and CAAQS are attained and maintained in the Air Basin. As shown in Table 2, Santa Clara County, and the Bay Area as a whole, is classified as a nonattainment area for the 8-hour ozone and $PM_{2.5}$ NAAQS and nonattainment for ozone, PM_{10}, and $PM_{2.5}$ CAAQS. The County is either in attainment or unclassified for other pollutants.

Regional air quality management districts, such as the BAAQMD, must prepare Air Quality Plans (AQPs) specifying how State air quality standards would be met. The BAAQMD's most recently adopted AQP is the *2017 Clean Air Plan: Spare the Air, Cool the Climate*. The 2017 Clean Air Plan focuses on two closely related BAAQMD goals: protecting public health and protecting the climate. To protect public health, the 2017 Clean Air Plan describes how the BAAQMD will continue its progress toward attaining State and federal air quality standards and eliminating health risk disparities from exposure to air pollution among Bay Area communities. To that end, the 2017 Clean Air Plan includes a wide range of control measures designed to decrease emissions of the air pollutants that are most harmful to Bay Area residents, such as PM, ozone, and TACs. To protect the climate, the 2017 Clean Air Plan includes control measures intended to reduce greenhouse gas (GHG) emissions by reducing fossil fuel combustion.

The BAAQMD also has permit authority over stationary sources, acts as the primary reviewing agency for environmental documents, and develops regulations that must be consistent with or more stringent than, federal and State air quality laws and regulations.

BAAQMD CEQA Air Quality Guidelines

The BAAQMD is the primary agency responsible for ensuring that air quality standards (NAAQS and CAAQS) are attained and maintained in the Air Basin through a comprehensive program of planning, regulation, enforcement, technical innovation, and promotion of the understanding of air quality issues. The BAAQMD prepares plans to attain ambient air quality standards in the Air Basin. BAAQMD prepares ozone attainment plans for the national ozone standard, AQPs for the California standards, and particulate matter (PM) plans to fulfill federal air quality planning requirements. The BAAQMD also inspects stationary sources of air pollution; responds to citizen complaints; monitors ambient air quality and meteorological conditions; and implements programs and regulations required by the CAA, the CAA Amendments of 1990, and the CCAA.

The BAAQMD developed quantitative thresholds of significance for its CEQA Air Quality Guidelines in 2010 which were also included in its updated subsequent guidelines.[5,6] BAAQMD's adoption of the 2010 thresholds of significance was later challenged in court. In an opinion issued on December 17, 2015, related to the BAAQMD CEQA Air Quality Guidelines, the California Supreme Court held that CEQA does not generally require an analysis of the impacts of locating development in areas subject to environmental hazards unless the project would exacerbate existing environmental hazards. The

[5] Bay Area Air Quality Management District. 2010. California Environmental Quality Act Air Quality Guidelines. June 2.
[6] Bay Area Air Quality Management District. 2012. California Environmental Quality Act Air Quality Guidelines. May.

Supreme Court also found that CEQA requires an analysis of human exposure to environmental hazards in specific circumstances, such as development proposed near airports and the siting of schools on or near hazardous waste sites. The Supreme Court further held that public agencies may voluntarily conduct this analysis for their own public projects when not required by CEQA (*CBIA v. BAAQMD [2016]* 2 Cal.App.5th 1067, 1083).

In view of the Supreme Court's opinion, the BAAQMD published a new version of its CEQA Air Quality Guidelines in May 2017.[7] The BAAQMD CEQA Air Quality Guidelines state that local agencies may rely on thresholds designed to reflect the impact of locating development near areas of toxic air contamination where such analysis is required by CEQA or where the agency determines such analysis would assist in making a decision about the project. However, the thresholds are not mandatory and agencies should apply them only after determining that they reflect an appropriate measure of a project's impacts. The BAAQMD's CEQA Air Quality Guidelines for implementation of the thresholds are for informational purposes only, to assist local agencies.

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes policies applicable to all development projects in San José. Various policies in the Envision San José 2040 General Plan have been adopted for reducing or avoiding impacts related to air quality, listed below.

Envision San José 2040 General Plan Relevant Air Quality Policies

Policies	Description
Policy MS-10.1	Assess projected air emissions from new development in conformance with the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines and relative to State and federal standards. Identify and implement air emissions reduction measures.
Policy MS-10.2	Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.
Policy MS-11.1	Require completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution such as freeways and industrial uses. Require new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project designs or be located an adequate distance from sources of toxic air contaminants (TACs) to avoid significant risks to health and safety.
Policy MS-11.2	For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with 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-11.3	Review projects generating significant heavy-duty truck traffic to designate truck routes that minimize exposure of sensitive receptors to TACs and particulate matter.
Policy MS-11.4	Encourage the installation of air filtration, to be installed at existing schools, residences, and other sensitive receptor uses adversely affected by pollution sources.

[7] Bay Area Air Quality Management District (BAAQMD). 2012. California Environmental Quality Act Air Quality Guidelines. May.

Envision San José 2040 General Plan Relevant Air Quality Policies

Policies	Description
Policy MS-11.5	Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.
Policy MS-12.2	Require new residential development projects and projects categorized as sensitive receptors to be located an adequate distance from facilities that are existing and potential sources of odor. An adequate separate distance will be determined based upon the type, size and operations of the facility.
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 a minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.
Policy MS-13.2	Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's Airborne Toxic Control Measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

4.3.2 - Environmental Checklist and Impact Discussion

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

Threshold of Significance

Where applicable, the significance criteria established or recommended by the BAAQMD were used to make the following CEQA significance determinations. The BAAQMD has adopted standards of significance for construction and operation. The thresholds of significance are shown in Table 3. In developing thresholds of significance for air pollutants, the BAAQMD considered the emission levels for which a project's individual emissions would be cumulatively considerable. If a project exceeds the identified significance thresholds, its emissions would be cumulatively considerable, resulting in significant adverse air quality impacts to the region's existing air quality conditions.

Table 3: BAAQMD Thresholds of Significance

Pollutant	Construction Thresholds Average Daily Emissions (pounds/day)	Operational Thresholds	
		Average Daily Emissions (pounds/day)	Annual Average Emissions (tons/year)
Criteria Air Pollutants			
ROG	54	54	10
NO_X	54	54	10
PM_{10}	82 (exhaust)	82	15
$PM_{2.5}$	54 (exhaust)	54	10
CO	Not Applicable	9.0 ppm (8-hour average) or 20.0 ppm (1-hour average)	
Fugitive Dust	Construction Dust Ordinance, other Best Management Practices (BAAQMD Basic Construction Mitigation Measures)	Not Applicable	
Health Risks and Hazards for New Sources			
Excess Cancer Risk	10 per one million	10 per one million	
Chronic or 1-hour Acute Hazard Index	1.0	1.0	
Incremental annual average $PM_{2.5}$	0.3 µg/m^3	0.3 µg/m^3	
Health Risks and Hazards for Sensitive Receptors (Cumulative from All Sources within 1,000-Foot Zone of Influence) and Cumulative Thresholds for New Sources			
Excess Cancer Risk	100 per 1 million		
Chronic Hazard Index	10.0		
Annual Average $PM_{2.5}$	0.8 µg/m^3		

Notes:
ROG = reactive organic gases, NO_X = nitrogen oxides, CO= carbon monoxide
PM_{10} = course particulate matter or particulates with an aerodynamic diameter of 10 µm or less
$PM_{2.5}$ = fine particulate matter or particulates with an aerodynamic diameter of 2.5 µm or less
µg/m^3 = micrograms per cubic meter
Source: Bay Area Air Quality Management District (BAAQMD). 2017. California Environmental Quality Act Air Quality Guidelines. May.

Impact Discussion

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

Less than significant impact. The 2017 Clean Air Plan, the most current AQP for the Air Basin and adopted by BAAQMD in April 2017, includes control measures that are intended to reduce air pollutant emissions in the Bay Area either directly or indirectly. Plans must show consistency with the control measures listed within the AQP. Using the BAAQMD's methodology, a determination of consistency with the 2017 Clean Air Plan should demonstrate that a project: (1) supports the primary goals of the AQP; (2) includes applicable control measures from the AQP; and (3) does not disrupt or impede implementation of AQP control measures. The 2017 Clean Air Plan defines an integrated,

multipollutant control strategy to reduce emissions of PM, TACs, ozone precursors, and GHGs. The 2017 Clean Air Plan has control measures that are designed to reduce air pollutants emissions indirectly or directly in the Bay Area. These measures are divided into five categories, including:

- Measures to reduce emissions from stationary area sources
- Mobile source measures
- Transportation control measures
- Land use and local impact measures
- Energy and climate measures

The proposed project would re-designate the project site to "Heavy Industrial" and rezone the site to "Heavy Industrial" and would not include a development proposal that could be compared against applicable control measures in the 2017 Clean Air Plan for stationary, area, mobile, or energy sources. Any future development would be reviewed independent of the proposed project during the development, environmental, and permit review process to determine consistency with the City's General Plan policies, including compliance with BAAQMD operational emission thresholds as listed in General Plan Policies MS-10.1 and MS-13.1 and City of San José Design Guidelines that correlate to control measures identified in the 2017 Clean Air Plan.

The project site is currently designated "Public/Quasi-Public" by the General Plan, which is an urban nonresidential land use designation, and the proposed Heavy Industrial land use designation would support urban nonresidential land uses. For the purposes of the 2017 Clean Air Plan, the proposed project is consistent with the AQP, as the proposed project would not introduce additional population growth and subsequent Vehicle Miles Traveled (VMT) beyond what is already accounted for in the General Plan and associated AQP emissions budgets. Furthermore, future development projects envisioned as a part of the proposed project would be subject to individual review for consistency with the AQP under CEQA. The proposed project would facilitate the development of a land use that has an emissions profile generally consistent with the growth assumptions supporting the emissions forecasting contained in the 2017 Clean Air Plan, and the proposed project would be considered consistent with the applicable AQP. This impact would be less than significant.

2) Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is nonattainment under an applicable federal or State ambient air quality standard (including releasing emissions, which exceed quantitative thresholds for ozone precursors)

Less than significant impact. The San Francisco Bay Area is considered a nonattainment area for ground level ozone and $PM_{2.5}$ under both the CAA and the CCAA. The area is also considered in nonattainment for PM_{10} under the CCAA. The area has attained both NAAQS and CAAQS for CO. The proposed project would increase the development density on the project site beyond what could be experienced under existing conditions; however, any future development would be reviewed independent of the proposed project during the development, environmental, and permit review process to determine potential air quality impacts and necessary mitigation. In addition, future construction on the project site would be required to demonstrate compliance with BAAQMD significance thresholds in accordance with the City's General Plan Policy MS-10.1 and implement BAAQMD's Best Management Practices (BMPs) for dust control in accordance with the City's General

Plan Policies MS-13.1 and MS-13.2. Future redevelopment of the project site would be required to develop appropriate mitigation measures if the appropriate thresholds are exceeded. Therefore, this impact would be less than significant.

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

Less than significant impact. Air pollution does not affect every individual in the population in the same way, and some groups are more sensitive to adverse health effects than others are. Land uses such as residences, schools, day care centers, hospitals, nursing and convalescent homes, and parks are considered the most sensitive to poor air quality because the population groups associated with these uses have increased susceptibility to respiratory distress or, as in the case of residential receptors, their exposure time is greater than that for other land uses. Therefore, these groups are referred to as sensitive receptors. Exposure assessment guidance typically assumes that residences would receive exposure to air pollution 24 hours per day, 350 days per year, for 30 years. The BAAQMD defines sensitive receptors as children, adults, and seniors occupying or residing in residential dwellings, schools, day care centers, hospitals, and senior care facilities. Exposure of sensitive receptors to substantial pollutant concentrations can occur under two conditions: (1) by introducing a new source of TACs with the potential to adversely affect existing sensitive receptors (a CEQA effect), or (2) by introducing a new sensitive receptor in proximity to an existing source of TACs (a non-CEQA effect).

The City of San José uses the thresholds of significance established by the BAAQMD to assess potential impacts to sensitive receptors resulting from proposed development. The proposed project would change the land use designation from “Public/Quasi-Public” to “Heavy Industrial,” which could result in the introduction of new TAC sources that may potentially impact nearby sensitive receptors during construction and operation. Nonetheless, when future development on the project site is proposed, a project-specific air quality assessment will be required to confirm conformance with the sensitive receptor impact thresholds recommended by the BAAQMD in compliance with General Plan Policies MS-11.2 and MS-11.3.

Future construction on the project site would require the use of diesel equipment (e.g., generators, excavators, dozers, graders, etc.) which generate TACs. Depending on the proximity and duration of use, the operation of diesel-fueled construction equipment on the project site has the potential to expose surrounding sensitive receptors to substantial TAC emissions. Consistent with General Plan Policies MS-11.2 and MS-13.1, this impact would be addressed at the time a specific project is proposed and, if necessary, mitigation measures (e.g., use of alternative fuel construction equipment) would be required to reduce the impact to a less than significant level. Therefore, this impact would be less than significant.

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

Less than significant impact. Implementation of the proposed project would not create objectionable odors affecting a substantial number of other residential uses near the site because no development is proposed. Future redevelopment of the project site could create new potential sources of odor. Common sources of odors and odor complaints are uses such as transfer stations,

recycling facilities, painting/coating facilities, landfills, and wastewater treatment plants. Although no development is proposed at this time, any future construction activities on-site that include the use of diesel-powered vehicles and equipment could temporarily generate localized odors; however, these potential odors would be minimized with implementation of Standard Permit Conditions for Construction Air Quality (which prohibits unnecessary idling of equipment), would be temporary in nature, and would cease upon project completion. With compliance with existing regulations, this impact would be less than significant.

Standard Permit Conditions

Construction Air Quality

The project applicant shall implement the following measures during all phases of construction to control dust and exhaust at the project site:

- Water active construction areas at least twice daily or as often as needed to control dust emissions.
- Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- Remove visible mud or dirt track-out onto adjacent public roads by using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- Pave new or improved roadways, driveways, and sidewalks as soon as possible.
- Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- Replant vegetation in disturbed areas as quickly as possible.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Minimize idling times either by shutting off equipment when not in use, or reducing the maximum idling time to 5 minutes (as required by the California Airborne Toxics Control Measure [ATCM] Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.
- Maintain and properly tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of "running in proper condition" prior to operation.
- Post a publicly visible sign with the telephone number and person at the lead agency to contact regarding dust complaints.

Construction Air Quality Measure:

The project applicant or contractor shall select equipment during construction to minimize emissions. The project applicant shall submit a construction management plan to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee for review and approval, prior to issuance of any grading and building permits. The construction management plan shall demonstrate that the off-road equipment used on-site to construct the proposed project would

achieve a fleet-wide average 85 percent reduction in $PM_{2.5}$ exhaust emissions or more. Options to achieve this reduction could include, but are not limited to, the following:

- All mobile diesel-powered off-road equipment larger than 25 horsepower and operating on the site for more than two days shall meet EPA particulate matter emissions standards for Tier 4 engines or equivalent.
- Use of equipment that includes ARB-certified Level 3 diesel particulate filters or alternatively fueled equipment (i.e., non-diesel).
- Use of added exhaust muffling and filtering devices.

Mitigation Measures

None required.

4.4 - BIOLOGICAL RESOURCES

Environmental Setting

The project site consists of a graded and graveled area in the process of being re-vegetated by non-native invasive plant species, including common mustard (*Brassica* spp.), shortpod mustard (*Hirschfeldia incana*), ripgut brome (*Bromus diandrus*), fennel (*Foeniculum vulgare*), wild oat (*Avena fatua*), dandelion (*Taraxacum* sp.), bristly ox tongue (*Helminthotheca echioides*), burclover (*Medicago polymorpha*), cheeseweed (*Malva parviflora*), stinkwort (*Dittrichia graveolens*), English ivy (*Helix hedera*), prickly lettuce (*Lactuca serriola*), and others. The site is lined with predominantly ornamental trees, including predominantly smaller olive (*Olea europaea*) on the western border, several large/mature Australian pine (*Casuarina equisetifolia*) on the southern boundary, and Carob (Caesalpinioideae sub-family) along the eastern boundary. The trunks of the Carobs and potentially other trees on the eastern side of the project site appear to be on rooted outside the parcel boundary, however, the canopies and rootzones overlap with the project site. One mature fan palm (*Washingtonia* sp.) tree is located on the northern boundary of the project site.

Following the classification system of the Santa Clara Valley Habitat Plan, the land cover types include approximately 3.34 acres of Barren and 0.27 acres of Ornamental Woodland. Both are subtypes of the Urban-Suburban land cover class and shown on Figure 6.

No wetland indicators were present at the time of the survey, and no evidence of concentrated surface flow to a downstream feature was observed. The nearest protected water feature consists of Berryessa Creek, approximately 70 feet south of the project site.

The project site is surrounded by dense urban development, including the I-680 on-ramp directly adjacent to the east.

Source: Bing Aerial Imagery.

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150 75 0 150 Feet

Exhibit 6
Land Cover and Vegetation

Applicable Plans, Policies, and Regulations

Endangered Species Act of 1973

The United States Fish and Wildlife Service (USFWS) has jurisdiction over species listed as threatened or endangered under the federal Endangered Species Act of 1973. Section 9 of the Endangered Species Act protects listed species from "take," which is broadly defined as actions taken to "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct." The Endangered Species Act protects threatened and endangered plants and animals and their critical habitat. Candidate species are those proposed for listing; these species are usually treated by resource agencies as if they were actually listed during the environmental review process. Procedures for addressing impacts to federally listed species follow two principal pathways, both of which require consultation with the USFWS, which administers the Endangered Species Act for all terrestrial species. The first pathway is the Section 10(a) incidental take permit, which applies to situations where a non-federal government entity must resolve potential adverse impacts to species protected under the Endangered Species Act. The second pathway is Section 7 consultation, which applies to projects directly undertaken by a federal agency or private projects requiring a federal permit or approval.

Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA) implements international treaties between the United States and other nations devised to protect migratory birds, their parts, eggs, and nests from activities such as hunting, pursuing, capturing, killing, selling, and shipping, unless expressly authorized in the regulations or by permit. The State of California has incorporated the protection of birds of prey in Sections 3800, 3513, and 3503.5 of the Fish and Game Code. All raptors and their nests are protected from take or disturbance under the MBTA (16 United States Code [USC] § 703, *et seq*.) and California statute (Fish and Game Code [FGC] § 3503.5).

Bald and Golden Eagle Protection Act

The golden eagle (*Aquila chrysaetos*) and bald eagle (*Haliaeetus leucocephalus*) are also afforded additional protection under the Eagle Protection Act, amended in 1973 (16 USC § 669, *et seq*.), and the Bald and Golden Eagle Protection Act (16 USC §§ 668–668d).

California Endangered Species Act

The State of California enacted the California Endangered Species Act (CESA) in 1984. CESA is similar to the Endangered Species Act but pertains to State listed endangered and threatened species. CESA requires State agencies to consult with the California Department of Fish and Wildlife (CDFW) when preparing CEQA documents. The purpose is to ensure that the State lead agency actions do not jeopardize the continued existence of a listed species or result in the destruction or adverse modification of habitat essential to the continued existence of those species if there are reasonable and prudent alternatives available (FGC § 2080). CESA directs agencies to consult with the CDFW on projects or actions that could affect listed species, directs the CDFW to determine whether jeopardy would occur, and allows the CDFW to identify "reasonable and prudent alternatives" to the project consistent with conserving the species. CESA allows the CDFW to authorize exceptions to the State's prohibition against take of a listed species if the "take" of a listed species is incidental to carrying out an otherwise lawful project that has been approved under CEQA (FGC § 2081).

California Fish and Game Code

Under CESA, the CDFW has the responsibility for maintaining a list of endangered and threatened species (FGC § 2070). Fish and Game Code Sections 2050 through 2098 outline the protection provided to California's rare, endangered, and threatened species. Fish and Game Code Section 2080 prohibits the taking of plants and animals listed under the CESA. Fish and Game Code Section 2081 established an incidental take permit program for State listed species. The CDFW maintains a list of "candidate species" which it formally notices as being under review for addition to the list of endangered or threatened species.

In addition, the Native Plant Protection Act of 1977 (NPPA) (FGC § 1900, *et seq*.) prohibits the taking, possessing, or sale within the State of any plants with a State designation of rare, threatened, or endangered (as defined by the CDFW). An exception to this prohibition in the NPPA allows landowners, under specified circumstances, to take listed plant species, provided that the owners first notify CDFW and give the agency at least 10 days to come and retrieve (and presumably replant) the plants before they are plowed under or otherwise destroyed. Fish and Game Code Section 1913 exempts from "take" prohibition "the removal of endangered or rare native plants from a canal, lateral ditch, building site, or road, or other right of way." Project impacts to these species are not considered significant unless the species are known to have a high potential to occur within the area of disturbance associated with construction of the proposed project.

In addition to formal listing under the Endangered Species Act and CESA, some species receive additional consideration by the CDFW and local lead agencies during the CEQA process. Species that may be considered for review are those listed as a "Species of Special Concern." The CDFW maintains lists of "Species of Special Concern" that serve as species "watch lists." Species with this status may have limited distributions or limited populations and/or the extent of their habitats has been reduced substantially such that their populations may be threatened. Thus, their populations are monitored and they may receive special attention during environmental review. While they do not have statutory protection, they may be considered rare under CEQA and specific protection measures may be warranted. In addition to Species of Special Concern, the CDFW Special Animals List identifies animals that are tracked by the California Natural Diversity Database (CNDDB) and may be potentially vulnerable but warrant no federal interest and no legal protection.

Sensitive species that would qualify for listing but are not currently listed are afforded protection under CEQA. CEQA Guidelines Section 15065 (Mandatory Findings of Significance) requires that a substantial reduction in numbers of a rare or endangered species be considered a significant effect. CEQA Guidelines Section 15380 (Rare or Endangered Species) provides for the assessment of unlisted species as rare or endangered under CEQA if the species can be shown to meet the criteria for listing. Unlisted plant species on the California Native Plant Society (CNPS) List ranked 1A, 1B, and 2 would typically require evaluation under CEQA.

Fish and Game Code Sections 3500 to 5500 outline protection for fully protected species of mammals, birds, reptiles, amphibians, and fish. Species that are fully protected by these sections may not be taken or possessed at any time. The CDFW cannot issue permits or licenses that authorize the take of any fully protected species except under certain circumstances such as scientific research and live capture and relocation of such species pursuant to a permit for the protection of livestock.

Under Fish and Game Code Section 3503.5, it is unlawful to take, possess, or destroy any birds in the orders of *Falconiformes* or *Strigiformes* (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto. To comply with the requirements of CESA, an agency reviewing a proposed project within its jurisdiction must determine whether any State listed endangered or threatened species may be present in the project study area and determine whether the proposed project will have a potentially significant impact on such species. In addition, the CDFW encourages informal consultation on any proposed project that may impact a candidate species.

Project-related impacts to species on the CESA endangered or threatened list would be considered significant. State listed species are fully protected under the mandates of CESA. "Take" of protected species incidental to otherwise lawful management activities may be authorized under Fish and Game Code Section 206.591. Authorization from the CDFW would be in the form of an Incidental Take Permit.

Fish and Game Code Section 1602 requires any entity to notify the CDFW before beginning any activity that "may substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of any river, stream, or lake" or "deposit debris, waste, or other materials that could pass into any river, stream, or lake." "River, stream, or lake" includes waters that are episodic and perennial and ephemeral streams, desert washes, and watercourses with a subsurface flow. A Lake or Streambed Alteration Agreement will be required if the CDFW determines that project activities may substantially adversely affect fish or wildlife resources through alterations to a covered body of water.

California Department of Fish and Wildlife Species of Concern

In addition to formal listing under the federal Endangered Species Act and CESA, species receive additional consideration by the CDFW and local lead agencies during the CEQA process. Species that may be considered for review are included on a list of "Species of Special Concern" developed by the CDFW. It tracks species in California whose numbers, reproductive success, or habitat may be threatened. In addition to Species of Special Concern, the CDFW identifies animals that are tracked by the CNDDB but warrant no federal interest and no legal protection. These species are identified as California Special Animals.

California Native Plant Society

The CNPS maintains a rank of plant species native to California that has low population numbers, limited distribution, or are otherwise threatened with extinction. This information is published in the Inventory of Rare and Endangered Vascular Plants of California. Following are the definitions of the CNPS ranks:

Rank 1A: Plants presumed extirpated in California and either rare or extinct elsewhere
Rank 1B: Plants rare, threatened, or endangered in California and elsewhere
Rank 2A: Plants presumed extirpated in California but common elsewhere
Rank 2B: Plants rare, threatened, or endangered in California, but more common elsewhere
Rank 3: Plants about which more information is needed
Rank 4: Watch List: Plants of limited distribution

Potential impacts to populations of CNPS ranked plants receive consideration under CEQA review. All plants appearing on the CNPS List ranked 1 or 2 are considered to meet the CEQA Guidelines Section 15380 criteria. While only some of the plants ranked 3 and 4 meet the definitions of threatened or endangered species, potential impacts to these species or their habitats should be analyzed during the preparation of environmental documents pursuant to CEQA as they may meet the definition of Rare or Endangered under the CEQA Guidelines Section 15380 criteria.

Habitat Conservation Plan

Santa Clara Valley Habitat Plan is a 50-year regional plan to protect endangered species and natural resources while allowing for future development in Santa Clara County. In 2013 the Habitat Plan was adopted by all local participating agencies and permits were issued from the USFWS and CDFW. It is both a Habitat Conservation Plan and Natural Community Conservation Plan, or HCP/NCCP.

