INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

70-80 North 27th Street Residential Project

File Nos.: SP22-004 and ER22-038

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

In Consultation with

STARBIRD
Consulting

April 2023

MITIGATED NEGATIVE DECLARATION

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

PROJECT NAME: 70-80 North 27th Street Residential Project

PROJECT FILE NUMBER: SP22-0004 and ER22-038

PROJECT DESCRIPTION: The proposed project is an application for a Special Use Permit (SUP) to demolish a partially occupied 21,454 square feet two -story retail commercial building and construct a new residential building consisting of five floors of residential units (198 in total) over common open space and vehicle parking for a total building height of 87 feet (including architectural features , such as parapets, turrets, and spires)..

PROJECT LOCATION: at 70-80 North 27th Street, in the City of San José

ASSESSORS PARCEL NO.: 467-09-076

COUNCIL DISTRICT: 3

APPLICANT CONTACT INFORMATION: HC Investment Associates LP, 63 Crescent Drive, Palo alto, CA, 94301. vickymings@gmail.com

FINDING

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

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

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

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

C. AIR QUALITY –

Impact AQ-1: The project would have an exceedance with respect to community risk caused by project construction since the unmitigated maximum cancer risk exceeds the BAAQMD single-source threshold. Construction activities associated with the proposed project would expose the maximum exposed individual (MEI) to a cancer risk of 35.89 cases per one million for infants which exceeds the Bay Area Air Quality Management District (BAAQMD) significance threshold of 10 cases per one million.

MM AQ-1*:* Prior to the issuance of any demolition or grading permits (whichever occurs first),a qualified air quality consultant shall prepare and submit a construction operations plan to the Director of Planning or Director's designee of the City of San José Department of Planning, Building and Code Enforcement demonstrating use of construction equipment with low diesel particulate matter exhaust or meets a fleet-wide average 70-percent reduction in DPM exhaust emissions. The plan shall be accompanied by a letter signed by a qualified air quality specialist, verifying that the equipment included in the plan meets the standards set forth below.

1. All construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet U.S. EPA Tier 4 emission standards for PM (PM_{10} and $PM_{2.5}$), if feasible, otherwise,

    a. If use of Tier 4 equipment is not available, alternatively use equipment that meets U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve a 75 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment; alternatively (or in combination).

    b. Use of electrical or non-diesel fueled equipment.

2. Alternatively, the applicant may develop another construction operations plan demonstrating that the construction equipment used on-site would achieve a reduction in construction diesel particulate matter emissions by 75 percent or greater. Elements of the plan could include a combination of some of the following measures:

    - Implementation of No. 1 above to use Tier 4 or alternatively fueled equipment,
    - Installation of electric power lines during early construction phases to avoid use of diesel generators and compressors,
    - Use of electrically-powered equipment,
    - Forklifts and aerial lifts used for exterior and interior building construction shall be electric or propane/natural gas powered,

- Change in construction build-out plans to lengthen phases, and
- Implementation of different building techniques that result in less diesel equipment usage.

With implementation of MM AQ-1, the infant residential cancer risk would be reduced to 7.67 cases per one million which would be below the BAAQMD significance threshold of 10 per one million cases for cancer risk.

D. BIOLOGICAL RESOURCES.

Impact BIO-1: Project construction would result in impacts to nesting birds, if present on the site at the time of construction.

MM BIO-1.1: Prior to any tree removal, or issuance of any grading or demolition permits (whichever occurs first), the project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive). Construction activities include any site disturbance such as, but not limited to, tree trimming or removal, demolition, grading, and trenching.

MM BIO-1.2: If demolition and construction cannot be scheduled between September 1st and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests shall be disturbed during construction activities. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30thinclusive) and no more than 30 days prior to the initiation of these activities during the late partof the breeding season (May 1st through August 31st inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats on-site and within 250 feet of the site for nests.

MM BIO-1.3: If an active nest is found within 250 feet of the project area to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, (typically 250 feet for raptors and 100 feet for other birds), to ensure that raptor or migratory bird nests shall not be disturbed during project construction.

MM BIO-1.4: Prior to any tree removal, or any grading or demolition activities (whichever occurs first), the ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the City's Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement.

With implementation of MM BIO-1.1 through MM BIO-1.4, the project's impact to nesting birds would be reduced to a less than significant level.

E. CULTURAL AND TRIBAL 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.

HAZARDS AND HAZARDOUS MATERIALS.

Impact HAZ-1: Development of the proposed project could result in impacts to construction workers, future site occupants, nearby communities, and the environment from exposure to potentially hazardous soil conditions resulting from previous railroad uses on the site. These include chemicals commonly used by railroad companies for dust suppression and weed control along rail lines, including metals, petroleum hydrocarbons, polycyclic aromatic hydrocarbons (PAHs), polychlorinated biphenyls (PCBs), and pesticides which may be present in site soil.

MM HAZ-1: Prior to the issuance of any grading permits, the project applicant shall hire a qualified environmental professional to complete a Phase II Environmental Site Assessment to address the concerns associated with the presence of former railroad track spurs as recommended in the Phase I Environmental Site Assessment completed by Cornerstone Earth Group dated May 11, 2021. The Phase II ESA shall include the collection of soil samples in the vicinity of the former railroad spurs to determine if commonly noted contaminants along railroad lines such as metals, petroleum hydrocarbons, polycyclic aromatic hydrocarbons (PAHs), polychlorinated biphenyls (PCBs) and pesticides occur at concentrations above established construction worker safety and residential standard environmental screening levels. Results of the Phase II shall be provided to the City of San José Planning, Building, and Code Enforcement Supervising Planner, and the Environmental Services Department Municipal Compliance Officer.

If the Phase II ESA results indicate soil contamination above the applicable regulatory environmental screening levels, the applicant shall obtain regulatory oversight from the Regional Water Quality Control Board (RWQCB), Department of Toxic Substances Control (DTSC) or Santa Clara County Department of Environment Health (SCCDEH) under their Site Cleanup Program. Any further investigation and remedial actions shall be performed under regulatory oversight to mitigate the contamination. A Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document shall be prepared by a qualified hazardous materials consultant and the plan must establish remedial measures and/or soil management practices to ensure construction worker safety and the health of future workers and site occupants. The Plan and evidence of regulatory oversight shall be provided to the Supervising Environmental Planner of the City of San José Planning, Building, and Code Enforcement, and the Environmental Compliance Officer in the City of San José's Environmental Services Department.

Implementation of MM HAZ-1 (on-site soil sampling and remediation, if needed) in conformance with General Plan policies and federal, state, and local laws would ensure that hazards and hazardous material impacts associated with historic railroad use would be reduced to a less than significant level.

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 –

Impact NOI-1: The proposed project would result in a significant temporary construction-related noise impact to surrounding residential, commercial, and industrial uses for more than 12 months.

MM NOI-1.1: Pursuant to General Plan Policy EC-1.7, prior to issuance of any grading or demolition permits, the project applicant shall prepare 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. The plan shall be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. Project construction operations shall use best available noise suppression devices and techniques including, but not limited to, the following:

- Pile driving is prohibited.
- 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. Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.
- Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses, if necessary to reduce noise to acceptable levels.
- 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 adjacent land uses and nearby residences. Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. If complaints are received or excessive noise levels cannot be

reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to current 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.

Mitigation measure MM NOI-1.1 would reduce construction noise impacts in accordance with the General Plan Policy EC-1.7 to a less than significant level.

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.

Cumulative impacts would be less than significant. The proposed Project would implement the identified mitigation measures and would have either have no impacts or less-than-significant impacts on riparian habitat or other sensitive natural communities, migration of species, or applicable biological resources protection ordinances. Therefore, the proposed Project would not contribute to any cumulative impact for these resources. The Project would not cause changes in the environment that have any potential to cause substantial adverse direct or indirect effects on human beings.

PUBLIC REVIEW PERIOD

The public review period starts on **April 7, 2023,** and end on **April 27, 2023.** Before **April 27, 2023, 5:00pm**, any person may:

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

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

CHRISTOPHER BURTON, Director
Planning, Building and Code Enforcement

April 4, 2023 — Tina Garg

Date — Deputy

Tina Garg
Environmental Project Manager

Circulation Period: April 7, 2023 to April 27, 2023

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SECTION 1.0 INTRODUCTION AND PURPOSE

1.1 PURPOSE OF THE INITIAL STUDY

The City of San José, as the Lead Agency, has prepared this Initial Study for the 70-80 North 27th Street Residential Project (project, proposed project) in compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations §15000 et. seq.) and the regulations and policies of the City of San José, California.

The project is a Special Use Permit (SUP) to allow the demolition of an existing 21,454 two-story retail commercial building and construction of a new six-story, approximately 209,120 square foot residential building on the approximately 1.16-acre project site. The project would include up to 198 residential units with 210 parking spaces.

1.2 PUBLIC REVIEW PERIOD

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

Tina Garg, Planner
City of San José Planning Department
200 E. Santa Clara Street, 3rd Floor
San José, CA 95112
Email: tina.garg@sanjoseca.gov

1.3 CONSIDERATION OF THE INITIAL STUDY AND PROJECT

Following the conclusion of the public review period, the City Council will consider the adoption of the Initial Study/Mitigated Negative Declaration (MND) for the project at a regularly scheduled meeting. The City shall consider the Initial Study/MND together with any comments received during the public review process. Upon adoption of the ND, the City may proceed with project approval action.

1.4 NOTICE OF DETERMINATION

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

SECTION 2.0 PROJECT INFORMATION

2.0 PROJECT TITLE

70-80 North 27th Street Residential Project, File Numbers SP22-004 and ER22-038.

2.1 LEAD AGENCY ADDRESS AND LEAD AGENCY CONTACT

Tina Garg
City of San José Planning Department
200 E. Santa Clara Street, 3rd Floor
San José, CA 95112
tina.garg@sanjoseca.gov
(408) 535-7895

2.2 PROJECT LOCATION

The approximately 1.16-acre project site is located at 70-80 North 27th Street in the Five Wounds area of San José. Regional and vicinity maps, and an aerial photograph of the project site are provided on Figures 1 - 3.

2.3 ASSESSOR'S PARCEL NUMBERS

467-09-076

2.4 PROJECT APPLICANT'S NAME AND ADDRESS

Applicant: HC Investment Associates, LP
63 Crescent Drive, Palo Alto, CA 94301
Vicky Ching (650) 326-8988
vickymings@gmail.com

Applicant's Representative:
Hestia Real Estate
1842 University Avenue, San José CA 95126
Melanie Griswold (415)- 265-1086
mg@hestia-re.com

2.5 GENERAL PLAN LAND USE DESIGNATION AND ZONING DISTRICT

Existing General Plan Land Use Designation: *Urban Village (55-250 DU/AC)*
Existing Zoning District: *Heavy Industrial*

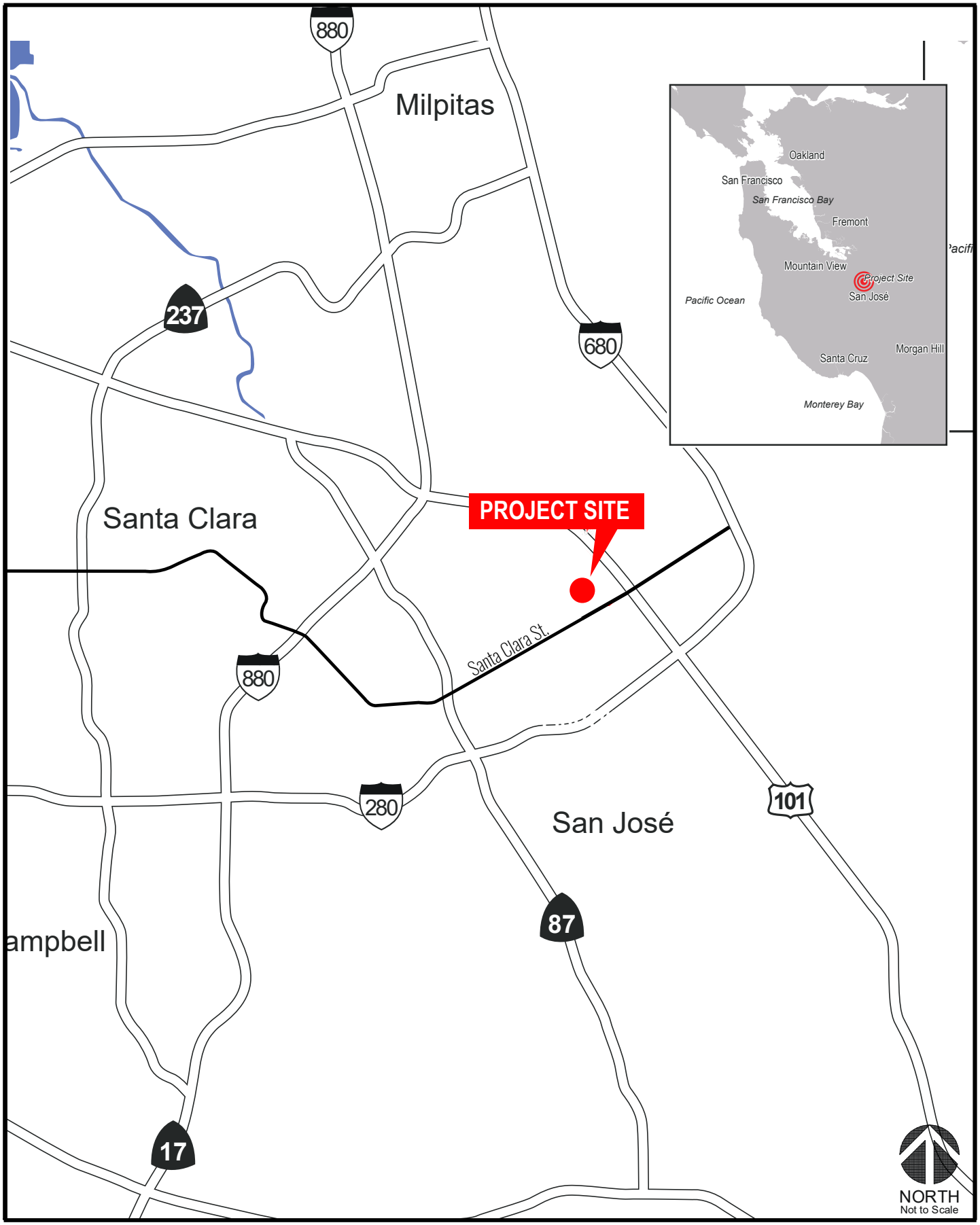
2.6 EXISTING SURROUNDING LAND USES

The surrounding land uses are shown on Figure 3.
North: *Single- and Multi-family Residential, Commercial, and Industrial*

South: *Commercial*
East: *Future Five Wounds Trail, Five Wounds Church, Cristo Rey High School, Industrial, Commercial*
West: *Single- and Multi-family Residential, Commercial, and Industrial*

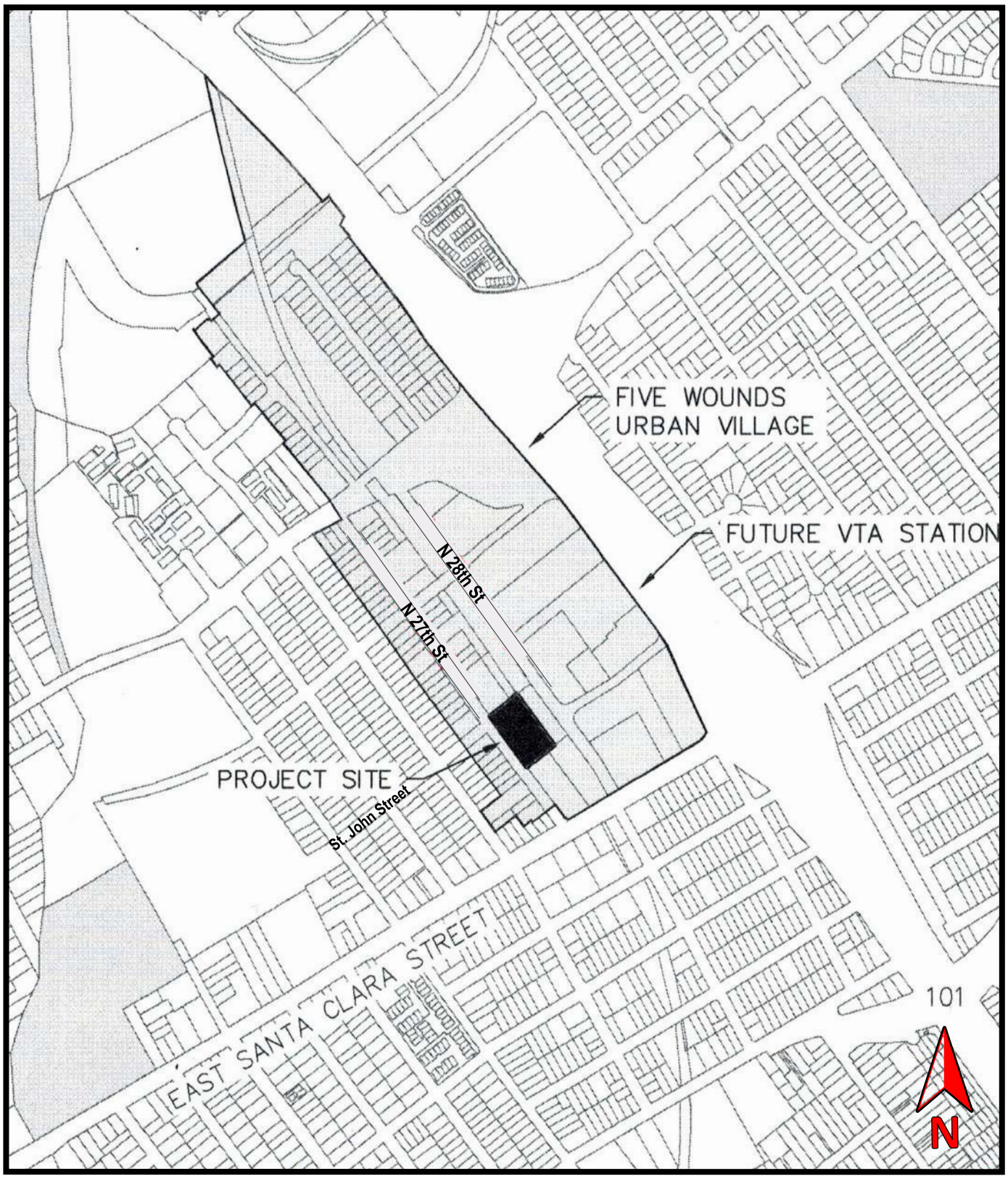
2.7 HABITAT PLAN DESIGNATION

Land Cover Designation: *Urban-Suburban*
Development Zone: *Urban-Suburban*
Fee Zone: *Urban Areas (No land cover fee)*
Burrowing Owl Conservation Zone: *N/A*



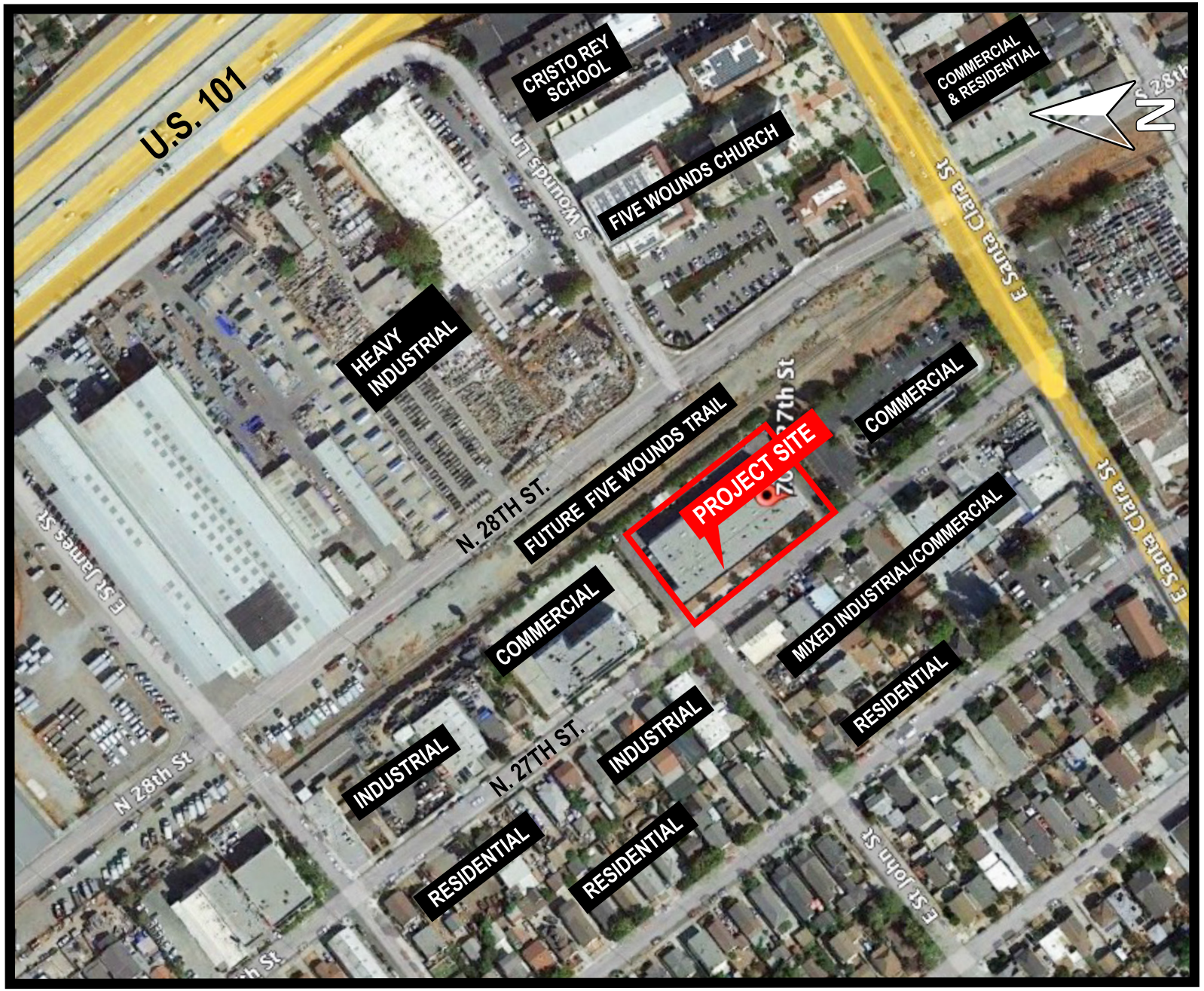
Source: Google Maps, 9/1/22

REGIONAL MAP **FIGURE 1**



Source: RJA, March 2023

VICINITY MAP **FIGURE 2**



Source: Google Maps, 9/1/22

AERIAL PHOTOGRAPH WITH SURROUNDING LAND USES **FIGURE 3**

SECTION 3.0 PROJECT DESCRIPTION

3.1 EXISTING CONDITIONS

Project Location

The approximately 1.16-acre project site is located at 70-80 N. 27th Street in the Five Wounds area of central San José. The site is located within the boundaries of the Five Wounds Urban Village. Regional and vicinity maps of the project site are provided on Figures 1 and 2, respectively.

Surrounding Land Uses

The existing neighborhood surrounding the project site contains a mix of commercial, light and heavy industrial, and multi- and single-family residential land uses. Five Wounds Church is located approximately 415 feet southeast of the project site at the intersection of E. Santa Clara St. and N. 28th St. Cristo Rey San José High School is located approximately 610 feet to the southeast of the site beyond the church. Commercial and residential uses are located to the west of the site. Uses to the east include industrial and commercial development. Commercial uses including a McDonalds and the Portuguese Band of San José event center are located adjacent to the southern and northern boundaries of the site, respectively.

Conditions On-Site

The project site is currently developed with an approximately 21,454 square-foot (sf) commercial office building with driveways and parking areas surrounding the building (refer to Photos 1-7). Landscaping, including trees and ornamental species are located on-site, primarily on the N. 27th Street frontage (west side of the building). A five-foot wide fiber optics easement is located along the entire length of the eastern side of the project site.

3.2 ENVISION SAN JOSÉ 2040 GENERAL PLAN AND ZONING DESIGNATION

The project site is designated as *Urban Village* (*UV*) under the City's General Plan Land Use/Transportation Diagram and a has a zoning designation of *HI – Heavy Industrial*. The site is located with the Five Wounds Urban Village (FWUV), which has a goal to support and complement the planned Bus Rapid Transit System (BRT) along E. Santa Clara St. and the future 28th Street/Little Portugal BART Station. The BART station is planned to be located on the former San José Steel site (generally bounded by East Saint James Street, North 28th Street, and North 30th Street), northeast of the project site.

3.3 PROPOSED PROJECT

The proposed project is an application for a Special Use Permit (SUP) to demolish a partially occupied 21,454 sf two-story retail commercial building and construct a new residential building consisting of five floors of residential units (198 in total) over common open space and vehicle parking for a total building height of 87 feet (including architectural features, such as parapets, turrets, and spires, as shown on Figure 5).

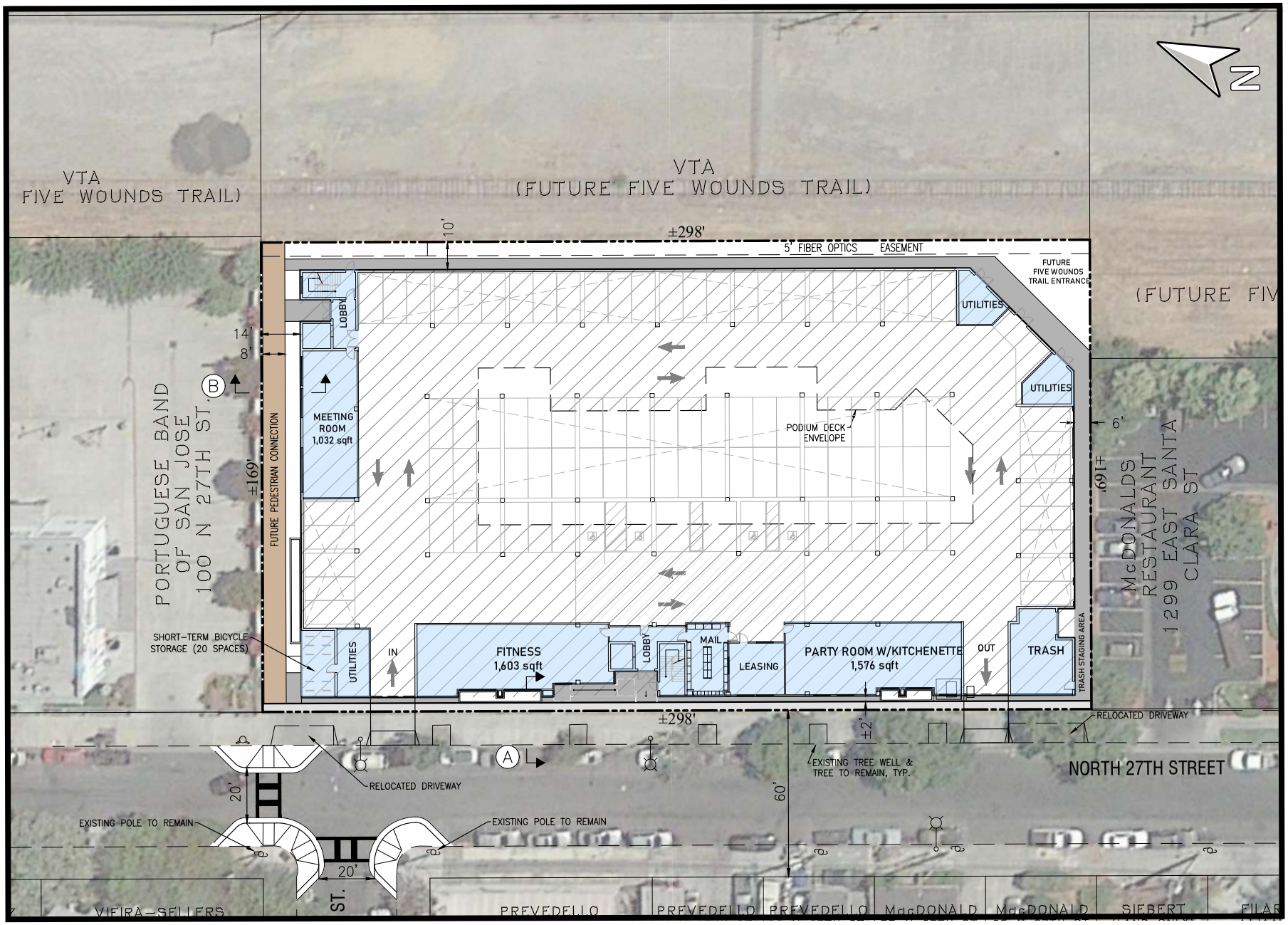
Project Characteristics

The proposed six-story residential building would include approximately 173, 1-bedroom units with an area of 650 sf each, and 25 studio units with an area of 500 sf each, over podium parking and common areas (fitness, party, mail, utility, and meeting rooms, trash receptacles, and leasing space), as shown on Figure 4. Approximately 15 percent of the units would be for very-low or low-income occupants. Consistent with the Urban Design goals of the FWUV, the structure would be designed to reflect Mediterranean or other similar architectural styles that reflect the ethnic heritage of the area, as shown on Figures 5 and 6.

The proposed project includes partially below grade parking on podium to a depth of approximately eight feet. The ground floor would have 210 residential parking spaces in a 3-level puzzle parking system[1]. Up to 50 long-term bicycle parking spaces would be provided near the lobbies and stairwells of each residential floor. Twenty short-term bicycle parking spaces would be provided on the ground floor in the northwest corner of the building, as shown on Figure 4. Access to the ground floor parking would be provided by driveways on N. 27th Street, with the inbound driveway located on the northern side and the outbound driveway location on southern side of the building, as shown on Figure 4.

The proposed project would include common open spaces per City Code, which requires 100 sf of open space per unit or 19,800 sf in total. These areas would be provided on the second-floor podium deck in an open-air courtyard (7,900 sf), interior spaces (4,000 sf), and a 7,900 sf roof deck. Sections of the existing attached 12-foot-wide sidewalk and curb along the project frontage on 27th Street would be reconstructed (existing driveways removed and new driveways added).

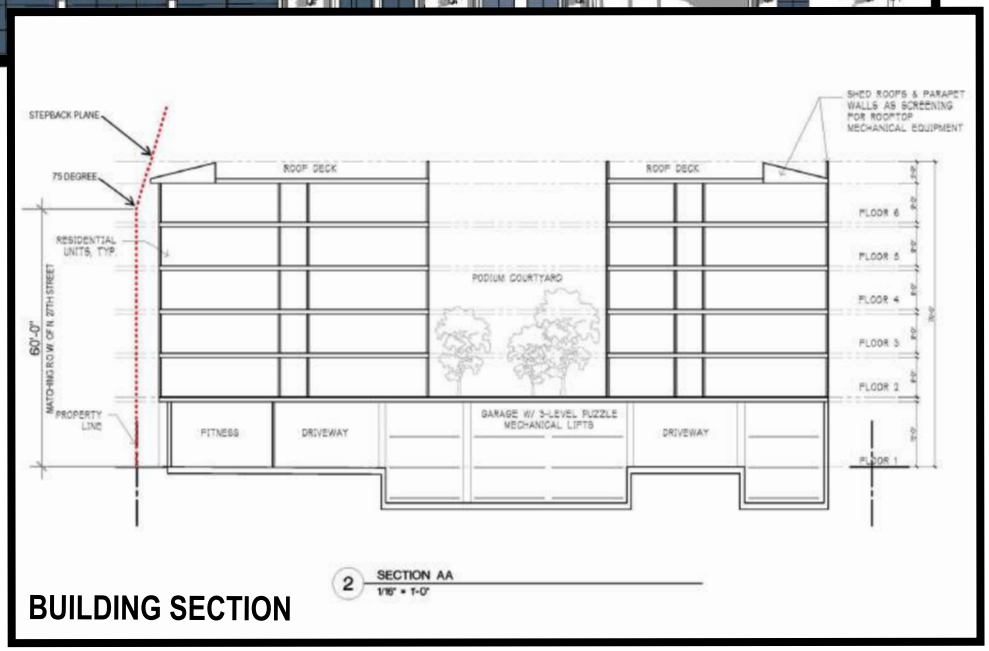
[1] The automated parking system would allow the stacked parking spaces to be shifted vertically and horizontally, allowing residents to retrieve their vehicle without the need to move the other accompanying vehicles. Comprised of multiple parking spaces including one open space, the vehicle stackers would present an open parking space that, once occupied, would automatically shift downward or rotate, presenting another open space. There would be four separate systems so four cars could wait simultaneously, ensuring that no back-ups would occur within the garage due to vehicles waiting for a space. No more than 3 levels of cars would be stacked in any location.



Source: RJA Engineer 11/2022

SITE PLAN **FIGURE 4**

Source: LPMD Architects 11/2022



BUILDING SECTION

TYPICAL ELEVATIONS

FIGURE 5

Source: LPMD Architects 11/2022

SIMULATION

FIGURE 6

The project would include pedestrian pathways on the north (8-foot-wide), east (5-foot-wide), and south (6-foot-wide) sides of the building to allow street and project access in the future to the planned Five Wounds Trail to be constructed between N. 27th and N. 28th Streets. The project would also include a public trail entrance that would be located at the southeast corner of the site (Figure 4). The proposed trail connections and future Five Wounds Trail would provide pedestrian and bicycle access to the future 28th Street/Little Portugal BART Station. Neither the pathway nor the trail entrance would extend past the project site property boundary, but would be used for future access to the planned Five Wounds Trail.

Mechanical Equipment

The project would include roof-top mechanical equipment such as heating, ventilation, and air conditioning units. However, the exact equipment is unknown at this time. Therefore, the following condition of approval would be required:

COA-1: Mechanical equipment shall be selected and designed to reduce noise levels to meet City requirements at the nearby noise-sensitive land uses. A qualified acoustical consultant shall be retained to review mechanical noise as these systems are selected to determine specific noise reduction measures necessary to reduce noise to comply with the City's noise level requirements. Noise reduction measures could include, but are not limited to, selection of equipment that emits low noise levels. Other alternate measures may be optimal, such as locating equipment in less noise-sensitive areas, such as along the building façades farthest from adjacent neighbors, where feasible.

Utilities

Utility improvements would include new water laterals, fire hydrants, and a sanitary lateral. The project includes two new storm drain connections with manholes at the north and south ends of the proposed building, and a new 15-inch storm drain line within N. 27th Street running the length of the building, connecting to an existing line within St. John Street.

Landscaping

There are 21 trees located on the project site, including 6 street trees. Approximately 16 trees, including one of the street trees, would be removed as part of the project. The project proposes to replace the removed trees with 15, 24-inch box trees, consistent with City policy. Two of these trees would be replacements for the ordinance size street tree. The frontage along 27th Street would be landscaped with drought tolerant tree and plant species. Stormwater control measures would include drainage swales, flow-through planters, and Silva cells[2].

[2] Silva Cells are a form of underground modular bioretention facilities that are intended to go beneath the northeast corner of the interior plaza area. Personal communication, John Moniz, RJA, March 10, 2023.

Construction

Construction is expected to begin in January 2024 and be completed by May 2026 (approximately 29 months). Construction would include demolition of the existing structure, grading, sidewalk improvements, excavation for underground parking, building and driveway construction, tree removal, and landscaping. Approximately 6,800 and 100 cubic yards of soil would be exported and imported at the site, respectively, for a net export of 6,700 cubic yards of soil. A truck haul route would be determined prior to issuance of a grading permit.

Green Building Measures

The proposed project would be built to the California Green Building Standards Code (CALGreen) which includes design provisions intended to minimize wasteful energy consumption. The project would include Green Building Measures, such as solar panels, passive cooling/natural ventilation, drought-tolerant landscaping, energy-efficient appliances, and electric vehicle charging stations, all electric building construction (consistent with Reach Code).

Density Bonus

The *UV* designation of the General Plan and Zoning Districts requires commercial development with an FAR of 0.75. The project applicant requests waiver from this requirement pursuant to the broad definition of "incentives" and "concessions" under Government Code 69515. The project applicant is requesting a State Density Bonus incentive that would allow the project to be approved and constructed without the commercial development requirement of the General Plan and Zoning Ordinance.

3.4 PROJECT-RELATED APPROVALS AND PERMITS

- Planning, Building, and Code Enforcement
    - Special Use Permit
    - Tree Removal Permit
    - Street Tree Removal Permit
    - Building Permit(s)
- Public Works
    - Grading Permit
    - Haul Route Permit

SECTION 4.0 EVALUATION OF ENVIRONMENTAL IMPACTS

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

The discussion for each environmental subject includes the following subsections:

- **Environmental Setting** - This subsection 1) describes the existing, physical environmental conditions at the project site and in the surrounding area, as relevant and 2) provides a brief overview of relevant plans, policies, and regulations that compose the regulatory framework for the project.

- **Environmental Checklist** - This subsection includes the City's checklist for determining potential environmental impacts.

- **Impacts Evaluation** - This subsection discusses the project's environmental impact as it relates to the checklist questions. For significant impacts, feasible Mitigation Measures are identified that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370). Measures that are required by the Lead Agency or other regulatory agency that will reduce or avoid impacts are categorized as "*Standard Permit Conditions*." "Conditions of Approval" are project-specific measures the City requires to reduce or avoid environmental impacts.

  Each impact is numbered using an alphanumeric system that identifies the environmental issue. For example, Impact AES-1 denotes the first potentially significant impact discussed in the Aesthetics section. Mitigation Measures are also numbered to correspond to the impact they address. For example, MM AES-2.3 refers to the third mitigation measure for the second impact in the Aesthetics section.

  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.

- **Conclusion** - This subsection provides a summary of the project's impacts on the resource.

Important Note to the Reader: The California Supreme Court in a December 2015 opinion [California Building Industry Association v. Bay Area Air Quality Management District, 62 Cal. 4th 369 (No. S 213478)] confirmed that CEQA, with several specific exceptions, is concerned

with the impacts of a project on the environment, not the effects the existing environment may have on a project. Therefore, the evaluation of the significance of project impacts under CEQA in the following sections focuses on impacts of the project on the environment, including whether a project may exacerbate existing environmental hazards.

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

Therefore, where applicable, in addition to describing the effects of the project on the environment, this chapter will discuss effects on the project related to City policies pertaining to existing conditions. Such examples include, but are not limited to, locating a project near sources of air emissions that can pose a health risk, in a floodplain, in a geologic hazard zone, in a high noise environment, or on/adjacent to sites involving hazardous substances.

4.1 AESTHETICS

Environmental Setting

The approximately 1.16-acre project site is located in a densely developed area of central San José, within the FWUV, west of Downtown as shown in Photos 1-8 on the following pages.

The project site is currently developed with a two-story retail commercial building, with parking surrounding the structure (Photos 2-4). Street trees and some landscaping is located on the western side of the building on N. 27th Street (Photos 1 and 5). Additional detail regarding trees on-site is provided in *Section 4.4 Biological Resources*.

The project site is in an urban, highly developed area of central San José surrounded by one- and two-story structures. Thus, views from the project site include views of the immediate, surrounding development. Land uses in the immediate project area are primarily industrial and commercial, with single-family residential units intermixed. The building north of the site is owned by The Portuguese Band of San José, a non-profit organization that provides cultural music lessons and performance and event space. The building includes event space for rent. South of the site is a McDonalds restaurant. Industrial and commercial land uses, including automotive repair shops are located to the north and west, directly across N. 27th Street from the site (Photos 4-8). Sources of light and glare in the urban environment include streetlights and reflective building surfaces and windows.

Regulatory Framework

State

The State Scenic Highways Program

The State Scenic Highways Program (Streets and Highway Code, Sections 260 through 263) is designed to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. In Santa Clara County, the one state-designated scenic highway is State Route (SR) 9 from the Santa Cruz County line to the Los Gatos City Limit. Eligible State Scenic Highways (not officially designated) include: SR 17 from the Santa Cruz County line to SR 9, SR 35 from Santa Cruz County line to SR 9, Interstate 280 from the San Mateo County line to SR 17, and the entire length of SR 152 within the County. The project site is not located near any scenic highways.

Senate Bill 743

Senate Bill 743 Senate Bill (SB) 743 was adopted in 2013 and requires lead agencies to use alternatives to level of service (LOS) for evaluating transportation impacts, specifically vehicle miles traveled (VMT). SB 743 also included changes to CEQA that apply to transit-oriented developments, as related to aesthetics and parking impacts. Under SB 743, a project's aesthetic impacts will no longer be considered significant impacts on the environment if:

Photo 1: Existing two-story retail commercial building located at 70-80 N. 27th Street. This building would be demolished as part of the project.

Photo 2: South side of existing retail commercial building, looking to the west.

Photo 3: The back (east) side of the existing retail commercial building, looking to the south. Loading dock doors can be seen.

Photo 4: North side of the existing retail commercial building.

Photo 5: N. 27th Street frontage, looking to the northeast. Existing street trees can be seen.

Photo 6: View of existing commercial and industrial land uses on the west side of N. 27th Street, across from the project site.

Photo 7: Photo of N. 27th Street, looking to the south towards E. Santa Clara Street. The parking lot for the existing McDonalds to the south of the project site can be seen on the left.

Photo 8: View of N. 27th Street from the site, looking to the north. The existing The Band of Portuguese building can be seen to the right and single-family residential and commercial uses can be seen on the left.

- The project is a residential, mixed-use residential, or employment center project, and
- The project is located on an infill site within a transit priority area.1 SB 743 also clarifies that local governments retain their ability to regulate a project's aesthetics impacts outside of the CEQA process. The project site is located within a transit priority area.

Local

Municipal Code

The City's Municipal Code includes several regulations associated with protection of the City's visual character and control of light and glare. For example, Chapter 13.32 (Tree Removal Controls) regulates the removal of trees on private property within the City, in part to promote scenic beauty of the city. The City's Zoning Ordinance (Title 20 of the Municipal Code) includes development standards, maximum building height, and setback requirements. Several sections of the Municipal Code (including, but not limited to Chapters 20.20 (Parts 3 and 4) and 20.55 (Parts 1-3), include controls for lighting of signs and development adjacent to residential properties. These requirements call for floodlighting to have no glare and lighting facilities to be reflected away from residential use so that there will be no glare.

Citywide Design Guidelines and Design Review Process

The City prepared and adopted the San José Citywide Design Guidelines and Standards in 2021 to help the City facilitate growth, set expectations for high-quality site and building design, and maintain and enhance the character of its neighborhoods and communities. Compliance with the Design Standards and Guidelines is mandatory in the Design Review process for all applicable developments.

City Council's Private Outdoor Lighting Policy 4-3

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

Five Wounds Urban Village Plan

The FWUVP was prepared by the City and community as a policy document for the future growth of the Five Wounds Urban Village. The Plan establishes a framework for the transition of the FWUV into a vibrant mixed-use and pedestrian-oriented district that complements and supports the Santa Clara – Alum Rock Bus Rapid Transit (BRT) System project along E. Santa Clara St., the extension of Bay Area Rapid Transit (BART) to the area, and creates a safe environment for all modes of travel, a healthy mix of uses, and public gathering places… a great place to live, work, and play.

The Plan includes goals, objectives and policies designed to shape both future public and private development. The following Urban Design policies are applicable to the proposed project.

Urban Design Goal: Create an attractive Urban Village that is a catalyst for the economic vitality of the Five Wounds area, creates a vibrant pedestrian environment, and contributes towards a strong and positive community identity through high-quality and thoughtful design of buildings and public spaces. The following Urban Design policies are applicable to the proposed project.

Architecture Policy 1*: The design of new development in the Five Wounds Village should be of a high standard and should contribute to the positive image and vitality of the corridor.*

Architecture Policy 2*: New development within the Five Wounds Village is encouraged to be built in a Mediterranean or other similar architectural styles that reflect the ethnic heritage of the area.*

Architecture Policy 3*: To create a visually rich and interesting built environment, articulation of building façades (including incorporation of high-quality material) and variations in building planes and roof lines are encouraged in new development. New buildings should avoid a monolithic appearance.*

Architecture Policy 4: *Larger buildings should include changes in building plane and roof lines to reflect individual units or tenant spaces so that the overall building mass is broken down and is viewed as several small buildings. Buildings wider than 75 feet should be subdivided into portions or segments that read as distinct volumes, like a series of building fronts, of a maximum 50 feet in width.*

Architecture Policy 5: *New development should include decorative elements on building facades and entryways, and are encouraged to integrate unique, artisan and artist-designed elements into façades and public spaces that contribute to a Mediterranean or similar architectural style.*

Architecture Policy 6: *New development should use high-quality, durable building materials on buildings, and in publicly-visible areas.*

Architecture Policy 7: *Use highly durable and distinctive building materials, such as stone, tile, and terracotta. Minimize the use of glass and steel and avoid extensive use of sprayed stucco for exterior wall finishes on buildings.*

Architecture Policy 8: *Employ a variety of architectural details, such as sloping roofs, dormers, gables, balconies, moldings, cornices, bay windows, deep window recesses, decorative trim, and arches over doors and windows.*

Architecture Policy 9: *Encourage use of mosaic tiling that reflects the local cultures of the surrounding neighborhoods on building façades and selected areas of the Town Square and promenades.*

Envision San José 2040 General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating aesthetic impacts from development projects. The following policies are applicable to the proposed project.