Riparian Corridor Protection and Bird-Safe Design (Council Policy 6-34)

Riparian habitats have high conservation value due to their importance for water quality, biological diversity, and/or habitat connectivity. Streams and adjacent riparian lands within the City of San José are a vital natural resource supporting a diversity of habitats. They also provide open space resources and contribute to economic vitality.

Historically, riparian habitats throughout the west have been substantially altered and degraded. As such, cities, counties and other land planning agencies throughout the west have given high priority to preserving functioning riparian systems by establishing suitable setbacks to lessen indirect effects from construction of new roads and associated development on existing riparian habitats. Relevant to the proposed project, the conditions of the Santa Clara Valley Habitat Plan (SCVHP) and the City of San José's Council Policy 6-34 (Council Policy 6-34), and the City's Envision 2040 General Plan (2040 Plan) address riparian setback distances between extant riparian habitat and planned development. According to this policy, riparian projects should be designed and implemented to minimize intrusion into riparian corridors. Land use related operational issues that could affect riparian corridors may need to be addressed through conditions in development permits.

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes the following policies applicable to all development projects in San José.

Envision San José 2040 General Plan Relevant Biological Policies

Policies	Description
Policy ER-4.4	Require that development projects incorporate mitigation measures to avoid and minimize impacts to individuals of special-status species.
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.

Envision San José 2040 General Plan Relevant Biological Policies

Policies	Description
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-2.1	Ensure that new public and private development adjacent to riparian corridors in San José are consistent with the provisions of the City's Riparian Corridor Policy Study and any adopted Santa Clara Valley Habitat Conservation Plan/Natural Communities Conservation Plan (HCP/NCCP).
Policy ER-2.2	Ensure that a 100-foot setback from riparian habitat is the standard to be achieved in all but a limited number of instances, only where no significant environmental impacts would occur.
Policy ER-2.3	Design new development to protect adjacent riparian corridors from encroachment of lighting, exotic landscaping, noise and toxic substances into the riparian zone.
Policy ER-2.4	When disturbances to riparian corridors cannot be avoided, implement appropriate measures to restore, and/or mitigate damage and allow for fish passage during construction.
Policy ER-2.5	Restore riparian habitat through native plant restoration and removal of non-native/invasive plants along riparian corridors and adjacent areas.

City of San José Municipal Code

San José Municipal Code Chapter 13.32: Tree Removal Controls, requires the applicant to obtain a Tree Removal Permit prior to the removal or relocation of a tree with a circumference of 38 inches or more measured at a height 54-inches above natural grade slope. Additionally, it sets forth protections given to heritage trees, trees given additional protections due to their special significance to the community because of their size, history, unusual species, or unique quality.

4.4.1 - Environmental Checklist and Impact Discussion

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
1. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or United States Fish and Wildlife Service?	☐	☐	☐	☒
2. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Wildlife or United States Fish and Wildlife Service?	☐	☐	☒	☐
3. Have a substantial adverse effect on State or federally protected wetlands federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☒	☐
4. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of wildlife nursery sites?	☐	☐	☒	☐
5. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☒	☐
6. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan?	☐	☐	☒	☐

Impact Discussion

The impact discussion presented below is based on the literature review and a general survey for biological resources conducted by a qualified Biologist on April 27, 2022.

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

No impact. The project site consists of 3.62 acres of previously graded and graveled area in the process of being re-colonized by non-native invasive plants, including ornamental trees lining the site boundary, covering approximately 0.27 acre.

A review of the CNDDB, CNPS, and Information for Planning and Conservation Inventories determined that 43 special-status plant species and 34 special-status animal species have been recorded within the regional vicinity of the project site (Appendix BIO-1). The parameters of these search queries included an area consisting of the *Milpitas, California*, United States Geological Survey (USGS) 7.5-minute Topographic Quadrangle Map and the eight surrounding quadrangles (regional vicinity). No special-status plants or animal species were observed during the field survey, and no suitable habitat for any of the identified special-status species is present on-site.

The proposed project is a GPA and Conforming Rezoning and does not include a proposed development. Therefore, the proposed project would have no impact on special-status species since there would be no physical changes to the site. Development of the site in the future would likely not result in significant impacts on special-status species and their habitats since no suitable habitat was present on-site nor were any special-status plans or animal species observed on-site. A project-specific environmental analysis would be required for future development on the site.

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

Less than significant impact. The closest riparian habitat is located approximately 70 feet south of the project site boundary. It is associated with Berryessa Creek, which consists of a perennial to intermittent channelized tributary to San Francisco Bay. No riparian habitat or other sensitive communities are present on the project site.

The proposed project is a GPA and Conforming Rezoning and does not include a proposed development. Therefore, the project alone would not impact riparian habitat or sensitive communities. Future development of the site, under the Heavy Industrial General Plan designation and zoning district, would require project-specific environmental analysis including review of the future development for its conformance with the City's Riparian Corridor Policy and Condition 11 of the Habitat Plan.

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

Less than significant impact. The nearest State or federally protected water and wetland resource consists of Berryessa Creek, a USGS Blue Line stream, approximately 70 feet south of the project site. The project site is separated from Berryessa Creek by a roadway. No evidence of concentrated surface flow from the project site into Berryessa Creek was observed.

Within the project site, several excavated pits appear to pond stormwater following substantial rains. However, no indicators of wetland hydrology (except ponding visible on aerial imagery), hydrophytic species, or hydric soils were observed. No hydrological connections to or from the pits were observed. Therefore, the FirstCarbon Solutions (FCS) Senior Biologist proposes that the excavated pits on-site do not constitute State or federally protected wetlands (binding determination regarding

regulatory protection is made by the United States Army Corps of Engineers (USACE) and RWQCB, see Regulatory Background Section, above).

The proposed project is a GPA and Conforming Rezoning and does not include a proposed development; therefore, the proposed project would not impact State or federally protected wetlands. Future development of the site, under the Heavy Industrial General Plan designation and zoning district, would require project-specific environmental analysis.

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

Less than significant impact. The project site is located within fully built out commercial and residential development and does not support any movement corridor or provide habitat that facilitates the movement of any native resident or migratory fish or wildlife species. Therefore, the GPA and future development as a result of this GPA would not substantially interfere with the movement of any native resident or migratory fish or wildlife species.

Trees on and adjacent to the project site could provide nesting habitat for birds, including migratory birds. Nesting birds are protected under provisions of the MBTA and CDFW Code Sections 3503, 3503.5, and 2800.

Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes abandonment and/or loss of reproductive effort is considered a taking by the CDFW. Construction activities such as tree removal and site grading that disturb a nesting bird on-site or immediately adjacent to the construction zone would constitute a significant impact.

In conformance with the CDFW Code and provisions of the MBTA, future projects on the site would avoid and/or reduce impacts to nesting birds (if present on or adjacent to the site) through conformance with the CDFW Code and provisions of the MBTA through avoidance of construction activities during bird nesting season or through pre-construction surveys for nesting birds and the establishment of construction-free buffer zones should active nests be encountered in the bird nesting surveys.

By avoiding construction activities during the nesting season, conducting pre-construction surveys, and implementing any necessary measures to avoid disturbance of active nests that may be affected by project construction, the future development of the project site would not avoid impacts to nesting birds. Therefore, any future mixed-use development that would be allowed by the proposed GPA and Conforming Rezoning would not result in a substantial adverse effect, either directly or through habitat modifications, on migratory birds.

Future redevelopment of the site would require a separate environmental review and, in accordance with Fish and Game Code, MBTA, and General Plan Policies ER-5.1 and ER-5.2, would be required to implement measures and standard conditions of approval to avoid or reduce impacts to nesting birds.

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

Less than significant impact. At least eight trees on-site likely qualify as a "protected tree" by meeting the City's size requirements as defined in Chapter 13.32 of the San José Municipal Code. The City defines an ordinance-sized tree is either a single trunk or stem with a circumference of at least 38 inches measured at a height 54 inches above natural grade slope or multiple trunks where the combined circumferences of each trunk at 54 inches above natural grade slope add up to at least 38 inches.

The project is a GPA and Conforming Rezoning and does not include any physical changes to the site. Therefore, the proposed project would not conflict with any local policies or ordinances protecting biological resources.

Developments in the future would require their own project-specific environmental analysis and would be required to adhere to the City's tree protection requirements defined in the Municipal Code and all General Plan policies related to Biological Resources, as listed in the Regulatory Background Section, above.

Specifically, if any trees would be removed to accommodate the proposed project, compliance with the City's Tree Protection Ordinance and Tree Replacement Policy would be required. Compliance with the City's Tree Protection Ordinance, Chapter 13.32 of the San José Municipal Code and implementation of standard conditions of approval would ensure this impact would be less than significant.

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

Less than significant impact. The project is located within the SCVHP plan area and is considered a Covered Activity. Specifically, the project site is within Area 4: Urban Development Equal to or Greater Than 2 Acres Covered. The land cover type is classified and confirmed as Urban-Suburban (specifically, Barren and Ornamental Woodland), as shown on Figure 6. Therefore, no land cover fee would be required for the redevelopment of the site in the future.

The proposed project is not a ground-disturbing activity and is not subject to the requirements of the SCVHP. The proposed project would not be subject to the nitrogen deposition fee because no trips would be generated by the proposed GPA and Conforming Rezoning. Therefore, the proposed project would not be in conflict with the SCVHP.

Future redevelopment of the site under the Heavy Industrial General Plan land use designation and Zoning District would be subject to the requirements of the SCVHP, specifically the nitrogen deposition fee and Condition 11. The nitrogen deposition fee applies to projects that create new vehicle trips. Future redevelopment of the project site would be required to submit a Habitat Plan Coverage Screening Form to the City and pay the applicable nitrogen impact fee based on the trip generation associated with the future uses. With compliance to all requirements of the SCVHP, including submittal of the screening form and potentially payment of the nitrogen deposition fee, future development would not conflict with the SCVHP and the impact would be less than significant.

Santa Clara Valley Habitat Plan

Future development on the project site would be subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant would be required to submit the SCVHP 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.

Tree Replacement

Any removed trees would be replaced according to tree replacement ratios required by the City. 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 (PBCE) 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 with the City Council approved Fee Resolution. The City shall use the off-site tree replacement fee(s) to plant trees at alternative sites.

Mitigation Measures

None required.

4.5 - CULTURAL/TRIBAL CULTURAL RESOURCES

Cultural and Tribal Resources

This section describes the existing cultural resources setting and potential effects from project implementation on the project site and its surrounding area. The following discussion is based on a records search at the Northwest Information Center (NWIC), contact with the Native American Heritage Commission (NAHC), and a cultural resources pedestrian survey conducted by FCS. Non-confidential supporting information is included in Appendix C.

4.5.1 - Environmental Setting

The project site is situated on undeveloped land south of the Montague Expressway and west of I-680 and does not contain any buildings or structures. Its Public Land Survey (PLS) location is S½, NE¼, Sec. 17, T6S, R1E, Milpitas quadrangle (USGS 7.5-series topographic map). According to a geological map and paleontological report conducted for the project area by Consulting Paleontologist, Kenneth Finger, PhD on behalf of FCS, the surface of the project site consists almost entirely of Holocene alluvium deposits.[8]

Cultural Background Setting

The following is a brief summary of the prehistoric and historic background of the general project area, which provides context to understand the relevance of cultural resources that may be located in proximity to the project site. This section is not intended to be a comprehensive review of the current resources available; rather, it serves as a general overview. Unless otherwise stated, the following is taken from a Phase I Cultural Resources Assessment (Phase I CRA) prepared by FCS in January of 2022.[9]

The Ohlone

At the time of European contact in the 18th century, the San José area was occupied by the Ohlone Tribe of California Native Americans. The Ohlone group designates a linguistic family consisting of eight different yet related languages. The eight Ohlone languages were quite different from one another, with each language being related to its geographically contiguous neighbors.

The arrival of Ohlone groups into the Bay Area appears to be temporally consistent with the appearance of the Late Period artifact assemblage in the archaeological record, as documented at sites such as the Emeryville Shellmound and the Ellis Landing Shellmound. It is probable that the Ohlone moved south and west from the Delta region of the San Joaquin-Sacramento River region into the Bay Area. The tribal group that most likely occupied the project area is the Chochenyo language group, whose territory extended from the southern end of the Carquinez Strait south to Mission San José, or the Tamien, who were centered in the south of San Francisco Bay and lower Santa Clara Valley.

[8] Finger, Kenneth L., PhD. 2022. Paleontological Records Search: Pecten Industrial Warehouse Project, City of San José, Santa Clara County. May 2, 2022.

[9] FirstCarbon Solutions (FCS). 2022. Phase I Cultural Resources Assessment for the San José 455 Piercy Road Industrial Warehouse Project: City of San José, Santa Clara County, California. January 5, 2022.

The various Ohlone tribes subsisted as hunter-gatherers and relied on local terrestrial and marine flora and fauna for subsistence. The predominant plant food source was the acorn, but they also exploited a wide range of other plants, including various seeds, buckeye, berries, and roots. Protein sources included grizzly bear, elk, sea lions, antelope, and black-tailed deer as well as smaller mammals such as raccoon, brush rabbit, ground squirrels, and wood rats. Waterfowl, including Canadian geese, mallards, green-winged teal, and American widgeon, were captured in nets using decoys to attract them. Fish also played an important role in the Chochenyo diet and included steelhead, salmon, and sturgeon.

The Ohlone constructed watercraft from tule reeds and possessed bow and arrow technology. They fashioned blankets from sea otter pelts, fabricated basketry from twined reeds of various types, and assembled a variety of stone and bone tools in their assemblages. Ohlone villages typically consisted of domed dwelling structures, communal sweathouses, dance enclosures, and assembly houses constructed from thatched tule reeds and a combination of wild grasses, wild alfalfa, and ferns.

The Ohlone were politically organized into autonomous tribelets that had distinct cultural territories. Individual tribelets contained one or more villages with a number of seasonal camps for resource procurement within the tribelet territory. The tribelet chief could be either male or female, and the position was inherited patrilineally, but approval of the community was required. The tribelet chief and council were essentially advisers to the community and were responsible for feeding visitors, directing hunting and fishing expeditions, ceremonial activities, and warfare on neighboring tribelets.

The first European contact with the Ohlone was probably in 1602, when Sebastian Vizcaíno's expedition moored in Monterey. The estimated Ohlone population in 1770—when the first mission was established in Ohlone territory—was approximately 10,000. By 1832, the population had declined to fewer than 2,000, mainly due to diseases introduced by the European explorers and settlers. When the Spanish mission system rapidly expanded across California, the Ohlone traditional way of life was irreversibly altered. The precontact hunter-gatherer subsistence economy was replaced by an agricultural economy, and the Spanish missionaries prohibited traditional social activities. After secularization of the missions between 1834 and 1836, some Native Americans returned to traditional religious and subsistence practices while others labored on Mexican ranchos. Thus, multi-ethnic Indian communities grew up in and around the area and provided informant testimony to ethnologists from 1878 to 1933.

The California Gold Rush brought further disease to the native inhabitants, and by the 1850s, nearly all of the Ohlone had adapted in some way or another to economies based on cash income. Hunting and gathering activities continued to decline and were rapidly replaced with economies based on ranching and farming.

Santa Clara County and the City of San José

Santa Clara County derives its name from Mission Santa Clara de Asís, which was founded on January 12, 1777, and it is one of the original counties created at statehood, sharing its name with the City of Santa Clara. Santa Clara County was founded on February 18, 1850, originally having been named San José County a month prior. The California legislature decided to change the name a month after

recommendations from General Mariana Guadalupe Vallejo's committee. Santa Clara is made up of 15 cities, with San José serving as the county seat and encompassing of 1,312 square miles.

The City of San José similarly can trace its roots back to 1777, with the founding of The Pueblo of San José de Guadalupe by the Spanish government. The town, a small farming community founded by 68 colonists, was the first of three established in Alta California to help administer and coordinate the missions and presidios in the province. The original pueblo, established along the Guadalupe River near what is today Taylor Street, had to be abandoned in 1785 due to severe winter flooding. By 1791, it had been reestablished on higher ground approximately 1 mile to the south, centering on what is today César Chávez Plaza.

In 1821, Mexico won independence from Spain and lands held in common, such as pueblo and mission lands, were granted to private individuals. In 1824, Mexico passed a law that allowed both foreign and native citizens to petition the Governor for ownership of unoccupied tracts of land in an effort to stimulate further colonization. Drawn by opportunities to establish farms and small-scale commercial operations under Mexican rule, Anglo-American settlers increasingly came to San José, and by the 1840s, the Native Californians found themselves in the minority. In 1846, the United States declared war on Mexico and acquired the Mexican province of California in the Treaty of Guadalupe Hidalgo 2 years afterward. The discovery of gold in the Sierra foothills precipitated a sudden influx of population to the State, and as a central supply station for prospectors during the Gold Rush, San José underwent a population explosion. This event accelerated California's path to statehood and in 1850, California became the 31st state in the United States with San José serving as the first State Capitol. A railroad line between San Francisco and San José was completed in 1864, followed a few years later by the Central Pacific line connecting San José with the transcontinental railroad in 1869. With the City now linked to national and international markets where the agricultural and manufactured goods of the valley could be sold, San José increasingly became a major center for farming, industrial, and commercial activity and exhibited steady growth over the following two decades.

Following the turn of the century, San José, with its 18 canneries and 13 packinghouses, became the world's largest canning and dried-fruit packing center. It also pioneered the manufacture of specialized mechanical farm equipment in California. The war years had a major effect on the region, with the construction of the naval air station at Moffett Field, and San Francisco acting as the Gateway to the pacific from 1941 to 1945. Following World War II, San José shifted its focus away from agriculture in an attempt to attract new industries to the City. IBM had already established its West Coast headquarters in San José in 1943 and opened a new research and development facility in 1952. Both would prove to be forerunners of the City's future economy as Reynold Johnson and his team would later invent RAMAC, the first commercial computer, as well as the hard disk drive (Ward 1995). The 1970s saw a series of major innovations as San José electronics companies abandoned traditional vacuum tubes in favor of integrated circuits and silicon chips in the manufacture of computers and small electronics. The boom in production and consequent birth of the personal computer industry led Don C. Hoefler, then editor of Microelectronics News, to begin referring to the Santa Clara Valley as "Silicon Valley" for the first time in 1971.

Today, Santa Clara County is home to Apple, Facebook, Google, and Tesla, etc. Its population of nearly 1.8 million is one of the largest in the State and the largest of the nine Bay Area Counties.

Aside from being a leader in technology, Santa Clara County is also home to Stanford University, San José State University, and Santa Clara University, as well as several sports teams, such as the San José Sharks. Santa Clara County is continuously listed as one of the best places to live in the United States and is celebrated for its high standards of living and natural diversity.

Research and Records Search Results

Northwest Information Center

On April 14, 2022, a records search for the project site and a 0.5-mile search radius was conducted at the NWIC located at Sonoma State University in Rohnert Park, California. The current inventories of the NRHP, the CRHR, the CHL list, the California Points of Historical Interest (CPHI) list, and the California Built Environment Research Directory (BERD) for Santa Clara County were also reviewed to determine the existence of previously documented local historical resources.

The results of the records search indicate that there are no recorded cultural resources within the project site. There are four resources within a 0.5-mile search radius of the project area, of which three are historic architectural resources and one is a prehistoric archaeological resource. In addition, 24 cultural resources surveys have been conducted within an a 0.5-mile search radius of the project site, the reports of which are on file with the NWIC. Four of these surveys are adjacent to or intersect with the boundaries of the project site, indicating that portions of the project site have been previously surveyed for cultural resources. Non-confidential NWIC record search results can be found in Appendix C.

Native American Heritage Commission

On April 25, 2022, FCS sent a request to the NAHC in an effort to determine whether any sacred sites are listed on its Sacred Lands File for the project site. A response was received on May 23, 2022, indicating that the Sacred Lands File search produced a positive result for Native American cultural resources in the project vicinity. The NAHC included a list of 12 tribal representatives available for consultation. To ensure that all Native American knowledge and concerns over potential Tribal Cultural Resources (TCRs) that may be affected by implementation of the proposed project are addressed, letters were sent to each tribal representative on June 6, 2022. No responses have been received to date. NAHC record search results and corresponding letters can be found in Appendix C.

Pedestrian Cultural Resources Survey

Prior to the pedestrian survey, the potential for yet identified cultural resources in the project vicinity was reviewed against geologic and topographic geographic information system data for the general area and information from other nearby projects. The proposed project was evaluated against a set of criteria originally identified by a geoarchaeological overview that was prepared for Caltrans Districts 6 and 9. This study mapped the “archaeological sensitivity,” or potential to support the presence of buried prehistoric archaeological deposits, based on geology and environmental parameters including distance to water and landform slope. The methodology used in the study is applicable to other parts of California such as the Bay Area, and generally concluded that sites consisting of flat, Holocene-era deposits in close proximity to natural water resources had a moderate to high probability of containing subsurface archaeological deposits when compared to earlier Pleistocene deposits situated on slopes or further away from drainages, lakes, and rivers.

On May 20, 2022, FCS Senior Archaeologist Dr. Dana DePietro, RPA, and FCS Historian, Ti Ngo conducted a pedestrian survey for unrecorded cultural resources in the project site. The survey began in the northwest corner of the project site and moved south and east, using north–south transects spaced at 15-meter intervals. All areas of the project site were closely inspected for culturally modified soils or other indicators of potential historic or prehistoric resources. Approximately 65 percent of the site was highly disturbed by imported fill and gravel. Native soils were most clearly visible in eastern portion of the project site, where trenching had occurred in order to create a flood barrier to prevent rainwater from flowing onto the adjacent Joseph P. Sinclair Freeway. There are sections where native soils were visible and were closely inspected using a hand trowel. Visible soils were largely composed of yellowish brown (10YR 6/6) silty clay, interspersed with river rocks ranging between 2 to 6 centimeters. Darker gray clay soil (10 YR 3/1) could be seen at a depth of 3.5 feet.

Survey conditions were documented using digital photographs and field notes. During the survey, Dr. DePietro and Mr. Ngo examined all areas of the exposed ground surface for prehistoric artifacts (e.g., fire-affected rock, milling tools, flaked stone tools, toolmaking debris, ceramics), soil discoloration and depressions that might indicate the presence of a cultural midden, faunal and human osteological remains, and features indicative of the former presence of structures or buildings (e.g., postholes, standing exterior walls, foundations) or historic debris (e.g., glass, metal, ceramics). No indications of historic or prehistoric archaeological resources were found over the course of the pedestrian survey. Pedestrian survey photos can be found in Appendix C.

Historic Building Survey and Evaluation

The proposed project does not involve the removal or demolition of any existing historical buildings or resources. The pedestrian survey did not encounter any unrecorded historical resources on the project site.

Indirect Effects to Potential Historic Resources

There are no existing historical resources on the project site. The NWIC record search identified three historic architectural resources within the 0.5-mile search radius of the project boundaries, but none are within or in close proximity to the area of construction. All three of these resources (P43-003900, P43-003901, P43-004056) have been previously recorded, evaluated, and found ineligible to meet the significance criteria for the CRHR or NRHP.

Applicable Plans, Policies, and Regulations

National Historic Preservation Act

The National Register of Historic Places (NRHP), established under the National Historic Preservation Act, is a comprehensive inventory of known historic resources throughout the United States. The NRHP is administered by the National Park Service and includes buildings, structures, sites, objects, and districts that possess historic, architectural, engineering, archaeological or cultural significance.

The NRHP significance criteria are listed below, and include districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and are:

a. Associated with events that have made a significant contribution to the broad patterns of our history; or

b. Associated with the lives of significant persons in our past; or

c. Embodiment of distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

d. Having yielded or may be likely to yield, information important in history or prehistory.

For a resource to be eligible for listing, it also must retain integrity of those features necessary to convey its significance in terms of: (1) location, (2) design, (3) setting, (4) materials, (5) workmanship, (6) feeling, and (7) association. CEQA requires evaluation of project effects on properties that are listed in or eligible for listing in the NRHP.

California Register of Historical Resources

The California Register of Historical Resources (CRHR) is a guide to cultural resources that must be considered when a government agency undertakes a discretionary action subject to CEQA. The CRHR aids government agencies in identifying, evaluating, and protecting California's historical resources, and indicates which properties are to be protected from substantial adverse change (Public Resources Code [PRC] § 5024.1(a)). The CRHR is administered through the California Office of Historic Preservation, which is part of the California State Parks system. A historic resource listed in, or formally determined to be eligible for listing in, the NRHP is, by definition, included in the CRHR (PRC § 5024.1(d)(1)).

State Regulations Regarding Cultural Resources

Archaeological and historical sites are protected by several State policies and regulations under the California Public Resources Code, California Code of Regulations (Title 14 § 1427), and California Health and Safety Code. California Public Resources Code Sections 5097.9–-5097.991 require notification of discoveries of Native American remains and provides for the treatment and disposition of human remains and associated grave goods. Both State law and County of Santa Clara Ordinance Code (Sections B6–-19 and B6–-20) require that the Santa Clara County Coroner be notified if cultural remains are found on a site. If the Coroner determines the remains are those of Native Americans, the NAHC and a "most likely descendant" must also be notified.

Tribal Cultural Resources

A TCR can be a site, feature, place, or cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe. It also must be either on or eligible for the CRHR, a local historic register, or the lead agency, at its discretion, chooses to treat the resource as a TCR. The Public Resources Code requires lead agencies to participate in formal consultations with California Native American tribes during the CEQA process, if requested by any NAHC-listed tribe, to identify TCRs that may be subject to significant impacts by a project. Where a project may have a significant impact on a TCR, the lead agency's environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. Consultation is required until the

parties agree to measures to mitigate or avoid a significant effect on a TCR or when it is concluded that agreement cannot be reached.