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.

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.

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.

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 black walls that do not enhance the pedestrian experience. Encourage inviting, transparent facades for ground-floor commercial spaces that attract customers by revealing active uses and merchandise displays.

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.

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.

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.

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.

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.

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

CD- 8.1 Ensure new development is consistent with specific height limits established within the City's Zoning Ordinance and applied through the zoning designation for properties throughout the City. Land use designations in the Land Use/Transportation Diagram provide an indication of the typical number of stories.

Scenic Vistas, Resources, and Corridors

The General Plan defines scenic vistas or resources in the City of San José as broad views of the Santa Clara Valley, the hills and mountains surrounding the valley, the urban skyline, and the baylands. Panoramic views of hillside areas, including the foothills of the Diablo Range, Silver Creek Hills, Santa Teresa Hills, foothills of the Santa Cruz Mountains, and the downtown San José skyline are identified as key scenic features in the City.

The City's General Plan also identifies Gateways and Urban Throughways (urban corridors) where preservation and enhancement of views of the natural and man-made environment are crucial.[3]

[3] City of San José. *Envision San José 2040 General Plan FPEIR*. Page 739. September 2011.

Aesthetics Environmental Checklist

Would the project:	Potentially Significant Impact	Less than Significant Impact with Mitigation	Less than Significant Impact	No Impact	Checklist Source(s)
a. Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒	1,2,3,4,25
b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒	1, 4, 25
c. Substantially degrade the existing visual character or quality of public views of the site and its surroundings? If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	☐	☐	☒	☐	1, 2, 3, 4, 6, 25
d. Create a new source of substantial light or glare which will adversely affect day or nighttime views in the area?	☐	☐	☒	☐	1, 6, 25

Impacts Evaluation

a.,b. Would the project have a substantial adverse effect on a scenic vista? Would the project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

Scenic resources and views in the City of San José include the broad sweep of the Santa Clara Valley, the hills and mountains which frame the Valley floor, the baylands, and the urban skyline, particularly the downtown skyline. Other natural resources, such as trees, could be considered a scenic resource. An impact to a scenic resource or vista would occur if a project modifies a scenic feature, such as a hillside, woodland, or bayland areas, or scenic skyline or built environment.

Due to the project site's location on the valley floor and the presence of surrounding development, views from the project site are limited to the immediate area. Views of the Santa Cruz Mountains and Diablo Range from the project area are already obstructed by existing surrounding development and trees. Redevelopment of the proposed project site would,

therefore, not substantially hinder existing scenic views. The view of the project site is not an integral part of a scenic vista and is not located in an area considered to be a scenic vista.

The proposed project would result in the removal of 15 existing on-site trees and vegetation, and one street tree. However, all trees would be removed in accordance with procedures established the City's Tree Protection Ordinance and replaced in accordance with the City's standard permit condition (refer to Section 4.4 *Biological Resources* for a discussion of the project's impacts on trees).

As stated in Section 4.5 *Cultural/Tribal Cultural Resources* and Appendix C of this Initial Study, there are no identified historic resources on or near the site. In addition, there are no rock outcroppings on the highly developed site. The project site is located in a highly urbanized area and the nearest state-designated scenic resource (SR-9) is located approximately 10 miles away in the Santa Cruz Mountains. Interstate 280 (I-280) from the San Mateo County line to State Route 17 (SR-17), which includes segments of San José, is an eligible, but not officially designated State Scenic Highway. Distant views of the Santa Cruz Mountains, Diablo Range, and Downtown San José skyline to the west and east of the site are blocked by surrounding buildings and mature trees. There are no scenic vistas, resources, or corridors on or in the vicinity of the project site. The project site is not located along a state-designated scenic highway or City of San José scenic gateway or rural scenic corridor. Based on the above discussion, the project would not substantially damage scenic resources. **(No Impact)**

c. Substantially degrade the existing visual character or quality of public views of the site and its surroundings? If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

The proposed redevelopment of the existing retail commercial site would include the demolition of the existing structure, asphalt parking, and landscaping on the site. The project site and the surrounding area are currently developed with residential, industrial, and commercial uses. The proposed project would be taller than the existing development in the project area, but would not be taller than Five Wounds Church, consistent with the FWUV Urban Design policies.

The height of the proposed building would be limited to 70 feet at the roofline, as allowed in the FWUV Plan. Municipal Code Section 20.85.040 (Rooftop Height exceptions) allows an additional 17 feet of height subject to design review, and including but not limited to accessible bathroom, roof canopies, mechanical equipment, screening, and safety guardrail requirements. The FWUV Plan also allows decorative architectural chimneys, weather vanes, cupolas, spires, and pediments within the height above the roofline.

The proposed height of the building would be taller than most development in the area, but would not be taller than Five Wounds Church (over 120 feet), located southeast of the project site, as shown on Figure 6. Adjacent properties along both sides of N. 27th Street are one- and two-story residential and commercial buildings approximately 25 feet in height. While the

project would be taller than the existing buildings on the street, it would be designed according to all appropriate City design guidelines, including policies of the FWUV that describe massing preferences, as shown on Figures 5 and 6. The proposed project would be consistent with the Municipal Code for the *UR* zoning district as well as all appropriate General Plan and FWUV Plan policies.

As shown on Figures 5-6, the building would be of Mediterranean design with a variety of architectural details and changes in building planes and roof lines. Building fronts would integrate unique, artisan and artist-designed elements. High-quality, durable building materials such as stone, tile, and terracotta would be used. use of glass and steel would be minimized, and extensive use of sprayed stucco for exterior wall finishes on buildings would be avoided.

The proposed building would be consistent with the City's design review criteria and Urban Design Architectural Policies of the FWUV, resulting in conformance to current architectural and landscaping standards. For these reasons, the proposed project would not substantially degrade the existing visual character or quality of public views of the site and surrounding area. **(Less than Significant Impact)**

d. Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area?

Redevelopment of the proposed project site could incrementally increase nighttime light in the surrounding area due to the net increase in nighttime and security lighting.

The certified 2011 Envision San José 2040 General Plan Final Program Environmental Impact Report (General Plan FPEIR) (SCH# 2009072096) and the 2015 Envision San José 2040 General Plan Final Supplemental Program EIR (General Plan FSPEIR) (SCH#2009072096) concluded that while new development and redevelopment under the General Plan could create additional sources of nighttime light and daytime glare, implementation of adopted plans, conformance with adopted policies and regulations and with General Plan policies would avoid substantial light and glare impacts.

The project shall comply with the City's Outdoor Lighting on Private Development Policy (Policy 4-3) and Interim Lighting Policy to reduce spillover light. Compliance with City policies and regulations to avoid substantial light and glare would result in a project that would not substantially increase nighttime light levels. For these reasons, the proposed project would not be a substantial new source of light or glare. **(Less Than Significant Impact)**

Conclusion

The proposed redevelopment project would require conformance with existing General Plan policies, FWUV policies and guidelines, City design guidelines, and City outdoor lighting policies which would ensure that the proposed redevelopment of the site would not result in significant adverse visual or aesthetic impacts. **(Less than Significant Impact)**

4.2 AGRICULTURAL AND FOREST RESOURCES

Environmental Setting

CEQA requires the evaluation of agricultural and forest/timber resources where they are present. The developed, infill project site does not contain any agricultural and forest/timber resources. It is also designated as Urban and Built-up Land[4], and is not considered to be important farmlands.

The project site is in an urban and developed area. It is currently developed with a retail commercial building, asphalt parking, and mature landscaping and is zoned for *Heavy Industrial* uses with a General Plan designation of *Urban Village (UV)*. The site is located within an urban area of San José and there is no property used for agricultural or forestry/timberland purposes adjacent to the project site or in the surrounding area.

Regulatory Framework

State

Farmland Mapping and Monitoring Program

The California Resources Agency's Farmland Mapping and Monitoring Program (FMMP) assesses the location, quality, and quantity of agricultural land and conversion of these lands over time.

Agricultural land is rated according to soil quality and irrigation status; the best quality land is called Prime Farmland. In CEQA analyses, the FMMP classifications and published County maps are used, in part, to identify whether agricultural resources that could be affected are present onsite or in the project area.

California Land Conservation Act (Williamson Act)

The California Land Conservation Act (commonly referred to as the Williamson Act) enables local governments to enter into contracts with private landowners to restrict parcels of land to agricultural or related open space use. In return, landowners receive lower property tax assessments. In CEQA analyses, identification of properties that are under Williamson Act contract is used, in part, to identify sites that may include agricultural resources or are zoned for agricultural uses. The project site is not part of a Williamson Act contract.[5]

[4] Urban and Built-up Land is occupied by structures with a building density of at least 1 unit to 1.5 acres, or approximately 6 structures to a 10-acre parcel. Common examples include residential, industrial, commercial, institutional facilities, cemeteries, airports, golf courses, sanitary landfills, sewage treatment, and water control structures. Santa Clara County Important Farmlands Map (2016).

[5] Santa Clara County Department of Planning, Interactive Williamson Act Map, https://www.sccgov.org/sites/dpd/Programs/WA/Pages/WA.aspx. Accessed October 20, 2022.

Forest Land, Timberland, and Timberland Production

The California Department of Forestry and Fire Protection (Cal Fire) identifies forest land, timberland, and lands zoned for timberland production that can (or do) support forestry resources.[6] Programs such as Cal Fire's Fire and Resource Assessment Program (FRAP) are used to identify whether forest land, timberland, or timberland production areas that could be affected are located on or adjacent to a project site.

Agricultural and Forestry Resources Environmental Checklist

Would the project:	Potentially Significant Impact	Less than Significant Impact with Mitigation	Less than Significant Impact	No Impact	Checklist Source(s)
a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒	1,2,3,4,5
b. Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒	1,6,7
c. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	☐	☐	☐	☒	1,6,7,25
d. Result in a loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒	1,25
e. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒	1,25

[6] Forest Land is land that can support 10 percent native tree cover and allows for management of forest resources (California Public Resources Code Section 12220(g)); Timberland is land not owned by the federal government or designated as experimental forest land that is available for, and capable of, growing trees to produce lumber and other products, including Christmas trees (California Public Resources Code Section 4526); and Timberland Production is land used for growing and harvesting timber and compatible uses (Government Code Section 51104(g)).

Impacts Evaluation

a.,b. Would the project convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) to non-agricultural use? Would the project conflict with existing zoning for agricultural use, or a Williamson Act contract?

As described above, the project site is designated as Urban and Built-Up Land. The project site and surrounding properties are not designated for agricultural use. Therefore, the proposed redevelopment of the project site would not result in the conversion of Farmland to another use. The project site is currently zoned for heavy industrial uses and is not part of a Williamson Act Contract. **(No Impact)**

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

The project site and surrounding area are developed and are not zoned or used for forestland or timberland. The proposed redevelopment project would not result in the loss or conversion of existing forest land or timberland. **(No Impact)**

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

There is no farmland or forestland in the project area; therefore, the proposed project would not interfere with agricultural operations or facilitate the unplanned conversion of farmland or forest elsewhere in San José to non-agricultural or non-forest uses, respectively. **(No Impact)**

Conclusion

The proposed redevelopment project site would not impact agricultural or forestry resources. **(No Impact)**

4.3 AIR QUALITY

This section is based on the Air Quality Assessment prepared for the project by *Illingworth and Rodkin* on September 27, 2022. The assessment is contained in Appendix A of this Initial Study.[7]

Environmental Setting and Background Conditions

Air quality is determined by natural factors such as topography, meteorology, and climate, in addition to the presence of existing air pollution sources and ambient conditions. The project is located in the City of San José, which is located in the Santa Clara Valley within the San Francisco Bay Area Air Basin. The Santa Clara Valley is bounded by the San Francisco Bay to the north and by mountains to the east, south and west which can entrap pollutants in the valley. The Pacific Ocean and the San Francisco Bay has a moderating influence on the climate and valley temperatures. The surrounding terrain greatly influences winds in the valley, resulting in a prevailing wind that follows along the valley's northwest-southwest axis.

The Bay Area Air Quality Management District (BAAQMD) is the regional air quality agency for the San Francisco Bay Area Air Basin. As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. The City of San José and other jurisdictions in the San Francisco Bay Area Air Basin utilize the thresholds and methodology for assessing air emissions and/or health effects adopted by the BAAQMD.

Criteria Pollutants

Ambient air quality standards have been established at both the state and federal level. The ambient air quality in a given area depends on the quantities of pollutants emitted within the area, transport of pollutants to and from surrounding areas, local and regional meteorological conditions, as well as the surrounding topography of the air basin. Air quality is described by the concentration of various pollutants in the atmosphere.

As required by the federal Clean Air Act, National Ambient Air Quality Standards (NAAQS) have been established for six major criteria air pollutants: carbon monoxide (CO), reactive organic gasses (ROG), nitrogen dioxide (NO_2), particulate matter (PM_{10}), sulfur oxides (SOx), and lead. Secondary criteria pollutants include ozone (O_3), and fine particulate matter ($PM_{2.5}$). Pursuant to the California Clean Air Act, the State has established the California Ambient Air Quality Standards

[7] The project description for the report, which is based partially on the amount of traffic that would be generated by the project, included an additional 7,118 sf of commercial uses along N. 27th St. that are no longer part of the project. The previously proposed project with the same number of residential units and additional commercial development would have generated more traffic trips than the currently proposed residential-only project. Therefore, the impacts described in this section represent a worst-case scenario and impacts would be lower than described in this section of the Initial Study.

(CAAQS). The most commonly regulated criteria pollutants in the Bay Area are discussed further below.

Table 4.3-1: Health Effects of Air Pollutants		
Pollutants	Sources	Primary Effects
O_3	Atmospheric reaction of organic gases with nitrogen oxides in sunlight	• Aggravation of respiratory and cardiovascular diseases • Irritation of eyes • Cardiopulmonary function impairment
Nitrogen Dioxide (NO_2)	Motor vehicle exhaust, high temperature stationary combustion, atmospheric reactions	• Aggravation of respiratory illness • Reduced visibility
Fine Particulate Matter ($PM_{2.5}$) and Coarse Particulate Matter (PM_{10})	Stationary combustion of solid fuels, construction activities, industrial processes, atmospheric chemical reactions	• Reduced lung function, especially in children • Aggravation of respiratory and cardio-respiratory diseases • Increased cough and chest discomfort • Reduced visibility
Toxic Air Contaminants (TACs)	Cars and trucks, especially diesel-fueled; industrial sources, such as chrome platers; dry cleaners and service stations; building materials and products	• Cancer • Chronic eye, lung, or skin irritation • Neurological and reproductive disorders

The San Francisco Bay Area Air Basin does not meet state or federal ambient air quality standards for ground level ozone and fine particulate matter ($PM_{2.5}$) and state standards for respirable particulate matter (PM_{10}). The area meets attainment standards or is considered unclassified for all other criteria pollutants.[8] High ozone levels are caused by the cumulative emissions of reactive organic gases (ROG) and nitrogen oxides (NOx). These precursor pollutants react under certain meteorological conditions to form high ozone levels. Controlling the emissions of these precursor pollutants is the focus of the Bay Area's attempts to reduce

[8]Particulate matter is assessed and measured in terms of respirable and fine particulate matter. PM_{10} and $PM_{2.5}$ are particles that have a diameter of 10 and 2.5 micrometers or less, respectively.

ozone levels. High ozone levels aggravate respiratory and cardiovascular diseases, reduced lung function, and increase coughing and chest discomfort.

Particulate matter is assessed and measured in terms of respirable particulate matter or particles that have a diameter of 10 micrometers or less (PM_{10}) and fine particulate matter where particles have a diameter of 2.5 micrometers or less ($PM_{2.5}$). Elevated concentrations of PM_{10} and $PM_{2.5}$ are the result of both region-wide (or cumulative) emissions and localized emissions. High particulate matter levels aggravate respiratory and cardiovascular diseases, reduce lung function, increase mortality (e.g., lung cancer), and result in reduced lung function growth in children.

Toxic Air Contaminants

Besides criteria air pollutants, there is another group of substances found in ambient air referred to as Toxic Air Contaminants (TACs). These contaminants tend to be localized and are found in relatively low concentrations in ambient air. Exposure to low concentrations over long periods, however, can result in adverse chronic health effects. Diesel exhaust is a predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs (based on the Bay Area average).

Long-term and short-term exposure to TACs and $PM_{2.5}$ can cause a wide range of health effects. Common stationary sources of TACs and $PM_{2.5}$ include gasoline stations, dry cleaners, and diesel backup generators. The other, more significant, common source is motor vehicles on roadways and freeways. Mobile TAC sources located within 1,000 feet of the project site U.S. Highway 101 to the east and E. Santa Clara Street to the south of the project site.

Sensitive Receptors

BAAQMD defines sensitive receptors as facilities where sensitive receptor population groups (children, the elderly, athletes, and the acutely and chronically ill) are likely to be located. These land uses include residences, parks, school playgrounds, child-care centers, retirement homes, convalescent homes, hospitals, and medical clinics. The closest sensitive land uses are single-family residences located approximately 230 feet west (on N. 26th St.) and northwest of the project site (on N. 27th St.). There are more sensitive receptors at farther distances, including students at the Cristo Rey San José Jesuit High School, approximately 610 feet southeast of the site. The project would introduce new sensitive receptors (i.e., residents) to the area.

Odors

Common sources of odors and odor complaints include wastewater treatment plants, transfer stations, coffee roasters, painting/coating operations, and landfills. Significant sources of offending odors are typically identified based on complaint histories received and compiled by BAAQMD. Typical large sources of odors that result in complaints are wastewater treatment facilities, landfills including composting operations, food processing facilities, and chemical

plants. Other sources, such as restaurants, paint or body shops, and coffee roasters typically result in localized sources of odors. The project site is in an area predominantly surrounded by industrial, commercial, office, and residential uses and is not surrounded by facilities that produce substantial odors.

Regulatory Framework

Federal and State

Clean Air Act

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

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

Risk Reduction Plan

To address the issue of diesel emissions in the State, the California Air Resources Board (CARB) developed the Diesel Risk Reduction Plan (Diesel RRP) to reduce diesel particulate matter (DPM) emissions. In addition to requiring more stringent emission standards for new on- and off-road mobile sources and stationary diesel-fueled engines to reduce particulate matter emissions by 90 percent, a significant component of the Diesel RRP involves application of emission control strategies to existing diesel vehicles and equipment. Many of the measures of the Diesel RRP have been approved and adopted, including the federal on- and non-road diesel engine emission standards for new engines, as well as adoption of regulations for low sulfur fuel in California.

CARB has adopted and implemented a number of regulations for stationary and mobile sources to reduce emissions of DPM. Several of these regulatory programs affect medium and heavy-duty diesel trucks that represent the bulk of DPM emissions from California highways. CARB has also adopted and implemented regulations to reduce DPM and NOX emissions from in-use (existing) and new off-road heavy-duty diesel vehicles (e.g., loaders, tractors, bulldozers, backhoes, off-highway trucks, etc.).

Regional

2017 Clean Air Plan

Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how state air quality standards would be met. BAAQMD's most recently adopted plan is the Bay Area 2017 Clean Air Plan (2017 CAP). The 2017 CAP focuses on two closely related BAAQMD goals: protecting public health and protecting the climate. To protect public health, the 2017 CAP 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.

The 2017 CAP 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 particulate matter, ozone, and toxic air contaminants; to reduce emissions of methane and other "super-GHGs" that are potent climate pollutants in the near-term; and to decrease emissions of carbon dioxide by reducing fossil fuel combustion. BAAQMD and CEQA Air Quality Significance Thresholds are shown in Table 4.3-2, below.

Table 4.3-2: BAAQMD Air Quality Significance Thresholds

Criteria Air Pollutant	**Operation and Construction Thresholds**	
	Average Daily Emissions (lbs./day)	
ROG	54	
NOx	54	
PM_{10}	82 (exhaust)	
$PM_{2.5}$	54 (exhaust)	
CO	Not Applicable	
Fugitive Dust	Construction Dust Ordinance or other Best Management Practices	
Health Risks and Hazards	**Single Sources within 1,000-foot Zone of Influence**	**Combined Sources (Cumulative from all sources within 1,000-foot Zone of Influence)**
Excess Cancer Risk	>10.0 per one million	>100 per one million
Hazard Index	>1.0	>10.0
Incremental Annual $PM_{2.5}$	>0.3 ug/m^3	>0.8 ug/m^3
Greenhouse Gas Emissions		
Land Use Projects -Direct and Indirect Emissions	Compliance with a Qualified GHG Reduction Strategy OR 1,100 metric tons annually or 4.6 metric tons per capita (for 2020)*	

Note: ROG = reactive organic gases, NOx = nitrogen oxides, PM_{10} = course particulate matter or particulates with an aerodynamic diameter of 10 um (micrometers) or less, $PM_{2.5}$ = fine particulate matter or particulates with an aerodynamic diameter of 2.5 um or less. GHG = greenhouse gases.
*BAAQMD does not have a recommended post-2020 GHG threshold.

CEQA Air Quality Guidelines

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

Community Air Risk Evaluation Program

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

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

Local

Envision San José 2040 General Plan

The General Plan includes policies for avoiding or mitigating air quality impacts from planned development projects in the City, with overall goals to minimize emissions from new development and exposure of people to air pollution and toxic air contaminants. In addition, goals and policies throughout the General Plan encourage a reduction in vehicle miles traveled through land use, pedestrian and bicycle improvements, and parking strategies. A reduction in vehicle miles traveled reduces air pollutant emissions. The following policies are applicable to the proposed project:

MS-10.1 Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to State and federal standards. Identify and implement air emissions reduction measures.

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.

MS-10.3 Promote the expansion and improvement of public transportation services and facilities, where appropriate, to encourage energy conservation and reduce air pollution.

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.

MS-10.7 Encourage regional and statewide air pollutant emission reduction through energy conservation to improve air quality.

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.

MS-11.2 For projects that emit toxic air contaminants, require project applicants 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. Alternately, 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.

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

MS-13.1 Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.

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

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

Air Quality Environmental Checklist

Where available, the significance criteria established by BAAQMD may be relied upon to make the following determinations. Would the project:	Potentially Significant Impact	Less than Significant Impact with Mitigation	Less than Significant Impact	No Impact	Checklist Source(s)
a. Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☒	☐	1,21,26
b. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non- attainment under an applicable federal or state ambient air quality standard?	☐	☐	☒	☐	1,21,26
c. Expose sensitive receptors to substantial pollutant concentrations?	☐	☒	☐	☐	1,21
d. Result in other emissions such as those leading to odors adversely affecting a substantial number of people?	☐	☐	☒	☐	1,21

Impacts Evaluation

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

The most recent, comprehensive, and applicable air quality plan is the *Bay Area 2017 Clean Air Plan*.[9] The primary goals of the Clean Air Plan are to attain air quality standards, reduce population exposure and protect public health, and reduce GHG emissions and protect the climate. BAAQMD has also developed CEQA guidelines to assist lead agencies in evaluating the significance of air quality and GHG impacts. In formulating compliance strategies, BAAQMD relies on planned land uses established by local general plans. Land use planning affects vehicle travel, which, in turn, affects region-wide emissions of air pollutants and GHGs.

The 2017 Clean Air Plan 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 Clean Air Plan. At the project-level, there are no consistency measures or thresholds. The project is part of the FWUV which is included in the Envision San José 2040 General Plan's Urban Village Strategy. Therefore, the project would not conflict with the latest Clean Air planning efforts. Additionally, 1) the project would have construction

[9] Bay Area Air Quality Management District (BAAQMD), 2017. *Final 2017 Clean Air Plan.*

emissions below the BAAQMD thresholds (see Question b. below), 2) the project would be considered urban infill, and 3) the project would be located near bus transit with regional connections and the future 28th Street/Little Portugal BART Station. **(Less than Significant Impact)**

b. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard?

The Envision San José 2040 FPEIR concluded that build-out of the General Plan would result in a significant increase in criteria pollutants in the Bay Area, contributing to existing violations of ozone standards. As stated in the BAAQMD CEQA Air Quality Guidelines, air pollution by its nature is largely a cumulative impact. No single project is sufficient in size to, by itself, result in nonattainment of ambient air quality standards. 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.

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

To confirm that the project would not exceed identified thresholds for criteria pollutants, the California Emissions Estimator Model (CalEEMod) Version 2020.4.0 was used to estimate emissions from on-site construction activity, construction vehicle trips, and evaporative emissions. The project land use types and size, and anticipated construction schedule were input to CalEEMod. The CARB EMission FACtors 2021 (EMFAC2021) model was used to predict emissions from construction traffic, which includes worker travel, vendor trucks, and haul trucks.

Construction Emissions

Emissions from construction-related automobiles, trucks, and heavy equipment are a primary concern due to release of diesel particulate matter (an air toxic contaminant due to its potential to cause cancer), TACs from all vehicles, and $PM_{2.5}$, which is a regulated air pollutant. A detailed air quality assessment was completed to address construction air quality impacts from the proposed project (Appendix A).

Construction activities, particularly during site preparation and grading, would temporarily generate fugitive dust in the form or PM_{10} and $PM_{2.5}$. Sources of fugitive dust would include

disturbed soils at the construction site and trucks carrying uncovered loads of soils. Unless properly controlled, vehicles leaving the site would deposit mud on local streets, which could be an additional source of airborne dust after it dries. Average daily emissions were computed for construction of the proposed project and average daily construction emissions of ROG, NOx, PM_{10} exhaust, and $PM_{2.5}$ exhaust during construction of the project were determined. As shown in Table 4.3-3, predicted annualized project construction emissions would not exceed the BAAQMD significance thresholds during any year of construction. Therefore, impacts are less than significant and no further analysis of construction-related emissions of criteria pollutants is required per the Envision San José 2040 FPEIR.

Table 4.3-3: Construction Period Emissions

Year	ROG	NOx	PM_{10} Exhaust	$PM_{2.5}$ Exhaust
Construction Emissions Per Year (Tons)				
2024	0.23	1.87	0.08	0.08
2025	0.99	0.89	0.04	0.03
2026	0.40	0.26	0.01	0.01
Average daily emissions (pounds/day)				
2024 (261 construction workdays)	1.77	14.32	0.65	0.58
2025 (261 construction workdays)	7.56	6.85	0.31	0.27
2026 (102 construction workdays)	7.82	5.17	0.25	0.21
BAAQMD Thresholds (pounds per day)	*54* lbs./day	*54* lbs./day	*82* lbs./day	*54* lbs./day
Exceed Threshold?	No	No	No	No

Fugitive dust emissions would vary from day to day, depending on the nature and magnitude of construction activity and local weather conditions. Fugitive dust emissions would also depend on soil moisture, silt content of soil, wind speed, and the amount of equipment operating. Larger dust particles would settle near the source, while fine particles would be dispersed over greater distances from the construction site. Nearby land uses, particularly sensitive receptors to the north and northeast of the project site, could be affected by dust generated during construction activities.

BAAQMD considers impacts from construction dust to be less than significant if best management practices are employed. Consistent with the Envision San José 2040 FPEIR, Standard Conditions would apply to the project including the following.

Standard Permit Conditions: During any construction period ground disturbance, the project applicant shall ensure that the project contractor implements the following conditions to control dust and exhaust, which are required for all projects:

- 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 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.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- Replant vegetation in disturbed areas as quickly as possible.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Minimize idling times either by shutting off equipment when not in use, or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.
- Maintain and property tune construction equipment in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be record a determination of running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

Approval of the proposed project would allow the demolition of an existing retail commercial building and redevelopment with a six-story residential building. The project, by itself, would not result in a cumulatively considerable net increase of any criteria pollutant for which the region is in non-attainment.

The project alone would not result in any additional air quality impacts when compared to those identified in the Envision San José 2040 F PEIR. Since the project is below BAAQMD operational screening thresholds, and does not include a large number of long-term vehicle trips (only 818) or other large sources of emissions, the project's operational criteria air pollution would be below BAAQMD significance thresholds and the impact would be less than significant. The project would further reduce or avoid additional impacts associated with

criteria pollutants with the implementation of the above *Standard Permit Conditions* to control dust, minimize erosion, and control exhaust during construction. **(Less than Significant Impact)**

c. Expose sensitive receptors to substantial pollutant concentrations?

Project impacts related to increased community risk can occur either by introducing a new sensitive receptor, such as a residential or daycare/preschool use, in proximity to an existing source of TACs, or by introducing a new source of TACs with the potential to adversely affect existing sensitive receptors in the project vicinity.

Project construction activity would generate dust and equipment exhaust that would affect nearby sensitive receptors. The project is not expected to generate a large number of trips and any traffic generated by the project would consist of mostly light-duty vehicles.

Project impacts to existing sensitive receptors were addressed for temporary construction activities. There are also several sources of existing TACs and localized air pollutants in the vicinity of the project. The impact of the existing sources of TAC was also assessed in terms of the cumulative risk which includes the project's contribution.

Construction Community Health Risk Impacts

Community risk impacts are addressed by predicting increased lifetime cancer risk, the increase in annual $PM_{2.5}$ concentrations, and computing the Hazard Index (HI) for non-cancer health risks. The risk impacts from the project are the combination of risks from construction and operation sources. Non-cancer health hazards and maximum $PM_{2.5}$ concentrations were also calculated and identified.

Construction exhaust emissions may still pose health risks for sensitive receptors such as surrounding existing residents as shown in Figure 7. The primary community risk impact issue associated with construction emissions are cancer risk and exposure to $PM_{2.5}$. Diesel exhaust poses both a potential health and nuisance impact to nearby sensitive receptors. Therefore, a health risk assessment of the project construction activities was prepared to evaluate potential health effects to nearby sensitive receptors from construction emissions of DPM and $PM_{2.5}$.

The CalEEMod and U.S. EPA AERMOD dispersion models were used to predict the off-site and on-site concentrations of PM_{10}, DPM, and $PM_{2.5}$ resulting from project construction, so that lifetime cancer risks and non-cancer health effects could be evaluated. The CalEEMod and EMFAC2021 models provided total annual PM_{10} exhaust emissions (assumed to be DPM) for the off-road construction equipment and for exhaust emissions from on-road vehicles, with total emissions from all construction stages of 0.12 tons (250 pounds). The on-road emissions are a result of haul truck travel during demolition and grading activities, worker travel, and vendor deliveries during construction. A trip length of one mile was used to represent vehicle travel while at or near the construction site. Fugitive $PM_{2.5}$ dust emissions were calculated by CalEEMod as 0.07 tons (142 pounds) for the overall construction period.

The construction maximum exposed individual (MEI) was located on the first floor (five feet above ground) of a multi-family residence southeast of the project site (as seen in Figure 7). The analysis found that the BAAQMD Single-Source Threshold would be exceeded at the off-site MEI, as shown in Table 4.3-4. This is a potentially significant impact. Mitigation measure MM AQ-1 would require the applicant to use either Tier 4 construction equipment or equivalent equipment that would achieve 75 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment. As shown in Table 4.3-4, with implementation of MM AQ-1 and *Standard Permit Conditions*, construction risk impacts would be reduced to less than significant.

Additionally, modeling was conducted to predict the cancer risks, non-cancer health hazards, and maximum $PM_{2.5}$ concentrations associated with construction activities at the nearby Cristo Rey San José Jesuit High School, approximately 610 feet southeast of the project site. The maximum increased cancer risks were adjusted using child exposure parameters. The uncontrolled cancer risk, $PM_{2.5}$ concentration, and HI at the nearby high school would not exceed their respective BAAQMD single-source significance thresholds during construction, as shown in Table 4.3-4, below.

Table 4.3-4: Construction Risk Impacts at the Off-Site MEI

Source	Cancer Risk (per million)	Annual $PM_{2.5}$ ($\mu g/m^3$)	Hazard Index
Project Impact			
Project Construction			
Unmitigated	**35.89 (infant)**	0.29	0.03
Mitigated*	7.67 (infant)	0.09	0.01
BAAQMD Single-Source Threshold	***10***	***0.3***	***1.0***
Exceed Threshold?			
Unmitigated	***Yes***	*No*	*No*
Mitigated*	*No*	*No*	*No*
Cristo Rey San José Jesuit High School Impacts			
Project Construction			
Unmitigated	3.70 (child)	0.07	0.01
BAAQMD Single-Source Threshold	***10***	***0.3***	***1.0***
Exceed Threshold?			
Unmitigated	*No*	*No*	*No*

* Construction equipment with MM AQ-1 and *Standard Permit Conditions*.

Source: Illingworth & Rodkin, Air Quality Assessment, September 27, 2022.

LOCATIONS OF PROJECT CONSTRUCTION SITE, OFF-SITE SENSITIVE RECEPTORS, AND MAXIMUM TAC LOCATION (MEI) FIGURE 7

Cumulative Community Risks of all TAC Sources at the Off-site MEI

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

A review of the project area based on provided traffic information indicated that traffic on U.S.-101 Highway 101 and E. Santa Clara St. would exceed 10,000 vehicles per day. Other nearby streets would have less than 10,000 vehicles per day. A review of BAAQMD's stationary source map website identified three stationary sources with the potential to affect the project MEI.

Table 4.3-5, below, reports both the project and cumulative community risk impacts at the project MEI. The project would have an exceedance with respect to community risk caused by project construction since the unmitigated maximum cancer risk exceeds the BAAQMD single-source threshold at the MEI. This is a potentially significant impact.

Table 4.3-5: Cumulative Community Risk Impacts at the Location of the Project MEI

Source		Cancer Risk (per million)	Annual $PM_{2.5}$ ($\mu g/m^3$)	Hazard Index
Project Impacts				
Total/Maximum Project Impacts	Unmitigated	**35.89 (infant)**	0.29	0.03
	Mitigated	7.67 (infant)	0.09	0.01
BAAQMD Single-Source Threshold		***10***	***0.3***	***1.0***
Exceed Threshold?	Unmitigated	***Yes***	*No*	*No*
	Mitigated	*No*	*No*	*No*
Cumulative Operational Sources				
East Santa Clara Street, ADT 20,671		2.30	0.17	<0.01
Highway 101, ADT 160,680		1.64	0.07	<0.01
Verizon Wireless (Highway101/Julian) (Facility ID #18356, Generators), MEI at 460 feet		0.16	<0.01	<0.01
Tough Auto Body (Facility ID #21375, Auto Body Coating Operation), MEI at 420 feet		-	-	<0.01
Mobil SS#63175 (Facility ID #110689, Gas Dispensing Facility), MEI at 1000+ feet		0.39	-	<0.01
Combined Sources	Unmitigated	40.38	<0.54	<0.08
	Mitigated	12.16	<0.34	<0.06
BAAQMD Cumulative Source Threshold		***100***	***0.8***	***10.0***
Exceed Threshold?	Unmitigated	*No*	*No*	*No*
	Mitigated	*No*	*No*	*No*

With the implementation of MM AQ-1, below and the *Standard Permit Conditions* identified above in Section b., the project's cancer risk would be lowered to a level below the single-source thresholds. The mitigated cancer risk, annual $PM_{2.5}$ concentration, and HI would not exceed the cumulative-source threshold.

IMPACT AQ-1: The project would have an exceedance with respect to community risk caused by project construction since the unmitigated maximum cancer risk exceeds the BAAQMD single-source threshold. Construction activities associated with the proposed project would expose the maximum exposed individual (MEI) to a cancer risk of 35.89 cases per one million for infants which exceeds the Bay Area Air Quality Management District (BAAQMD) significance threshold of 10 cases per one million.

Mitigation and Avoidance Measures

In accordance with General Plan policies, the following measure is included in the project to reduce and avoid impacts related to air quality during construction.

MM AQ-1*:* Prior to the issuance of any demolition or grading permits (whichever occurs first), a qualified air quality consultant shall prepare and submit a construction operations plan to the Director of Planning or Director's designee of the City of San José Department of Planning, Building and Code Enforcement demonstrating use of construction equipment with low diesel particulate matter exhaust or meets a fleet-wide average 70-percent reduction in DPM exhaust emissions. The plan shall be accompanied by a letter signed by a qualified air quality specialist, verifying that the equipment included in the plan meets the standards set forth below.

1. All construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet U.S. EPA Tier 4 emission standards for PM (PM_{10} and $PM_{2.5}$), if feasible, otherwise,

    a. If use of Tier 4 equipment is not available, alternatively use equipment that meets U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve a 75 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment; alternatively (or in combination).

    b. Use of electrical or non-diesel fueled equipment.

2. Alternatively, the applicant may develop another construction operations plan demonstrating that the construction equipment used on-site would achieve a reduction in construction diesel particulate matter emissions by 75 percent or greater. Elements of the plan could include a combination of some of the following measures:

    • Implementation of No. 1 above to use Tier 4 or alternatively fueled equipment,

- Installation of electric power lines during early construction phases to avoid use of diesel generators and compressors,
- Use of electrically-powered equipment,
- Forklifts and aerial lifts used for exterior and interior building construction shall be electric or propane/natural gas powered,
- Change in construction build-out plans to lengthen phases, and
- Implementation of different building techniques that result in less diesel equipment usage.

With implementation of the *Standard Permit Conditions* for dust control and MM AQ-1, the infant residential cancer risk would be reduced to 7.67 cases per one million which would be below the BAAQMD significance threshold of 10 per one million cases for cancer risk. The annual $PM_{2.5}$ concentration and HI would not exceed BAAQMD significance thresholds. Therefore, the project would result in a less than significant health impact to sensitive receptors. **(Less Than Significant Impact with Mitigation)**

d. Result in other emissions such as those leading to odors adversely affecting a substantial number of people?

Odors are general considered an annoyance rather than a health hazard. Land uses that have the potential to be sources of odors that generate complaints include, but are not limited to, wastewater treatment plants, landfills, composting operations, and food manufacturing facilities. The redevelopment of an existing retail commercial site with residential development would not typically generate objectionable odors. Therefore, the proposed project would not create objectionable odors affecting a substantial number of people. **(Less than Significant Impact)**

Conclusion

The proposed redevelopment of the site, with the implementation of *Standard Permit Conditions* and MM AQ-1 and conformance with General Plan policies, would not result in significant air quality impacts. **(Less Than Significant Impact with Mitigation)**

Non-CEQA On-site Community Risk Assessment for TAC Sources - New Project Residences

Appendix A includes an analysis consistent with the City's General Plan Policy MS-11.1 which requires new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project designs to avoid significant risks to health and safety required when new residential are proposed near existing sources of TACs. BAAQMD's

recommended thresholds for health risks and hazards, shown in Table 4.3-2, are used to evaluate on-site exposure.

In addition to evaluating health impact from project construction, a health risk assessment was completed to determine the impact that existing TAC sources would have on the new proposed sensitive receptors (residents) that the project would introduce. The same TAC sources identified above were used in this health risk assessment.[10] Figure 7 of Appendix A shows the on-site sensitive receptors in relation to the nearby TAC sources. All on-site community task results are listed in Table 4.3-6, below.

Nearby Highways and Roadways – Highway 101 and East Santa Clara Street

The highway and roadway analysis for the new project residents was conducted in the same manner as described above for the off-site MEI. However, year 2027 (operational year) emission factors were conservatively assumed as being representative of future conditions, instead of 2024 (construction year). An analysis based on 2027 resulted in an increased ADT on Highway 101 of 163,360 vehicles and 21,279 vehicles on E. Santa Clara St. The project set of receptors were placed throughout the project area and were spaced every 23 feet. Highway and roadway impacts were modeled as described in Appendix A.

Maximum increased cancer risks were calculated for the residents at the project site using the maximum modeled TAC concentrations. A 30-year exposure period was used in calculating cancer risks assuming the residents would include third trimester pregnancy and infants/children and were assumed to be in the new housing area for 24 hours per day for 350 days per year.

Cancer risks associated with each roadway are greatest closest to each respective roadway and decrease with distance from the road. The highway and roadway community risk impacts at the project site are shown in Table 4.3-6. Risk values were computed using modeled DPM and $PM_{2.5}$ concentrations and BAAQMD recommended methods and exposure parameters and are compared to BAAAQMD single- and cumulative-source thresholds.

Stationary Sources

The stationary source screening analysis for the new project sensitive receptors was conducted in the same manner as described above for the construction MEI. Three sources were located within the project's 1,000-foot influence area. Table 4.3-6 shows the health risk assessment

[10] We note that to the extent this analysis considers *existing* air quality issues in relation to the impact on *future residents* of the Project, it does so for informational purposes only pursuant to the judicial decisions in *CBIA v. BAAQMD* (2015) 62 Cal.4th 369, 386 and *Ballona Wetlands Land Trust v. City of Los Angeles* (2011) 201 Cal.App.4th 455, 473, which confirm that the impacts of the environment on a project are excluded from CEQA unless the project itself "exacerbates" such impacts.

results from the stationary sources upon the project residents using BAAAQMD single- and cumulative-source thresholds of significance.

Summary of Non-CEQA Cumulative Community Risks at the Project Site

Community risk impacts from the existing and TAC sources upon the project site are reported in Table 4.3-6. The risks from the singular TAC sources are compared against the BAAQMD single-source threshold. The risks from all the sources are then combined and compared against the BAAQMD cumulative-source threshold. As shown, none of the sources exceed the BAAQMD single-source or cumulative-source thresholds.

Table 4.3-6: Impacts from Combined Sources to Project Site Receptors

Source	Cancer Risk (per million)	Annual $PM_{2.5}$($\mu g/m^3$)	Hazard Index
E. Santa Clara Street, ADT* 21,279	0.63	0.05	<0.01
Highway 101, ADT 163,360	1.11	0.05	<0.01
Verizon Wireless (Highway101/Julian) (Facility ID #18356, Generators), MEI at 460 feet	0.09	<0.01	<0.01
Tough Auto Body (Facility ID #21375, Auto Body Coating Operation), MEI at 420 feet	-	-	<0.01
Mobil SS#63175 (Facility ID #110689, Gas Dispensing Facility), MEI at 1000+ feet	0.39	-	<0.01
BAAQMD Single-Source Threshold	***10***	***0.3***	***1.0***
Exceed Threshold?	*No*	*No*	*No*
Cumulative Total	2.22	<0.11	<0.05
BAAQMD Cumulative Source Threshold	***100***	***0.8***	***10.0***
Exceed Threshold?	*No*	*No*	*No*

*ADT is Average Daily Traffic

4.4 BIOLOGICAL RESOURCES

The following section is partially based on an Arborist Report prepared for the project site by Kurt Fouts on July 20, 2022. This report is contained in Appendix B of this Initial Study.

Environmental Setting

The project site is in an area of industrial, commercial, and residential uses and is surrounded by existing development. The nearest waterway Coyote Creek located approximately 0.82-miles west of the project site.

The project site is occupied by a retail commercial building with paved driveways and parking areas. A relatively small area of landscaping is located on the west side of the building adjacent to N. 27th Street. There are 21 trees located on-site, including 6 street trees along the N. 27th Street frontage (Photo 5). None of the trees on-site are native or designated as Heritage Trees as defined by the City of San José. Three ordinance size, fan palm trees are located on-site. One ordinance size, ornamental pear street tree is located on the western frontage of the site.

The project site is located on land cover designated as *Urban-Suburban*, which as defined by the Habitat Plan as land that has been cleared for residential, commercial, industrial, or other urban developments, and is defined as having one or more structures per 2.5 acres. Vegetation found in *Urban-Suburban* land cover is usually in the form of landscaped residences, planted street trees, and parklands. The project site is not located within any other potential fee zones, plant or wildlife survey areas, or other areas that would be subject to specific Habitat Plan conditions such as stream setbacks.

Regulatory Framework

Federal and State

Special-Status Species

Individual plant and animal species listed as rare, threatened or endangered under State and federal Endangered Species Acts are considered 'special-status species.' Federal and State "endangered species" legislation has provided the United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) with a mechanism for conserving and protecting plant and animal species of limited distribution and/or low or declining populations.

Permits may be required from both the USFWS and CDFW if activities associated with a proposed project will result in the take of a species listed as threatened or endangered. To "take" a listed species, as defined by the State of California, is "to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill" said species. "Take" is more broadly defined by the federal Endangered Species Act to include "harm" of a listed species.

In addition to species listed under State and federal Endangered Species Acts, Section 15380(b) and (c) of the CEQA Guidelines provide that all potential rare or sensitive species, or habitats capable of supporting rare species, are considered for environmental review per the CEQA Guidelines. These may include plant species of concern in California listed by the California Native Plant Society and CDFW listed "Species of Special Concern."