California Senate Bill 18

Senate Bill (SB) 18 states that prior to a local (city or county) government's adoption of any General Plan or Specific Plan, or amendment to General and Specific Plans, or a designation of open space land proposed on or after March 1, 2005, the city or county shall conduct consultations with California Native American tribes for the purpose of preserving or mitigating impacts to Cultural Places. Consultations are for the purpose of preserving or mitigating impacts to places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code that may be affected by the proposed adoption or amendment to a general or specific plan. According to the Government Code Section 65352.4, "consultation" is defined as:

> *The meaningful and timely process of seeking, discussing, and carefully considering the views of others, in a manner that is cognizant of all parties' cultural values and, where feasible, seeking agreement. Consultation between government agencies and Native American Tribes shall be conducted in a way that is mutually respectful of each party's sovereignty. Consultation shall also recognize the tribes' potential needs for confidentiality with respect to places that have traditional tribal cultural significance.*

SB 18 requires public notice to be sent to tribes listed on the NAHC SB 18 Tribal Consultation list within the geographical areas affected by the proposed changes. Tribes must respond to a local government notice within 90 days (unless a shorter time frame has been agreed upon by the tribe), indicating whether or not they want to consult with the local government. Notice must be sent regardless of prior consultation, and it is suggested that local governments send written notice by certified mail with return receipt requested.

California Assembly Bill 52

Assemble Bill (AB) 52 was signed into law on September 25, 2014, and provides that any public or private “project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment.” TCRs include “sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are eligible for inclusion in the CRHR or included in a local register of historical resources.” AB 52 formally added the category of “tribal cultural resources” to CEQA and extends the consultation and confidentiality requirements to all projects, rather than just projects subject to SB 18 as discussed above.

AB 52 requires a lead agency to notify and offer the opportunity for consultation to a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project, if the tribe has previously requested in writing to be informed by the lead agency of proposed projects in their geographic area. This notification must be sent prior to determining whether a negative declaration, mitigated negative declaration, or environmental impact report is required for a project. Tribes must respond to the notice within 30 days (unless a shorter time frame has been agreed upon by the tribe), indicating whether or not they want to consult with the lead agency.

The bill makes the above provisions applicable to projects that have a notice of preparation or a notice of negative declaration filed or mitigated negative declaration on or after July 1, 2015. The parties must consult in good faith, and consultation is deemed concluded when either: (1) the parties agree to measures to mitigate or avoid a significant effect on a tribal cultural resource (if such a significant effect exists); or (2) when a party concludes that mutual agreement cannot be reached. Mitigation measures agreed upon during consultation must be recommended for inclusion in the environmental document. AB 52 also identifies mitigation measures that may be considered to avoid significant impacts if there is no agreement on appropriate mitigation. Recommended measures include:

- Preservation in place.
- Protecting the cultural character and integrity of the resource.
- Protecting the traditional use of the resource.
- Protecting the confidentiality of the resource.
- Permanent conservation easements with culturally appropriate management criteria.

At the time of the preparation of this Initial Study, three tribes have sent written requests for notification of projects to the City of San José and one verbal request has been made. The Ohlone Indian Tribe, Inc., requested notification of projects in accordance with Public Resources Code Section 21080.3.1 subdivision (b) for projects in the City of San José that involve ground-disturbing activities in Downtown. Chairwoman Geary of the Tamien Nation and Kanyon Sayers-Roods of the Indian Canyon Mutsun Band of Costanoan have requested AB 52 consultations for all projects.

Historic Preservation Ordinance

The City's Historic Preservation Ordinance is under San José Municipal Code Section 13.48.110, which sets forth factors that may be considered in order to determine whether a property qualifies as a local landmark. Based on the ordinance, proposed City landmarks have special historical, architectural, cultural, aesthetic, or engineering interest or value of a historical nature, and its designation as a landmark conforms to the goals and policies of the Envision San José 2040 General Plan. In making such findings, the following factors, among other relevant factors, are considered with respect to the proposed landmark:

1. Its character, interest or value as part of the local, regional, State, or national history, heritage, or culture;
2. Its location as a site of a significant historic event;
3. Its identification with a person or persons who significantly contributed to the local, regional, State, or national culture and history;
4. Its exemplification of the cultural, economic, social, or historic heritage of the City of San José;
5. Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;
6. Its embodiment of distinguishing characteristics of an architectural type or specimen;

7. Its identification as the work of an architect or master builder whose individual work has influenced the development of the City of San José; and
8. Its embodiment of elements of architectural or engineering design, detail, materials or craftsmanship which represents a significant architectural innovation or which is unique.

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects within the City. The following policies are specific to cultural resources and are applicable to the proposed project.

Envision San José 2040 General Plan Relevant Cultural Resource Policies

Policies	Description
Policy ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
Policy ER-10.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable State laws shall be enforced.
Policy ER-10.3	Ensure that City, State, and federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and prehistoric resources.

4.5.2 - Environmental Checklist and Impact Discussion

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

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
4. Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
a. 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	☐	☐	☒	☐
b. 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.	☐	☐	☒	☐

Environmental Evaluation

Descriptions and analysis in this section are based on information provided by the NAHC, NWIC, NRHP, CRHR, California Historic Landmarks (CHL) list, CPHI list, BERD, and the California Historical Resources Inventory (HRI). The non-confidential records search results and other correspondence are included in Appendix C.

Impact Discussion

Cultural Resources

1) Would the project cause a substantial adverse change in the significance of a historical resource as pursuant to Section 15064.5?

No impact. Section 15064.5 of the State CEQA Guidelines defines a historical resource as (1) a resource listed in or determined to be eligible by the State Historical Resources Commission, for listing in the CRHR; (2) a resource listed in a local register of historical resources or identified as significant in a historical resource survey meeting certain State guidelines; or (3) an object, building, structure, site, area, place, record, or manuscript that a lead agency determines to be significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California, provided that the lead agency's determination is supported by substantial evidence in light of the whole record.

Results from the NWIC indicate that there are three historic architectural al resources within the 0.5-mile search radius of the project site, but none of these resources are within the project footprint. These resources have been previously recorded, evaluated, and found ineligible to meet the significance criteria for the CRHR or NRHP. The proposed project does not propose specific

development at this time and would not involve the demolition or removal of any architectural historical resources within the project site or other changes to the environment. Therefore, there would be no changes to architectural historical resources and no impact.

2) Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?

Less than significant impact. Section 15064.5 of the CEQA Guidelines defines significant archaeological resources as resources that meet the criteria for historical resources, as discussed above, or resources that constitute unique archaeological resources. A project-related significant adverse effect could occur if a project were to affect archaeological resources that fall under either of these categories.

There are no recorded archaeological resources within the project site and a field survey conducted by FCS Senior Archaeologist, Dr. Dana DePietro, and FCS Historian, Ti Ngo did not identify any unrecorded archaeological resources on the project site. The project site is located in a developed area, surrounded by warehouses to the west, a freeway to the north and east, and residential housing on the south. The project site is not near any natural waterway, although it is located near Berryessa Creek, created by channelization activities in the 1940s and 1950s. Most of the project site is flat and located on Holocene alluvium deposits. This combination of factors indicates a low buried site potential for encountering subsurface archaeological resources. While unlikely, subsurface construction activities always have the potential to destroy or damage previously undiscovered archaeological resources. Archaeological resources can include, but are not limited to, stone, bone, wood, or shell artifacts or features, including hearths and structural elements. Damage or destruction of these resources would be a potentially significant impact.

Results from the NWIC indicate that a single recorded archaeological resource has been recorded within the 0.5-mile search radius of the project site, and that there are no recorded archaeological resources within the project site itself. While the site is flat and consists primarily of Holocene alluvial soils, this site is not situated in close proximity to any natural waterways and has been highly disturbed by industrial activity taking place at the site. This combination of factors indicates a moderate to low potential for encountering subsurface archaeological resources during project construction. While unlikely, subsurface construction activities always have the potential to destroy or damage previously undiscovered archaeological resources. Archaeological resources can include but are not limited to stone, bone, wood, or shell artifacts or features, including hearths and structural elements. Damage or destruction of these resources would be a potentially significant impact.

The proposed project, which is a GPA and Conforming Rezoning, does not propose specific development on the site at this time. When a development application is received, it will be subject to discrete environmental review and Standard Permit Conditions will be would set forth procedures that would be followed in the event of discovery of significant cultural resources during construction. Adherence to Standard Permit Conditions would ensure that potential impacts to archaeological resources would be reduced to a less than significant level.

3) Would the project disturb any human remains, including those interred outside of formal cemeteries?

Less than significant impact. A review of historic aerials from 1948 to 2018 indicates that from 1948 until 1960, the area consisted of farmland.[10] A few silos were constructed between 1960 and 1968 and were demolished prior to 2004. There are no indications of residential buildings or previous human habitation on the project site. The project site is also not located near any known cemeteries. Therefore, the potential for the disturbance of any human remains is considered low. While it is highly unlikely that human remains exist within or near the project site, there is always a possibility that subsurface construction activities associated with the proposed project, such as grading or trenching, could potentially damage or destroy previously undiscovered human remains. In the event of the accidental discovery or recognition of any human remains, CEQA Guidelines Section 15064.5, Health and Safety Code Section 7050.5, and Public Resources Code Sections 5097.94 and 5097.98 must be followed. The Standard Permit Condition pertinent to subsurface cultural resources, discussed above, further specifies the procedures to follow in the event human remains are uncovered. The proposed project, which is a GPA and Conforming Rezoning, does not propose specific development on the site at this time. When a development application is received, it will be subject to discrete environmental review and Standard Permit Conditions will be developed. These will likely include stoppage of work if previously unknown human remains are discovered, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and PRC Sections 5097.9 through 5097.99, as amended per AB 2641, shall be followed. Along with compliance with required guidelines and statutes, adherence to Standard Permit Conditions would ensure that impacts to human remains would be less than significant level.

Tribal Cultural Resources

4) Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?

Less than significant impact. A review of the CRHR, local registers of historic resources, and the NWIC records search results failed to identify any previously listed TCRs that may be adversely affected by the proposed project. The NAHC Sacred Lands File search produced a positive result for Native American cultural resources in the project vicinity. The NAHC included a list of 12 tribal representatives available for consultation. To ensure that all Native American knowledge and concerns over potential TCRs that may be affected by implementation of the proposed project are addressed, SB18 notification letters were sent to each tribal representative on June 6, 2022. Subsequent AB 52 notification letters were emailed to Chairwoman Geary of the Tamien Nation, Kanyon Sayers-Roods of the Indian Canyon Mutsun Band of Costanoan, and Andrew Galvan of the Ohlone Indian Tribe on August 8, 2022. No responses have been received to date. As such, no

[10] Nationwide Environmental Title Research, LLC. 2020. Historic Aerials. Website: https://www.historicaerials.com/viewer. Accessed June 3, 2022.

eligible or potentially eligible TCRs as defined in Public Resources Code Section 5020.1(k) have been identified within the project site, and none would be adversely affected by the proposed project.

b) 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.

Less than significant impact. Tribal consultation efforts conducted by FCS and the City of San José pursuant to SB 18 and AB 52 failed to identify any additional significant TCRs meeting the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. As such, no additional significant TCRs would be adversely affected by the proposed project.

Standard Permit Conditions

Subsurface Cultural Resources

If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified Archaeologist shall examine the find. The Archaeologist shall (1) evaluate the find(s) to determine whether 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 NWIC (if applicable). Project personnel shall not collect or move any cultural materials.

Human Remains

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

- The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
- The MLD identified fails to make a recommendation; or

- The landowner or his authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.

Mitigation Measures

None required.

4.6 - ENERGY

4.6.1 - Existing Setting

Energy Basics

Energy is generally transmitted either in the form of electricity, measured in kilowatt-hours (kWh) or megawatt-hours (MWh), or natural gas, measured in US therms or British Thermal Unit (BTU).

Electricity Generation, Distribution, and Use

State of California

In 2021, the State of California generated 277,764 gigawatt-hours (GWh), which is up 2 percent from year 2020. Total renewable energy reached 33.6 percent in 2021, up 3.5 percent from 2020 levels. California's non-CO_2 emitting electric generation categories (nuclear, large hydroelectric, and renewables) accounted for 49 percent of its in-state generation, compared to 51 percent in 2020. The change is attributable to the continued impacts from California's ongoing drought.[11]

According to the United States Energy Information Administration (EIA),[12] in 2021, California ranked fourth in the nation in electricity production, fourth in conventional hydroelectric generation, and first as a producer of electricity from solar, geothermal, and biomass resources. California leads the nation in solar thermal electricity capacity and generation.

Electricity and natural gas are distributed through the various electric load-serving entities (LSEs) in California. These entities include investor-owned utilities (IOUs), publicly owned LSEs, rural electric cooperatives, community choice aggregators, and electric service providers.[13]

City of San José

Pacific Gas and Electric Company (PG&E) provides electricity to many of the cities throughout Santa Clara County, including the City of San José. In 2019 and 2020, Santa Clara County's energy consumption was approximately 16,687 and 33,123 GWh, respectively.[14] For the City of San José, the average household electricity consumption was approximately 5,843 kWh in year 2020.[15]

Project Site

The project site is currently vacant and does not consume electricity. PG&E provides electricity to the project site.

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[11] California Energy Commission (CEC). 2021 Total System Electric Generation. Website: https://www.energy.ca.gov/data-reports/energy-almanac/california-electricity-data/2021-total-system-electric-generation. Accessed July 29, 2022.

[12] United States Energy Information Administration (EIA). California State Profile and Energy Estimates. Website: https://www.eia.gov/state/?sid=CA. Accessed July 29, 2022.

[13] California Energy Commission (CEC). Electric Load-Serving Entities (LSEs) in California. Website: https://www.energy.ca.gov/almanac/electricity_data/utilities.html. Accessed August 10, 2022.

[14] California Energy Commission (CEC). 2020. Electricity Consumption by County. Website: https://ecdms.energy.ca.gov/elecbycounty.aspx. Accessed August 10, 2022.

[15] City of San José. 2022. Energy: Household Energy Use. Website: https://www.sanjoseca.gov/your-government/departments-offices/environmental-services/climate-smart-san-jos/climate-smart-data-dashboard/energy-local-renewables/energy-household-energy-use. Accessed August 10, 2022.

Natural Gas Generation, Distribution, and Use

State of California

Natural gas is used for everything from generating electricity to cooking and space heating to an alternative transportation fuel. Natural gas generation (in kWh) represented 11 percent of electric power generation in 1990 and increased over the 30-year period to represent 34 percent of electric power generation in 2019.[16] In 2020, the State ranked 14 in natural gas marketed production, producing 170,579 million cubic feet of natural gas.[17]

Natural gas-fueled generation has become the dominant source of electricity in California, as it currently fuels approximately 45 percent of electricity consumption.[18] Because natural gas is a dispatchable resource that provides load when the availability of hydroelectric power generation and/or other sources decrease, use varies greatly from year to year. The availability of hydroelectric resources, the emergence of renewable resources for electricity generation, and overall consumer demand are the variables that shape natural gas use in electric generation.

City of San José

PG&E provides natural gas to the City of San José and most cities in Santa Clara County. In 2019 and 2020, natural gas consumption was approximately 460 and 419 Million Metric British Thermal Units therms (MM BTU), respectively.[19] For the City of San José, the average household natural gas consumption in year 2020 was approximately 10,496 kWh, which equals 35,791 kBTU.[20]

Project Site

The project site is currently vacant and does not consume any natural gas.

Fuel Generation, Distribution, and Use

State of California

California is one of the top producers of petroleum in the nation, with drilling operations occurring throughout the State. A network of crude oil pipelines connects production areas to oil refineries in the Los Angeles area, the San Francisco Bay Area, and the Central Valley. California oil refineries also process Alaskan and foreign crude oil received in ports in Los Angeles, Long Beach, and the San Francisco Bay Area. Crude oil production in California and Alaska is in decline. According to the EIA, California's field production of crude oil has steadily declined since the mid-1980s, totaling approximately 4.427 million barrels in 2021.[21] At the same time, California refineries have become

[16] United States Environmental Protection Agency (EPA). 2016. Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2019. Website: https://www.epa.gov/sites/default/files/2021-04/documents/us-ghg-inventory-2021-main-text.pdf?VersionId=wEy8wQuGrWS8Ef_hSLXHy1kYwKs4.ZaU. Accessed August 10, 2022.

[17] United States Energy Information Administration (EIA). 2020. Rankings: Natural Gas Marketed Production, 2019. Website: https://www.eia.gov/state/rankings/?sid=CA#series/47. Accessed August 10, 2022.

[18] California Energy Commission (CEC). 2021. Supply and Demand of Natural Gas in California. Website: https://www.energy.ca.gov/data-reports/energy-almanac/californias-natural-gas-market/supply-and-demand-natural-gas-california. Accessed August 10, 2022.

[19] California Energy Commission (CEC). Gas Consumption by County. Website: https://ecdms.energy.ca.gov/gasbycounty.aspx. Accessed August 10, 2022.

[20] City of San José. 2022. Energy: Household Energy Use. Website: https://www.sanjoseca.gov/your-government/departments-offices/environmental-services/climate-smart-san-jos/climate-smart-data-dashboard/energy-local-renewables/energy-household-energy-use. Accessed August 10, 2022.

[21] California Energy Commission (CEC). California Field Production of Crude Oil. Website: https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=MCRFPCA2&f=M. Accessed August 10, 2022.

increasingly dependent on foreign imports.[22] Foreign suppliers provide approximately half of the crude oil refined in California.[23]

According to the EIA, transportation accounted for nearly 40 percent of California's total energy demand, amounting to approximately 3,073 trillion BTU in 2019 and 2,355.5 trillion BTU in 2020.[24] California's transportation sector, including rail and aviation, consumed roughly 565 million barrels of petroleum fuels in 2019 and 524 million barrels in 2020.[25] The CEC produces the California Annual Retail Fuel Outlet Report, which is a compilation of gasoline and diesel fuel sales data from across the State available at the county level. According to the CEC, California's 2020 fuel sales totaled 12,572 million gallons of gasoline and 2,979 million gallons of diesel.[26]

Alternative Fuels

A variety of alternative fuels are used to reduce petroleum-based fuel demand. The use of these fuels is encouraged through various Statewide regulations and plans, such as the Low Carbon Fuel Standard (LCFS) and SB 32. Conventional gasoline and diesel may be replaced, depending on the capability of the vehicle, with transportation fuels including hydrogen, biodiesel, and electricity. Currently, 53 public hydrogen refueling stations exist in California; and the City has one hydrogen fueling station.[27] Currently, 18 public biodiesel refueling stations are in California, with none of them in the City.[28]

Electric Vehicles

Electricity can be used to power electric and plug-in hybrid electric vehicles (EV) directly from the power grid. Electricity used to power vehicles is generally provided by the electricity grid and stored in the vehicle's batteries. Fuel cells are being explored to use electricity generated onboard the vehicle to power electric motors. Currently, California has 14,427 EV charging locations,[29] and the City of San José has more than 1,600 EV charging connectors, including both level two and direct current fast chargers.[30]

Project Site

The project site is currently vacant and does not consume any fuels.

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[22] California Energy Commission (CEC). 2020. Oil Supply Sources to California Refineries. Website: https://www.energy.ca.gov/data-reports/energy-almanac/californias-petroleum-market/oil-supply-sources-california-refineries. Accessed August 10, 2022.

[23] California Energy Commission (CEC). 2019. Foreign Sources of Crude Oil Imports to California 2020. Website: https://www.energy.ca.gov/data-reports/energy-almanac/californias-petroleum-market/foreign-sources-crude-oil-imports. Accessed August 10, 2022.

[24] United States Energy Information Administration (EIA). 2021. Transportation Sector Energy Consumption Estimates, 2020 Website: https://www.eia.gov/state/seds/data.php?incfile=/state/seds/sep_sum/html/sum_btu_tra.html&sid=US. Accessed August 10, 2022.

[25] United States Energy Information Administration (EIA). 2020. Total Petroleum Consumption Estimates, 2020. Website: https://www.eia.gov/state/seds/sep_fuel/html/pdf/fuel_use_pa.pdf. Accessed August 10, 2022.

[26] California Energy Commission (CEC). 2022. California 2022 California Retail Fuel Outlet Annual Report. Website: https://www.energy.ca.gov/data-reports/energy-almanac/transportation-energy/california-retail-fuel-outlet-annual-reporting. Accessed August 10, 2022.

[27] United State Department of Energy, Alternative Fuels Data Center. 2022. Alternative Fueling Station Locator. Website: https://afdc.energy.gov/stations/#/find/nearest. Accessed August 10, 2022.

[28] Ibid.

[29] United States Department of Energy. 2022. Alternative Fuels Data Center: Electric Vehicle Charging Station Locations. Website: https://afdc.energy.gov/fuels/electricity_locations.html#/analyze?region=US-CA&fuel=ELEC&ev_levels=all. Accessed August 10, 2022.

[30] United States Department of Energy. 2022. Alternative Fuels Data Center. Electric Vehicle Charging Station Locations. Website: https://afdc.energy.gov/fuels/electricity_locations.html#/analyze?country=US&location_mode=address&location=Solano%20County. Accessed August 10, 2022.

Applicable Plans, Policies, and Regulations

Federal Energy Policy and Conservation Act of 1975

Vehicle fuel efficiency is regulated at the federal level. Pursuant to the Federal Energy Policy and Conservation Act of 1975, the National Highway Traffic Safety Administration (NHTSA) is responsible for establishing additional vehicle standards and for revising existing standards.

EPA Off-Road Diesel Engine Emissions Standards

The EPA regulates nonroad diesel engines that power both mobile equipment (bulldozers, scrapers, front-end loaders, etc.) and stationary equipment (generators, pumps, compressors, etc.). The EPA has no formal fuel economy standards for nonroad (e.g., construction) diesel engines but does regulate diesel emissions, which indirectly affects fuel economy. In 1994, EPA adopted the first set of emission standards ("Tier 1") for all new nonroad diesel engines greater than 37 kilowatts (kW [50 horsepower]). The Tier 1 standards were phased in for different engine sizes between 1996 and 2000, reducing NO_X emissions from these engines by 30 percent. Subsequently, the EPA adopted more stringent emission standards for NO_X, hydrocarbons, and PM from new nonroad diesel engines. This program included the first set of standards for nonroad diesel engines less than 37 kW. It also phased in more stringent "Tier 2" emission standards from 2001 to 2006 for all engine sizes and added yet more stringent "Tier 3" standards for engines between 37 and 560 kW (50 and 750 horsepower) from 2006 to 2008. These standards further reduced nonroad diesel engine emissions by 60 percent for NO_X and 40 percent for PM from Tier 1 emission levels. In 2004, the EPA issued the Clean Air Nonroad Diesel Rule. This rule cut emissions from nonroad diesel engines by more than 90 percent and was phased in between 2008 and 2014. These emission standards are intended to promote advanced clean technologies for nonroad diesel engines that improve fuel combustion, but they also result in slight decreases in fuel economy.

California Renewable Energy Standards

In 2002, California established its Renewables Portfolio Standard Program with the goal of increasing the percentage of renewable energy in the State's electricity mix to 20 percent of retail sales by 2010. In 2006, California's 20 percent by 2010 Renewables Portfolio Standard goal was codified under SB 107. Under the provisions of SB 107 (signed into law in 2006), investor-owned utilities were required to generate 20 percent of their retail electricity using qualified renewable energy technologies by the end of 2010. In 2008, Executive Order S-14-08 was signed into law and requires that retail sellers of electricity serve 33 percent of their load with renewable energy by 2020. Pacific Gas and Electric Company's (PG&E's) electricity mix in 2015 was 30 percent renewable. In October 2015, Governor Brown signed SB 350 to codify California's climate and clean energy goals. A key provision of SB 350 for retail sellers and publicly owned utilities requires them to procure 50 percent of the State's electricity from renewable sources by 2030.

California Building Standards Code

The Building Energy Efficiency Standards were first adopted in 1976 and have been updated periodically since then as directed by statute. The Standards contain energy and water efficiency requirements (and indoor air quality requirements) for newly constructed buildings, additions to existing buildings, and alterations to existing buildings. The Standards are conceptually divided into three basic sets. First, there is a basic set of mandatory requirements that apply to all buildings. Second, there is a set of performance standards-the energy budgets-that vary by climate zone (of which there are 16 in California) and building type; thus, the Standards are tailored to local

conditions, and provide flexibility in how energy efficiency in buildings can be achieved. Finally, the third set constitutes an alternative to the performance standards, which is a set of prescriptive packages that provide a recipe or a checklist compliance approach.

Private Sector Green Building Policy (Council Policy 6-32)

At the local level, the City of San José sets green building standards for municipal development. All projects are required to submit a Leadership in Energy and Environmental Design (LEED®), GreenPoint, or Build-It-Green checklist as part of their development permit applications. Council Policy 6-32 "Private Sector Green Building Policy," adopted in October 2008, establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. It fosters practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water, and other resources in the City of San José. Private developments are required to implement green building practices if they meet the Applicable Projects criteria defined by Council Policy 6-32 and shown in Table 4 below.