Migratory Bird and Birds of Prey Protections

Federal and State laws also protect most bird species. The federal Migratory Bird Treaty Act (MBTA) prohibits killing, possessing, or trading in migratory birds, except in accordance with regulations prescribed by the Secretary of the Interior. This act encompasses whole birds, parts of birds, and bird nests and eggs.

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

Sensitive Habitats

Wetland and riparian habitats are considered sensitive habitats under CEQA. They are also afforded protection under applicable federal, State, and local regulations, and are generally subject to regulation, protection, or consideration by the US Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), CDFW, and/or the USFWS under provisions of the federal Clean Water Act (e.g., Sections 303, 304, 404) and State of California Porter-Cologne Water Quality Control Act. USEPA regulations, called for under Section 402 of the Clean Water Act, also include the National Pollutant Discharge Elimination System (NPDES) permit program, which controls sources that discharge into waters of the United States (e.g., streams, lakes, bays, etc.).

Regional

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (Habitat Plan) covers an area of 519,506 acres, or approximately 62 percent of Santa Clara County. It was developed and adopted through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District (SCVWD), Santa Clara Valley Transportation Authority (VTA), US Fish and Wildlife Service (USFWS), and CDFW.

The Habitat Plan is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County. The Santa Clara Valley Habitat Agency is responsible for implementing the plan. The project site is located within the Habitat Plan study area and is designated as *Urban-Suburban*.

Local

Five Wounds Urban Village Plan

***Streetscape Goal*:** Create an attractive pedestrian-friendly street environment with large canopy street trees and public art that contributes to the positive identity of the Five Wounds Urban Village, encourages walking, bicycling, and transit ridership, and acts as a catalyst for private investment and business activity. The following Street Tree policies are applicable to the proposed project.

Street Tree Policy 1: *Create and maintain a consistent row of street trees along all streets in the Five Wounds Village Area that provides a wide and dense canopy of shade over the sidewalk and extends over the street.*

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 biological resources and are applicable to the proposed project:

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.

ER-5.2 Require that development projects incorporate measures to avoid impacts to nesting migratory birds.

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.

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.

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.

MS-21.8 For Capital Improvement Plan or other public development projects, or through the entitlement process for private development projects, require landscaping including the selection and planting of new trees to achieve the following goals:

1. Avoid conflicts with nearby power lines.
2. Avoid potential conflicts between tree roots and developed areas.
3. Avoid use of invasive, non-native trees.
4. Remove existing invasive, non-native trees.
5. Incorporate native trees into urban plantings in order to provide food and cover for native wildlife species.
6. Plant native oak trees and native sycamores on sites which have adequately sized landscape areas, and which historically supported these species.

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.

CD-1.24 Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Any adverse effect on the health and longevity of such trees should be avoided 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.

CD-1.25 Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Any adverse effect on the health and longevity of such trees should be avoided 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.

Biological Resources Environmental Checklist

Would the project:	Potentially Significant Impact	Less than Significant Impact with Mitigation	Less than Significant Impact	No Impact	Checklist Source(s)
a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS)?	☐	☒	☐	☐	1,2,3,4,25
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?	☐	☐	☐	☒	1,2,3,4,25
c. Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒	1,2,3,4,25
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?	☐	☐	☐	☒	1,2,3,4,25
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☒	☐	1,22
f.Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☒	1,9

Impacts Evaluation

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

Based on the highly urbanized and developed nature of the project site, natural communities and habitats for special-status plant and wildlife species are not present and would not be impacted by proposed development on the site, with the potential exception of nesting birds (described further below).

Nesting Birds

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 Migratory Bird Treaty Act 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.

IMPACT BIO-1: Project construction would result in impacts to nesting birds, if present on the site at the time of construction.

Mitigation and Avoidance Measures

The following Mitigation Measures would reduce and/or avoid impacts to nesting birds, if present on or adjacent to the site, to a less than significant level.

MM BIO-1.1: Prior to any tree removal, or issuance of any grading or demolition permits (whichever occurs first), the project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive). Construction activities include any site disturbance such as, but not limited to, tree trimming or removal, demolition, grading, and trenching.

MM BIO-1.2: If demolition and construction cannot be scheduled between September 1st and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests shall be disturbed during construction activities. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats on-site and within 250 feet of the site for nests.

MM BIO-1.3: If an active nest is found within 250 feet of the project area to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, (typically 250 feet for raptors and 100 feet for other birds), to ensure that raptor or migratory bird nests shall not be disturbed during project construction.

MM BIO-1.4: Prior to any tree removal, or any grading or demolition activities (whichever occurs first), the ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the City's Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement.

With implementation of MM BIO-1.1 through MM BIO-1.4, the project's impact to nesting birds would be less than significant. **(Less Than Significant Impact with Mitigation)**

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

Due to the urban nature of the site, there are no sensitive, riparian, or wetland habitats on-site. The nearest waterway is the Coyote Creek located approximately 0.82-miles west of the project site. Because of the lack of these habitats and the extent of human disturbance on the project site, special status plant and animal species are not expected to be present. The project site is not located near, and would not affect, any riparian habitat or other sensitive natural community as identified in the General Plan and Santa Clara Valley Habitat Plan (Habitat Plan) or by CDFW or USFWS. **(No Impact)**

c. Would the project have a substantial adverse effect on 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?

There are no federally protected wetlands on-site or in the project area that could be affected by the proposed redevelopment of the project site. **(No Impact)**

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

There are no waterways located on the project site; therefore, the project would not interfere with migratory fish species. Given the developed nature of the urban project site and adjacent area, the project site does not act as a wildlife corridor. **(No Impact)**

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

The proposed redevelopment of the project site could result in the removal of 15 trees on-site, including three, ordinance size, non-native fan palm trees. One ordinance size, ornamental pear street tree would also be removed. Trees proposed for removal by the project would be subject to the City's Tree Removal Ordinance and would require either a Tree Removal Permit or Street Tree Removal Permit. Additionally, pursuant to Chapter 13.32 of the San José Municipal Code any removed trees would be required to be replaced consistent with the City's Tree Replacement Policy, as shown in Table 4.4-1, below.

***Standard Permit Conditions*:**

1. Tree Replacement. A tree removal permit would be required from the City of San José for the removal of trees. The removed trees would be replaced according to tree replacement ratios required by the City, as provided in Table 4.4-1 below.

Table 4.4-1: Tree Replacement Ratios

Circumference of Tree to be Removed[11]	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or more	5:1	4:1	3:1	15-gallon
19 up to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon

x:x = tree replacement to tree loss ratio

Note: Trees greater than or equal to 38-inch circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For Multi-Family, Commercial and Industrial properties, a permit is required for removal of trees of any size.

A 38-inch tree equals 12.1 inches in diameter

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

As part of the project, 15 existing on-site trees would be removed and 3 trees would be replaced at a 4:1 ratio, 2 trees would be replaced at a 2:1 ratio, and 10 trees would be replaced at a 1:1 ratio. The total number and size of replacement trees required to be planted on-site

[11] As measured at 4.5 feet above ground level.

would be 26, 15-gallon trees. An additional ordinance size ornamental pear street tree would be replanted at a 4:1 ratio, bringing the total number of trees to be replanted to 30.

If there is insufficient area on the project site to accommodate the required replacement trees, one or more of the following measures will be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement. Changes to an approved landscape plan requires the issuance of a Permit Adjustment or Permit Amendment:

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

The project would include a total of 15, 24-inch box replacement trees equivalent to 30, 15-gallon replacement trees. Thirteen of these trees would be planted on-site and two would be planted as street trees. Through compliance with the *Standard Project Conditions* above, the project would offset the loss of the existing trees consistent with City Policy. Thus, any impact would be less than significant. **(Less than Significant Impact)**

f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

The project site is located within the Santa Clara Valley Habitat Plan (Habitat Plan) area and has a land cover designation of *Urban-Suburban*. The *Urban-Suburban* designation is for land that has been identified for residential, commercial, industrial, or other urban development, and is defined as having one or more structures per 2.5 acres. The proposed project is consistent with the land use assumptions for the site in the Habitat Plan.

The redevelopment of the project site would require conformance to the Habitat Plan's conditions and fees (including the nitrogen deposition fee) to ensure any impacts to the plan's protected species are reduce to a less than significant level.

Standard Permit Condition: Project development 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 Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at www.scv-habitatplan.org. **(Less Than Significant Impact)**

Conclusion

With implementation of *Standard Permit Conditions, MM BIO-1.1 through MM BIO-1.4,* and consistency with General Plan and FWUV policies identified above, redevelopment of the project site would result in less than significant biological resource impacts. **(Less than Significant Impact with Mitigation)**

4.5 CULTURAL/TRIBAL CULTURAL RESOURCES

The following discussion is based in part upon an Archaeological Sensitivity Assessment for reported cultural resources on-site completed by Archaeological/Historical Consultants (A/HC) on August 30, 2022. This report is included in Appendix C of this Initial Study.

Environmental Setting

Existing Conditions

The existing retail commercial building on the project site was constructed in 1998 and is less than 50 years old. A Site Development Permit was issued by the City of San José for the existing retail commercial building in August 1997. 1998. It is a rectangular, reinforced concrete mixed-use building that houses a variety of small businesses.

Subsurface Resources

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

The project site is located in Santa Clara Valley, where Native American occupation extended over 5,000 to 8,000 years and possibly longer. Before European settlement, Native Americans (specifically the Ohlone/Costanoan populations) resided in the area that encompasses the project site. The Bay Area's favorable environment during the prehistoric period included bay marshes, valley grasslands, mountainous uplands and open coastal environments that provided an abundance of wild food and other resources.

The archaeological records search completed for the project site reviewed all records of identified archaeological resources within ¼-mile of the project site and all files were examined. Within ¼-mile, there are no prehistoric resources on-file. Based on these findings, there is a low potential for archaeological resources to be located on the project site. The site not located within an area of archaeological sensitivity as identified in the Envision San José 2040 General Plan.

The project area was evaluated as part of four other projects in the project area. These include the BART extension project, a fiberoptic project, a San José Housing Opportunities Study, and the Berryessa BART extension. None of the resources identified in these reports are within the project area or search radius (0.25-miles).

History of the Project Area

According to a records search and the Phase I, Environmental Site Assessment (Appendix E), the project site was originally developed by a portion of two commercial buildings and railroad track spurs.

One resource (P-43-002654) adjoins the project site to the east. This resource is a segment of the Western Pacific railroad, which was completed in 1909 and is still in use today as a commuter and freight carrier by the Union Pacific Railroad, visible to the east of the project area. The Western Pacific Railway Company began construction on the line in 1903 in order to connect San Francisco and Salt Lake City and, serve as a competitor to the Southern Pacific in California. Following financial troubles, the Company was sold in 1916 and reorganized as the Western Pacific Railroad.

The 23-mile San José Branch was completed in 1921 and assisted freight customers in shipping fruit and other agricultural products. The branch's first freight depot was located on the east side of N. 27th St. at E. Santa Clara St., but was demolished in the late 1960s or early 1970s. According to Christopher McMorris and Amanda Blosser, who are both architectural historians that surveyed the San José Branch in 2002, P-43-002654 only retains integrity of location and lacks most of the other six aspects of historic integrity, thus does not appear eligible to the National Register. The use of the site was potentially for fruit packing. No other resources were identified in the record search.

The project area was undeveloped until the early 20th century. An aerial photo from 1939 shows a large, rectangular structure on the project area (Fairchild Aerial Surveys 1939). A 1950 Sanborn map depicts those large structures as owned by Giordano & Sons (north) and the J.C. Hering Company (south), both serving as vegetable packaging facilities. A segment of the Western Pacific railroad branched off to service both facilities. Industrial structures of the type formerly on the project area are unlikely to have stratified deposits of artifacts such as trash dumps or privies, and therefore have low sensitivity for historic-era archaeological resources.

By 1965, both structures were still present in the project area, though they were demolished by 1980 (Cartwright Aerial Surveys 1965; Western Aerial Photos 1980).

Regulatory Framework

Federal

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. 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.

State

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, Section 5024.1(a)). The CRHR is administered through the State Office of Historic Preservation (SHPO), 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 CRHP (Public Resources Code Section 5024.1(d)(1)).

The context types to be used when establishing the significance of a property for listing on the CRHR are very similar, with emphasis on local and state significance. They are:

1. It is associated with events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States; or

2. It is associated with the lives of persons important to local, California, or national history; or

3. It embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values; or

4. It has yielded, or is likely to yield, information important to prehistory or history of the local area, California, or the nation.

State Regulations Regarding Cultural and Paleontological Resources

Archaeological, paleontological, and historical sites are protected by several State policies and regulations under the California Public Resources Code, California Code of Regulations (Title 14 Section 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 County 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 Native American Heritage Commission and a "most likely descendant" must also be notified.

Assembly Bill 52

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.

Local

City of San José's Historic Preservation Ordinance

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

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

The ordinance defines the term "historical, architectural, cultural, aesthetic, or engineering interest or value of an historic nature" as deriving from, based on, or related to any of the following factors:

1. Identification or association with persons, eras or events that have contributed to local, regional, state or national history, heritage or culture in a distinctive, significant or important way;
2. Identification as, or association with, a distinctive, significant or important work or vestige:
    a. Of an architectural style, design or method of construction;
    b. Of a master architect, builder, artist or craftsman;
    c. Of high artistic merit;
    d. The totality of which comprises a distinctive, significant or important work or vestige whose component parts may lack the same attributes;
    e. That has yielded or is substantially likely to yield information of value about history, architecture, engineering, culture or aesthetics, or that provides for existing and future generations an example of the physical surroundings in which past generations lived or worked; or

f. That the construction materials or engineering methods used in the proposed landmark are unusual or significant of uniquely effective.

3. The factor of age alone does not necessarily confer a special historical, architectural, cultural, aesthetic, or engineering significance, value or interest upon a structure or site, but it may have such effect if a more distinctive, significant or important example thereof no longer exists (Section 13.48.020 A).

The ordinance also provides a designation of a district: "a geographically definable area of urban or rural character, possessing a significant concentration or continuity of site, building, structures or objects unified by past events or aesthetically by plan or physical development (Section 13.48.020 B).

Any potentially historic property can be nominated for designation as a city landmark by the City Council, the Historic Landmarks Commission or by application of the owner or the authorized agent of the owner of the property for which designation is requested.

Envision San José 2040 General Plan

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

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.

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.

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

LU-13.4 Require public and private development projects to conform to the adopted City Council Policy on the Preservation of Historic Landmarks.

LU-13.15 Implement City, State, and Federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.

Cultural/Tribal Cultural Resources Environmental Checklist

Would the project:	Potentially Significant Impact	Less than Significant Impact with Mitigation	Less than Significant Impact	No Impact	Checklist Source(s)
a. Cause a substantial adverse change in the significance of an historical resource pursuant to CEQA Guidelines Section 15064.5?	☐	☐	☒	☐	1,2,3,4,8,10,11
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?	☐	☐	☒	☐	1,2,3,4,8,11
c. Disturb any human remains, including those interred outside of dedicated cemeteries?	☐	☐	☒	☐	1,11,12
d. Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is: 1. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k); or 2. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying these criteria, the significance of the resource to a California Native American tribe shall be considered.	☐	☐	☒	☐	1,2,3,4,31

Impacts Evaluation

a. Would the project cause a substantial adverse change in the significance of an historical resource as defined in §15063.5?

The existing building on-site was built after 1997 and is less than 50 years old, therefore the property is not considered to be eligible as a historical resource under CEQA. Previously developed industrial structures formerly on the project area are unlikely to have stratified deposits of artifacts such as trash dumps or privies, and therefore have low sensitivity for historic-era archaeological resources. **(Less than Significant Impact)**

b.-c. Would the project cause a substantial adverse change in the significance of an archaeological resource as defined in §15063.5? Would the project disturb any human remains, including those interred outside of formal cemeteries?

There are no cultural resources recorded within 0.25-miles of the project site and according to the Envision San José 2040 General Plan FPEIR, the project site is not located within an archaeologically sensitive area. The closest water source is Coyote Creek, which is located 0.82-miles west of the project site. The recent Holocene soils and gentle slopes are conditions often associated with buried sites, but the distance from freshwater makes the project area of low sensitivity for Native American archaeological resources.

Because there is always a potential that construction of a project could encounter unknown, buried archaeological resources and/or human remains, the following S*tandard Permit Conditions* are included in the project to reduce potential impacts to subsurface archaeological resources and/or remains to a less than significant level.

Standard Permit Conditions: Consistent with General Plan policies ER-10.2 and ER-10.3, the following *Standard Permit Conditions* shall be implemented by the project to reduce or avoid impacts to subsurface cultural resources to a less than significant level:

Subsurface Cultural Resources

- If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist in consultation with a Native American Tribal representative registered with the Native American Heritage Commission for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3 shall examine the find. The archaeologist in consultation with the Tribal representative shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and

analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to Director of PBCE or the Director's designee and the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.

Human Remains

- If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per AB 2641, shall be followed. In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement 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 applicant 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 their authorized representative rejects the recommendation of the MLD, and the mediation by the NAHC fails to provide measures acceptable to the landowner.

(Less than Significant Impact)

d. Cause a substantial adverse change in the significance of a tribal cultural resource?

AB 52 requires lead agencies to complete formal consultations with California Native American tribes during the CEQA process to identify tribal cultural resources that may be subject to significant impacts by a project. Where a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document must discuss the impact and whether feasible alternatives or Mitigation Measures could avoid or substantially lessen the impact.

In 2017, the City sent a letter to tribal representatives in the area to welcome participation in consultation process for all ongoing, proposed, or future projects within the City's Sphere of Influence or specific areas of the City. 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 subd (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 within the City of San José.

AB 52 notification letters were emailed to Chairwoman Geary of the Tamien Nation, Kanyon Sayers-Roods of the Indian Canyon Mutsun Band of Costanoan on May 4, 2022. The project was discussed again during a standing meeting with Chairwoman Quirina from Tamien Nation on June 9, 2022. Given the low sensitivity, the city' *Standard Permit Conditions* were determined to be adequate to address impacts from inadvertent findings and consultation was determined to be complete.

Kanyon Sayers-Roods responded on May 12, 2022 and noted in her email that the project's Area of Potential Effect overlaps or is near the management boundary of a potentially eligible cultural site and recommended that a Native American Monitor and an Archaeologist be present on-site at all times during any/all ground disturbing activities. She also suggested, if applicable, a Cultural Sensitivity Training be provided at the beginning of the project. This service is offered to aid those involved in the project to become more familiar with the indigenous history of the peoples of this land that is being worked on. In addition, she requested that the project applicant consider measures such as a plaque, mural, or a page on their website, as a cultural display of cultural resources/botanical knowledge to commemorate history. A follow up email was sent to Indian Canyon Mutsun Band of Costanoan on January 30, 2023 and March 2, 2023 to clarify that since there is no impact identified based on records search and site history, these measures would be voluntary and up to the applicant to implement as there is no impact determined. No further response has been received to date.

An archaeological literature review was completed for the project and determined that the potential for proposed construction to encounter prehistoric subsurface archaeological resources is low due to the fact that Coyote Creek (the nearest freshwater resource) is located approximately 0.82 miles west of the site. There are no known Tribal Cultural Resources (TCRs) on-site. For these reasons, the proposed project would not result in any adverse impacts to tribal cultural resources.

The proposed redevelopment of the site would be required to implement *Standard Permit Conditions*, described in Section b-c above, to reduce potential impacts to tribal resources to a less than significant level. For this reason, the project would not cause a substantial adverse change in the significance of a tribal cultural resource. **(Less than Significant Impact)**

Conclusion

With the implementation of *Standard Permit Conditions*, redevelopment of the project site would not result in significant impacts to cultural resources/tribal cultural resources. **(Less than Significant Impact)**

4.6 ENERGY

Environmental Setting

The project is supplied with electricity from San José Clean Energy (SJCE) which buys its power from a number of suppliers. Sources of renewable and carbon-free power include California wind, solar, and geothermal; Colorado and New Mexico wind; and hydroelectric power from the Pacific Northwest.

Pacific Gas and Electric Company (PG&E) is San José's natural gas provider. In 2018, natural gas facilities provided 15 percent of PG&E's electricity delivered to retail customers; nuclear plants provided 34 percent; hydroelectric operations provided 13 percent; renewable energy facilities including solar, geothermal, and biomass provided 39 percent.[12]

In 2019, approximately 15.3 million gallons of gasoline was sold in California, including aviation fuels.[13] The average fuel economy for light duty vehicles (autos, pickups, vans, and SUVs) in the United States has steadily increased from about 13.1 miles per gallon (mpg) in the mid-1970's to 24.9 mpg in 2018.[14]

In March 2020, the Environmental Protection Agency (US EPA) and the National Highway Traffic Safety Administration (NHTSA) issued new greenhouse gas emission standards and fuel economy standards for new passenger cars and light-duty trucks. The Safer Affordable Fuel Efficient (SAFE) Vehicles Rule requires automakers to improve fuel efficiency 1.5 percent annually from model years 2021 through 2026. In addition, EPA issued the final Affordable Clean Energy rule (ACE) in June 2019 which establishes emission guidelines for states to use when developing plans to limit carbon dioxide (CO_2) at their coal-fired electric generating units (EGUs).

The proposed project is the redevelopment of existing retail commercial uses with residential uses.

Regulatory Framework

Many federal, state, and local statutes and policies address energy conservation. At the federal level, energy standards set by the U.S. EPA apply to numerous consumer and commercial products (e.g., the EnergyStar™ program). The U.S. EPA and NHTSA also set fuel efficiency standards for automobiles and other modes of transportation.

[12] PG&E, Delivering low-emission energy. Available at: https://www.pge.com/en_US/about-pge/environment/what-we-are-doing/clean-energy-solutions/clean-energy-solutions.page. Accessed May 11, 2022.
[13] California Department of Tax and Fee Administration. Available at: https://www.cdtfa.ca.gov/taxes-and-fees/spftrpts.htm. Accessed May 11, 2022.
[14] U.S. EPA. "The 2018 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." Accessed May 11, 2022.

State

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 2008, Executive Order S-14-08 was signed into law, requiring retail sellers of electricity serve 33 percent of their load with renewable energy by 2020. In October 2015, Governor Brown signed SB 350 to codify California's climate and clean energy goals. a key provision of SB 350 requires retail sellers and publicly owned utilities to procure 50 percent of their electricity from renewable sources by 2030. SB 100, passed in 2018, requires 100 percent of electricity in California to be provided by 100 percent renewable and carbon-free sources by 2045.