Table 4: Private Sector Green Building Policy Applicable Projects

Applicable Project Minimum Green Building Rating	Minimum Green Building Rating
Commercial/Industrial—Tier 1 (Less than 25,000 square feet)	LEED® Applicable New Construction Checklist
Commercial/Industrial—Tier 2 (25,000 square feet or greater)	LEED® Silver
Residential—Tier 1 (Less than 10 units)	GreenPoint or LEED® Checklist
Residential—Tier 2 (10 units or greater)	GreenPoint Rated 50 points or LEED® Certified
High Rise Residential (75 feet or higher)	LEED® Certified
Notes: LEED® = Leadership in Energy and Environmental Design Source: City of San José. Private Sector Green Building Policy: Policy Number 6-32. October 7, 2008. Website: https://www.sanJoséca.gov/DocumentCenter/Home/View/363.	

Envision San José 2040 General Plan

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

Envision San José 2040 General Plan Relevant Energy Policies

Policies	Description
Policy MS-1.1	Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City's Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction.
Policy MS-2.4	Promote energy efficient construction industry practices.
Policy MS-2.2	Encourage maximized use of on-site generation of renewable energy for all new and existing buildings.
Policy MS-2.3	Utilize solar orientation, (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
Policy MS-2.11	Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize the effectiveness of passive solar design).
Policy MS-3.1	Require water efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation or other area functions.
Policy MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
Policy MS-14.1	Promote job and housing growth in areas served by public transit and that have community amenities within a 20-minute walking distance.
Policy MS-14.3	Consistent with the California Public Utilities Commission's California Long Term Energy Efficiency Strategic Plan, as revised and when technological advances make it feasible, require all new residential and commercial construction to be designed for zero-net-energy use.
Policy TR-1.468	Through the entitlement process for new development fund needed transportation improvements for all modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.
Policy TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
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 toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

4.6.2 - Environmental Checklist and Impact Discussion

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

Impact Discussion

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

Less than significant impact. As discussed in the Project Description, no development is proposed at this time. The project proposes a GPA Conforming Rezoning; these actions would have no direct impact on energy. However, future development of the project site, under the proposed land use designation, would require energy for the manufacturing and transportation of building materials, preparation of the site (e.g., grading), and building construction. Petroleum-based fuels such as diesel fuel and gasoline would be the primary sources of energy for these tasks. Future redevelopment would be required to adhere to California Building Standards Code (CBC), Title 24 energy efficiency standards (or subsequently adopted standards during the construction term), and California Green Code, which includes insulation and design provisions to minimize wasteful energy consumption. Future developments consistent with the proposed project would be subject to project-specific analysis and would be required to comply with green building standards included in the City of San José policies and the San José Greenhouse Gas Reduction Strategy. Adherence to General Plan policies, existing regulations, and adopted plans and policies would reduce possible energy consumption and ensure that future development at the project site would not consume energy in a manner that is wasteful, inefficient, or unnecessary. For these reasons, the proposed project would not result in wasteful, inefficient, or unnecessary use of energy. This impact would be less than significant.

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

Less than significant impact. As discussed in greater detail under GHG Impact(b), the proposed project and future development would not conflict with or obstruct a State or local plan for renewable energy or energy efficiency since it would not result in any physical changes and the land use change would not conflict with State or local plans for renewable energy or energy efficiency. Future development on the project site facilitated by the proposed project would require its own environmental analysis and would be required to conform to General Plan policies and regulations

that promote the use and expansion of renewable energy resources, including solar photovoltaic, solar hot water, wind, and biogas or biofuels. By conforming to applicable General Plan policies related to renewable energy and energy efficiency, and the Green Building Ordinance, and Private Sector Green Building Policy (6-32), the proposed project and future development would not result in the inefficient use of energy during construction or operation. This impact would be less than significant.

Mitigation Measures

None required.

4.7 - GEOLOGY AND SOILS

This section is based on the Preliminary Geotechnical Exploration prepared by ENGEO, which is provided in Appendix C.

4.7.1 - Environmental Setting

The City of San José is located in the Santa Clara Valley, a broad alluvial plain lying between the Santa Cruz Mountains to the west and the Diablo Range to the east. The project site is located at an elevation of approximately 76 feet above mean sea level. The project site is underlain by Pleistocene alluvial fan and fluvial deposits consisting of brown dense gravely and clayey sand and clayey gravel that transitions to sandy clay as fines increase toward the surface.

The City of San José is part of the seismically active coastal area of California. The region is classified as Seismic Zone 4, the most seismically active zone in the United States. The project site is 3.3 miles from Hayward-Rodgers Creek Fault, which is the nearest mapped Alquist-Priolo Fault Hazard Zone.

The project site is located within a Seismic Hazard Zone for liquefaction susceptibility. ENGEO estimated that a Magnitude 6.5 earthquake would result in 0.5 to 1.5 inches of settlement on the project site.

Applicable Plans, Policies, and Regulations

California Building Standards Code

The International Conference of Building Officials publishes the International Building Code, which is the widely adopted model building code in the United States. The2022 CBC is another name for the body of regulations known as California Code of Regulations, Title 24, Part 2, which is a portion of the CBC. The California Building Standard Code incorporates by reference the International Building Code requirements with necessary California amendments. The California Building Standards Commission by law is responsible for coordinating all building standards and implementing Title 24.

Compliance with the CBC requires that (with very limited exceptions) structures for human occupancy be designed and constructed to resist the effects of earthquake motions. The Seismic Design Category for a structure is determined in accordance with either CBC Section 1613–Earthquake Loads or the American Society of Civil Engineers Standard No. 7-05, Minimum Design Loads for Buildings and Other Structures. In brief, based on the engineering properties and soil type at a proposed site, the site receives a Site Class ranging from A to F. The Site Class is then combined with Spectral Response (ground acceleration induced by earthquake) information for the location to arrive at a Seismic Design Category ranging from A to D, of which D represents the most severe conditions. A qualified Geotechnical Engineer must determine the classification of a specific site and related calculations.

Finally, the CBC requires that a geotechnical investigation be prepared for all new buildings that are 4,000 square feet or larger, as well as for smaller buildings if they meet certain criteria. A California Registered Geotechnical Engineer must prepare the geotechnical investigation and prepare a report addressing the classification and investigation of the soil, including requirements for geotechnical designs necessary to meet standards for reducing exposure to geological hazards.

Alquist-Priolo Earthquake Fault Zoning Act

In response to the severe fault rupture damage of structures by the 1971 San Fernando earthquake, the State of California enacted the Alquist-Priolo Earthquake Fault Zoning Act in 1972. This Act required the State Geologist to delineate Earthquake Fault Zones along known active faults that have a relatively high potential for ground rupture. Faults zoned under the Alquist-Priolo Act must meet the strict definition of being "sufficiently active" and "well-defined" for inclusion as an Earthquake Fault Zones. The Earthquake Fault Zones are revised periodically, and they extend 200 to 500 feet on either side of identified fault traces. No structures for human occupancy may be built across an identified active fault trace. An area of 50 feet on either side of an active fault trace is assumed to be underlain by the fault, unless proven otherwise. Proposed construction in an Earthquake Fault Zone is permitted only following the completion of a fault location report prepared by a California Registered Geologist.

Seismic Hazards Mapping Act

In 1990, following the 1989 Loma Prieta earthquake, the California legislature enacted the Seismic Hazards Mapping Act to protect the public from the effects of strong ground shaking, liquefaction, landslides, and other seismic hazards. The Seismic Hazards Mapping Act established a Statewide mapping program to identify areas subject to violent shaking and ground failure. The program intends to assist cities and counties in protecting public health and safety. The Seismic Hazards Mapping Act requires the State Geologist to delineate various seismic hazard zones and requires cities, counties, and other local permitting agencies to regulate certain development projects within these zones. As a result, the California Geological Survey is mapping Seismic Hazards Mapping Act Zones and has completed seismic hazard mapping for the portions of California most susceptible to liquefaction, ground shaking, and landslides, primarily the San Francisco Bay Area and Los Angeles basin.

Paleontological Resource Regulations

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. They range from mammoth and dinosaur bones to impressions of ancient animals and plants, trace remains, and microfossils. These are in part valued for the information they yield about the history of the earth and its past ecological settings. California Public Resources Section 5097.5 specifies that unauthorized removal of a paleontological resource is a misdemeanor. Under the CEQA Guidelines, a project would have a significant impact on paleontological resources if it will disturb or destroy a unique paleontological resource or site or unique geologic feature.

Envision San José 2040 General Plan

The City's General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects within city limits. The following policies are specific to geology and soils and are applicable to the proposed project.

Envision San José 2040 General Plan Relevant Geology and Soil Policies

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

Envision San José 2040 General Plan Relevant Geology and Soil Policies

Policies	Description
Policy EC-3.2	Within seismic hazard zones identified under the Alquist-Priolo Fault Zoning Act, California Seismic Hazards Mapping Act and/or by the City of San José, complete geotechnical and geological investigations and approve development proposals only when the severity of seismic hazards have been evaluated and appropriate mitigation measures are provided as reviewed and approved by the City of San José Geologist. State guidelines for evaluating and mitigating seismic hazards and the City-adopted California Building Code will be followed.
Action EC-3.10	Require that a Certificate of Geologic Hazard Clearance be issued by the Director of Public Works prior to issuance of grading and building permits within defined geologic hazard zones related to seismic hazards.
Policy EC-4.1	Design and build all new or remodeled habitat structures in accordance with the most recent California Building Code and Municipal Code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and stormwater controls.
Policy EC-4.2	Development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.
Policy EC-4.4	Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
Policy EC-4.5	Ensure that any development activity that requires grading does not impact adjacent properties, local creeks, and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 1 and April 30.
Action EC-4.10	Require a Certificate of Geologic Hazard Clearance to be issued by the Director of Public Works prior to issuance of grading and building permits within defined geologic hazard zones.
Action EC-4.11	Require the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards, and require review and implementation of mitigation measures as part of the project approval process.
Action EC-4.12	Require review and approval of grading plans and erosion control plans (if applicable) prior to issuance of grading permits by the Director of Public Works.
Policy ES-4.9	Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.

City of San José Municipal Code

Title 24 of the San José Municipal Code includes the current California Building, Plumbing, Mechanical, Electrical, Existing Building, and Historical Building Codes. Chapters 17.10 (Geologic Hazards Regulations) and 17.40 (Dangerous Buildings) address requirements for building safety and earthquake hazard reduction. Requirements for grading, excavation, and erosion control are included in Chapter 17.04 (Building Code, Part 6 Excavation and Grading).

4.7.2 - Environmental Checklist and Impact Discussion

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

Impact Discussion

1) Would the project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:

a) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

No impact. The site is not located within a State of California Earthquake Fault Hazard Zone and no known active faults cross the site. The nearest active earthquake fault, the Hayward-Rodgers Creek Fault, is located 3.3 miles away. The risk of ground rupture within the site is considered remote. No impacts would occur.

b) Strong seismic ground shaking?

Less than significant impact. The proposed project does not include a development proposal or physical changes to the project site. Because of its location in a seismically active region, future redevelopment of the site allowed under the proposed GPA and Conforming Rezoning would likely be subject to strong seismic ground shaking during the design life in the event of a major earthquake on any of the region's active faults. This strong shaking could pose a risk to structures and infrastructure. However, the Standard Permit Conditions established after this impact discussion would minimize risks to people and structures, including the following conditions relating to seismic damage.

A Geotechnical Report would be submitted, reviewed, and approved by the City Geologist for all future development projects. The Geotechnical Report will determine the site-specific soil conditions and identify the appropriate design and construction techniques to minimize risks to people and structures, including but not limited to foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation will be consistent with the State of California guidelines for the preparation of seismic hazard evaluation reports (California Geological Survey [CGS] Special Publication 117A, 2008, and the 1999 Southern California Earthquake Center (SCEC) Report). A recommended minimum depth of 50 feet should be explored and evaluated in the investigation. The City Geologist shall review the Geotechnical Report and issue a Geologic Clearance.

Seismic impacts would be minimized by implementation of the Conditions of Approval for future development pursuant to the project and standard engineering and construction techniques and practices, which are also in compliance with the requirements of the California and Uniform Building Codes for Seismic Zone 4, resulting in a less than significant impact.

c) Seismic-related ground failure, including liquefaction?

Less than significant impact. The project site is located within a Seismic Hazard Zone for liquefaction susceptibility. In accordance with the City's General Plan Policies and the Municipal Code, future redevelopment on the project site would be constructed using standard engineering and seismic safety design techniques. Building design and construction at the site would be completed in conformance with the recommendations of a design-level geotechnical investigation, which would be included in a Geotechnical Report subject to review and approval by the City. A Geotechnical Report for future development on the project site would be required in order to determine the site-specific soil conditions and identify the appropriate design and construction techniques to minimize risks to people and structures, including the design and construction conditions relating to seismic damage mentioned under Section 4.7.2, Impact(1)(b). Adherence of future development to the aforementioned local building codes would result in a less than significant impact.

d) Landslides?

No impact. The project site is located in a topographically flat area and would not be subject to landslides. Future redevelopment of the site would not be subject to landslides, resulting in no impact.

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

No impact. The proposed project does not include any physical development of the site. Future redevelopment of the project site under the proposed project would disturb the ground and expose soils, thereby increasing the potential for wind or water-related erosion and sedimentation at the site until the completion of construction. Future development of the site would be required to comply with General Plan Policies and Municipal Code regulations pertaining to erosion and protection of water quality. Compliance with the City's policies and Municipal Code would result in a less than significant impact.

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

Less than significant impact. The project site is located within a Seismic Hazard Zone for liquefaction susceptibility. The proposed project does not include a development proposal or physical changes to the project site. However, future development allowed under the proposed project could result in soil erosion or the loss of topsoil. Based on a review of USGS liquefaction hazard maps, the project site has a moderate potential for liquefaction during significant seismic events.[31] However, the site could contain currently unknown soil or geotechnical hazards. In accordance with the City's General Plan and Municipal Code, future redevelopment would be constructed according to standard engineering practices in the CBC, as adopted by the City of San José. In addition, Standard Permit Conditions require that the Geotechnical Report to determine the site-specific soil conditions and identify the appropriate design and construction techniques to minimize risks to people and structures, including the design and construction conditions relating to seismic damage mentioned under Section 4.7.2, Impact(1)(b). The City of San José Department of Public Works would review future redevelopment plans and the Geotechnical Report for conformance with City and State codes prior to the issuance of a Public Works Clearance. Conformance with City and State codes would result in a less than significant impact.

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

No impact. The proposed project does not include a development proposal or physical changes to the project site. However, future development allowed under the proposed GPA and Conforming Rezoning could potentially be impacted by expansive soils which could be present on the project site. In accordance with the City's General Plan and Municipal Code, future redevelopment would be constructed according to standard engineering practices in the CBC, as adopted by the City of San

[31] United States Geological Survey (USGS). Liquefaction Hazard Maps, Northern Santa Clara Valley. Website: https://earthquake.usgs.gov/hazards/urban/sfbay/liquefaction/scvalley/. Accessed August 16, 2022.

José. In addition, the City of San José Department of Public Works would review future redevelopment plans for conformance with City and State codes, prior to the issuance of a Public Works Clearance. Conformance with City and State codes would result in a less than significant impact.

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

No impact. The proposed project does not include a development proposal or physical changes to the project site. The project site is served by sanitary sewer lines and future redevelopment of the site under the proposed GPA and Conforming Rezoning would not require any septic systems. There would be no impact.

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

Less than significant impact. The proposed project does not include a development proposal or physical changes to the project site. However, future development allowed under the proposed GPA and Conforming Rezoning could potentially require excavation which could impact unknown paleontological resources. The project site is located in an area mapped as "high sensitivity at depth" in the 2040 General Plan Environmental Impact Report (EIR). Future development must be consistent with General Plan Policy ER-10.3, which requires investigation during the planning process in order to determine whether potentially significant paleontological information may be affected by the project. Consistent with General Plan Policy ER-10.3, the City's Standard Permit Condition for the inadvertent discovery of resources would apply to any future redevelopment of the project site to ensure that any impacts to potential paleontological resources would be less than significant.

Standard Permit Conditions

- To avoid or minimize potential damage from seismic shaking, project construction shall use standard engineering and seismic safety design techniques. Complete building design and construction at the site in conformance with the recommendations of an approved geotechnical investigation. The geotechnical investigation report shall be reviewed and approved by the Department of Public Works as part of the building permit review and entitlement process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on-site and off-site to the extent feasible and in compliance with the Building Code.
- Schedule all excavation and grading work in dry weather months or weatherize construction sites.
- Cover stockpiles and excavated soils with secured tarps or plastic sheeting.
- Install ditches to divert runoff around excavations and graded areas if necessary.

- Construct the project in accordance with standard engineering practices in the California Building Code, as adopted by the City of San José. Obtain a grading permit from the Department of Public Works prior to the issuance of a Public Works Clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.
- Any additional appropriate design and construction techniques to minimize risks to people and structures, including but not limited to foundation, earthwork, utility trenching, retaining and drainage recommendations.

For each project developed under the proposed GPA and rezoning, geotechnical investigations shall be consistent with the State of California guidelines for the preparation of seismic hazard evaluation reports (CGS Special Publication 117A, 2008, and the 1999 SCEC Report). A recommended minimum depth of 50 feet would be explored and evaluated in the investigation. The City Geologist shall review the Geotechnical Report and issue a Geologic Clearance.

Paleontological Resources

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

Mitigation Measures

None required.

4.8 - GREENHOUSE GAS EMISSIONS

4.8.1 - Environmental Setting

Unlike emissions of criteria air pollutants and TACs discussed in Section 4.3, Air Quality, which have local or regional impacts, emissions of GHGs have a broader, inherently cumulative, global impact. Global warming associated with the "greenhouse effect" is a process whereby GHGs accumulating in the atmosphere contribute to an increase in the temperature of the earth's atmosphere over time. The principal GHGs contributing to global warming and associated climate change are carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), and fluorinated compounds. Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the transportation, industrial/manufacturing, utility, residential, commercial, and agricultural sectors.

Applicable Plans, Policies and Regulations

Legislative Actions to Reduce Greenhouse Gas Emissions

California State legislature has enacted a series of bills to reduce GHGs. Some legislation such as the landmark AB 32 California Global Warming Solutions Act of 2006 was specifically enacted to address GHG emissions. Other legislation, such as Title 24 and Title 20 energy standards, were originally adopted for other purposes such as energy and water conservation but also provide GHG reductions. This section describes the major provisions of the legislation.

California AB 1493, enacted on July 22, 2002, required the ARB to develop and adopt regulations that reduce GHGs emitted by passenger vehicles and light-duty trucks. Implementation of the regulation was delayed by lawsuits filed by automakers and by the EPA's denial of an implementation waiver. The EPA subsequently granted the requested waiver in 2009, which was upheld by the U.S. District Court for the District of Columbia in 2011. The standards were phased in during the 2009 through 2016 model years.

The second phase of the implementation for the Pavley Bill was incorporated into Amendments to the Low Emission Vehicle (LEV) Program referred to as LEV III or the Advanced Clean Cars program. The Advanced Clean Car program combines the control of smog-causing pollutants and GHG emissions into a single coordinated package of requirements for model years 2017 through 2025. The regulation will reduce GHGs from new cars by 34 percent from 2016 levels by 2025. The new rules will reduce pollutants from gasoline and diesel-powered cars, and deliver increasing numbers of zero-emission technologies, such as full battery electric cars, newly emerging plug-in hybrid EVs, and hydrogen fuel cell cars. The regulations will also ensure adequate fueling infrastructure is available for the increasing numbers of hydrogen fuel cell vehicles planned for deployment in California. The California State Legislature enacted AB 32, the California Global Warming Solutions Act of 2006. AB 32 requires that GHGs emitted in California be reduced to 1990 levels by the year 2020. "Greenhouse gases," as defined under AB 32, include CO_2, methane, N_2O, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. Since AB 32 was enacted, a seventh chemical, nitrogen trifluoride, has also been added to the list of GHGs.

The ARB's Climate Change Scoping Plan contains measures designed to reduce the State's emissions to 1990 levels by the year 2020 to comply with AB 32. The Scoping Plan identifies recommended

measures for multiple GHG emission sectors and the associated emission reductions needed to achieve the year 2020 emissions target—each sector has a different emission reduction target. Most of the measures target the transportation and electricity sectors.

The ARB approved the First Update to the Scoping Plan on May 22, 2014. The Update identifies the next steps for California's climate change strategy. The Update shows how California continues on its path to meet the near-term 2020 GHG limit but also sets a path toward long-term, deep GHG emission reductions. The report establishes a broad framework for continued emission reductions beyond 2020, on the path to 80 percent below 1990 levels by 2050. The Update identifies progress made to meet the near-term objectives of AB 32 and defines California's climate change priorities and activities for the next several years.

The Sustainable Communities and Climate Protection Act of 2008 was signed into law on September 30, 2008. According to SB 375, the transportation sector is the largest contributor of GHG emissions, which emits over 40 percent of the total GHG emissions in California. The law requires metropolitan planning organizations to include sustainable community strategies in their regional transportation plans for reducing GHG emissions, aligns planning for transportation and housing, and creates specified incentives for the implementation of the strategies.

The Governor signed SB 32 in September of 2016, giving the ARB the statutory responsibility to include the 2030 target previously contained in Executive Order B-30-15 in the 2017 Scoping Plan Update. SB 32 states, "in adopting rules and regulations to achieve the maximum technologically feasible and cost-effective greenhouse gas emissions reductions authorized by this division, the state [air resources] board shall ensure that statewide greenhouse gas emissions are reduced to at least 40 percent below the statewide greenhouse gas emissions limit no later than December 31, 2030." The 2017 Climate Change Scoping Plan Update addressing the SB 32 targets was adopted on December 14, 2017.

On September 12, 2002, Governor Gray Davis signed SB 1078, requiring California to generate 20 percent of its electricity from renewable energy by 2017. SB 107 changed the due date to 2010 instead of 2017. On November 17, 2008, Governor Arnold Schwarzenegger signed Executive Order S-14-08, which established a Renewable Portfolio Standard target for California requiring that all retail sellers of electricity serve 33 percent of their load with renewable energy by 2020. Governor Schwarzenegger also directed the ARB (Executive Order S-21-09) to adopt a regulation by July 31, 2010, requiring the State's LSEs to meet a 33 percent renewable energy target by 2020. The ARB approved the Renewable Electricity Standard on September 23, 2010, by Resolution 10-23.

The legislature recently approved, and the Governor signed, SB 350, which reaffirms California's commitment to reducing its GHG emissions and addressing climate change. Key provisions include an increase in the renewables portfolio standard, higher energy efficiency requirements for buildings, initial strategies toward a regional electricity grid, and improved infrastructure for electric vehicle charging stations. Specifically, SB 350 requires the following to reduce Statewide GHG emissions:

- Increase the amount of electricity procured from renewable energy sources from 33 percent to 50 percent by 2030, with interim targets of 40 percent by 2024, and 25 percent by 2027.

- Double the energy efficiency in existing buildings by 2030. This target will be achieved through the California Public Utilities Commission (CPUC), the California Energy Commission (CEC), and local publicly owned utilities.
- Reorganize the Independent System Operator (ISO) to develop additional regional electrify transmission markets and to improve accessibility in these markets, which will facilitate the growth of renewable energy markets in the western United States.

The Water Conservation Act of 2009 directs urban retail water suppliers to set individual 2020 per capita water use targets and begin implementing conservation measures to achieve those goals. Meeting this Statewide goal of 20 percent decrease in demand was estimated to result in a reduction of almost 2 million acre-feet in urban water use in 2020.

BAAQMD CEQA Air Quality Guidelines

The BAAQMD is the primary agency responsible for ensuring that air quality standards (NAAQS and CAAQS) are attained and maintained in the Air Basin through a comprehensive program of planning, regulation, enforcement, technical innovation, and promotion of the understanding of air quality issues. The BAAQMD prepares plans to attain ambient air quality standards in the Air Basin. BAAQMD prepares ozone attainment plans for the national ozone standard, AQPs for the California standard, and PM plans to fulfill federal air quality planning requirements. The BAAQMD also inspects stationary sources of air pollution; responds to citizen complaints; monitors ambient air quality and meteorological conditions; and implements programs and regulations required by the CAA, the CAA Amendments of 1990, and the CCAA.

The BAAQMD developed quantitative thresholds of significance for its CEQA Guidelines in 2010, which were also included in its updated subsequent guidelines.[32,33] BAAQMD's adoption of the 2010 thresholds of significance was later challenged in court. In an opinion issued on December 17, 2015, related to the BAAQMD CEQA Guidelines, the California Supreme Court held that CEQA does not generally require an analysis of the impacts of locating development in areas subject to environmental hazards unless the project would exacerbate existing environmental hazards. The Supreme Court also found that CEQA requires an analysis of human exposure to environmental hazards in specific circumstances, such as development near airports and the siting of schools on or near hazardous waste sites. The Supreme Court further held that public agencies may voluntarily conduct this analysis for their own public projects when not required by CEQA (*CBIA v. BAAQMD [2016]* 2 Cal.App.5th 1067, 1083).

In view of the Supreme Court's opinion, the BAAQMD published a new version of its CEQA Guidelines in May 2017.[34] The BAAQMD CEQA Guidelines state that local agencies may rely on thresholds designed to reflect the impact of locating development near areas of toxic air contamination where such analysis is required by CEQA or where the agency determines such analysis would assist in making a decision about the project. Most recently, in April 2022, the BAAQMD adopted updated thresholds for evaluating the GHG emissions impacts from land use

[32] Bay Area Air Quality Management District. 2010. California Environmental Quality Act Air Quality Guidelines. June 2.
[33] Bay Area Air Quality Management District. 2012. California Environmental Quality Act Air Quality Guidelines. May.
[34] Bay Area Air Quality Management District. 2017. California Environmental Quality Act Air Quality Guidelines. May.

projects and plans.[35] The City chooses to rely on the BAAQMD's GHG significance thresholds, as applicable.

Private Sector Green Building Policy (Council Policy 6-32)

In October 2008, the City adopted the Council Policy 6-32 "Private Sector Green Building Policy" that established baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. This policy requires that applicable projects achieve minimum green building performance levels using the Council-adopted standards.

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects within city limits. The following policies are specific to reducing GHG emissions and are relevant to the proposed project.

Envision San José 2040 General Plan Relevant Greenhouse Gas Policies

Policies	Description
Policy MS-1.1	Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City's Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction.
Policy MS-1.4	Foster awareness of San José's business and residential communities of the economic and environmental benefits of green building practices. Encourage design and construction of environmentally responsible commercial and residential buildings that are also operated and maintained to reduce waste, conserve water, and meet other environmental objectives.
Policy MS-2.3	Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
Policy MS-2.4	Promote energy efficient construction industry practices.
Policy MS-2.6	Promote roofing design and surface treatments that reduce the heat island effect of new and existing development and support reduced energy use, reduced air pollution, and a healthy urban forest. Connect businesses and residents with cool roof rebate programs through City outreach efforts.
Policy MS-2.11	Require new development to incorporate green building policies, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize effectiveness of passive solar design.).
Policy MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
Policy MS-5.6	Enhance the construction and demolition debris recycling program to increase diversion from the building sector.

[35] Bay Area Air Quality Management District (BAAQMD). 2022. Justification Report: CEQA Thresholds for Evaluating the Significance of Climate Impacts from Land Use Projects and Plans. April.

Envision San José 2040 General Plan Relevant Greenhouse Gas Policies

Policies	Description
Policy MS-10.5	In order to reduce vehicle miles traveled and traffic congestion, require new development within 2,000 feet of an existing or planned transit station to encourage the use of public transit and minimize the dependence on the automobile through the application of site design guidelines and transit incentives.
Policy MS-16.5	Establish minimum requirements for energy efficiency measures and on-site renewable energy generation capacity on all new housing developments.
Policy CD-2.10	Recognize that finite land area exists for development and that density supports retail vitality and transit ridership. Use land regulations to require compact, low-impact development that efficiently uses land planned for growth, particularly for residential development which tends to have a long lifespan. Strongly discourage small-lot and single-family detached residential product types in Growth Areas.
Policy CD-5.1	Design areas to promote pedestrian and bicycle movements and to facilitate interaction between community members and to strengthen the sense of community.
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 toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.
Policy TR-1.16	Develop a strategy to construct a network of public and private alternative fuel vehicle charging/fueling stations citywide. Revise parking standards to require the installation of electric charging infrastructure at new large employment sites and large, multiple family residential developments.
Policy H-4	Implement green building principles in the design and construction of housing and related infrastructure, in conformance with the Green Building Goals and Policies in the Envision General Plan and in conformance with the City's Green Building Ordinance.
Policy H-4.2	Minimize housing's contribution to greenhouse gas emissions, and locate housing, consistent with our City's land use and transportation goals and policies, to reduce vehicle miles traveled and auto dependency.
Policy H-4.3	Encourage the development of higher residential densities in complete, mixed-use, walkable and bike able communities to reduce energy use and greenhouse gas emissions.

City of San José's GHG Reduction Strategy

The General Plan includes strategies, policies, and action items that are incorporated in the City's GHG Reduction Strategy (GHGRS) to help reduce GHG emissions. The General Plan's multiple policies and actions have GHG implications, including land use, housing, transportation, water usage, solid waste generation and recycling, and reuse of historic buildings. The City's GHGRS is intended to meet the mandates outlined in the BAAQMD CEQA Air Quality Guidelines and standards for a "Qualified GHG Reduction Strategy" as established by the BAAQMD and the CEQA Statutes and Guidelines. In addition, the City's Green Vision, as reflected in the City's GHGRS, includes a monitoring component that allows for adaptation and adjustment of City programs and initiatives related to sustainability and associated reductions in GHG emissions.

The City's GHGRS identifies GHG emissions reduction measures to be implemented by development projects in four categories: built environment and energy, land use and transportation, recycling and waste reduction, and other GHG reduction measures. Some measures are mandatory for all proposed development projects and others are voluntary.

The primary test for consistency with the City's GHGRS is conformance with the City's GHGRS Project Compliance Checklist. All land use development proposals are required to evaluate consistency with the goals and policies outlined in the General Plan designed to reduce GHG emissions using the GHGRS Project Compliance Checklist. Consistent with the requirements under CEQA Guidelines Section 15183.5, projects consistent with the GHGRS would have a less than significant impact on GHG emissions through 2030 and would not conflict with targets in the currently adopted State of California Climate Change Scoping Plan through 2030.

City of San José Municipal Code

The City's Municipal Code includes the following regulations that would reduce GHG emissions from future development:

- Green Building Ordinance (Chapter 17.84)
- Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.10)
- Transportation Demand Programs for employers with more than 100 employees (Chapter 11.105)
- Construction and Demolition Diversion Deposit Program (Chapter 9.10)
- Wood Burning Ordinance (Chapter 9.10)
- All-Electric Ordinance (Chapter 17.845)

4.8.2 - Environmental Checklist and Impact Discussion

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

Impact Discussion

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

Less than significant impact.

Both construction and operational activities have the potential to generate GHG emissions. The proposed project would constitute a GPA and rezoning of the project site and would not involve the physical development of the project site. The proposed project would not involve any physical development and, therefore, would not generate any GHG emissions.

Nonetheless, future development facilitated by the GPA and site rezoning could generate short-term GHG emissions during temporary (short-term) construction activities such as demolition, site preparation, grading, building construction, paving, and architectural coating activities; running of construction equipment engines including movement of on-site heavy-duty construction vehicles; hauling materials to and from the project site; asphalt paving; coating and construction worker motor vehicle trips.

Long-term, operational GHG emissions could result from future project-generated vehicular traffic, possible on-site combustion of natural gas for generators and other supportive operational equipment, operation of any landscaping equipment, off-site generation of electrical power over the life of any future proposed project, the energy required to convey water to and wastewater from the project site, and the emissions associated with the hauling and disposal of solid waste from the project site.

Construction Emissions

While the project does not include any physical changes to the environment, future redevelopment that could occur with project approval would result in GHG emissions associated with construction activities, including operation of construction equipment and emissions from construction workers' personal vehicles traveling to and from the construction site.

Construction-related GHG emissions vary depending on the level of activity, length of construction period, types of equipment, etc. Neither the City nor BAAQMD has established a quantitative threshold or standard for determining whether the project's construction-related GHG emissions are significant. Future redevelopment is assumed in this analysis to be industrial development including the construction of a warehouse building, heavy and light manufacturing, solid waste transfer and processing stations, and other uses consistent with the Heavy Industrial zoning and General Plan designation when compared to the existing General Plan land use designation of the site.

Future construction is assumed to last approximately 2 to 4 years, depending on the extent of development on the site. Because future construction would be temporary and potential redevelopment would implement construction BMPs (see Section 4.3, Air Quality) and the above outlined Greenhouse Gas Reduction Strategies to reduce GHG emissions, construction-related emissions of any future redevelopment project would be less than significant.

Operational Emissions

Operational GHG emissions from projects developed under the proposed GPA and rezoning would be subject to the BAAQMD's 2022 GHG Thresholds for Land Use Projects. In doing so, projects would be required to demonstrate consistency with one of the thresholds shown in Table 5 in order to be found to have a less than significant impact with regards to GHG emissions.

Table 5: BAAQMD GHG Thresholds for Land Use Projects

A	Projects would include, at a minimum, the following project design elements: 1. Buildings a. The project will not include natural gas appliances or natural gas plumbing (in both residential and nonresidential development). b. The project will not result in any wasteful, inefficient, or unnecessary energy usage as determined by the analysis required under CEQA Section 21100(b)(3) and Section 15126.2(b) of the State CEQA Guidelines. 2. Transportation a. Achieve a reduction in project-generated VMT below the regional average consistent with the current version of the California Climate Change Scoping Plan (currently 15 percent) or meet a locally adopted Senate Bill 743 VMT target, reflecting the recommendations provided in the Governor's Office of Planning and Research's Technical Advisory on Evaluating Transportation Impacts in CEQA: i. Residential projects: 15 percent below the existing VMT per capita ii. Office projects: 15 percent below the existing VMT per employee iii. Retail projects: no net increase in existing VMT b. Achieve compliance with off-street electric vehicle requirements in the most recently adopted version of CALGreen Tier 2.
B	Projects must be consistent with a local GHG reduction strategy that meets the criteria under State CEQA Guidelines Section 15183.5(b).
Source: Bay Area Air Quality Management District (BAAQMD). 2022. CEQA Thresholds Justification Report. April.	

For this analysis, future projects would need to show consistency with the BAAQMD Land Use Threshold Option A or B. Option B requires consistency with a qualified GHG reduction strategy. Therefore, future development of the site under the proposed project would be evaluated for consistency with the City's 2030 GHGRS.

The proposed project is a GPA and Conforming Rezoning to allow for heavy industrial redevelopment on the site at a higher density and floor area ratio (FAR) that currently permitted. Based on the orientation, size, and location of the project site, it is assumed that industrial development including the construction of a warehouse building, heavy and light manufacturing, solid waste transfer and processing stations, and other uses consistent with the Heavy Industrial zoning district and General Plan designation could potentially be developed on the undeveloped site. Operation of future development facilitated by the project on the project site would generate operational GHG emissions primarily from energy consumption, vehicular travel, and solid waste disposal. While GHG emissions could be higher due to the potential heavy industrial redevelopment on the site, the operational GHG emissions would contribute minimally to the generation of local and regional air pollutants since the future project would be under BAAQMD's screening criteria for general heavy industry. Additionally, the project would be consistent with the 2017 and 2022 recommended BAAQMD thresholds and the City's GHGRS. In order to achieve consistency, future projects would incorporate the following Greenhouse Reduction Strategies or similar measures into the future development:

- Implementation of green building measures through construction techniques and architectural design
- Incorporation of energy conservation measures
- Use of San José Clean Energy Total Green (100% carbon free electricity) or solar facilities
- Incorporation of bicycle facilities including bicycle storage
- Incorporation of water-efficient landscaping and appropriate landscaping species

Consistent with the City's natural gas ban, a future project would not include natural gas appliances, the project would not result in any wasteful, inefficient, or unnecessary energy usage. Any future project would be required to be consistent with Council Policy 5-1 establishing the City VMT thresholds consistent with the BAAQMD Transportation Criteria. Finally, the project would be required to comply with the City's Green Building Code including the provision of electrical vehicle parking. For these reasons, future redevelopment under the GPA and Conforming Rezoning would have less than significant operational impacts.

While the proposed GPA and Conforming rezoning would diverge from the envisioned PQP General Plan Land Use Table's designation for the site, the proposed GPA and conforming rezoning are consistent with the General Plan. Specifically, the General Plan's Land Use policies LU-6.5 which identifies Heavy Industrial sites should be one acre in size to facilitate viable uses and LU-2.3 which promotes the intensification of identified Growth areas. The 3.62 project site is located outside of a Growth Area, which is appropriate for industrial uses because they are lower intensity and density than high-density office towers or high-density housing developments that are intended for Growth Areas. Additionally, the GPA and Conforming Rezoning further the General Plan's Major Industrial Preservation and (LU-6) and Attract New Industrial Uses Goals. The spirit of these General Plan Goals are to protect existing Industrial lands from converting to another use and to encourage appropriate expansion to support the City's economic and environmental goals. The project provides the city with industrial land near existing industrial land in Milpitas. The project is a GPA and Conforming Rezoning that would allow the future redevelopment of the site with industrial development including the construction of a warehouse building, heavy and light manufacturing, solid waste transfer and processing stations, and other uses consistent with the Heavy Industrial zoning district and General Plan designation. Specific development is not proposed at this time; however, future site redevelopment would be required to complete the GHGRS Checklist and be designed to comply with appropriate State and City policies, including the City's 2030 GHGRS. With implementation of GHG Reduction Strategies, future redevelopment of the project would have a less than significant impact related to GHG emissions.

2) Would the project conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?

As previously discussed, the proposed project does not include a development proposal or physical changes to the project site. Future development allowed under the proposed GPA and Conforming Rezoning would be designed to comply with the BAAQMD GHG Thresholds for Land Use Projects (Table 5), and other State and City policies, including the City's GHGRS, which is the applicable local plan adopted for the purpose of reducing GHG emissions.

Future redevelopment of the project site would be required to be consistent with San José's GHGRS by developing a use consistent with the General Plan land use designation, achieving a minimum LEED® Silver certification, utilizing energy conserving technology in operations, and providing ground level bicycle parking consistent with the City's Municipal Code. The development projects in San José that comply with the City's GHGRS are considered to reduce that project's contribution to cumulative GHG emission impacts to a less than significant level through 2030.

The proposed GPA and Conforming Rezoning of the project site would not result in any changes to GHG emissions on-site or in the project area. Any future redevelopment on the site would be required to conform to the City's Green Building Ordinance, Reach Code, Municipal Code, and San José's GHGRS to reduce GHG emissions to a less than significant level, including relevant mandatory measures for all projects and other measures that are considered voluntary, at the City's discretion. For example, Chapter 17.845 of the City's Municipal Code would require future development to be all-electric, except for specific cases such as hospitals or for projects with distributed energy resources.

The project is a GPA and Conforming Rezoning and does not include development or construction of a specific project or physical changes to the environment. Future redevelopment of the project site would be required to be consistent with General Plan policies and the GHGRS. Therefore, the impact would be less than significant.

Mitigation Measures

None required.

4.9 - HAZARDS AND HAZARDOUS MATERIALS

This section is based on the Phase I Environmental Assessment (Phase I ESA) prepared by ENGEO, which is provided in Appendix D.

4.9.1 - Environmental Setting

The project site is undeveloped and enclosed with a chain link fence. Ornamental landscaping is located along the I-680 frontage. The project site was previously used as a water supply well site and later for temporary trench spoil storage by San José Water Company. The well infrastructure was abandoned in place. The site also may have been used historically for agricultural purposes. Accordingly, the site could contain agricultural chemicals, such as residual pesticides or residual metals or petroleum hydrocarbons from the trench spoils. The project site was not identified on the California Department of Toxic Substances Control (DTSC) EnviroStor database or the California State Water Resources Control Board (State Water Board) GeoTracker database.

Applicable Plans, Policies, and Regulations

Federal Aviation Regulation Part 77 Rule

Federal Aviation Regulation Part 77 "Objects Affecting Navigable Airspace" provides navigable airspace criteria for airports and imaginary surface criteria for heliports. Federal Aviation Regulation Part 77 regulates the safe and efficient use of navigable airspace and navigational facilities. Regulations cover construction noticing requirements, standards for determining obstructions to air navigation or navigational facilities, aeronautical studies and determinations, and petitions for discretionary review.

Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act (RCRA) regulates hazardous waste from the time that the waste is generated through its management, storage, transport, and treatment until its final disposal. The EPA authorizes the DTSC to administer RCRA in California. DTSC acts as the general agency for soil and groundwater cleanup projects and establishes cleanup and action levels for subsurface contamination that are equal to, or more restrictive than, federal levels.

Comprehensive Environmental Response, Compensation, and Liability Act

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, was designed to clean up abandoned hazardous waste sites that may endanger public health or the environment. The law authorizes the EPA to identify parties responsible for contamination of sites and compel the parties to clean up the sites. Where responsible parties cannot be found, the EPA is authorized to perform the cleanup using a special trust fund. This law outlines the potential liability related to the cleanup of hazardous substances, available defenses to such liability, appropriate inquiry into site status under Superfund, and statutory definitions of hazardous substances and petroleum products.

The Cortese List

The Cortese List (Hazardous Waste and Substances Site List) is a document used by State, local agencies, and developers to comply with CEQA requirements to consider Government Code Section 5962.5 in evaluating proposed development projects. The Government Code requires the DTSC to

compile and update a list of hazardous waste sites, handling facilities, disposal facilities, and abandoned sites.

Santa Clara County Department of Environmental Health

The Santa Clara County Department of Environmental Health acts as the local oversight agency for investigation and cleanup of petroleum releases from underground storage tanks (USTs) through implementation of the local oversight program by contract with the State and Regional Water Resources Control Board.

San Francisco Bay Regional Water Quality Control Board

There are nine Regional Water Quality Control Boards (RWQCBs) throughout the State. The San Francisco Bay RWQCB has jurisdiction over projects in the City of San José. Individual RWQCBs function as the lead agencies responsible for identifying, monitoring, and cleaning up Leaking Underground Storage Tanks (LUSTs). Storage of hazardous materials in USTs is regulated by the State Water Board, which oversees the nine RWQCBs.

Envision San José 2040 General Plan

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

Envision San José 2040 General Plan Relevant Hazardous Material Policies

Policies	Description
Policy EC-7.1	For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine whether any potential environmental conditions exist that could adversely impact the community or environment.
Policy EC-7.2	Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, State and federal laws, regulations, guidelines and standards.
Policy EC-7.4	On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-based paint and asbestos-containing materials, shall be implemented in accordance with State and federal laws and regulations.
Policy EC-7.5	On development and redevelopment sites, require all sources of imported fill to 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.
Action EC-7.8	When an environmental review process identifies the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce impacts to human health and safety and to the environment are required of or incorporated into the projects. This applies to hazardous materials found in the soil, groundwater, soil vapor, or in existing structures.

Envision San José 2040 General Plan Relevant Hazardous Material Policies

Policies	Description
Action EC-7.9	Ensure coordination with the County of Santa Clara Department of Environmental Health, Regional Water Quality Control Board, Department of Toxic Substances Control or other applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists.
Action EC-7.10	Require review and approval of grading, erosion control, and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.
Action 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.

4.9.2 - Environmental Checklist and Impact Discussion

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
1. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☒	☐
2. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☒	☐
3. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within 0.25-mile of an existing or proposed school?	☐	☐	☒	☐
4. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☒
5. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?	☐	☐	☐	☒
6. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
7. Expose people or structures, either directly or indirectly to a significant risk of loss, injury or death involving wildland fires?	☐	☐	☐	☒

Impact Discussion

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

Less than significant impact. The site reconnaissance and records review performed by ENGEO did not find documentation or physical evidence of soil, soil gas, or groundwater impairments associated with the use or past use of the project site. A review of regulatory databases found no documentation of hazardous materials violations or discharge on the site and did not identify contaminated facilities within the appropriate American Society for Testing and Materials search distances that would be reasonably be expected to impact the site. The proposed project does not include a development proposal or physical changes to the project site. However, future development allowed under the proposed project could potentially create an impact through the routine transport, use, or disposal of hazardous materials. The Heavy Industrial zoning district is intended for industrial uses with nuisance or hazardous characteristics, with extractive and primary processing industries as typical of this zoning district. Use of hazardous materials related to future development would be subject to applicable regional, State, and federal laws, regulations, guidelines, and standards. The proposed project is a GPA and Conforming Rezoning and does not propose specific development on the site. At the time of specific project application, Standard Permit Conditions would be implemented regarding the treatment of asbestos and lead-based paint. Standard Permit Conditions may require the project sponsor to conduct further soils testing to determine whether residual hazardous materials are present and recommend appropriate mitigation/remediation measures. In addition, any future development that would occur under the proposed GPA and rezoning would comply with the City's General Plan, including Goal EC-6 and its accompanying policies that seek to protect the community from the risks inherent in the transport, distribution, use, storage, and disposal of hazardous materials, and Goal EC-7 and its accompanying policies, which seek to protect the community and environment from exposure to hazardous soil, soil vapor, groundwater, and indoor air contamination and hazardous building materials in existing and proposed structures, developments, and public properties. Future development on the project site following the implementation of the proposed project would be required to analyze the site and determine the appropriate level of oversight/clean up needed based on the aforementioned plans, policies, and conditions. Compliance with these laws, regulations, and guidelines would ensure potential impacts are less than significant.

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

Less than significant impact. The proposed project does not include a development proposal or physical changes to the project site. However, future development allowed under the proposed project could potentially create a hazard to the public through reasonably foreseeable upset and accident conditions. The project site could potentially contain contaminants, particularly associated with historic agricultural uses. In addition, the existing buildings may contain asbestos-containing material (ACM) and/or lead-based paint (LBP). Demolition of the existing buildings under a future development proposal could result in the release of these materials if not properly handled.

In accordance with General Plan Policy EC-7.4, future redevelopment on-site would be required to determine the presence of hazardous building materials during the environmental review process or prior to project approval and implement mitigation and remediation measures in conformance with regional, State, and federal laws, regulations, guidelines, and standards. Standards include but are not limited to the following: employee training, employee air monitoring, and dust control to remove all debris or soils containing LBP in accordance with the California Occupational Safety and Health Administration (Cal/OSHA) Lead in Construction Standard, Title 8, California Code of Regulations, Section 1532.1, to landfills that meet acceptance criteria for the type of lead being disposed; removal of all potentially friable ACMs in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines prior to demolition or renovation activities that may disturb ACMs; protection of workers from asbestos exposure by undertaking all demolition activities in accordance with Cal/OSHA standards contained in Title 8, California Code of Regulations, Section 1529; retainment of a registered asbestos abatement contractor to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with Cal/OSHA standards stated above; removal of materials containing more than 1 percent asbestos in accordance with BAAQMD requirements and notifications; and implementation of Cal/OSHA rules and regulations to limit impacts of LBP and ACM to construction workers.

General Plan Policy 7.2 would require future development on-site to identify existing soil, soil vapor, groundwater, and indoor air contaminants and mitigation for human health and environmental hazards while Policy EC-7.11 would require sampling for agricultural chemicals and implementation of mitigation measures as needed.

Conformance with these laws and regulations would ensure a less than significant impact.

3) Would the project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within 0.25 mile of an existing or proposed school?

Less than significant impact. The proposed project does not include a development proposal or physical changes to the project site. However, future development allowed under the proposed project could potentially expose hazardous materials within 0.25 mile of a school. Northwood Elementary School is within 900 feet of the project site. However, the handling and disposal of hazardous materials associated with future construction activities at the site would be conducted in

accordance with all legal requirements for safety, thereby avoiding release of such materials. Therefore, the impact would be less than significant.

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

No impact. The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 (i.e., Cortese List) based on a search of the DTSC EnviroStor database. There would be no impact.

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

No impact. The nearest airport to the project site is San José International Airport (SJC), located 4 miles to the southwest. The project site is not located within the airport influence area of SJC. This condition precludes the possibility of the proposed GPA exposing persons residing or working in the project area to aviation hazards. No impact would occur.

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

No impact. The proposed project does not include a development proposal or physical changes to the project site. Future development allowed under the proposed project would be required to comply with all Fire Department codes and regulations to ensure emergency operations would not be impacted. Therefore, no impacts would occur.

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

No impact. The proposed project would not expose people or structures to risk of loss, injury, or death from wildland fires since the project site is located in a highly urbanized area that is not prone to such events. As a result, there would be no impact. See also Section 4.19, Wildfire, of this Initial Study.

Hazards and Hazardous Materials

In compliance with General Plan policies, future development under the proposed project would conduct a visual inspection/pre-demolition survey, and possible sampling in conformance with State and local laws, to determine the presence of ACMs and/or LBP prior to the demolition of on-site building(s).

Mitigation Measures

None required.

4.10 - HYDROLOGY AND WATER QUALITY

4.10.1 - Environmental Setting

The project site does not contain any natural drainages or waterways. The nearest waterway is Berryessa Creek located immediately south of the project site. The Flood Insurance Rate Maps (FIRMs) issued by the Federal Emergency Management Agency (FEMA) indicate that the project site is located within Zone X, which is defined as an area minimal flood risk. The City does not have any floodplain restrictions for development in Zone X.

Applicable Plans, Policies, and Regulations

Clean Water Act and Porter-Cologne Water Quality Control Act

The Federal Clean Water Act (CWA) and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality. The CWA forms the basis for several State and local laws throughout the nation. Its objective is to reduce or eliminate water pollution in the nation's rivers, streams, lakes, and coastal waters. The CWA outlines the federal laws for regulating discharges of pollutants as well as sets minimum water quality standards for all "Waters of the United States." The Porter-Cologne Act established the State Water Board.

Several mechanisms are employed to control domestic, industrial, and agricultural pollution under the CWA. At the federal level, the CWA is administered by the EPA. At the State and regional level, the CWA is administered and enforced by the State Water Board and the nine RWQCBs. The State of California has developed a number of water quality laws, rules, and regulations, in part to assist in the implementation of the CWA and related federally mandated water quality requirements. In many cases, the federal requirements set minimum standards and policies and the laws, rules, and regulations adopted by the State and regional boards exceed the federal requirements.

Post-Construction Urban Runoff Management and Post-Construction Hydromodification Management Policies

Council Policy 6-29 "Post-Construction Urban Runoff Management" requires all new development projects to incorporate site design and source control measures as a means to manage runoff. The policy requires projects creating 10,000 square feet or more of impervious surfaces to employ Low Impact Development (LID) measures.

Council Policy 8-14 "Post-Construction Hydromodification Management" addresses the management of stormwater runoff to minimize erosion and sedimentation in local waterways through the use of post-construction hydromodification management.