California Building Codes

At the state level, the Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6, of the California Code of Regulations (Title 24), was established in 1978 in response to a legislative mandate to reduce California's energy consumption. Title 24 is updated approximately every three years; the 2019 California Building Standards Code (Cal. Code Regs., Title 24) was published July 1, 2019, with an effective date of January 1, 2020.[15] Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.[16]

In January 2010, the State of California adopted the California Green Building Standards Code (CalGreen) that establishes mandatory green building standards for all buildings in California. The most recent update to CALGreen went into effect on January 1, 2017.[17] The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resource efficiency, and indoor environmental quality.

Advanced Clean Cars Program

CARB adopted the Advanced Clean Cars program in 2012 in coordination with the EPA and National Highway Traffic Safety Administration. The program combines the control of smog causing pollutants and GHG emissions into a single coordinated set of requirements for vehicle model years 2015 through 2025. The program promotes development of environmentally

[15] California Building Standards Commission. "Welcome to the California Building Standards Commission." Accessed October 11, 2022. http://www.bsc.ca.gov/.
[16] CEC. 2019 Building Energy Efficiency Standards for Residential and Nonresidential Buildings. Accessed October 11, 2022. http://www.energy.ca.gov.
[17] California Department of General Services. Building Standards Commission. CalGreen. https://www.dgs.ca.gov/BSC/CALGreen. October 11, 2022.

superior passenger cars and other vehicles, as well as saving the consumer money through fuel savings.[18]

Local

Council Policy 6-32 Private Sector Green Building Policy

Council Policy 6-32 Private Sector Green Building Policy, adopted in October 2008, establishes baseline green building standards for private sector new construction and provides a framework for 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. The proposed project would be a Tier 2 (25,000 square feet or greater) high-rise residential project and would be required to incorporate Leadership in Energy and Environmental Design (LEED) Silver design criteria to ensure construction of healthy, highly efficient, and cost-saving green buildings. The commercial portion of the project would not be required to achieve the applicable green building standard.

Climate Smart San José

Climate Smart San José is a plan developed by the City to reduce air pollution, save water, and create a healthier community. The plan articulates how buildings, transportation/mobility, and citywide growth need to change in order to minimize impacts on the climate. The plan outlines strategies that City departments, related agencies, the private sector, and residents can take to reduce carbon emissions consistent with the Paris Climate Agreement. The plan recognizes the scaling of renewable energy, electrification and sharing of vehicle fleets, investments in public infrastructure, and the role of local jobs in contributing to sustainability. It includes detailed carbon-reducing commitments for the City, as well as timelines to deliver on those commitments.

Municipal Code

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

[18] California Air Resources Board. "The Advanced Clean Cars Program." Accessed May 11, 2022. https://www.arb.ca.gov/msprog/acc/acc.htm.

Reach Building Code

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

San José Clean Energy

In February 2019, most residential uses and businesses in San José were enrolled in San José Clean Energy (SJCE), a nonprofit, locally controlled electricity generation service provider for residents and commercial users. Clean, carbon-free energy sources (renewable wind and solar, hydroelectric, and open-market transactions) are utilized to meet San José's ambitious carbon neutral by 2030 goal and integrate with Climate Smart San José, the city's climate action plan.[19] Residents and business owners can choose to opt out of SJCE and remain entirely with PG&E service.

Envision San José 2040 General Plan Policies

The General Plan includes the following energy policies applicable to the proposed project:

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.

MS-1.6 Recognize the interconnected nature of green building systems, and, in the implementation of Green Building Policies, give priority to green building options that provide environmental benefit by reducing water and/or energy use and solid waste.

MS-2.1 Develop and maintain policies, zoning regulations, and guidelines that require energy conservation and use of renewable energy sources.

MS-2.2 Encourage maximized use of on-site generation of renewable energy for all new and existing buildings.

MS-2.3 Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.

[19] SJCE. Available at https://www.sanjosecleanenergy.org/your-choices. Accessed February 11, 2023.

MS-2.4 Promote energy efficient construction industry practices.

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.

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

MS-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.

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

MS-6.5: Reduce the amount of waste disposed in landfills through waste prevention, reuse, and recycling of materials at venues, facilities, and special events.

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

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.

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

Energy Environmental Checklist

Would the project:	Potentially Significant Impact	Less than Significant Impact with Mitigation	Less than Significant Impact	No Impact	Checklist Source(s)
a. Result in potentially significant environmental impacts due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	☐	☐	☒	☐	1,2,3,4,6, 25

b. Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	☐	☐	☒	☐	1,2,3,4,5,6,27

Impacts Evaluation

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

The proposed project would be designed for energy efficiency and conservation, in accordance with the City's Private Sector Green Building Policy, Climate Smart San José, Reach Code, and Greenhouse Gas Reduction Strategy. The proposed residential development would also comply with the Green Building Ordinance, which requires new development to incorporate energy conservation and efficiency through site design, architectural design, and construction techniques.

The proposed residential project would be constructed to meet the latest California Building Energy Efficiency Standards (Title 24 California Code of Regulations) and the City's Reach Code. Adherence to General Plan policies, existing regulations, adopted plans and policies, and the standard measures identified in *Section 4.3 Air Quality* of this Initial Study intended to limit idling of construction equipment, would ensure that the proposed residential mixed-use project would not consume energy in a manner that is wasteful, inefficient, or unnecessary. In addition, construction processes are generally designed to be efficient to avoid excess monetary costs. That is, equipment and fuel are not typically used wastefully because of the added expense associated with renting the equipment, as well as maintenance and fuel.

For these reasons, neither operation of the project or project construction would use energy in a wasteful manner. (The proposed project would not result in any direct impacts due to increased energy consumption and compliance with applicable regulations would ensure that impacts from the redevelopment project would be less than significant. **(Less than Significant Impact)**

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

Electricity for the project would be provided by SJCE from sources of renewable and carbon-free power including wind, solar, geothermal, and hydroelectric.[20] The proposed residential building would be constructed in accordance with the City's Private Sector Green Building

[20] The project would enroll in SJCE's GreenSource Program. The energy content consists of 60% renewable energy and up to 95% carbon-free power. Non-renewable carbon-free sources are a combination of large hydroelectric and nuclear, the proportion of which will be confirmed by the end of 2023. The remaining 5% is California grid system power and may include renewables and hydroelectric.

Policy. In addition, the project would comply with existing General Plan policies and regulations including Title 24, CALGreen, and the City's Municipal Code, which support state and local plans for renewable energy and energy efficiency. **(Less Than Significant Impact)**

Conclusion

The proposed residential project would be required to conform to all applicable General Plan policies and regulation related to energy consumption. Therefore, the proposed project would have less than significant impacts related to energy use. **(Less than Significant Impact)**

4.7 GEOLOGY AND SOILS

The following discussion is based on the Geotechnical Investigation prepared by Cornerstone Earth Group on December 1, 2021, which included soil borings on-site. This report is contained in Appendix D.

Environmental Setting

The project site is located in the Santa Clara Valley, which is an alluvial basin that lies between the Santa Cruz Mountains to the southwest and the Diablo Range to the northeast. The Santa Clara Valley bedrock consists of Franciscan Complex and Cretaceous-age marine sediment. Geologic information for the area indicates the site is underlain by Pleistocene-age alluvial fan and fluvial deposits. These alluvial fan and fluvial deposits are generally expected to consist of dense, gravelly and clayey sand or clayey gravel that becomes finer grained upward transitioning into sandy clay.

The project property is a level lot with an elevation of approximately 90 feet above mean sea level. Topography in the vicinity of the site slopes downward gently to the northwest towards the San Francisco Bay.

Based on site borings, soils encountered were native alluvial soils consisting of medium stiff to very stiff, lean clay and lean clay with sand to a depth of approximately 50 feet below existing grades. Below the terminal boring depth of 50 feet, soils generally encountered were fine-grained consisting of stiff to very stiff, lean clay with varying amounts of silt and sand to depths of approximately 63½ to 64½ feet. Below the fine-grained materials, dense to very dense, sand with variable amounts of silt and clay fines were encountered to a depth of approximately 90 feet, the depth of refusal.

Fluctuations in the level of groundwater can occur due to variations in rainfall, landscaping, surface and subsurface drainage patterns, and other factors. Based on the findings of the Geotechnical report, the ground water depth on-site ranges from approximately 10 to 16 feet below ground surface. Soils encountered were determined to have a low to moderate expansion potential.

Seismicity and Seismic Hazards

There are no mapped faults within or adjacent to the site. The site is not located within a State of California Alquist-Priolo Earthquake Fault Zone or Santa Clara County Fault Hazard Zone. The closest active faults to the project site are the Hayward Fault (southeast extension) and Calaveras Fault, located approximately 3.9 and 6.6 miles to the west, respectively

Liquefaction is a result of seismic activity and is characterized as the transformation of loose, water-saturated soils from a solid state to a liquid state after ground shaking. There are many variables that contribute to liquefaction, including the age of the soil, soil type, soil cohesion, soil density, and groundwater level. Soil susceptible to liquefaction includes loose to medium

dense sand and gravel, low-plasticity silt, and some low-plasticity clay deposits. Liquefaction can result in ground surface deformations and settlement.

The project site is located within a State of California Hazard Zone and within a County of Santa Clara Liquefaction Hazard Zone. Soil borings on site indicated at there are several sand layers below the groundwater depth of 10-16 feet.

Lateral spreading is a type of ground failure related to liquefaction. It consists of the horizontal displacement of flat-lying alluvial material toward an open area, such as the steep bank of a stream channel. The project site is relatively flat and there are no open faces within a distance considered susceptible to lateral spreading.

Paleontological Resources

Paleontological resources are fossils; the remains or traces of prehistoric life preserved in the geological record. They range from well-known and well publicized fossils (such as mammoth and dinosaur bones) to scientifically important fossils (such as paleobotanical remains, trace fossils, and microfossils). Potentially sensitive areas with fossil bearing sediments near the ground surface in areas of Santa Clara County are generally in or adjacent to foothill areas rather than the younger Holocene age deposits on the valley floor. Geologic units of the Holocene age are generally not considered sensitive for paleontological resources, because biological remains younger than 10,000 years are not usually considered fossils.

Regulatory Framework

California Building Code

The 2016 California Building Standards Code (CBC) was published July 1, 2016, with an effective date of January 1, 2017. The CBC is a compilation of three types of building criteria from three different origins:

- Building standards that have been adopted by state agencies without change from building standards contained in national model codes;
- Building standards that have been adopted and adapted from the National model code standards to meet California conditions; and
- Building standards, authorized by the California legislature, that constitute extensive additions not covered by the model codes that have been adopted to address particular California concerns.

The CBC identifies acceptable design criteria for construction that addresses seismic design and loadbearing capacity, including specific requirements for seismic safety; excavation, foundation and retaining wall design, site demolition, excavation, and construction, and; drainage and erosion control.

Paleontological Resources 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. The California Public Resources Code (Section 5097.5) specifies that unauthorized removal of a paleontological resource is a misdemeanor. Under the CEQA Guidelines, a project would have a significant impact on paleontological resources if it will disturb or destroy a unique paleontological resource or site or unique geologic feature.

Local

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

Envision San José General Plan Policies

Policies and actions in the General Plan have been adopted for the purpose of avoiding or mitigating geology and soils impacts resulting from development projects. Policies applicable to the project are presented below.

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.

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

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. [The City Geologist will issue a Geologic Clearance for approved geotechnical reports.]

EC-4.4 Require all new development to conform to the City of San José's Geologic Hazard Ordinance.

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.

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.

EC-4.12 Require review and approval of grading plans and erosion control plans prior to issuance of grading permits by the Director of Public Works.

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.

Geology and Soils Environmental Checklist

Would the project:	Potentially Significant Impact	Less than Significant Impact with Mitigation	Less than Significant Impact	No Impact	Checklist Source(s)
a. Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:					
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	☐	☐	☒	☐	1,2,3,4,23
ii) Strong seismic ground shaking?	☐	☐	☒	☐	1,2,3,4,23
iii) Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐	1,2,3,4,23

iv) Landslides?	☐	☐	☒	☐	1,2,3,4,23
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐	1,2,3,4,23,25
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☒	☐	1,2,3,4,23
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?	☐	☐	☒	☐	1,2,3,4,23
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒	1,2,3,4,23
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☒	☐	1,2,3,4

Impacts Evaluation

a. Would the project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault, strong seismic ground shaking, seismic-related ground failure including liquefaction, or landslides?

The proposed project site is not located on a known active fault and is not located in an Alquist-Priolo Earthquake Fault Zone; however, the project site is in a seismically-active region and development would be subject to strong ground shaking in the event of seismic activity. Due to the project site's distances to known earthquake faults and the level topography, fault rupture and landslides are not significant geologic hazards at the site.

The closest active faults to the project site are the Hayward Fault (southeast extension) and Calaveras Fault, located approximately 3.9 and 6.6 miles to the west, respectively. Thus, the likelihood of surface rupture occurring from active faulting at the site is low.

In the future, the subject property could experience severe ground shaking during moderate and large magnitude earthquakes produced along the San Andreas fault or other active Bay

Area fault zones. Using information from recent earthquakes, improved mapping of active faults, ground motion prediction modeling, and a new model for estimating earthquake probabilities, a panel of experts convened by the U.S.G.S. have concluded there is a 72 percent chance for at least one earthquake of Magnitude 6.7 or larger in the Bay Area before 2043. The faults in the region with the highest estimated probability of generating damaging earthquakes between 2014 and 2043 are the Hayward (33%), Calaveras (26%), and San Andreas Faults (22%). In this 30-year period, the probability of an earthquake of magnitude 6.7 or larger occurring is 22 percent along the San Andreas Fault and 33 percent for the Hayward Fault.

The site is located within a state-designated moderate liquefaction hazard zone and City and County-designated Liquefaction Hazard Zones.[21] Soils underlaying the site include sands that were analyzed for liquefaction triggering and potential post-liquefaction settlement. Several layers could potentially experience liquefaction triggering that could result in post-liquefaction total settlement at the ground surface ranging from ¼- to ½-inches. Differential movement for level ground sites over deep soil sites will be up to about two-thirds of the total settlement between independent foundation elements. The analysis determined that the eight-foot-thick layer of non-liquefiable cap (portion of the soil that would remain in a solid state during ground shaking) is sufficient to prevent ground deformation and significant surficial cracking.

Redevelopment on the project site shall implement the following measures to reduce seismic and seismic-related impacts to a less than significant level:

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

With implementation of the *Standard Permit Conditions*, the existing seismic conditions discussed above would not be exacerbated by the proposed redevelopment of the project site such that it would impact (or worsen) off-site seismic conditions. **(Less Than Significant Impact)**

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

The project site is flat and developed with a building, asphalt driveways and parking, and some landscaping. Ground disturbance would be required for removal of the existing building and

[21] Santa Clara County (2012) and City of San José Geologic Hazard Zones, https://csj.maps.arcgis.com/apps/webappviewer/index.html?id=3c5516412b594e79bd25c49f10fc672f, accessed March 6, 2023.

pavement, utility relocation, and excavation, grading, and construction of the proposed project. Ground disturbance would expose soils and increase the potential for wind or water-related erosion, loss of topsoil, and sedimentation at the site until construction is complete.

As further discussed in *Section 4.9 Hydrology and Water Quality*, the project is required to minimize soil erosion hazards through compliance with the NPDES General Permit for Construction Activities, and implementation of an Erosion Control Plan with Best Management Practices (BMPs). In addition, the City's *Standard Permit Conditions* would be required to reduce impacts from soil erosion or loss of topsoil.

Standard Permit Conditions:

- All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
- Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
- Ditches shall be installed to divert runoff around excavations and graded areas if necessary.
- The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. a grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the proposed building on the site is designed to properly account for soils-related hazards on the site.
- If dewatering is needed, the design-level geotechnical investigations to be prepared for individual proposed development projects shall evaluate the underlying sediments and determine the potential for settlements to occur. If it is determined that unacceptable settlements may occur, then alternative groundwater control systems shall be required.

The proposed redevelopment of the project site, with the implementation of the Standard Permit Condition as outlined above, would not result in significant soil erosion impacts. **(Less Than Significant Impact)**

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

As discussed above, the project site does not have a high potential for liquefaction impacts during a regional earthquake and the potential for ground deformation and significant surficial cracking is low. There are no open faces within a distance considered susceptible to lateral spreading, therefore, the potential for lateral spreading to affect the site is low. The project

site is relatively flat and there are no open faces within a distance considered susceptible to lateral spreading. Therefore, the potential for lateral spreading at the site is low.

The proposed project would be required to implement the recommendations of the site-specific geotechnical report to be completed after final design as noted in the Standard Permit Condition above in checklist item a. The site would not be subject to impacts from other seismically-induced soil hazards including slope instability or landslides due to the flat topography of the site. **(Less Than Significant Impact)**

d. Would the project be located on expansive soil, as defined in Section 1803.5.3 of the California Building Code (2016), creating substantial risks to life or property?

The project site contains moderately expansive surface soils, which could damage proposed buildings and development on-site. Differential settlement, structural damage, warping and cracking of roads and sidewalks, and rupture of utility lines may occur if the nature of expansive soils are not considered during project design and construction. Therefore, the project will include the following measures and any others identified in the site-specific geotechnical report design as noted in the Standard Permit Condition above in checklist item a, to reduce impacts to a less than significant level.

The project, with implementation of the *Standard Permit Conditions* as outlined above, would not result in significant expansive soil impacts. **(Less Than Significant Impact)**

e. Does the site 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?

The project does not propose the use of septic tanks or alternative wastewater disposal systems. **(No Impact)**

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

Paleontological Resources

The project is the redevelopment of an existing developed site. Therefore, soil on-site has been previously disturbed during construction of the existing development. The project site is not in an area of paleontological sensitivity; therefore, proposed redevelopment is not expected to encounter paleontological resources. Although not anticipated, construction activities associated with the proposed redevelopment of the project site could impact paleontological resources. The proposed project will implement the following measures, consistent with General Plan policy ER-10.3, to reduce impacts to paleontological resources to a less than significant level.

Standard Permit Conditions: If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, Director of Planning, Building and Code Enforcement or

Director's designee shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee.

The proposed project, with the implementation of the above *Standard Permit Conditions*, would not result in significant impacts to unique paleontological resources or geological features. **(Less Than Significant Impact)**

Conclusion

With the implementation of the above *Standard Permit Conditions*, redevelopment of the project site would not result in significant geology and soil impacts. **(Less Than Significant Impact)**

4.8 GREENHOUSE GAS EMISSIONS

This section is based in part on the Greenhouse Gas Reduction Strategy Compliance Checklist prepared for the project by the project architects. The checklist is contained in Appendix E of this Initial Study.

Environmental Setting

Unlike emissions of criteria and toxic air pollutants, which have local or regional impacts, emissions of Greenhouse Gases (GHGs) have a broader, 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. The principal GHGs contributing to global warming and associated climate change are carbon dioxide (CO_2), water vapor, 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 and manufacturing, utility, residential, commercial, and agricultural sectors. The project site is currently developed with commercial and residential uses. Traffic from these previous uses would have generated GHG emissions in the past.

Regulatory Framework

State

California Global Warming Solutions Act

Under the California Global Warming Solution Act, also known as AB 32, CARB has established a statewide GHG emissions cap for 2020, adopted mandatory reporting rules for significant sources of GHG, and adopted a comprehensive plan, known as the Climate Change Scoping Plan. The plan identifies how emission reductions will be achieved from significant GHG sources via regulations, market mechanisms, and other actions.

In 2016, Senate Bill 32 (SB 32) was signed into law, amending the California Global Warming Solution Act. SB 32 requires CARB to ensure that statewide greenhouse gas emissions are reduced to 40 percent below the 1990 level by 2030. As a part of this effort, CARB is required to update the Climate Change Scoping Plan to express the 2030 target in terms of million metric tons of carbon dioxide equivalent. CARB adopted the State's updated Climate Change Scoping Plan in December 2017. The updated plan provides a framework for achieving the 2030 target.

Senate Bill 375 – Redesigning Communities to Reduce Greenhouse Gases

SB 375, known as the Sustainable Communities Strategy and Climate Protection Act, was signed into law in September 2008. SB 375 builds upon AB 32 by requiring CARB to develop regional GHG reduction targets for automobile and light truck sectors for 2020 and 2035, as compared to 2005 emissions levels. The per-capita GHG emissions reduction targets for passenger

vehicles in the San Francisco Bay Area include a seven percent reduction by 2020 and a 15 percent reduction by 2035.[22]

Consistent with the requirements of SB 375, Metropolitan Transportation Commission (MTC) partnered with ABAG, BAAQMD, and Bay Conservation and Development Commission (BCDC) to prepare the region's Sustainable Communities Strategy (SCS) as part of the Regional Transportation Plan (RTP) process. The SCS is referred to as Plan Bay Area.

Originally adopted in 2013, Plan Bay Area established a course for reducing per-capita GHG emissions through the promotion of compact, mixed-use residential and commercial neighborhoods near transit, particularly within identified Priority Development Areas (PDAs). Building upon the development strategies outlined in the original plan, Plan Bay Area 2040 was adopted in July 2017 as a focused update with revised planning assumptions based current demographic trends. Target areas in the Plan Bay Area 2040 Action Plan area related to reducing GHG emissions, improving transportation access, maintaining the region's infrastructure, and enhancing resilience to climate change (including fostering open space as a means to reduce flood risk and enhance air quality).

Other Implementing Laws and Regulations

There are a number of laws that have been adopted as part of the State's efforts to reduce GHG emissions and their contribution to climate change. State laws and regulations related to growth, development, planning and municipal operations in San José include, but are not limited to:

- California Mandatory Commercial Recycling Law (AB 341)
- California Water Conservation in Landscaping Act of 2006 (AB 1881)
- California Water Conservation Act of 2009 (SBX7-7)
- Various Diesel-Fuel Vehicle Idling regulations in Chapter 13 of the California Code of Regulations
- Building Energy Efficiency Standards (Title 24, Part 6)
- California Green Building Code (Title 25, Part 11)
- Appliance Energy Efficiency Standards (Title 20)

[22] The emission reduction targets are for those associated with land use and transportation strategies, only. Emission reductions due to the California Low Carbon Fuel Standards or Pavley emission control standards are not included in the targets.

Regional and Local

2017 Clean Air Plan

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

California's Short-Lived Climate Pollutant Reduction Strategy (SB 1383)

Beginning in 2022, SB 1383 requires every jurisdiction to provide organic waste collection services to all residents and businesses. "Jurisdiction" means a city, county, a city and county, or a special district that provides solid waste collection services. "Organic waste" includes food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges.

Jurisdictions can select from a variety of organic waste collection services to match their unique communities and local infrastructure, while producing clean streams of organic feedstock that can be recycled into high-quality, marketable recycled products, including compost, renewable natural gas, electricity, and paper.