Municipal Regional Stormwater NPDES Permit

The EPA has delegated oversight of National Pollutant Discharge Elimination System (NPDES) requirements for municipal urban runoff discharges in California to the State Water Board and the nine RWQCB offices. In 2009, the San Francisco Bay RWQCB issued a regional NPDES permit (NPDES Permit Order R2-2009-0074, NPDES Permit No. CAS612008) for stormwater, consolidating requirements for all Bay Area municipalities and flood control agencies that discharge directly to San Francisco Bay. Some provisions require regional action and collaboration but others relate to specific municipal activities over which the municipalities have individual responsibility and control.

Under the Municipal Regional Stormwater NPDES Permit (also referred to as MRP), development projects that create, add, or replace 10,000 square feet or more of impervious surface area are required to control post-development stormwater runoff through source control, site design, and treatment control BMPs. Additional requirements must be met by certain large projects that create one acre or more of impervious surfaces (see Hydromodification discussion below). Beginning December 1, 2011, the impervious surface threshold for regulated projects was decreased from 10,000 square feet to 5,000 square feet for special land use categories (e.g., auto services facilities, gas stations, restaurants, parking lots) and most regulated projects will have to treat stormwater runoff with additional treatment measures, such as harvesting and reuse, infiltration, evapotranspiration, or biotreatment. The MRP requires regulated projects to include LID practices, such as site design measures, pollutant source control measures, and stormwater treatment features aimed to maintain or restore the site's natural hydrologic functions. The MRP also requires that stormwater treatment measures are properly installed, operated, and maintained.

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects within the City. The following policies are specific to hydrology and water quality and are applicable to the proposed project.

Envision San José 2040 General Plan Relevant Hydrology and Water Quality Policies

Policies	Description
Policy IN-3.7	Design new projects to minimize potential damage due to stormwater and flooding to the site and other properties.
Policy IN-3.10	Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's NPDES permit.
Policy MS-3.4	Promote the use of green roofs (i.e., roofs with vegetated cover), landscape-based treatment measures, pervious materials for hardscape, and other stormwater management practices to reduce water pollution.
Policy ER-8.1	Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
Policy ER-8.3	Ensure that private development in San José includes adequate measures to treat stormwater runoff.
Policy EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and Municipal Code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and stormwater controls.
Policy EC-5.7	Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.

4.10.2 - Environmental Checklist and Impact Discussion

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

Impact Discussion

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

Less than significant impact. The proposed project would not harm the water quality in the area since it does not propose any physical development. Because the project site is located in an urban environment and any future development of the site would be subject to compliance with applicable regulations and laws to ensure proper discharge into the City's stormwater infrastructure, the impact would be less than significant.

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

Less than significant impact. The proposed project does not include any physical changes to the environment. Future development under the proposed project would not be expected to affect

groundwater supplies unless it involved major excavation that accesses groundwater. Estimated groundwater depth at the project site is approximately 10 to 20 feet below the ground surface.[36] For these reasons, the impact would be less than significant.

3) Would the project substantially alter the existing drainage pattern of 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:

(a) result in substantial erosion or siltation on- or off-site;

Less than significant impact. The proposed project does not include any physical development; however, future development under the GPA and Conforming Rezoning would likely require minor grading activities that could result in a temporary increase in erosion affecting the quality of stormwater runoff. This increase in erosion would be expected to be minimal, due to the small size and flatness of the site. Future development would be required to comply with the City of San José Grading Ordinance, applicable provisions of the City Council Policy 6-29 Post-Construction Urban Runoff Management, and City Council Policy 8-14 Post-Construction Hydromodification Management. Therefore, the impact would be less than significant.

(b) substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;

Less than significant impact. The proposed project does not include any physical development and future development under the GPA and Conforming Rezoning could require minor grading activities that could result in a temporary increase in erosion affecting the quality of stormwater runoff. Future development would be required to comply with the City of San José Grading Ordinance, applicable provisions of the City Council Policy 6-29 Post-Construction Urban Runoff Management, and City Council Policy 8-14 Post-Construction Hydromodification Management to avoid impacts related to water quality. Therefore, the impact would be less than significant.

(c) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or

Less than significant impact. The proposed project does not include any physical development and future development under the GPA and Conforming Rezoning could potentially contribute runoff that would exceed the capacity of existing or planned stormwater drainage systems or result in substantial additional sources of polluted runoff. Future development would be required to comply with the City of San José Grading Ordinance, applicable provisions of the City Council Policy 6-29 Post-Construction Urban Runoff Management, and City Council Policy 8-14 Post-Construction Hydromodification Management to avoid impacts related to water quality. Therefore, the impact would be less than significant.

[36] Santa Clara Valley Water District (Valley Water). Santa Clara County Depth to First Groundwater. Website: https:// data-valleywater.opendata.arcgis.com/datasets/6310e5e6ce364c50a4df094332c85b8a_18/explore?location=37.407028%2C-121.880518%2C15.00. Accessed August 5, 2022.

(d) impede or redirect flood flows?

Less than significant impact. The proposed project does not include any physical development. Based on a review of FEMA flood maps, the project site is located within Flood Zone X defined as the area of minimal flood risk. Future development under the GPA and Conforming Rezoning could redevelop the project site. Because the potential for flooding is minimal, the impact would be less than significant.

4) In flood hazard, tsunami, or seiche zones, would the project risk release of pollutants due to project inundation?

Less than significant impact. Based on a review of the California Department of Water Resources (DWR) California Dam Breach Inundation Maps, the project site is located within the inundation area for the Anderson Dam. The actual extent and depth of inundation in the event of a failure would depend on the volume of storage in the dam at the time of failure.

The risks of failure are reduced by several regulatory inspection programs, and risks to people and property in the inundation area are reduced by local hazard mitigation planning. The DWR Division of Safety of Dams is responsible for regular inspection of dams in California. The DWR and local agencies (e.g., Santa Clara Valley Water District [Valley Water]) are responsible for minimizing the risks of dam failure, thus diminishing the potential for the release of pollutants due to project inundation. Therefore, the impact would be less than significant.

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

Less than significant impact. The proposed project does not include any physical development. Future development allowed under the GPA and Conforming Rezoning would be required to comply with the City of San José Grading Ordinance as well as standard BMPs during construction. With implementation of General Plan policies and regulations, future development on the site would not conflict with or obstruction the implementation of a water quality control plan or sustainable groundwater management plan. Therefore, the impact would be less than significant.

Standard Permit Conditions

Construction-related Water Quality

The project applicant shall implement the following conditions:

- Install burlap bags filled with drain rock around storm drains to route sediment and other debris away from the drains.
- Suspend earthmoving or other dust-producing activities during periods of high winds.
- Water all exposed or disturbed soil surfaces at least twice daily to control dust, as necessary.
- Water or cover stockpiles of soil or other materials that can be blown by the wind.
- Cover all trucks hauling soil, sand, and other loose materials and maintain at least 2 feet of freeboard on all trucks.

- Sweep all paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites daily (with water sweepers).
- Replant vegetation in disturbed areas as quickly as possible.
- Fill with rock all unpaved entrances to the site to remove mud from tires prior to entering City streets. Install a tire wash system if requested by the City.
- Comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City's Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

Mitigation Measures

None required.

4.11 - LAND USE

4.11.1 - Environmental Setting

The project site is undeveloped and enclosed with a chain link fence. The project site is designated "Public/Quasi-Public" by the City of San José General Plan and zoned "R-1-8" by the San José Zoning Ordinance. Figure 3 provides photographs of the project site.

Applicable Plans, Policies, and Regulations

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects within the City. The following policies are specific to land use and are applicable to the proposed project.

Envision San José 2040 General Plan Relevant Land Use Policies

Policies	Description
Policy CD-2.10	Recognize that finite land area exists for development and that density supports retail vitality and transit ridership. Use land use regulations to require compact, low-impact development that efficiently uses land planned for growth, especially for residential development which tends to have a long lifespan. Strongly discourage small-lot and single-family detached residential product types in Growth Areas.
Policy CD-7.9	Build new residential development within Urban Village areas at a minimum of four stories in height with a step down in height when building new residential development immediately adjacent to single-family residential sites that have a Residential Neighborhood designation. Individual Urban Village Plans may establish more specific policies or guidelines to ensure compatibility with adjacent single-family neighborhoods, and development should be consistent with these policies and guidelines, established in approved Urban Village Plans.
Action CD-7.10	As described in the Implementation Chapter, develop Urban Village Plans in cooperation with the nearby community and obtain San José City Council acceptance or approval of the plans prior to issuance of land use entitlements for any new residential development within designated Urban Village area boundaries. Residential uses that are purely ancillary to primary employment uses, projects on properties with an existing residential General Plan land use designation, "Signature" projects and other types of development expressly allowed in accordance with *Envision General Plan* policies may proceed prior to acceptance or approval of the Urban Village Plan.
Policy LU-2.1	Provide significant job and housing growth capacity within strategically identified "Growth Areas" in order to maximize use of existing or planned infrastructure (including fixed transit facilities), minimize the environmental impacts of new development, provide for more efficient delivery of City services, and foster the development of more vibrant, walkable urban settings.
Policy LU-9.1	Create a pedestrian-friendly environment by connecting new residential development with safe, convenient, accessible, and pleasant pedestrian facilities. Provide such connections between new development, its adjoining neighborhood, transit access points, schools, parks, and nearby commercial areas.
Policy LU-9.3	Integrate housing development with our City's transportation system, including transit, roads, and bicycle and pedestrian facilities.

Envision San José 2040 General Plan Relevant Land Use Policies

Policies	Description
Policy LU-9.5	Require that new residential development be designed to protect residents from potential conflicts with adjacent land uses.
Policy LU-10.3	Develop residentially- and mixed-use-designated lands adjacent to major transit facilities at high densities to reduce motor vehicle travel by encouraging the use of public transit.
Policy LU-10.5	Facilitate the development of housing close to jobs to provide residents with the opportunity to live and work in the same community.

4.11.2 - Environmental Checklist and Impact Discussion

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

Impact Discussion

1) Would the project physically divide an established community?

Less than significant impact. Examples of projects that have the potential to physically divide an established community include new freeways and highways, major arterial streets, and railroad lines. The proposed designation is proposed on a site that is currently undeveloped and surrounded by urban development and infrastructure. The proposed GPA and Conforming Rezoning would not physically divide the established community nor would any future development on the infill project site divide the established community. The impact would be less than significant.

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

Less than significant impact. The proposed project consists of a GPA to change the land use designation from "Public/Quasi-Public" to "Heavy Industrial." The adjoining uses to the west are designated "Business Park/Research and Development" by the City of Milpitas General Plan and, therefore, this land use designation is compatible with the surrounding uses. No specific development is proposed at this time. Future development on the proposed site will require separate environmental review to address the specific project. Future development would be required to comply with General Plan policies and other land use regulations to assure that such development does not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project, adopted for the purpose of avoiding or mitigating an environmental effect. The impact would be less than significant.

Mitigation Measures

None required.

4.12 - MINERAL RESOURCES

4.12.1 - Environmental Setting

The project site is undeveloped and does not support mineral extraction activities. In addition, the project site is not a designated Mineral Resource Area by the State of California or City of San José.

Applicable Plans, Policies and Regulations

Surface Mining and Reclamation Act

The State Mining and Geology Board under the Surface Mining and Reclamation Act of 1975 (SMARA) has designated an area of Communications Hill in Central San José, bounded by the Union Pacific Railroad, Curtner Avenue, State Route (SR) 87, and Hillsdale Avenue, as a regional source of construction aggregate materials. Other than the Communications Hills area, San José does not have mineral deposits subject to SMARA.

4.12.2 - Environmental Checklist and Impact Discussion

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
1. 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?	☐	☐	☐	☒
2. Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒

Impact Discussion

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

No impact. The project site does not support mineral extraction activities and does not contain any known mineral resources of Statewide importance. The project site is located 8.75 miles north of the Communications Hill area, the only area in San José containing mineral deposits subject to SMARA. The proposed project and future development would not result in a significant impact from the loss of availability of a known mineral resource. As such, the GPA and Conforming Rezoning would not result in the loss of a mineral resource of Statewide importance. No impacts would occur.

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

No impact. The project site does not support mineral extraction activities and does not contain any known mineral resources of Statewide importance. The project site is located 8.75 miles north of the Communications Hill area, the only area in San José containing mineral deposits subject to SMARA.

The proposed project and future development would not result in a significant impact from the loss of availability of a known mineral resource. As such, the GPA and Conforming Rezoning would not result in the loss of a mineral resource of local importance. No impacts would occur.

Mitigation Measures

None required.

4.13 - NOISE AND VIBRATION

4.13.1 - Environmental Setting

Noise Fundamentals

Noise is generally defined as unwanted sound. Sound becomes unwanted when it interferes with normal activities, causes physiological harm, or interferes with communication, work, rest, recreation, and sleep. The vibration of sound pressure waves in the air produces sound. Sound pressure levels are used to measure the intensity of sound and are described in terms of decibels. The decibel (dB) is a logarithmic unit, which expresses the ratio of the sound pressure level being measured to a standard reference level. The 0 point on the dB scale is based on the lowest sound level that the healthy, unimpaired human ear can detect. Changes of 3 dB or less are only perceptible in laboratory environments. Audible increases in noise levels generally refer to a change of 3 dB or more, as this level has been found to be barely perceptible to the human ear in outdoor environments. Only audible changes in existing ambient or background noise levels are considered potentially significant.

Noise Descriptors

There are many ways to rate noise for various time periods, but an appropriate rating of ambient noise affecting humans also accounts for the annoying effects of sound, including during sensitive times of the day and night. The predominant rating scales in the State of California are L_{eq}, Community Noise Equivalent Level (CNEL), and L_{dn} that are based on dBA. The L_{eq} is the total sound energy of time varying noise over a sample period. The CNEL is the time varying noise over a 24-hour period, with a five dBA weighting factor applied to the hourly L_{eq} for noises occurring from 7:00 p.m. to 10:00 p.m. (defined as relaxation hours) and 10 dBA weighting factor applied to noise occurring from 10:00 p.m. to 7:00 a.m. (defined as sleeping hours). The L_{dn} is similar to the CNEL scale but without the adjustment for events occurring during the evening relaxation hours. CNEL and L_{dn} measurements are typically within 1 dBA of each other and are normally exchangeable. These additions are made to the sound levels at these times because there is a decrease in the ambient noise levels during the evening and nighttime hours, which creates an increased sensitivity to sounds. For this reason, sound is perceived to be louder in the evening and nighttime hours as compared with daytime hours and is weighted accordingly. Many cities rely on the CNEL noise standard to assess transportation-related impacts on noise-sensitive land uses.

Other noise rating scales of importance when assessing the annoyance factor include the maximum noise level (L_{max}), which is the highest exponential time-averaged sound level that occurs during a stated time period. The noise environments discussed in this analysis are specified in terms of maximum levels denoted by L_{max} for short-term noise impacts. L_{max} reflects peak operating conditions and addresses the annoying aspects of intermittent noise.

Characteristics of Groundborne Vibration

Groundborne vibration consists of rapidly fluctuating motion through a solid medium, specifically the ground, which has an average motion of zero and in which the motion's amplitude can be described in terms of displacement, velocity, or acceleration. Several different methods are used to quantify vibration amplitude such as the maximum instantaneous peak in the vibrations velocity,

which is known as the peak particle velocity (PPV) or the root mean square (rms) amplitude of the vibration velocity. Construction activities, such as blasting, pile driving and operating heavy earthmoving equipment, are common sources of groundborne vibration. Construction vibration impacts on building structures are generally assessed in terms of PPV.

As vibration waves propagate from a source, the vibration energy decreases in a logarithmic nature and the vibration levels typically decrease by 6 VdB per doubling of the distance from the vibration source. As stated above, this drop-off rate can vary greatly depending on the soil type, but it has been shown to be effective enough for screening purposes, in order to identify potential vibration impacts that may need to be studied through actual field tests. The vibration level (calculated below as PPV) at a distance from a point source can generally be calculated using the vibration reference equation:

$$PPV = PPV_{ref} * (25/D)^n \text{ (in/sec)}$$

Where:

PPV_{ref} = reference measurement at 25 feet from vibration source
D = distance from equipment to property line
n = vibration attenuation rate through ground

According to Section 7 of the Federal Transit Administration (FTA) Transit Noise and Vibration Impact Assessment Manual, an "n" value of 1.5 is recommended to calculate vibration propagation through typical soil conditions.[37]

Applicable Plans, Policies, and Regulations

State Noise Insulation Standard

The State of California has established regulations that help prevent adverse impacts to occupants of buildings located near noise sources. Referred to as the "State Noise Insulation Standard," it requires buildings to meet performance standards through design and/or building materials that would offset any noise source near the receptor. State regulations include requirements for the construction of new hotels, motels, apartment houses, and dwellings other than detached single-family dwellings that are intended to limit the extent of noise transmitted into habitable spaces. The State also includes noise requirements in the California Code of Regulations Title 24 (known as the Building Standards Administrative Code), Part 11 (known as the California Green Building Standards Code [CALGreen]). The noise insulation standards require that the wall and roof-ceiling assemblies of new nonresidential developments that are exposed to exterior noise in excess of 65 dBA CNEL shall meet a composite Sound Transmission Class (STC) rating of at least 50, with exterior windows of a minimum STC rating of 40. In addition, the standards require preparation of an acoustical analysis demonstrating the manner in which dwelling units have been designed to meet this standard (i.e., to achieve a maximum interior sound level of 45 dBA L_{dn}/CNEL in any habitable room), where such development is proposed in an area with exterior noise levels greater than 65 dBA CNEL.

Government Code Section 65302 mandates that the legislative body of each county and city in California adopt a noise element as part of its comprehensive general plan. The local noise element must recognize the land use compatibility guidelines published by the State Department of Health

[37] Federal Transit Administration (FTA). 2018. Transit Noise and Vibration Impact Assessment Manual. September.

Services. The guidelines rank noise and land use compatibility in terms of normally acceptable, conditionally acceptable, normally unacceptable, and clearly unacceptable.

Envision San José 2040 General Plan

The following are the noise goals and policies established by the Envision San José 2040 General Plan[38] that are applicable to the proposed project:

Envision San José 2040 General Plan Relevant Noise and Vibration Policies

Policies	Description
Policy EC-1.1	Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, State and City noise standards and guidelines as a part of new development review.
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 Day-Night Average Sound Level (L_{dn}) at noise-sensitive receptors to increase by five A-weighted decibel (dBA) L_{dn} or more where the noise levels would remain "Normally Acceptable;" or • Cause the L_{dn} at noise-sensitive receptors to increase by three dBA L_{dn} or more where noise levels would equal or exceed the "Normally Acceptable" level.
Policy EC-1.7	Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would: • Involve substantial noise-generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months. For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise, and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.
Policy EC-1.9	Require noise studies for land use proposals where known or suspected loud intermittent noise sources occur which may impact adjacent existing or planned land uses. For new residential development affected by noise from heavy rail, light rail, BART, or other single-event noise sources, implement mitigation so that recurring maximum instantaneous noise levels do not exceed 50 dBA L_{max} in bedrooms and 55 dBA L_{max} in other rooms.
Policy EC-2.1	Near light and heavy rail lines or other sources of groundborne vibration, minimize vibration impacts on people, residences, and businesses through the use of setbacks and/or structural design features that reduce vibration to levels at or below the guidelines of the Federal Transit Administration. Require new development within 100 feet of rail lines to demonstrate prior to project approval that vibration experienced by residents and vibration sensitive uses would not exceed these guidelines.

[38] City of San José. 2018. Envision San José 2040 General Plan. November.

Envision San José 2040 General Plan Relevant Noise and Vibration Policies

Policies	Description
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 peak particle velocity (PPV) will be used to minimize the potential for cosmetic damage to a building. A vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction.

The City's land use compatibility standards are shown in Table 6.

Table 6: Land Use Compatibility Guidelines for Community Noise in San José

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

Key:

	Normally Acceptable: Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements.
	Conditionally Acceptable: Specified land use may be permitted only after detailed analysis of the noise reduction requirements and needed noise insulation features included in the design.
	Unacceptable: New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies.

Notes:
[1] Noise mitigation to reduce interior noise levels pursuant to Policy EC-1.1 is required.
Source: City of San José. 2011. Envision San José 2040 General Plan, Noise Element. November 1.

City of San José Municipal Code

The San José Municipal Code Ordinance 20.30.700 establishes a noise performance standard for combined noise generated on a project site as measured at any receiving property line, not to exceed a maximum of 55 dBA L_{eq}.[39]

According to the San José Municipal Code, construction hours within 500 feet of a residential unit are limited to the hours of 7:00 a.m. to 7:00 p.m. on Monday through Friday unless otherwise expressly allowed by a development permit or other planning approval. The Municipal Code does not establish quantitative noise limits for demolition or construction activities occurring in the City.

4.13.2 - Environmental Checklist and Impact Discussion

Would the project result in:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
1. Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☒	☐
2. Generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☒	☐
3. For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒

Impact Discussion

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

Less than significant impact. The proposed project does not include any physical development and would not generate operational noise. Operational noise associated with future development would primarily include traffic noise traveling to and from the project site. Future development would be required to comply with the City's noise standards and General Plan Policies and Municipal Code ordinances to minimize noise at adjacent sensitive receptors (i.e., residential uses). Any future development would be required to provide a noise assessment as part of its environmental review to address potential noise impacts. Mandatory compliance for any future development with the City's regulations, would ensure that the impact would be less than significant.

[39] City of San José. 2019. City of San José Municipal Code. July.

2) Would the project result in generation of excessive groundborne vibration or groundborne noise levels?

Less than significant impact. The proposed GPA and Conforming Rezoning do not include any physical development and would not generate vibration or groundborne noise. In addition, future development under the proposed project would have to demonstrate compliance with the City's Policy EC-1.7 which requires any large construction project to develop a plan that specifies vibration minimization measures; and compliance with Policy EC-2.3 which requires development projects to minimize vibration impacts during demolition and construction. Therefore, future development allowed under the proposed project would require evaluation of vibration effects on surrounding buildings and structures. Therefore, the impact would be less than significant.

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

No impact. The nearest airport to the project site is SJC, located 4 miles to the southwest. The project site is not located within the airport influence area of SJC. This condition precludes the possibility of the proposed GPA exposing persons residing or working in the project area to aviation noise. No impact would occur.

Standard Permit Conditions

Construction-Related Noise

The project applicant shall implement noise minimization measures that include, but are not limited to, the following:

- 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.
- Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Prohibit unnecessary idling of internal combustion engines.
- 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.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.

- 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.
- 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 façades that face the construction sites.
- 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.
- 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 (PBCE) that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.

Interior Noise Standard for Residential Development

The project applicant shall prepare final design plans that incorporate building design and acoustical treatments to ensure compliance with State Building Codes and City noise standards. A project-specific acoustical analysis shall be prepared to ensure that the design incorporates controls to reduce interior noise levels to 45 A-weighted decibel (dBA) Day-Night Level (DNL) or lower within the residential unit. The project applicant shall conform with any special building construction techniques requested by the City's Building Department, which may include sound-rated windows and doors, sound-rated wall constructions, and acoustical caulking.

Mitigation Measures

None required.

4.14 - POPULATION AND HOUSING

4.14.1 - Environmental Setting

Based on information from the Department of Finance, the City of San José's population was estimated to be 1,049,187 in May 2020 and had an estimated total of 336,507 housing units, with an average of 3.19 persons per household. The Association of Bay Area Governments (ABAG) projects that the City's population will reach 1,445,000 with 472,000 households by 2040. A project can induce substantial population growth by: (1) proposing new housing beyond projected or planned development levels, (2) generating demand for housing as a result of new businesses, (3) extending roads or other infrastructure to previously undeveloped areas, or (4) removing obstacles to population growth (e.g., expanding capacity of a wastewater treatment plant beyond that necessary to serve planned growth). The General Plan EIR concluded that the potential for direct growth inducing impacts from buildout of the General Plan would be minimal because planned growth would consist entirely of development within the City's existing Urban Growth Boundary and Urban Service Area.

Applicable Plans, Policies, and Regulations

California Housing Element Law

Since 1969, California has required that all local governments (cities and counties) adequately plan to meet the housing needs of everyone in the community. California's local governments meet this requirement by adopting housing plans as part of their "general plan" (also required by the State). General plans serve as the local government's "blueprint" for how the city and/or county will grow and develop and include seven elements: land use, transportation, conservation, noise, open space, safety, and housing. The law mandating that housing be included as an element of each jurisdiction's general plan is known as "housing element law."

Association of Bay Area Governments

ABAG is the official comprehensive planning agency for the San Francisco Bay region, which is composed of the nine counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma and contains 101 municipalities. ABAG is responsible for taking the overall Regional Housing Needs Allocation provided by the State and preparing a formula for allocating that housing need by income level across its jurisdiction. ABAG produces regional growth forecasts so that other regional agencies, including the Metropolitan Transportation Commission (MTC) and the BAAQMD, can use the forecast to make project funding and regulatory decisions.

Plan Bay Area 2040

The MTC/ABAG Plan Bay Area is the Bay Area's Regional Transportation Plan/Sustainable Community Strategy. Plan Bay Area is therefore the long-range transportation and land use/housing strategy through 2040 for the Bay Area, pursuant to SB 375, the Sustainable Communities and Climate Protection Act. It lays out a development scenario for the region which, when integrated with the transportation network and other transportation measures and policies, would reduce GHG emissions from transportation (excluding goods movement) below the per capita reduction targets identified by the ARB. The 2040 Plan Bay Area is a limited and focused update to 2013 Plan Bay Area,

with updated planning assumptions that incorporate key economic, demographic, and financial trends from the last several years.