BAAQMD CEQA Air Quality Guidelines

The BAAQMD CEQA Air Quality Guidelines[23] are intended to serve as a guide for those who prepare or evaluate air quality impact analyses for projects and plans in the San Francisco Bay Area. The jurisdictions in the San Francisco Bay Area Air Basin utilize the thresholds and methodology for assessing GHG impacts developed by BAAQMD within the CEQA Air Quality Guidelines. The guidelines include information on legal requirements, BAAQMD rules, methods of analyzing impacts, and recommended Mitigation Measures.

San José Greenhouse Gas Reduction Strategy

The City's General Plan includes a GHG Reduction Strategy that was originally adopted in November 2011. Following litigation, the San José City Council certified a Supplemental Program Environmental Impact Report to the Envision San José 2040 Final Program Environmental Impact Report in December 2015 and re-adopted the City's GHG Reduction Strategy in the General Plan.

In response to the 2030 GHG reduction goals set forth by SB 32, the City updated the strategy in August 2020. The City's 2030 Greenhouse Gas Reduction Strategy (2030 GHGRS) builds on the City's Envision San José 2040 General Plan as well as Climate Smart San José (City of San José, 2020a). The 2030 GHGRS serves as a Qualified Climate Action Plan for the purposes of CEQA

[23] https://www.baaqmd.gov/plans-and-climate/california-environmental-quality-act-ceqa/updated-ceqa-guidelines, accessed November 29, 2022.

tiering. Pursuant to CEQA Guidelines Sections 15064(h)(3), 15130(d), and 15183(b), a Project's GHG emissions would be determined not cumulatively considerable if it demonstrates compliance with the requirements of the 2030 GHGRS through the Compliance Checklist.

City of San José Municipal Code

The City's Municipal Code includes the following regulations that would reduce GHG emissions from proposed 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)

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

In June 2001, the San José City Council unanimously adopted the Green Building Policies as developed by the members of the community and various City Departments. The Municipal Green Building Guidelines establish baseline green building standards for City of San José facilities and provide a framework for the implementation of these standards. The policies require that all new construction and major retrofit projects of City of San José facilities and buildings over 10,000 gross square feet of occupied space shall earn a Leadership in Energy and Environmental Design (LEED) Silver rating at a minimum, with a goal of earning Gold or Platinum certification. The proposed project would be subject to this policy.

City of San José Climate Smart Plan

In 2018, the City of San José City Council unanimously adopted Climate Smart San José - a plan to reduce air pollution, save water, and create a stronger and healthier community. The Plan focuses on three pillars and nine key strategies to encourage the City and community to actively engage in charting a course to reduce greenhouse gas emissions. Strategies include, but are not limited to transitioning to renewable energy in the future, creating local jobs to reduce vehicle miles travelled, and developing an integrated, accessible public transport infrastructure.

Reach Building Code

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

Code requires EV charging infrastructure for all building types (above current CALGreen requirements), and solar readiness for non-residential buildings.

Envision San José 2040 General Plan

The General Plan includes strategies, policies, and action items that are also incorporated in the City's GHG Reduction Strategy to help reduce GHG emissions. Implementation of the policies in the Envision San José 2040 General Plan as a part of the City's development permitting and other programs provides for meeting building standards for energy efficiency, recycling, and water conservation, consistent with State laws and regulations designed to reduce GHG emissions. Multiple policies and actions in the General Plan also have GHG implications, including land use, housing, transportation, water usage, solid waste generation and recycling, and reuse of historic buildings.

The following policies are specific to greenhouse gas emissions and are applicable to the proposed project:

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.

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 life-span. Strongly discourage small-lot and single-family detached residential product types in growth areas.

CD-3.2 Prioritize pedestrian and bicycle connections to transit, community facilities (including schools), commercial areas, and other areas serving daily needs. Ensure that the design of new facilities can accommodate significant anticipated future increases in bicycle and pedestrian activity.

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

MS-2.3 Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.

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.).

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

MS-16.5 Establish minimum requirements for energy efficiency measures and on-site renewable energy generation capacity on all new housing developments.

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

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.

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.

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

Greenhouse Gas Emissions Environmental Checklist

Would the project:	Potentially Significant Impact	Less than Significant Impact with Mitigation	Less than Significant Impact	No Impact	Checklist Source(s)
a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☒	☐	1,2,3,4,28
b. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☒	☐	1,2,3,4,28

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

Construction activities on-site would result in temporary GHG emissions for the construction period. Construction-related GHG emissions vary depending on the level of activity, length of construction period, specific construction operations, types of equipment, and number of personnel. Neither the City of San José nor BAAQMD has established a quantitative threshold or standard for determining whether a project's construction related GHG emissions are significant. Project construction would occur over a period of approximately 29 months,

beginning in January 2024 and completed by May 2026 and would not result in a permanent increase in emissions. The proposed project would not interfere with the implementation of SB 32 in 2030.

Per CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful judgement on the part of the Lead Agency and must be based to the extent possible on scientific and factual data. as discussed below in Section b, the project incorporates mandatory GHG reduction measures required by the City, therefore, the project would have a less than significant GHG emissions impact. **(Less than Significant Impact)**

b. Would the project conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

GHG Reduction Strategy

The 2030 GHGRS identifies GHG emissions reduction strategies for new development projects. All development projects are required to evaluate project conformance with the 2030 GHGRS by completing the Compliance Checklist. The Compliance Checklist for the proposed project is included in Appendix E.

The Checklist identifies mandatory and voluntary measures consistent with General Plan policies that are to be implemented as part of the development project. Voluntary measures could be incorporated as Mitigation Measures for proposed projects, at the City's discretion.

The project would include specific measures consistent with the categories described in below under the sections of 2030 GHGRS Compliance Checklist. Projects that are consistent with the GHGRS would have a less than significant impact related to GHG emissions through 2030.

The project is consistent with several measures listed in the Greenhouse Gas Reduction Strategy Compliance Checklist. The proposed project is consistent with the *UV* General Plan Land Use/Transportation Diagram land use designation. The project would support the implementation of green building measures including General Plan Policies MS-2.2 (solar panels), MS-2.3 (natural ventilation and building orientation), MS-2.11 (allowing the use of natural light), and MS-16.2 (urban infill near electrical transmission lines).

Consistent with GP Policies CD-2.1 and 2.5, the project is a multi-family development that features pedestrian and bicycle design measures, including a sidewalk with street trees, pedestrian and bicycle pathways with access to the future Five Wounds Trail, reduced parking, podium courtyards, and stormwater treatment facilities. The project has no surface parking and the top of the garage (podium) will be used for outdoor recreation (CD-2.5). Reduced parking, bike lockers/parking at convenient locations, a trail pathway and entrance to allow future pedestrian and bicycle connections via the planned Five Wounds Trail to the future BART Station, and use of a TDM program (CD-3.2 and 3.4, LU-3.5, and TR-2.8, 7.1, and 8.5) are included in the project.

The project's landscape design will include water-efficient species that conform to the State's Model Water Efficient Landscape Ordinance (MS-3.1). Landscape design on the eastern and western edges of the site will consider appropriate species to protect the Community Forest and street trees on N. 27th Street and the future trail connects will be consistent with City laws, policies, or guidelines (MS-21.3 and 26.1).

The project would comply with the Zero Net Carbon Residential Construction by meeting the City's Reach Code, excluding natural gas infrastructure, and installing solar panels (GHGRS #1, #2, and #3) which also supports renewable energy development. The Zero Waste Goal would be achieved by meeting the City's Construction and Demolition Diversion Deposit Program (GHGRS #5) and would include designated areas for waste bin storage at each residence. The project would provide residents transit passes and bike lockers through a TDM program, to reduce project-related Vehicle Miles Traveled (VMT) (GHGRS #6).

The project would also conform with water conservation measures (GHGRS #7) including water efficient residential fixtures and irrigation system. The project also would comply with Building Energy Efficiency Standards (Title 24) and the City's Green Building Ordinance and the most recent CALGreen requirements. For these reasons, the proposed project would be consistent with applicable GHGRS strategy and consistency options intended to reduce GHG emissions.

Climate Smart San José

Climate Smart San José has been adopted by the City with the purpose of creating a more sustainable, connected, and economically inclusive City. Climate Smart San José is aligned with General Plan growth patterns and General Plan policies which prioritize automobile-alternative transportation modes, encourage denser development, and ensure energy-efficient features are included in new buildings.

As discussed in Section 4.6 *Energy*, the project would be subject to the Green Building Policy, which requires new development to incorporate energy conservation and efficiency through site design, architectural design, and construction techniques. For this reason, the project is consistent with the City's climate action goals as set forth in Climate Smart San José.

The proposed project would not conflict or interfere with the statewide GHG reduction measures identified in CARB's Scoping Plan. The proposed project would be constructed in conformance with the Envisions San José 2040 General Plan policies, Greenhouse Gas Reduction Strategy, CALGreen, and the Title 24 Building Code, which requires high-efficiency water fixtures and water-efficient irrigation systems; therefore, the project would have a less than significant impact on GHG emission reduction plans. **(Less Than Significant Impact)**

Conclusion

The proposed project would be required to be consistent with General Plan and Climate Smart San José policies, and the Greenhouse Gas Reduction Strategy for the purposes of reducing Greenhouse Gas emissions. **(Less than Significant Impact)**

4.9 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based on a Phase I Environmental Site Assessment (ESA) completed by *Cornerstone Earth Group* on May 11, 2021. This report is included in Appendix F of this Initial Study.

Environmental Setting

The Phase I ESA was completed on the site in accordance with American Society for Testing and Materials (ASTM) requirements to determine the presence or likely presence of any hazardous substances or petroleum products in, on, or at the property: (1) due to any release to the environment; (2) under conditions indicative of a release to the environment; or (3) under conditions that pose a material threat of a future release to the environment.

The Phase I included site reconnaissance and observations of surrounding properties, and review of regulatory databases and readily available information on file at selected governmental agencies and hazardous materials management practices. All readily available maps and aerial photographs were reviewed and persons reportedly knowledgeable about the site were interviewed to determine potential recognized environmental conditions.

According to available historical resources, the site was developed with a portion of two commercial buildings with several railroad tracks as early as 1939. These buildings were used for fruit and vegetable packing and box nailing. The existing buildings were removed from the site between 1974 and 1980. The existing two-story retail commercial building appears to have been constructed between 1997 and 1998. The existing building has been occupied by a variety of uses including the sale of imported goods (Emporio Das Importacoes), event planning, linen rentals, construction companies, a machine shop, a hard drive refurbishing business, financial planning/wealth management, auto painting, storage, and real estate services.

The project site is not located in proximity to any airports and is not within any Airport Influence Areas (AIA) or safety zones.[24] Mineta San José International Airport is located approximately 2.7 miles northwest of the site. The project is not located in the vicinity of a private airstrip. The project site is located in an urbanized area that is not subject to wildland fires. Residential sensitive receptors are located approximately 230 feet west and northwest of the project site. The nearest school is Cristo Rey High School which is located approximately 610 feet southwest of the project site.

Database Review

Based on regulatory database review, the site does not include any underground and above-ground storage tanks. The project site is not listed on the California State Water Resources Control Board (SWRCB), Department of Toxic Substances Control (DTSC) Hazardous Waste

[24] Santa Clara County Airport Land Use Commission (ALUC). *Comprehensive Land Use Plan Santa Clara County.* Airport Safety Zones. 11/16/2016.

Tracking System, CalARP, or DTSC's EnviroStor, or BAAQMD, Santa Clara Valley Water District (SCVWD) or Regional Water Quality Control Board (RWQCB) databases. These databases are described in greater detail in the *Regulatory Framework* section below and in Appendix C.

The only use on-site that is identified on the Certified Unified Program Agency (CUPA) database is Martin Auto Color. The auto painting company is listed as a facility that stores hazardous materials and generates hazardous waste. It is also listed on the HAZNET and RCRA NonGen/NLR databases as a facility that generates, transports, stores, treats, and/or disposes of hazardous wastes as defined by the Resource Conservation and Recovery Act (RCRA). No violations were reported.

Based on the databases researched, no off-site spill incidents were reported that were likely to significantly impact soil, soil vapor, or groundwater beneath the project site. There are no other properties in the vicinity of the project site that appear to pose a significant environmental concern in connection with the project site.

Site Reconnaissance

The project site is currently developed with a two-story, multi-tenant commercial structure, concrete sidewalks, asphalt-paved parking area, and associated landscaping. Hazardous materials were observed only at the auto painting business and consisted of auto paints and paint related products stored on shelving for retail sale. Waste generated during paint mixing activities were stored in several 55-gallon drums for off-site disposal. No evidence of significant spills was observed. Past occupants, which included a machine shop, may also have used hazardous materials at the site; however, no reported spills were identified within the available data sources researched as part of the Phase I.

A PG&E owned transformer is located on a concrete pad on the southwest side of the building. No evidence of transformer oil leaks was observed. Assorted chemicals were commonly used by railroad companies for dust suppression and weed control along rail lines, including metals, petroleum hydrocarbons, polycyclic aromatic hydrocarbons (PAHs), polychlorinated biphenyls (PCBs), and pesticides which may be present in site soil. Additionally, some amount of imported soil may be located under the existing building.

The building on-site was constructed in approximately 1997-1998. Therefore, it is unlikely that Asbestos Containing Building Materials (ACBMs) and Lead-based Paint (LBP) are present in the structure.

Regulatory Framework

Federal and State

The storage, use, generation, transport, and disposal of hazardous materials and waste are highly regulated under federal and State laws. Key federal regulations and policies related to development include the Comprehensive Environmental Response, Compensation, and Liability

Act (CERCLA), commonly known as Superfund, and the Resource Conservation and Recovery Act (RCRA). In California, the USEPA has granted most enforcement authority over federal hazardous materials regulations to the California Environmental Protection Agency (CalEPA). In turn, local agencies including the Santa Clara County Department of Environmental Health (SCCDEH) have been granted responsibility for implementation and enforcement of many hazardous materials regulations under the Certified Unified Program Agency (CUPA) program.

Other regional agencies are responsible for programs regulating emissions to the air, surface water, and groundwater include BAAQMD, which has oversight over air emissions, and the Regional Water Quality Control Board (RWQCB) which regulates discharges and releases to surface waters and groundwater.

Oversight over investigation and remediation of sites impacted by hazardous materials releases can be completed by State agencies, such as the Department of Toxic Substances Control [(DTSC) a division of CalEPA)], regional agencies, such as the RWQCB, or local agencies, such as SCCDEH. The SCCDEH oversees investigation and remediation Leaking Underground Storage Tank (LUST) sites in the City of San José. Other agencies that regulate hazardous materials include the California Department of Transportation and California Highway Patrol (transportation safety), and California Occupational Safety and Health Administration (Cal/OSHA).

Cortese List (Government Code Section 65962.5)

Section 65962.5 of the Government Code requires CalEPA to develop and update a list of hazardous waste and substances sites, known as the Cortese List. The Cortese List is used by the State, local agencies, and developers to comply with CEQA requirements. The Cortese List includes hazardous substance release sites identified by DTSC, State Water Resources Control Board (SWRCB), and the Department of Resources Recycling and Recovery (CalRecycle). The project site is not on the Cortese List.

Asbestos-Containing Building Materials and Lead Paint Regulations

Friable asbestos is any ACBMs that, when dry, can easily be crumbled or pulverized to a powder by hand, allowing the asbestos particles to become airborne. Common examples of products that have been found to contain friable asbestos include acoustical ceilings, plaster, wallboard, and thermal insulation for water heaters and pipes. Non-friable ACMs are materials that contain a binder or hardening agent that does not allow asbestos particles to become airborne easily. Common examples of non-friable ACMs are asphalt roofing shingles and vinyl asbestos floor tiles. Use of friable asbestos products was banned in 1978. National Emission Standards for Hazardous Air Pollutants (NESHAP) guidelines require that potentially friable ACMs be removed prior to building demolition or remodel that may disturb the ACMs.

The U.S. Consumer Product Safety Commission banned the use of lead-based paint in 1978. Removal of older structures with lead-based paint is subject to requirements outlined by

Cal/OSHA Lead in Construction Standard, Title 8, California Code of Regulations 1532.1 during demolition activities. Requirements include employee training, employee air monitoring, and dust control. If lead-based paint is peeling, flaking, or blistered, it is required to be removed prior to demolition.

California Accidental Release Prevention Program (CalARP)

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

Local

Emergency Operations and Evacuation Plans

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

Envision San José 2040 General Plan

The General Plan includes the following policies and actions for the purpose of reducing or avoiding impacts related to hazards and hazardous materials:

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

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

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.

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-paint and asbestos-containing materials, shall be implemented in accordance with State and federal laws and regulations.

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.

EC-7.8 Where 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 impact to human health and safety and to the environment are required of or incorporated into project. This applies to hazardous materials found in the soil, groundwater, soil vapor, or in existing structures.

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.

EC-7.11 Require sampling for residential 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 construction. Mitigation to meet appropriate end use such as residential or commercial/industrial shall be provided.

Hazardous Materials Environmental Checklist

Would the project:	Potentially Significant Impact	Less than Significant Impact with Mitigation	Less than Significant Impact	No Impact	Checklist Source(s)
a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☒	☐	1,12,25
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☒	☐	☐	1,12,25

c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☒	☐	1,12
d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, will it create a significant hazard to the public or the environment?	☐	☐	☐	☒	1,12
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project result in a safety hazard or excessive noise for people residing or working in the project area?	☐	☐	☐	☒	1,2,3,4
f. Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	☐	☐	☒	☐	1,12,25
g. Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	☐	☐	☐	☒	1,2,3,4,20

Impacts Evaluation

a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

The redevelopment of project site would include residential uses allowed under the *UV* General Plan and Zoning Districts and would not facilitate or allow for the routine use, transport, or release of hazardous materials. The proposed project would not create a hazard to the public. **(Less than Significant Impact)**

b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

The proposed residential project would not create hazards to the public associated with operations of the proposed residential building. The demolition of the existing structure as well as associated ground disturbance could result in impacts to construction workers, adjacent uses, or the environment as discussed below. Past occupants of the existing building may have used hazardous materials on-site; however, no reported spills were identified within the available data sources researched as part of the Phase I.

Previous Railroad Uses

Redevelopment of the site, including grading and ground disturbance, could encounter railroad-related chemicals used for dust suppression and weed control during construction activities and impact construction workers, adjacent uses, or the environment.

IMPACT HAZ-1: Development of the proposed project could result in impacts to construction workers, future site occupants, nearby communities, and the environment from exposure to potentially hazardous soil conditions resulting from previous railroad uses on the site. These include chemicals commonly used by railroad companies for dust suppression and weed control along rail lines, including metals, petroleum hydrocarbons, polycyclic aromatic hydrocarbons (PAHs), polychlorinated biphenyls (PCBs), and pesticides which may be present in site soil.

Mitigation and Avoidance Measures

In accordance with General Plan policies, the following measure is included in the project to reduce and avoid impacts related to hazardous materials.

MM HAZ-1: Prior to the issuance of any grading permits, the project applicant shall hire a qualified environmental professional to complete a Phase II Environmental Site Assessment to address the concerns associated with the presence of former railroad track spurs as recommended in the Phase I Environmental Site Assessment completed by *Cornerstone Earth Group* dated May 11, 2021. The Phase II ESA shall include the collection of soil samples in the vicinity of the former railroad spurs to determine if commonly noted contaminants along railroad lines such as metals, petroleum hydrocarbons, polycyclic aromatic hydrocarbons (PAHs), polychlorinated biphenyls (PCBs) and pesticides occur at concentrations above established construction worker safety and residential standard environmental screening levels. Results of the Phase II shall be provided to the City of San José Planning, Building, and Code Enforcement Supervising Planner, and the Environmental Services Department Municipal Compliance Officer.

If the Phase II ESA results indicate soil contamination above the applicable regulatory environmental screening levels, the applicant shall obtain regulatory oversight from the Regional Water Quality Control Board (RWQCB), Department of Toxic Substances Control (DTSC) or Santa Clara County Department of Environment Health (SCCDEH) under their Site Cleanup Program. Any further investigation and remedial actions shall be performed under regulatory oversight to mitigate the contamination. A Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document shall be prepared by a qualified hazardous materials consultant and the plan must establish remedial measures and/or soil management practices to ensure construction worker safety and the health of future workers and site occupants. The Plan and evidence of regulatory

oversight shall be provided to the Supervising Environmental Planner of the City of San José Planning, Building, and Code Enforcement, and the Environmental Compliance Officer in the City of San José's Environmental Services Department.

Additionally, compliance with applicable General Plan policies during redevelopment review and permitting stage, including Policy EC-7.2 and EC-7.11, would ensure that any residual chemicals present in soil are properly handled and disposed of to ensure they are not released into the environment.

Implementation of MM HAZ-1 (on-site soil sampling and remediation, if needed) in conformance with General Plan policies and federal, state, and local laws would ensure that hazards and hazardous material impacts associated with historic railroad use would be reduced to a less than significant level. **(Less than Significant Impact with Mitigation)**

Asbestos-containing Building Materials and Lead-based Paint

Although the existing building was constructed in 1998 and it is unlikely that ACBMs are present in the building materials, Phase I recommends asbestos survey. Therefore, the following *Standard Permit Conditions* would be implemented prior to demolition:

***Standard Permit Conditions*:**

1. In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building(s) to determine the presence of asbestos-containing materials (ACMs) and/or lead-based paint (LBP).
2. During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Title 8, California Code of Regulations (CCR), Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.
3. All potentially friable asbestos containing materials (ACMs) shall be removed in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines prior to demolition or renovation activities that may disturb ACMs. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.
4. A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.

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

c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

The project site is located within 1/4-mile of a post-secondary school; however, the proposed project would not result in physical changes that would emit hazardous emissions or handle hazardous or acutely hazardous materials. MM HAZ-1 would ensure that potentially harmful chemical releases into the environment during construction would not occur. For these reasons, hazardous waste handling would have a less than significant impact on students at the nearby school. **(Less than Significant Impact with Mitigation)**

d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, will it create a significant hazard to the public or the environment?

The project site is not listed on any other Government listing including the Cortese List. With implementation of MM HAZ-1 described above, which shall be included in the redevelopment of the proposed project site, the project would not create a significant hazard to the public or the environment. **(No Impact)**

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

The project site is not located within an AIA, including within an aircraft noise contour, and would not result in a safety hazard or expose workers at the project site to excessive noise. **(No Impact)**

f. Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?