Envision San José 2040 General Plan

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

Envision San José 2040 General Plan Relevant Population and Housing Policies

Policies	Description
Policy IE-1.13	Achieve goals related to Quality Neighborhoods, including diverse housing options, a walkable/bikeable public street and trail network and compact, mixed-use development where infrastructure exists to distinguish San José as a livable and attractive city, to promote interaction among community members, and to attract talented workers to the City.
Policy H-1.2	Facilitate the provision of housing sites and structures across location, type, price and status as rental or ownership that respond to the needs of all economic and demographic segments of the community including seniors, families, the homeless and individuals with special needs.
Policy H-2.2	Integrate affordable housing in identified growth locations and where other housing opportunities may exist, consistent with the Envision General Plan.
Policy H-3.2	Design high density residential and mixed residential/commercial development, particularly development located in identified Growth Areas, to: 1. Create and maintain safe and pleasant walking environments to encourage pedestrian activity, particularly to the nearest transit stop and to retail, services, and amenities. 2. Maximize transit usage. 3. Allow residents to conduct routine errands close to their residence, especially by walking, biking, or transit. 4. Integrate with surrounding uses to become a part of the neighborhood rather than being an isolated project. 6. Provide residents with access to adequate on- or off-site open space.
Policy H-3.3	Situate housing in an environment that promotes the health, safety, and wellbeing of the occupants and is close to services and amenities.
Policy H-3.5	Prioritize housing resources to assist those groups most in need, or to those geographic locations in the City that most require investment in order to improve neighborhood blight conditions.
Policy H-4.3	Encourage the development of higher residential densities in complete, mixed-use, walkable and bikeable communities to reduce energy use and greenhouse gas emissions.

4.14.2 - Environmental Checklist and Impact Discussion

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

A project can induce substantial population growth by (1) proposing new housing beyond projected or planned development levels, (2) generating demand for housing as a result of new businesses, (3) extending roads or other infrastructure to previously undeveloped areas, or (4) removing obstacles to population growth (e.g., expanding capacity of a wastewater treatment plant beyond that necessary to serve planned growth).

Impact Discussion

1) Would the project 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)?

No impact. The project site is located in an urbanized area in the City of San José. The proposed GPA would allow Heavy Industrial land uses to be developed on-site. Future end uses would be nonresidential in nature; no residential uses would be permitted. Thus, the proposed GPA would not directly facilitate population growth through the construction of new dwelling units. Future development allowed under the proposed project would be infill development and would not result in an expansion of urban services or infrastructure to expand beyond the City's existing Sphere of Influence because it is located in a highly urbanized portion of the City. No impact would occur.

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

No impact. The project consists of undeveloped land enclosed with a chain link fence. There are no existing dwelling units on-site. Future development would not displace substantial numbers of existing people or housing or require the construction of replacement housing. No impact would occur.

Mitigation Measures

None required.

4.15 - PUBLIC SERVICES

4.15.1 - Environmental Setting

Fire Protection

Fire protection services are provided to the project site by the San José Fire Department (SJFD). The closest fire station to the project site is Station 23, located about 1.5 miles south of the site at 1771 Via Cinco de Mayo.

Police Protection

Police protection services are provided to the project site by the San José Police Department (SJPD) headquartered at 201 West Mission Street. The City has four patrol divisions and 16 patrol districts. Patrols are dispatched from police headquarters and the patrol districts consist of 83 patrol beats, which include 357 patrol beat building blocks.

Schools

The project site is in the Berryessa Union Elementary School District and Eastside Union High School District. The project site is within the Northwood Elementary School (elementary school), Morrill Middle School, and Independence High School attendance boundary.

Parks

Parks and recreation facilities within the project area are provided by the City of San José. The closest park facility to the project site is Northwood Park, a City neighborhood park located 0.25 mile south of the project site, between Lakewood Drive and Cardington Drive.

Applicable Plans, Policies, and Regulations

California Government Code Section 65996

California Government Code Section 65996 specifies that an acceptable method of offsetting a project's effect on the adequacy of school facilities is the payment of a school impact fee prior to issuance of a building permit. The legislation states that the payment of school impact fees "are hereby deemed to provide full and complete school facilities mitigation" under CEQA Guidelines Section 65996(b).

The School District is responsible for implementing the specific methods for mitigating school impacts under the Government Code. The CEQA documents must identify that school impact fees and the school districts' methods of implementing measures specified by Government Code 65996 would adequately mitigate project-related increases in student enrollment.

Quimby Act–California Code Sections 66475–66478

The Quimby Act (California Government Code § 66475-66478) was approved by the California legislature to preserve open space and parkland in the State. The Quimby Act authorizes local governments to establish ordinances requiring developers of new subdivisions to dedicate parks, pay an in lieu fee, or perform a combination of the two. As described below, the City has adopted a Parkland Dedication Ordinance (PDO) and a Park Impact Ordinance (PIO), consistent with the Quimby Act.

Parkland Dedication Ordinance and Park Impact Ordinance

The City of San José enacted the PDO (Municipal Code Chapter 19.38) in 1988 to help meet the demand for new neighborhood and community parkland generated by the development of new residential subdivisions. In 1992, the City Council adopted the PIO (Municipal Code Chapter 14.25), which is similar to the PDO, but applies to new non-subdivided residential projects such as apartment buildings. These ordinances are consistent with provisions of the California Quimby Act (Government Code § 66477), Mitigation Fee Act (Government Code § 66000), Subdivision Map Act (Government Code § 66410), and associated federal statutes.

Consistent with these ordinances, housing developers are required to dedicate land, improve parkland, pay a parkland fee in lieu of land dedication, or a provide combination of these for neighborhood and community parks under the PDO and PIO. Pursuant to these ordinances, a residential project's parkland obligation under the PDO and PIO is equivalent in value or property to three acres for every 1,000 new residents added by the housing development. For projects exceeding 50 units, the City decides whether the project will dedicate land for a new public park site or pay a fee in lieu of land dedication. For projects 50 units or less, the project shall only be required to pay a fee in lieu of land dedication.

Envision San José 2040 General Plan

The following are the goals and policies established by the Envision San José 2040 General Plan and are applicable to the proposed project:

Envision San José 2040 General Plan Applicable Public Services Policies

Policies	Description
Policy CD-5.5	Include design elements during the development review process that address security, aesthetics, and safety. Safety issues include, but are not limited to, minimum clearances around buildings, fire protection measures such as peak load water requirements, construction techniques, and minimum standards for vehicular and pedestrian facilities and other standards set forth in local, State, and federal regulations.
Policy ES-3.1	Provide rapid and timely Level of Service response time to all emergencies: 1. For police protection, use as a goal a response time of six minutes or less for 60 percent of all Priority 1 calls, and of 11 minutes or less for 60 percent of all Priority 2 calls. 2. For fire protection, use as a goal a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.
Policy ES-3.9	Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly visible and accessible spaces.
Policy ES-3.11	Ensure that adequate water supplies are available for fire suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.
Policy PR-1.3	Provide 500 square feet per 1,000 population of community center space.
Policy PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
Policy PR-1.2	Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.

4.15.2 - Environmental Checklist and Impact Discussion

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

Impact Discussion

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

a) Fire protection?

Less than significant impact. The proposed project does not include any physical development. Future development allowed under the GPA and Conforming Rezoning could potentially have an impact on fire protection. Any future development would undergo independent CEQA review in addition to complying with the Fire Code, City's policies and codes and paying appropriate fees. Therefore, these impacts would be less than significant.

b) Police protection?

Less than significant impact. The proposed project does not include any physical development. Future development allowed under the GPA and Conforming Rezoning could potentially have an impact on police protection. Any future development would undergo independent CEQA review in addition to complying with the City's policies and codes and paying appropriate fees. Therefore, these impacts would be less than significant.

c) Schools?

No impact. The proposed project does not include any physical development. Future development allowed under the proposed project would be nonresidential in nature and, thus, not directly increase enrollment in local K-12 schools. Therefore, new or expanded school facilities would not be required. No impact would occur.

d) Parks?

No impact. The proposed project does not include any physical development. Future development allowed under the GPA and Conforming Rezoning would be nonresidential in nature and would not significantly increase use of local parks. Therefore, new or expanded park facilities would not be required. No impact would occur.

e) Other public facilities?

No impact. The proposed project does not include any physical development. Future development allowed under the GPA and Conforming Rezoning would be nonresidential in nature and, would not significantly increase use of public facilities such as libraries. Therefore, new or expanded public facilities would not be required. No impact would occur.

Mitigation Measures

None required.

4.16 - RECREATION

4.16.1 - Environmental Setting

The City of San José owns and maintains approximately 3,536 acres of parkland, including neighborhood parks, community parks, and regional parks. The City has 48 community centers and over 61 miles of trails. The City's Department of Parks, Recreation, and Neighborhood Services (PRNS) is responsible for development, operation, and maintenance of all City park facilities.

The City of San José has adopted the PDO and PIO, which require residential developers to dedicate public park land or pay in lieu fees (or both) to compensate for the increase in demand for neighborhood parks. See Section 4.15, Public Services for additional discussion.

Applicable Plans, Policies, and Regulations

Quimby Act–California Code Sections 66475-66478

The Quimby Act (California Government Code Section 66475-66478) was approved by the California legislative to preserve open space and parkland in the State. The Quimby Act authorizes local governments to establish ordinances requiring developers of new subdivision to dedicate parks, pay an in lieu fee, or perform a combination of the two. As described below, the City has adopted a PDO and a PIO, consistent with the Quimby Act.

Parkland Dedication Ordinance and Park Impact Ordinance

The City of San José enacted the PDO (Municipal Code Chapter 19.38) in 1988 to help meet the demand for new neighborhood and community parkland generated by the development of new residential subdivisions. In 1992, the City Council adopted the PIO (Municipal Code Chapter 14.25), which is similar to the PDO, but applies to new non-subdivided residential projects such as apartment buildings. These ordinances are consistent with provisions of the California Quimby Act (Government Code § 66477), Mitigation Fee Act (Government Code § 66000), Subdivision Map Act (Government Code § 66410), and associated federal statutes.

Consistent with these ordinances, housing developers are required to dedicate land, improve parkland, pay a parkland fee in lieu of land dedication, or a provide combination of these for neighborhood and community parks under the PDO and PIO. Pursuant to these ordinances, a residential project's parkland obligation under the PDO and PIO is equivalent in value or property to three acres for every 1,000 new residents added by the housing development. For projects exceeding 50 units, the City decides whether the project will dedicate land for a new public park site or pay a fee in lieu of land dedication. For projects 50 units or less, the project shall only be required to pay a fee in lieu of land dedication.

Envision San José 2040 General Plan

The following are the goals and policies established by the Envision San José 2040 General Plan and are applicable to the proposed project:

Envision San José 2040 General Plan Applicable Recreation Policies

Policies	Description
Policy PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
Policy PR-1.2	Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
Policy PR-1.3	Provide 500 square feet per 1,000 population of community center space.
Policy PR-2.4	To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a ¾ mile radius of the project site that generates the funds.
Policy PR-2.5	Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, dog parks, sport fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.

4.16.2 - Environmental Checklist and Impact Discussion

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

Impact Discussion

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

No impact. The proposed project does not include any physical development. Future development allowed under the proposed project would be nonresidential in nature and would not directly increase use of local parks. Therefore, new or expanded park facilities would not be required. No impact would occur.

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

No impact. The proposed project does not include any physical development. Future development allowed under the GPA would be nonresidential in nature and would not directly increase use of local recreational facilities. Therefore, new or expanded recreational facilities would not be required. No impact would occur.

Mitigation Measures

None required.

4.17 - TRANSPORTATION

This section is based on a Long-Range Transportation Analysis (transportation analysis) completed for the 2022 General Plan Amendments dated September 9, 2022, by Hexagon Transportation Consultants, Inc. A copy of this report is attached as Appendix E to this Draft IS/ND.

GPAs in the City of San José require a long-range transportation analysis of potential impacts on the citywide transportation system in the horizon year of the General Plan. The General Plan horizon year is when the development anticipated in the General Plan is built out. There are two types of GPA transportation analysis: (1) a site-specific long-range transportation analysis for individual GPAs that exceed the long-range transportation screening criteria outlined in Table 7 below; and (2) a cumulative long-range transportation analysis of the combined effect of all GPAs proposed with each annual GPA cycle. The VMT per service population would remain unchanged due to the proposed land use amendments when compared to the current GP The Pecten Industrial GPA site would not require a site-specific GPA transportation analysis, as the proposed project would not result in a net increase of more than 250 PM peak-hour trips and therefore does not require a site-specific GPA transportation analysis.

4.17.1 - Environmental Setting

Project Site

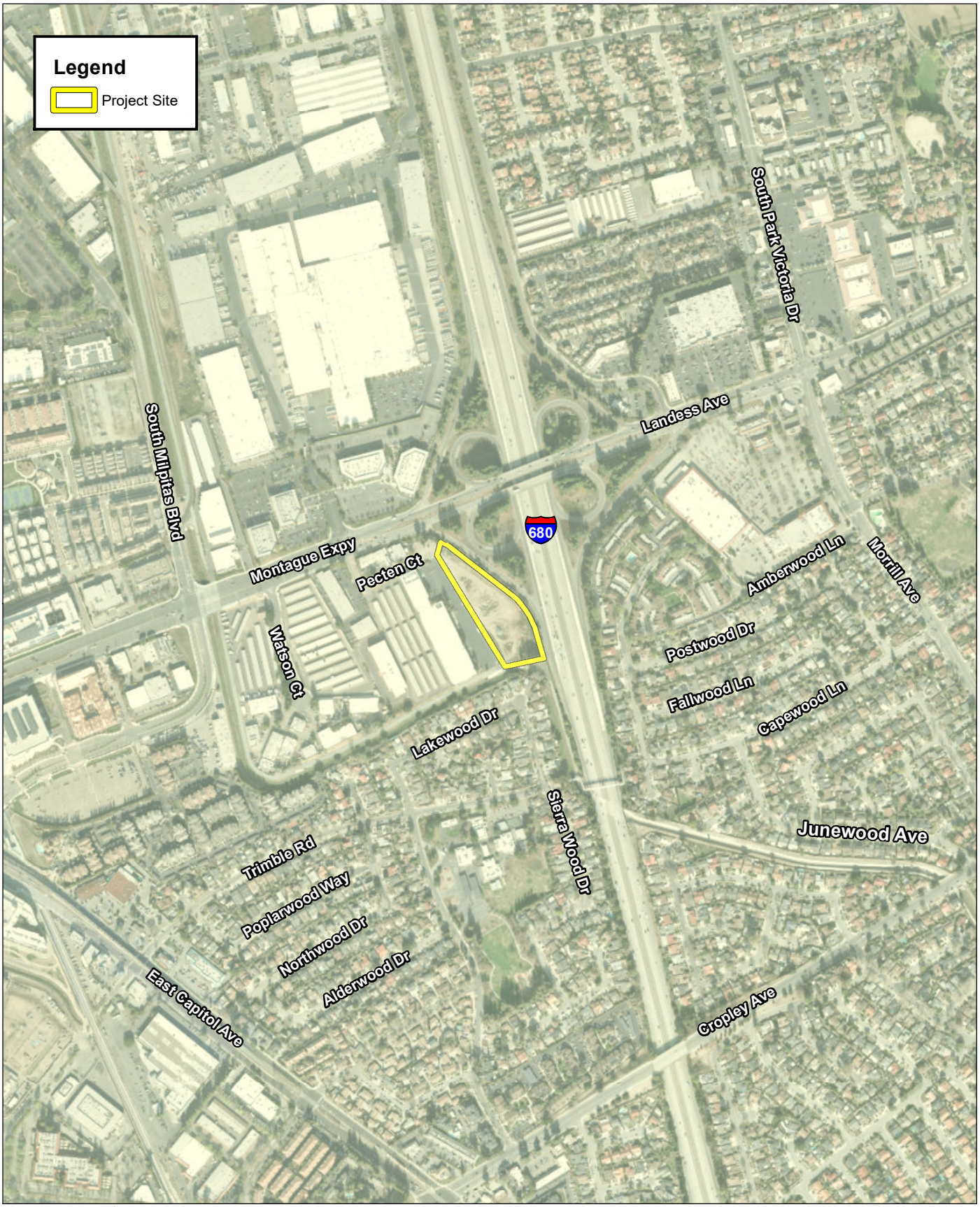
Under the proposed 2022 GPA, the project site would be amended from a land use designation of Public/Quasi-Public to Heavy Industrial. The proposed amendment would not result in a change in the number of households and jobs but would result in a change in the types of jobs on the site. The project site is currently vacant and does not generate any vehicular trips. Based on the Travel Demand Forecasting (TDF) modeling results, the proposed GPA would not result in an increase of more than 250 PM peak-hour trips to be generated by the subject site. With the proposed GPA, the net peak-hour trips would decrease by 16 in the AM peak-hour and 29 in the PM peak-hour compared to development that could occur under the current General Plan Land use and zoning.

Roadway Network

Regional access to the project site is provided by I-680. Vehicular access to the project site is provided by Montague Expressway/Landess Avenue and Pecten Court. Arterial roadways in the project vicinity include South Milpitas Boulevard and Great Mall Parkway/East Capitol Avenue (Figure 7).

Public Transit

Public transit in the project area is provided by the Santa Clara Valley Transportation Authority (VTA) and the Bay Area Rapid Transit District (BART). VTA bus routes 47, 70, and 71 operate along Montague Expressway, as shown in Figure 8. The nearest stop is at the corner of Montague Expressway/Watson Court, 0.25 mile to the west. The project site is 0.5 mile from the Milpitas BART station and Milpitas Boulevard Light Rail Station (Figure 8). Additional planned transportation services include additional rail service via future BART extensions, light rail transit extensions, new bus rapid transit services, and the proposed California High-Speed Rail project.



Source: ESRI Aerial Imagery.

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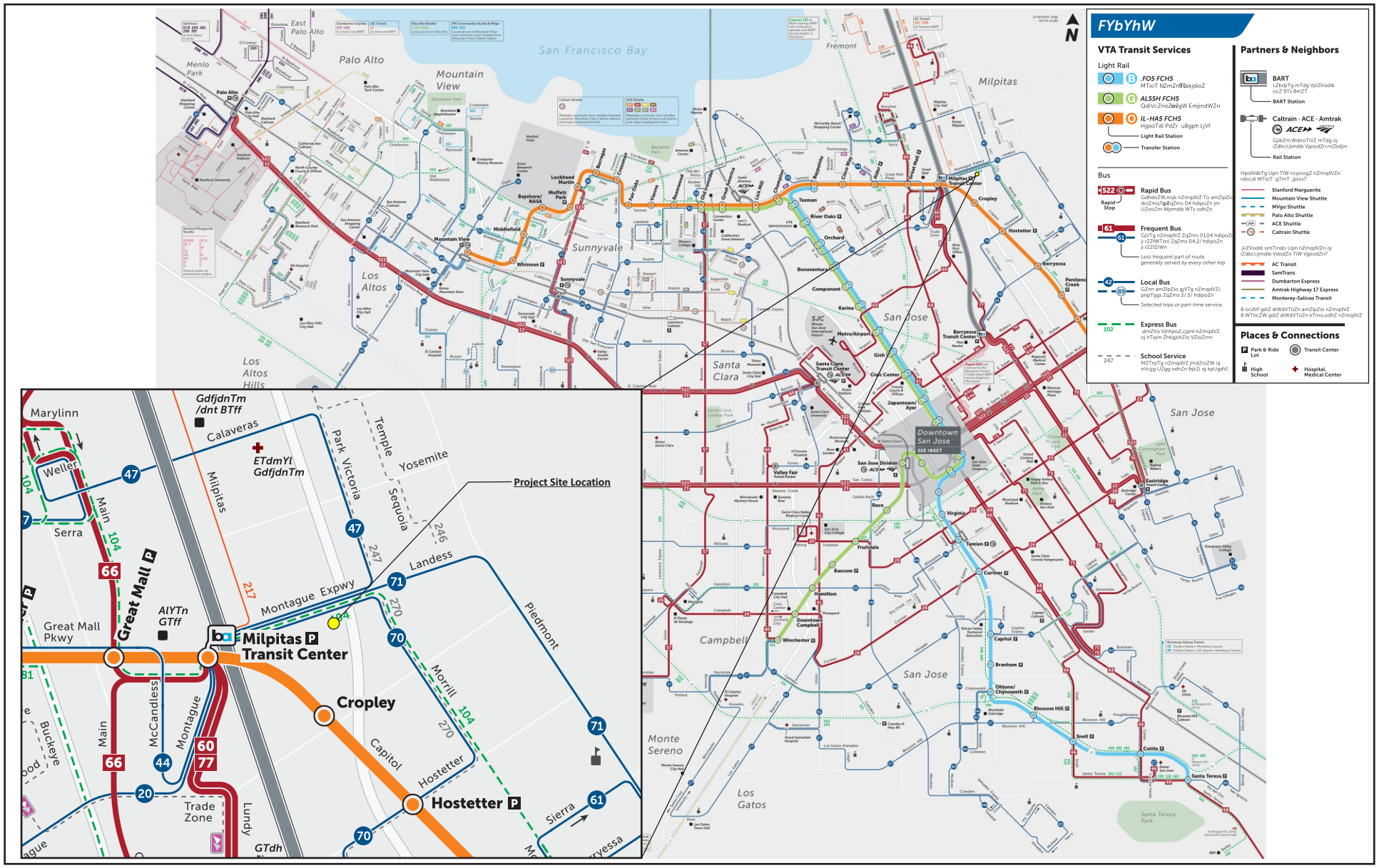
Exhibit 7
Project Vicinity Roadway Network



Source: Valley Transportation Authority.

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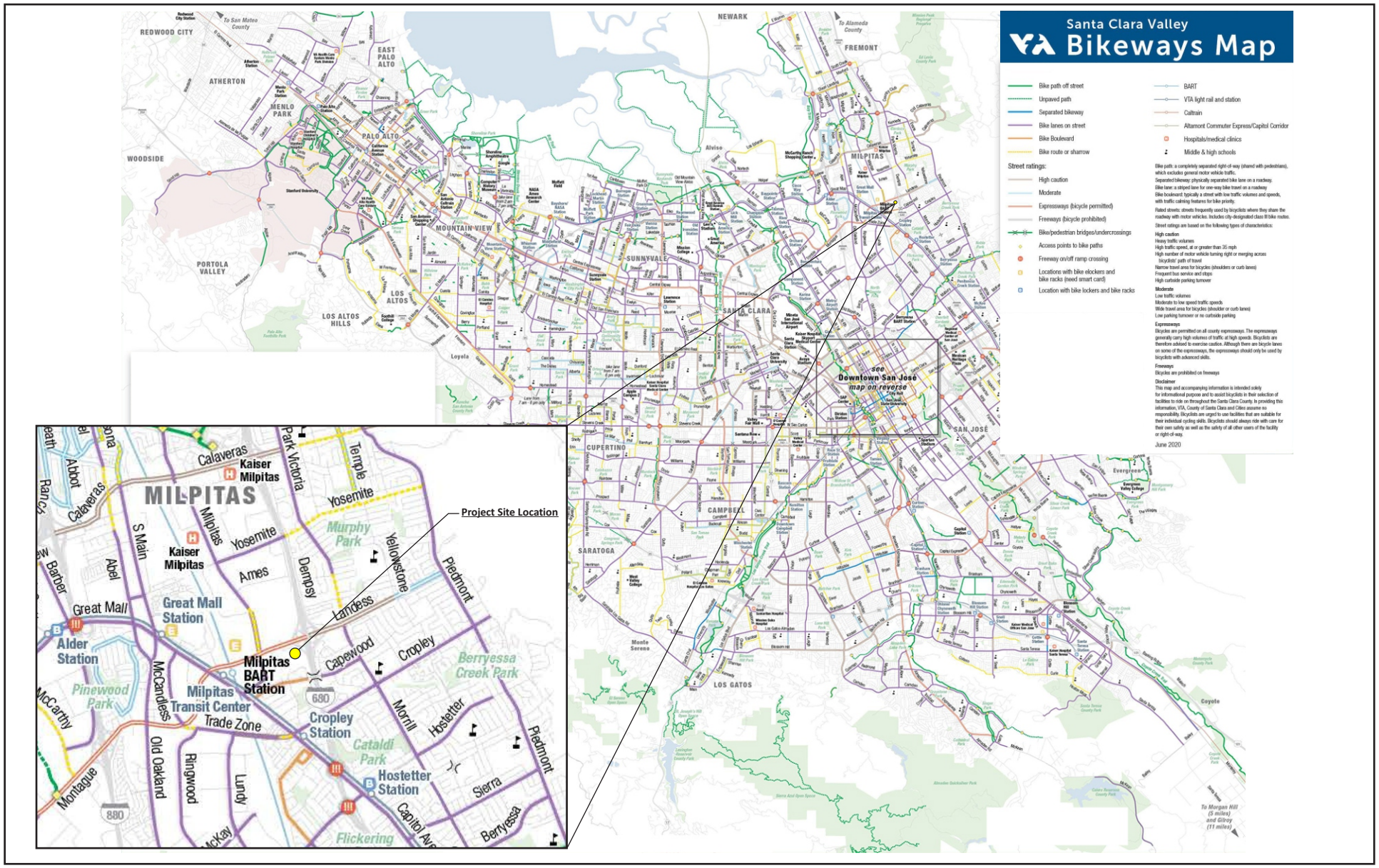
Exhibit 8
Project Vicinity Public Transit



Source: Valley Transportation Authority. Santa Clara Valley.

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Exhibit 9
Project Vicinity Bicycle Facilities

Pedestrian and Bicycle Facilities

The adopted Envision San José 2040 General Plan follows goals outlined in the City's Better Bike Plan 2025 and contains policies[40] to encourage bicycle trips. Similarly, these policies in the General Plan also work to improve the pedestrian walking environment, increase pedestrian safety, and create a land use context to support non-motorized travel. The transportation analysis identified that buildout of the 2040 General Plan would generate approximately 26,089 bicycle trips and 29,460 pedestrian trips. Cumulative general plan amendments analyzed in the Transportation Analysis did not alter these trip generation figures. Bicycle facilities in the project vicinity include bicycle lanes, boulevards, and bicycle parking (Figure 9).

Applicable Plans, Policies and Regulations

State

Senate Bill 743

SB 743**,** which became effective September 2013, initiated reforms to the CEQA Guidelines to establish new criteria for determining the significance of transportation impacts that "promote the reduction of GHG emissions, the development of multimodal transportation networks, and a diversity of land uses." Specifically, SB 743 directs the Governor's Office of Planning and Research (OPR) to update the CEQA Guidelines to replace automobile delay—as described solely by ***L***evel of ***S***ervice (LOS) or similar measures of vehicular capacity or traffic congestion—with VMT as the recommended metric for determining the significance of transportation impacts. OPR has approved the CEQA Guidelines implementing SB 743.

SB 743 did not authorize OPR to set specific VMT impact thresholds, but it did direct OPR to develop guidelines for jurisdictions to use. CEQA Guidelines Section 15064.3(b)(1) describes factors that might indicate whether a development project's VMT may be significant or not. Notably, projects that are located within 0.5 mile of transit should be considered to have a less than significant transportation impact based on OPR guidance.

Regional

Metropolitan Transportation Commission

The MTC is the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area, including Santa Clara County. MTC is charged with regularly updating the Regional Transportation Plan, a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle, and pedestrian facilities in the region. MTC and ABAG adopted the final Plan Bay Area 2040 in July 2017, which includes the region's Sustainable Communities Strategy and the most recently adopted Regional Transportation Plan (2040).

Congestion Management Program

The Santa Clara VTA oversees the Congestion Management Program (CMP), which is aimed at reducing regional traffic congestion. The relevant State legislation requires that all urbanized counties in California prepare a CMP to obtain each county's share of gas tax revenues. State

[40] Includes: Policies TR-1.1, TR-1.2, TR-1.4 through TR-1.9, TR-2.1 through TR-2.11, TR-7.1, TN-1.1 through TN-1.5, TN-2.1 through TN-2.7, and TN-3.1 through 3.6; Implementing Actions TR-1.12 through TR-1.15, TR-2.12 through TR-2.21, TR-7.2, TR-7.3, TN-1.6, TN-2.8 through 2.10, and TN-3.7; Performance Measures TN-2.11, TN-2.12)

legislation requires that each CMP define traffic LOS standards, transit service standards, a trip reduction and transportation demand management plan, a land use impact analysis program, and a capital investment element. VTA has review responsibility for proposed development projects that are expected to affect CMP designated intersections.

City of San José

Transportation Analysis Policy (City Council Policy 5-1)

As established in City Council Policy 5-1 "Transportation Analysis Policy" (2018), the City of San José uses VMT as the metric to assess transportation impacts from new development. According to the policy, an employment (e.g., office or research and development) or residential project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average regional per capita VMT. For industrial projects (e.g., warehouse, manufacturing, distribution), the impact would be less than significant if the project VMT is equal to, or less than, existing average regional per capita VMT. The threshold for a retail project is whether it generates net new regional VMT, as new retail typically redistributes existing trips and miles traveled as opposed to inducing new travel. If a project's VMT does not meet the established thresholds, mitigation measures would be required, where feasible. The policy also requires preparation of a Local Transportation Analysis to analyze non-CEQA transportation issues, including local transportation operations, intersection LOS, site access and circulation, and neighborhood transportation issues such as pedestrian and bicycle access, and recommend needed transportation improvements.

Screening criteria have been established to determine which projects require a detailed VMT analysis. If a project meets the relevant screening criteria, it is considered to a have a less than significant long-range VMT impact.

The VMT policy does not negate Area Development policies and Transportation Development policies approved prior to adoption of Policy 5-1. Policy 5-1 does, however, negate the City's Protected Intersection policy as defined in Policy 5-3.

Envision San José 2040 General Plan

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

Envision San José 2040 General Plan Relevant Transportation Policies

Policy	Description
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.

Envision San José 2040 General Plan Relevant Transportation Policies

Policy	Description
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-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 toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities. 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.
Policy TR-5.3	**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-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-9.1	Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.

4.17.2 - Environmental Checklist and Impact Discussion

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

Methodology

In 2011, the City certified the *Envision San José 2040 General Plan Final Environmental Impact Report* (General Plan FEIR) and adopted the *Envision San José 2040 General Plan* (General Plan). The General Plan FEIR and supporting TIA identified programmatic long-range transportation impacts based on planned land uses and the planned transportation system within the City projected to the horizon of the General Plan in year 2035.

In 2016, a subsequent TIA was prepared for the *General Plan Four-Year Review* that evaluated minor adjustments to planned job growth in the adopted General Plan and updated the projection of regional growth to the year 2040. The existing conditions for transportation were updated to reflect the actual development that occurred since the adoption of the General Plan and its base year of 2008 to the year 2015. The *General Plan Four-Year Review* TIA evaluated the effects of the updated existing conditions in 2015 plus future planned growth, and future conditions projected to the Year 2040, that established the baseline for the evaluation of transportation impacts of GPAs considered for approval during and after the Four-Year Review.

In 2017, the Santa Clara VTA published the BART Phase II EIR that included updated regional transportation projects based on 2015 existing roadway conditions. The City acquired this new model to use as the basis for the transportation analysis in the *Downtown Strategy 2040 EIR*, which evaluated an increase of 4,000 households and 10,000 jobs in Downtown San José by transferring General Plan growth capacity from other areas within the City. Once again, the model was validated with current traffic data to update the existing transportation conditions.

The cumulative long-range transportation impacts of the proposed 2022 GPAs were evaluated in the Long-Range Transportation Analysis prepared by Hexagon Transportation Consultants, Inc. located in Appendix E of this Draft IS/ND. This analysis evaluated the cumulative impacts of the six privately initiated GPAs in the 2022 GPA cycle.

Each of the proposed GPAs would result in changes to the assumed number of households and/or jobs on each site when compared to the current General Plan land use and intensity assumptions for each site in the TIA for the General Plan FEIR and the General Plan Four-Year Review TIA. Like the analysis in the General Plan FEIR and subsequent Four-Year Review, the 2022 GPA TIA assumed development in either the middle range of the density allowed under each proposed General Plan land use designation or assumed a density consistent with the density of surrounding development with a similar land use designation. The City uses the middle range or typical range based on surrounding development densities, as opposed to the maximum intensities potentially allowed under each proposed General Plan land use designations, because buildout under the maximum density allowed for all General Plan land designations would exceed the total citywide planned growth capacity allocated in the General Plan. Furthermore, maximum buildout at the highest end of the density range does not represent typical development patterns or the average amount of development built on each site. General Plan land use designations allow a wide range of development intensities and types of land uses to accommodate growth; however, development projects are not typically proposed at the maximum densities due to existing development patterns, site and parking constraints, Federal Aviation Administration regulations, maximum allowable height

provisions and other development regulations in the San José Municipal Code Title 20 (Zoning), market conditions, and other factors.

The results of the analysis for the proposed GPAs are then compared to the results of the 2017 updated General Plan Four-Year Review TIA evaluation of the General Plan through 2040 to determine whether the proposed 2022 GPAs would result in any new, or substantially more severe transportation impacts than those impacts that were already analyzed for the General Plan, as amended by the City Council in December 2017. Four of the six proposed GPAs would result in increases in the total number of households and jobs on each site when compared to those adopted per the Envision San José 2040 General Plan for each site. However, none of the proposed GPAs would change the total number of jobs and households citywide that were assumed with buildout of the Envision San José 2040 General Plan.

The analysis consists of land use changes to the current adopted General Plan land uses. The analysis does not propose any changes to the citywide transportation system. The GPA long-range analysis focuses on the potential changes on the citywide transportation system in the horizon year of the Envision San José 2040 General Plan when the capacities for housing and jobs are fully developed. The analysis includes evaluation of increased VMT, increased traffic volume on specified roadway segments, impacts to travel speeds on transit priority corridors, and impacts to pedestrian, bicycle, and transit facilities. Impacts are evaluated based on the same MOEs and significance criteria utilized in the Envision San José 2040 General Plan TIA. Traffic conditions were evaluated for the following traffic scenarios using the City's TDF model:

- **Projected Year 2015 Conditions:** The Projected Year 2015 Conditions represent a projection of transportation conditions in 2015 using the City's General Plan TDF model. The roadway network also reflects the Year 2015 roadway network and transportation system.
- **Current 2040 General Plan Conditions:** Future traffic due to the current General Plan land uses (i.e., including the adopted General Plan Four-Year Review Land Use adjustments and adopted 2019 General Plan Amendments) is added to regional growth that can be reasonably expected to occur by 2040. Current 2040 General Plan conditions include the current roadway network as well as all transportation system improvements as identified in the current General Plan.
- **Cumulative 2040 General Plan Amendment Conditions:** Current 2040 General Plan conditions with the proposed land use amendments at all seven proposed GPA sites. Transportation conditions for the Cumulative 2040 GPA conditions were evaluated relative to the currently adopted 2040 General Plan Conditions to determine any long-range traffic impacts.
- **Proposed 2040 General Plan Amendment Conditions:** Current 2040 General Plan conditions with the proposed land use amendments at each of the proposed GPA sites for which a site-specific analysis is required. Transportation conditions for the Proposed 2040 GPA conditions were evaluated relative to the currently adopted 2040 General Plan Conditions to determine any long-range traffic impacts.

Significance Impact Criteria

The City of San José adopted policies and goals in General Plan to reduce the drive-alone mode share to no more than 40 percent of all daily commute trips, and to reduce the VMT per service population by 40 percent from existing (year 2015) conditions. To meet these goals by the General Plan horizon year and to satisfy CEQA requirements, the City developed a set of MOEs and associated significance thresholds to evaluate long-range transportation impacts resulting from land use adjustments. Table 7 summarizes the significance thresholds associated with vehicular modes of transportation as defined in the City of San José *Transportation Analysis Handbook* (Thresholds of Significance for General Plan Amendments, Table 11) for the evaluation of long-range traffic impacts resulting from proposed land use adjustments and used in this analysis.

In addition to the MOEs described above, the effects of the proposed land use adjustments on transit, bicycle, and pedestrian facilities were evaluated. A significant long-range transportation impact would occur if the adjustments would:

- Disrupt existing, or interfere with, planned transit services or facilities;
- Disrupt existing, or interfere with, planned bicycle facilities;
- Conflict or create inconsistencies with adopted bicycle plans, guidelines, policies, or standards;
- Not provide secure and safe bicycle parking in adequate proportion to anticipated demand;
- Disrupt existing, or interfere with, planned pedestrian facilities;
- Not provide accessible pedestrian facilities that meet current ADA best practices; or
- Create inconsistencies with adopted pedestrian plans, guidelines, policies, or standards.

Table 7: Thresholds of Significance for General Plan Amendments

Performance Metrics	Significance Thresholds
VMT per Service Population	Any increase over current 2040 General Plan conditions.
Journey-to-Work Mode Share	Any increase in journey-to-work drive-alone mode share over current 2040 General Plan conditions.
Transit Corridor Travel Speeds	Decrease in average travel speed on a transit corridor below current 2040 General Plan conditions in the AM peak one-hour period when: 1. The average speed drops below 15 miles per hour (mph) or decreases by 25 percent or more; or 2. The average speed drops by one mph or more for a transit corridor with average speed below 15 mph under current 2040 General Plan conditions.
Source: City of San José Transportation Analysis Handbook, Table 11 (April 2020).	

Impact Discussion

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

2) Would the project conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?

The 3.69-acre site is located at the terminus of Pecten Court. The adopted GP land use designation for the site is Public/Quasi-Public, and the proposed amendment involves changing the adopted land use to Heavy Industrial. The proposed amendment would not result in a change in the number of households and jobs but would result in a change in the types of jobs on the site. The City of San José adopted policies and goals in Envision San José 2040 to reduce the drive-alone mode share to no more than 40 percent of all daily commute trips and to reduce the VMT per service population by 40 percent from existing (year 2015) conditions. To meet these goals by the General Plan and to satisfy CEQA requirements, the City developed a set of MOEs as noted and associated significance thresholds to evaluate long-range transportation impacts resulting from land use adjustments.

Cumulatively, the citywide daily VMT would decrease slightly but the VMT per service population would remain unchanged due to the proposed land use amendments when compared to the current GP. The reduction in citywide daily VMT is due to (1) no change to the total number of jobs and households citywide as a result of the proposed project (only shifting of households and jobs would occur), and (2) the addition of households to areas with more jobs and transit options.
Approximately 71.65 percent of the commuters would drive alone to and from work under both the current General Plan and the General Plan Amendment with the proposed project. Thus, when compared to the current General Plan, the percentage of journey-to-work drive-alone trips would not change as a result of the proposed GPAs. The proposed land use adjustments would not result in a decrease in travel speeds greater than 1 mile per hour (mph) or 25 percent on any of the 14 transit priority corridors when compared to current General Plan conditions.
Therefore, cumulatively, the proposed project would result in a less than significant impact on citywide daily VMT per service population, citywide journey-to-work mode share, and AM peak-hour average/ vehicle speeds on the transit priority corridors.

Planned transit services and facilities in the project area include additional rail service via the future BART extension, Light Rail Transit (LRT) extensions, new Bus Rapid Transit (BRT) services, and the proposed California High-Speed Rail (HSR) project. The proposed project's land use adjustments would not result in a change to the existing and planned roadway network that would subsequently result in an adverse effect on existing or planned transit facilities. Therefore, the proposed project's land use adjustments would not substantially disrupt existing or interfere with planned transit services or facilities.

The adopted Envision San José 2040 General Plan supports the goals outlined in the City's Better Bike Plan 2025 and contains policies to encourage bicycle trips (Policies TR-1.1, TR-1.2, TR-1.4 through TR-1.9, TR 2.1 through TR 2.11, TR-7.1, TN-1.1 through TN-1.5, TN-2.1 through TN-2.7, and TN-3.1 through 3.6; Implementing Actions TR-1.12 through TR-1.15, TR-2.12 through TR-2.21, TR-7.2, TR-7.3, TN-1.6, TN-2.8 through 2.10, and TN-3.7; Performance Measures TN-2.11, TN-2.12). The proposed project's land use adjustments would not result in a change to the existing and planned

roadway network that would affect existing or planned bicycle facilities. Therefore, the proposed project's land use adjustments would not substantially disrupt existing or interfere with planned bicycle facilities; conflict or create inconsistencies with adopted bicycle plans, guidelines, policies, or standards; and provide insecure and unsafe bicycle parking in adequate proportion to anticipated demand.

The adopted Envision San José 2040 General Plan contains goals and policies (Policies TR-1.1, TR-1.2, TR-1.4 through TR-1.9, TR-2.1 through TR-2.11, TR-7.1, TN-1.1 through TN-1.5, TN-2.1 through TN-2.7, and TN-3.1 through 3.6; Implementing Actions TR-1.12 through TR-1.15, TR-2.12 through TR-2.21, TR-7.2, TR-7.3, TN-1.6, TN-2.8 through 2.10, and TN-3.7; Performance Measures TN-2.11, TN-2.12) to improve the pedestrian walking environment, increase pedestrian safety, and create a land use context to support non-motorized travel. The proposed GPA land use adjustments would not result in a change to the existing and planned roadway network that would affect existing or planned pedestrian facilities. Therefore, the proposed project's land use adjustments would not substantially disrupt existing or interfere with planned pedestrian facilities; create inconsistencies with adopted pedestrian plans, guidelines, policies, or standards; and provide accessible pedestrian facilities that would not meet current ADA best practices.

Therefore, the proposed project would not conflict with a program plan, ordinance, or policy of the circulation systems, including transit, roadway, bicycle and pedestrian facilities or conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b) and the impact would be less than significant.

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

The proposed project is a GPA and Conforming Rezoning and does not propose site-specific development. Future development on the project site would be subject to design review. The City would review future plans for redevelopment of the project site for consistency with City's General Plan policies and applicable design guidelines at the Planning permit phase to ensure that hazards due to a design feature would not occur. As such, the proposed project would not result in an impact related to hazards due to geometric design feature or incompatible uses.

4) Would the project result in inadequate emergency access?

The proposed project is a GPA and rezone and does not propose site-specific development. Future development on the project site would be subject to design review and would be required to comply with all Building and Municipal Code requirements for adequate emergency access. Future development would be reviewed for consistency with the City's General Plan policies by the SJFD and the Department of Public Works to ensure adequate emergency access. Thus, the proposed project would not result in an impact on emergency access.

4.18 - UTILITIES AND SERVICE SYSTEMS

4.18.1 - Environmental Setting

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

- Wastewater Treatment: treatment and disposal provided by the San José/Santa Clara Water Regional Wastewater Facility (RWF); sanitary sewer lines maintained by the City of San José
- Water Service: San José Water Company
- Storm Drainage: City of San José
- Solid Waste: Solid Waste services will be dependent on the type of development:
  - Commercial Developments: San José Municipal Code Section 9.10.1350, Garbage collection authorization required, all commercial businesses must subscribe to solid waste collection service from the commercial collection franchisee, Republic Services. All businesses in the City of San José are serviced by the same waste collection provider, Republic Services.
  - Mixed-Use Developments: Residential and Commercial solid waste may be collected separately at a mixed-use development (San José Municipal Code 9.10.1810, Combined waste streams). The commingled waste shall be collected by the City's authorized multi-family dwelling solid waste collector if the total square footage of the commercial building space in the mixed-use development is less that 15 percent of the total building space. The commingled waste shall be collected by Republic Services is the total square footage of commercial building space in the mixed-use development is 15 percent or more of the total building space.
- Natural Gas and Electricity: PG&E

Applicable Plans, Policies, and Regulations

State Regulatory Framework

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.

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 California Department of Resources Recycling and Recovery (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 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 Regulatory Framework

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 José 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 percent of total 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 nonresidential 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 donations require acceptable documentation, such as photos, estimated weight quantities, and receipts from donation 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 required 75 percent diversion of nonhazardous C&D debris for projects that qualify under CALGreen, which is more stringent than the State requirements of 65 percent (San José Municipal Code Section 9.10.2480).Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects within the City. The following policies are specific to utilities and service systems and are applicable to the proposed project.

Envision San José 2040 General Plan Relevant Utilities and Service System Policies

Policy	Description
Policy MS-3.1	Require water efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.
Policy MS-3.2	Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply as building codes permit.
Policy MS-3.3	Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.
Policy MS-6.10	Expand programs and facilities that accept hazardous and hard to recycle materials.
Policy MS-9.6	Provide convenient locations for collection of household hazardous wastes and bulk wastes.
Policy IN-3.3	Meet the water supply, sanitary sewer and storm drainage Level of Service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.
Policy IN-3.5	Require development which will have the potential to reduce downstream LOS to lower than "D," or development which would be served by downstream lines already operating at a LOS lower than "D," to provide mitigation measures to improve the LOS to "D" or better, either acting independently or jointly with other developments in the same area or in coordination with the City's Sanitary Sewer Capital Improvement Program.
Policy IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.

4.18.1 - Environmental Checklist and Impact Discussion

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
1. Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	☐	☐	☒	☐
2. Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☒	☐
3. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☒	☐
4. Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	☐	☐	☒	☐
5. Comply with federal, State, and local management and reduction statutes and regulations related to solid waste?	☐	☐	☒	☐

Impact Discussion

1) Would the project require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

Less than significant impact. The proposed project does not include physical changes to the environment. Future development under the proposed GPA and Conforming Rezoning may increase water demand or generate additional wastewater and could incrementally increase demands on utility services. There is an existing 12-inch-high density polyethylene (HDPE) sanitary sewer main along the southern boundary of the project site to service the site's wastewater. Berryessa Creek, a seasonal creek running along the southern end of the project site, cancan also accommodate stormwater discharge. Any future development on the project site would be required to perform separate CEQA review and ensure that impacts are below the thresholds, including the incorporation of mitigation, if necessary. Therefore, the impacts would be less than significant.

2) Would the project have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?

Less than significant impact. See discussion (1) above.

3) Would the project 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?

Less than significant impact. See discussion (1) above.

4) Would the project generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

Less than significant impact. See discussion (1) above.

5) Would the project comply with federal, State, and local management and reduction statutes and regulations related to solid waste?

Less than significant impact. See discussion (1) above.

Mitigation Measures

None required.

4.19 - WILDFIRE

4.19.1 - Environmental Setting

The project site, located in an urbanized part of the City of San José, is surrounded by urban development and infrastructure. The project site is not located within a Very High Fire Hazard Severity Zone (VHFHSZ) for wildland fires, as designated by the California Department of Forestry and Fire Protection.[41]

Applicable Plans, Policies, and Regulations

California Fire Code

The California Fire Code, codified as California Code of Regulations, Title 24, Part 9, includes provisions associated with emergency planning and preparedness, fire protection systems, and means of egress. In addition, the Fire Code provides appendices detailing fire-flow requirements for new buildings, fire hydrant locations and distribution, and fire apparatus access roads. Local governments administer the Fire Code. New development projects must demonstrate compliance with applicable Fire Code requirements at the time building permits are issued.

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects within the City. The following policies are specific to wildfire resources and are applicable to the proposed project.

Envision San José 2040 General Plan Relevant Wildfire Policies

Policies	Description
EC-8.1	Minimize development in very high fire hazard zone areas. Plan and construct permitted development so as to reduce exposure to fire hazards and to facilitate fire suppression efforts in the event of a wildfire.

4.19.2 - Environmental Checklist and Impact Discussion

If located in or near State Responsibility Areas or lands classified as very high fire hazard severity zones, would the project:	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
1) Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
2) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	☐	☐	☐	☒

[41] California Department of Forestry and Fire Protection (CAL FIRE). FHSZ Viewer, 2007, 2008. Fire Hazard Severity Maps, 2007, 2008. Website: https://egis.fire.ca.gov/FHSZ/. Accessed August 16, 2022.

If located in or near State Responsibility Areas or lands classified as very high fire hazard severity zones, would the project:	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
3) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	☐	☐	☐	☒
4) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	☐	☐	☐	☒

Impact Discussion

1) Would the project substantially impair an adopted emergency response plan or emergency evacuation plan?

No impact. The project site is located within an urbanized portion of the City of San José and does not abut any wildland areas. The proposed GPA and Conforming Rezoning do not propose any physical development. Future development on the site is not expected to interfere with any emergency response or evacuation plans since it would be required to comply with all Fire Department codes and regulations. No impact would occur.

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

No impact. The proposed project would not exacerbate wildfire risks due to slope, prevailing winds, and other factors due to the project's urbanized location away from natural areas susceptible to wildfire. The project site is not located within an area of moderate, high, or very high Fire Hazard Severity for the Local Responsibility Area nor does it contain any areas of moderate, high, or very high Fire Hazard Severity for the State Responsibility Area (SRA). No impact would occur.

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

No impact. Because of the project's urbanized location and lack of interface with any natural areas susceptible to wildfire, future development on the site would not require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, powerlines, and utilities). No impact would occur.

4) Would the project expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

No impact. Because of the project's urbanized location and lack of interface with any natural areas susceptible to wildfire, future development on the site would not be susceptible to post-fire slope instability, drainage changes, flooding, or landslides. No impact would occur.

Mitigation Measures

None required.

4.20 - MANDATORY FINDINGS OF SIGNIFICANCE

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
1. Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☒	☐
2. Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☒	☐
3. Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☒	☐

4.20.1 - Project Impacts

Less than significant impact. Based on the analysis provided in this Initial Study, the proposed GPA and Conforming Rezoning would not substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory. Future redevelopment of the site under the proposed Residential Neighborhood land use designation would require separate project analysis and environmental review. If any impacts are found to exceed the thresholds, mitigation measures would be identified to reduce the impacts to less than significant levels. The impact would be less than significant.

4.20.2 - Cumulative Impacts

Less than significant impact. Under Section 15065(a)(3) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has potential environmental effects "that are individually limited, but cumulatively considerable." As defined in Section 15065(a)(3) of the CEQA Guidelines, cumulatively considerable means "that the incremental effects of an individual project are significant when

viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects."

Because criteria air pollutant and GHG emissions would contribute to regional and global emissions of such pollutants, the identified thresholds developed by BAAQMD and used by the City of San José were designed such that a project impact would also be a cumulatively considerable impact. The proposed project would not result in a significant emissions of criteria air pollutants or GHG emissions and, therefore, would not make a substantial contribution to cumulative air quality or GHG emissions impacts Statewide and globally.

With the implementation of measures in accordance with the City's General Plan and Municipal Code and other applicable plans, policies, regulations, and ordinances, future development allowed under the proposed land use designation is not anticipated to result in significant impacts. In addition, the proposed project would not impact agricultural and forest resources or mineral resources; therefore, the proposed project would not contribute to a significant cumulative impact on these resources. The impact would be less than significant.

4.20.3 - Direct or Indirect Adverse Effects on Human Beings

Less than significant impact. The project does not currently include any physical or operational changes to the site. However, reasonably foreseeable future redevelopment may require changes to the environment that may impact human beings directly or indirectly. Because any new development would be required to go through project-specific environmental review, the impacts would be less than significant.

Mitigation Measures

None required.

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