Redevelopment of the project site would be required to comply with all City of San José Municipal Code and Fire Department requirements related to driveway widths and emergency access. The project would not interfere with any adopted emergency or evacuation plans. **(Less than Significant Impact)**

g. Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?

As discussed in Section 4.19 *Wildfire* of this Initial Study, the project site is not located in a Very High Fire Hazard Severity Zone as identified by CAL FIRE. The project would not expose people

or structures, either directly or indirectly, to risk from wildland fires because it is located in a highly urbanized area that is not prone to such events. **(No Impact)**

Conclusion

With implementation of MM HAZ-1, redevelopment of the site would not result a significant impact related to hazards and hazardous materials. **(Less than Significant Impact with Mitigation)**

4.10 HYDROLOGY AND WATER QUALITY

The following discussion is based in part on the Geotechnical Report and Phase I Environmental Site Assessment (ESA) completed by *Cornerstone Earth Group* on December 1, 2021 and May 11, 2021, respectively. These reports are included as Appendix D and F of this Initial Study.

Environmental Setting

The project site is an essentially flat lot with an elevation of approximately 90 feet above mean sea level. The terrain of the area slopes gently to the west towards Coyote Creek and the San Francisco Bay. Groundwater, therefore, is inferred to flow to the northwest and based on borings taken at the site, depths to groundwater range from 10 to 16 feet. The site contains approximately 44,130 square feet (87.4 percent) of impervious surfaces and 6,292 square feet (12.6 percent) of pervious surfaces.

The approximately 1.16-acre project site does not contain any natural drainages or waterways and is largely paved with some areas of landscaping. The nearest waterway is Coyote Creek, which is located approximately 0.82 miles west of the project site. No settling ponds, lagoons, surface impoundments, wetlands, wells, or natural catch basins were observed on-site. Shallow groundwater beneath the site is not utilized for domestic purposes.

The Flood Insurance Rate Maps issued by the Federal Emergency Management Agency (FEMA) indicate that the project site appears to be located within Zone AH and AO.[25] These zones are special flood hazard zones with a base flood elevation of 89 feet and a depth of flooding of 1 foot.

Based on the Valley Water dam failure inundation maps, the project site is not located within any of the 10 local dams' inundation area, including Anderson Dam.[26] There are no landlocked bodies of water near the project site that would affect the site in the event of a seiche, which is the oscillation of water in an enclosed lake or bay. The site would also not be affected in the event of a tsunami or mudflow from a mountain.[27]

The site is located within the Santa Clara Groundwater Subbasin, which is managed by Valley Water as part of the 2021 Groundwater Management Plan (GWMP). Goals and strategies for the basin include the management of groundwater to ensure sustainable supplies, avoid land subsidence, and protect groundwater from the threat of contamination.[28]

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[25] Map 06085C0251J, effective 5/18/2009.

[26] Valley Water. Inundation Map for the Hypothetical Fair Weather Failure of Leroy Anderson Dam. https://fta.valleywater.org/dl/f0uHPXKX7E, November 2019. Accessed May 12, 2022.

[27] Association of Bay Area Governments, Tsunami Maps and Information, http://resilience.abag.ca.gov/tsunamis/, accessed October 12, 2022.

[28] Valley Water, 2021 Groundwater Management Plan for the Santa Clara and Llagas Subbasins. chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/ https://s3.us-west-2.amazonaws.com/assets.valleywater.org/2021_GWMP_web_version.pdf. Accessed March 6, 2023.

Regulatory Framework

Federal, State, and Regional

Water Quality Overview

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

Basin Plan

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

Statewide Construction General Permit

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

Municipal Regional Stormwater NPDES Permit/C.3 Requirement

The San Francisco Bay RWQCB has issued a Municipal Regional Stormwater NPDES Permit (Permit Number CAS612008) (MRP) that covers the project area. Under provisions of the NPDES Municipal Permit, redevelopment projects that disturb more than 10,000 square feet are required to design and construct stormwater treatment controls to treat post-construction stormwater runoff. The MRP requires regulated projects to include Low Impact Development (LID) practices, such as pollutant source control measures and stormwater treatment features

aimed to maintain or restore the site's natural hydrologic functions. The MRP also requires that stormwater treatment measures are properly installed, operated, and maintained.

In addition to water quality controls, the MRP requires all new and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks. Projects may be deemed exempt from the permit requirements if they do not meet the size threshold, drain into tidally-influenced areas or directly into the Bay, drain into hardened channels, or are infill projects in subwatersheds or catchments areas that are greater than or equal to 65 percent impervious. [29]

National Flood Insurance Program

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

Local

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

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

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

The City of San José's Policy 8-14 implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. Policy 8-14 requires all new and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such

[29] Santa Clara Permittees Hydromodification Management Applicability Map. July 2011. https://scvurppp.org/hmp-maps/. Accessed September 12, 2022.

hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP).

Based on the Santa Clara Permittees Hydromodification Management Applicability Map for the City of San José, the project site is exempt from the NPDES hydromodification requirements related to preparation of an HMP because it is located in a subwatershed greater than or equal to 65 percent impervious.

Envision San José 2040 General Plan

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

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

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

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.

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

ER-8.1 Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.

ER-8.3 Ensure that private development in San José includes adequate measures to treat stormwater runoff.

ER-8.5 Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite.

ER-9.3 Utilize water resources in a manner that does not deplete the supply of surface or groundwater or cause overdrafting of the underground water basin.

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.

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.

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

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

Hydrology and Water Quality Environmental Checklist

Would the project:	Potentially Significant Impact	Less than Significant Impact with Mitigation	Less than Significant Impact	No Impact	Checklist Source(s)
a. Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface groundwater quality?	☐	☐	☒	☐	1,25
b. Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	☐	☐	☒	☐	1,23,25
c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner that would:					
i. result in substantial erosion or siltation on- or off-site?	☐	☐	☒	☐	1,23,25
ii. substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site?	☐	☐	☒	☐	1,23,25
iii. create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted run-off?	☐	☐	☒	☐	1,25
d. In flood hazard, tsunami, or seiche zones, would the project risk release of pollutants due to project inundation?	☐	☐	☐	☒	1,12,25
e.Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan.	☐	☐	☒	☐	1,2,3,4,29

Impacts Evaluation

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

During Construction

The proposed construction project may result in temporary impacts to surface water quality. When disturbance to underlying soils occurs, the surface runoff that flows across the site may contain sediments that are ultimately discharged into the storm drainage system. Construction of the project would disturb more than one acre of soil and, therefore, would be required to be compliant with the NPDES General Permit for Construction.

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

Standard Permit Conditions:

The proposed redevelopment of the proposed project site must comply with the City's Grading Ordinance, which includes submitting an Erosion Control Plan including, but not limited to, the following:

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

the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

With implementation of the above *Standard Permit Conditions*, redevelopment of the project site would not result in significant construction-related water quality impacts. **(Less Than Significant Impact)**

Post-Construction

Redevelopment of the project site would replace over 10,000 sf of impervious surfaces. Therefore, the proposed project shall comply with the RWQCB Municipal Regional NPDES permit and City of San José's Post-Construction Urban Runoff Policy 6-29. In order to meet these requirements, the project includes stormwater Treatment Control Measures, including bioretention, drainage/bio swales, and flow-through planters, Site Design Measures, and Source Control Measures as required by the permit and policy.

Stormwater runoff from the Treatment Control Measures and Site Design Measures would drain into the treatment areas on-site prior to entering the storm drainage system. Details of specific Site Design, Pollutant Source Control, and Treatment Control Measures demonstrating compliance with Provision C.3 of the Municipal Regional Stormwater Permit (NPDES Permit Number CAS612008), would be required prior to issuance of a grading permit.

With implementation of a Stormwater Control Plan consistent with RWQCB requirements and compliance with the City's regulatory policies pertaining to stormwater runoff, operation of the proposed project would have a less than significant water quality impact. **(Less Than Significant Impact)**

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

The depth of groundwater in the site vicinity is expected to be between 10 and 16 feet below ground surface. The proposed project includes partially below grade parking on podium to a depth of approximately eight feet. The project has been designed so that groundwater would not be encountered during construction. However, if groundwater is encountered, dewatering of the site may be required.

Any dewatering would be temporary in nature and completed consistent with all City and state requirements. Therefore, regional groundwater supplies and water quality would not be adversely affected.

The redevelopment of the site from retail commercial uses to residential development would contribute to the cumulative increase in demand for water in the City; however, the project itself would not result in the overdraft of any groundwater basins. The addition of up to 200 residential units, consistent with the General Plan designation of the site, would not result in a

substantial increase in the demand for water. Redevelopment of the site would rely on existing sources of water and the City's existing water delivery system and not groundwater in the vicinity of the site.

Therefore, the proposed project would not interfere with groundwater recharge activities or substantially deplete groundwater levels. **(Less Than Significant Impact)**

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

i. result in substantial erosion or siltation on- or off-site?

The proposed redevelopment project would not disturb any new drainage patterns of the site or areas that would involve the alteration of a stream or river. The only drainage pattern that would be altered/improved would be that of the existing site, which is currently developed. The Treatment Control Measures incorporated above in the *Standard Permit Conditions* and SWPPP for the site will be implemented in conformance with all City and State requirements. Runoff would be collected in the storm drain system and conveyed to bioretention facilities on-site prior to outfall to Coyote Creek. The increase in runoff would not result in substantial erosion or siltation on- or off-site. **(Less Than Significant Impact)**

ii. substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site?

The project is located within Flood Zones AH and AO, which are areas with a 1 percent or greater chance of shallow flooding each year, usually in the form of sheet flow, with an average depth ranging from 1 to 3 feet.[30] The first floor of residential units would be approximately 15 feet above ground level, which is above the flood depth on the site of 1 foot.

The City of San José is a member of the National Flood Insurance Program. Membership in the program allows residents of the City of San José to obtain federally backed mortgages and disaster assistance in the event of floods. In exchange, the City requires new land developments and remodels of existing buildings to conform to rules that minimize flood damage. Public Works is responsible for administering this program and providing flood zone information to the citizens of San José.[31]

Because the project would be required to meet the flood minimization requirements of the City of San José's Public Works Department and the proposed residential units would be approximately 15 feet above grade, the project would not result in an increase in surface runoff

[30] https://www.fema.gov/glossary/zone-ao and ah. Accessed November 15, 2022.
[31] https://www.sanjoseca.gov/your-government/departments/public-works/development-services/floodplain-management accessed November 15, 2022.

that could lead to flooding on- or off-site or impede or redirect flood flows. **(Less Than Significant Impact)**

iii. create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted run-off?

The proposed redevelopment project would connect to the City's existing storm drainage system. Surface runoff from the site may contain urban pollutants. Runoff from the parking and driveway areas could include oil, grease, and trace metals. The project could also generate urban pollutants related to the use of fertilizers, pesticides, and herbicides on landscaped areas.

Runoff will be collected in a storm drain system and conveyed to a bio-retention facility, where it will be treated prior to discharging into City's existing storm drainage system. The redevelopment of the project site would result in 46,863 sf of impervious surfaces, an increase of approximately 2,733 sf, when compared to the existing condition, which is not expected to contribute runoff that will exceed the capacity of existing or planned stormwater drainage systems or result in substantial additional sources of polluted runoff due to an increase in impervious surfaces on-site. See also a., ci., and cii. above. **(Less Than Significant Impact)**

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

The project site is located within FEMA Flood Zones AO and AH. The first floor of residential units would be approximately 15 feet above grade, which is above the base flood elevations on the project site. The project is a residential project with little storage of any pollutants on-site. Therefore, the risk of release of pollutants due to project inundation is low. The project site is not within the inundation area of Anderson Dam; therefore, the proposed redevelopment project would not result in the release of pollutants should the dam fail. **(No Impact)**

e. Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan.

The proposed project would comply with the City of San José's Post-Construction Urban Runoff Policy 6-29 and the MRP; therefore, implementation of the project would not significantly impact water quality. The project site is not located within a groundwater recharge area and would not interfere with groundwater recharge. The site is located within the GWMP area of the Santa Clara Subbasin, which is managed by Valley Water. With implementation of MM HAZ-1, development of the site would not conflict with the goals of the GWMP. For these reasons, the project would not conflict with implementation of a water quality or groundwater management plan. (The proposed project would not conflict with or obstruct the implementation of a water quality control plan or sustainable groundwater management plan. **(Less Than Significant Impact)**

Conclusion

With the *Standard Permit Conditions* described above included in the project, as well as other City and State requirements, the proposed redevelopment of the proposed project site would not result in a significant impact to hydrology or water quality. **(Less than Significant Impact)**

4.11 LAND USE

Environmental Setting

The project site is located in a highly developed area of primarily commercial, retail, heavy and light industrial, and residential uses in central San José. The site is currently developed with a retail commercial building, asphalt-paved driveways and parking, and landscaped areas, as shown in Photos 1-8.

The rectangular-shaped project site is bounded on west by N. 27th Street and on the east by the future Five Wounds Trail and N. 28th Street, as shown on Figures 2-4. Land uses to the west are a mix of industrial, commercial, and residential. Land uses to the east are primarily heavy industrial, with the Five Wounds Church/Cristo Rey School complex located to the southeast. Land uses to the south and north are also a mix of commercial, industrial, and residential.

The existing General Plan Land Use Designation of the site are *Urban Village (UV)* and the zoning is *Heavy Industrial*. The project site as well as the adjacent properties are within the boundaries of Five Wounds Urban Village Plan (FWUVP) as shown on Figure 2. The proposed residential project is subject to AB 3194 and will be treated as if it were zoned in the UV Urban Village Zoning District, which is the zone most in conformance with the General Plan designation.

Regulatory Framework

Local

City of San José Zoning Ordinance

The Zoning Ordinance (Title 20 of the San José Municipal Code) is a set of regulations that promote and protect the public peace, health, and general welfare by:

- Guiding, controlling, and regulating future growth and development in the City in a sound and orderly manner, and promoting the achievement of the goals and purposes of the General Plan;
- Protecting the character and economic and social stability of agricultural, residential, commercial, industrial, and other areas in the City;
- Providing light, air, and privacy to property;
- Preserving and providing open space and preventing overcrowding of the land;
- Appropriately regulating the concentration of population;
- Providing access to property and preventing undue interference with and hazards to traffic on public rights-of-way; and
- Preventing unwarranted deterioration of the environment and promoting a balanced ecology.

Five Wounds Urban Village Plan

The FWUVP was prepared by the City and community as a policy document for the future growth of the Five Wounds Urban Village. The Plan establishes a framework for the transition of the FWUV into a vibrant mixed-use and pedestrian-oriented district that complements and supports the Santa Clara – Alum Rock Bus Rapid Transit (BRT) System project along E. Santa Clara St., the extension of Bay Area Rapid Transit (BART) to the area, and creates a safe environment for all modes of travel, a healthy mix of uses, and public gathering places… a great place to live, work, and play.

The Plan includes goals, objectives and policies designed to shape both future public and private development. In 2020, the FWUVP was amended to change three of the four interim land use policies to:

- Allow transit-supported residential or mixed-use developments exceeding 75 DU/AC to proceed ahead of Valley Transportation Agency (VTA) securing a Full Funding Grant Agreement for the 28th Street/Little Portugal BART Station;
- Increase the allowed residential density of the Urban Village land use designation from up to 95 DU/AC to up to 250 DU/AC; and
- Reduce the minimum commercial density requirement of the Urban Village land use designation from 0.75 FAR to 0.10 FAR for projects on properties less than 1.5 acres or located west of the planned Five Wounds Trail.

***Land Use Goal*:** Create a pedestrian- and transit-oriented, complete community in the FWUV by developing the area around a Town Square with a mix of uses including retail sales and services, public facilities, offices, and other commercial uses integrated with high-density housing, to serve the surrounding neighborhoods, create a neighborhood center, and help create a vibrant great place. The following Land Use policies are applicable to the proposed project.

Land Use Policy 1: *Create a high-density, mixed-use Urban Village that is pedestrian focused and enhances the quality of life for residents in surrounding communities.*

Land Use Policy 7: *Types of uses in a mix and intensity that support ridership on Bus Rapid Transit (BRT) and Bay Area Rapid Transit (BART) are strongly encouraged.*

Land Use Policy 12: *New mixed-use residential/commercial development adjacent to the Five Wounds Trail corridor should provide primary entries, stoops, and/or porches facing the trail.*

Land Use Policy 13: *New residential development adjacent to the Five Wounds Trail corridor should provide ground floor units that face the trail.*

Land Use Policy 16: *Preserve the existing Five Wounds Church.*

Land Use Policy 20: *To achieve the goal that 25% or more of the units built are deed restricted affordable, with 15% of the units affordable to household with income below 30% of Area*

Median Income, integrate affordable housing within the Five Wounds Urban Village by prioritizing the application of the City's affordable housing programs within this Village, and by encouraging residential development to include deed restricted affordable units within a given project, as stated in General Plan Policy IP-5.1, as may be amended in the future.

Envision San José 2040 General Plan

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

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

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

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.

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.

CD-3.4 Encourage pedestrian cross-access connections between adjacent properties and require pedestrian and bicycle connections to streets and other public spaces, with particular attention and priority given to providing convenient access to transit facilities. Provide pedestrian and vehicular connections with cross-access easements within and between new and existing developments to encourage walking and minimize interruptions by parking areas and curb cuts.

CD-4.9 For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric

(including but not limited to prevalent building scale, building materials, and orientation of structures to the street).

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

LU-11.6 For new infill development, match the typical lot size and building form of any adjacent development, with particular emphasis given to maintaining consistency with other development that fronts onto a public street to be shared by the proposed new project. As an exception, for parcels already developed with more than one dwelling unit, new development may include up to the same number of dwelling units as the existing condition. The form of such new development should be compatible with and, to the degree feasible, consistent with the form of the surrounding neighborhood pattern.

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

As discussed in *Section 4.4 Biological Resources* of this Initial Study, the Habitat Plan is a conservation program intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth on approximately 500,000 acres of southern Santa Clara County.

The project site is located within the Habitat Plan study area and is designated as *Urban-Suburban* land. *Urban-Suburban* land is comprised of areas where native vegetation has been cleared for residential, commercial, industrial, transportation, or recreational structures, and is defined as areas with one or more structures per 2.5 acres.

Land Use Environmental Checklist

Would the project:	Potentially Significant Impact	Less than Significant Impact with Mitigation	Less than Significant Impact	No Impact	Checklist Source(s)
a. Physically divide an established community?	☐	☐	☒	☐	1,2,3,4,25
b. Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☒	☐	1,2,3,4,6

Impacts Evaluation

a. Would the project physically divide an established community?

The proposed redevelopment of the project site would include a residential structure up to 87 feet tall constructed either partially below grade or on podium, consistent with the proposed *UV* General Plan designation and zoning districts and land use policies of the FWUVP.

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 project would not facilitate any development which could divide an established community. **(Less Than Significant Impact)**

b. 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?

The proposed project is consistent with applicable FWUV and General Plan policies that pertain to residential development on the project site. The project includes the construction of a pathway and trail entrance to facilitate access to the future Five Wounds Trail. Ground-floor residential units would be oriented towards the future trail to the extent possible. The project would not affect Five Wounds Church and has been designed to be consistent with Mediterranean architecture as shown on Figure 6.

The project would be subject to design review by the City to ensure that the project meets all applicable zoning code standards are implemented in accordance with the *UV* Zoning District and FWUVP. By meeting the requirements of the proposed zoning, including setbacks, building heights, and landscape buffers, land use conflicts with surrounding uses would be minimized.

The *UV* designation of the General Plan and Zoning Districts requires commercial development with an FAR of 0.75. The project applicant is requesting waiver from this requirement pursuant to the broad definition of "incentives" and "concessions" under Government Code 69515. The project applicant is requesting a State Density Bonus incentive that would allow the project to be approved and constructed without the commercial development requirement of the General Plan and Zoning Ordinance.

The project would also be consistent with General Plan policies adopted to avoid or mitigate environmental effects as described in the individual resource sections of this Initial Study, including those described in *Sections 4.4 Biological Resources* and *4.9 Hazardous Materials*. For these reasons, the proposed project would not conflict with land use plans, policies, or regulations adopted to avoid or mitigate an environmental effect. **(Less than Significant Impact)**

Conclusion

With the *Standard Permit Conditions* identified in this Initial Study, as well as other City requirements, construction of the proposed project would not result in a significant land use impact. **(Less than Significant Impact)**

4.12 MINERAL RESOURCES

Environmental Setting

The Santa Clara Valley was formed when sediments derived from the Santa Cruz Mountains and the Mount Hamilton-Diablo Range were exposed by continuous tectonic uplift and regression of the inland sea that had previously inundated the area. As a result of this process, the topography of the City is relatively flat and there are no significant mineral resources. The proposed project site, which is located on the valley floor, does not contain any known mineral resources.

Regulatory Framework

State

Mineral Resources and the Surface Mining and Reclamation Act

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

Pursuant to the mandate of the Surface Mining and Reclamation Act of 1975 (SMARA), the State Mining and Geology Board has designated the Communications Hill Area (Sector EE), bounded generally by the Southern Pacific Railroad, Curtner Avenue, SR-87, and Hillsdale Avenue as containing mineral deposits that are of regional significance as a source of construction aggregate materials. This area is located approximately 3.5 miles to the southeast of the project site. Neither the State Geologist nor the State Mining and Geology Board have classified any other areas in San José as containing mineral deposits of statewide significance or requiring further evaluation.

Environmental Checklist

Would the project:	Potentially Significant Impact	Less than Significant Impact with Mitigation	Less than Significant Impact	No Impact	Checklist Source(s)
a. Result in the loss of availability of a known mineral resource that will be of value to the region and the residents of the state?	☐	☐	☐	☒	1,2,3,4
b. Result in the loss of availability of a locally- important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒	1,2,3,4

Impacts Evaluation

a. Result in the loss of availability of a known mineral resource that will be of value to the region and the residents of the state?

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

The project site is not located on or near Communications Hill and, therefore, does not contain known mineral resources of regional significance. The Communications Hill area is approximately 4.25 miles southwest of the project site. Due to the distance of the site from the nearest designated mineral resources, project site development would not result in the loss of availability of a known mineral resource. In addition, the project site is not delineated in the General Plan or other land use plan as a locally important mineral resource recovery site. **(No Impact)**

Conclusion

The proposed project would not result in the loss of availability of known mineral resources. **(No Impact)**

4.13 NOISE AND VIBRATION

This section is based on the Noise and Vibration Assessment prepared for the project by Illingworth and Rodkin on September 28, 2022. The assessment is contained in Appendix G of this Initial Study.[32]

Overview

Noise Fundamentals

Noise may be defined as unwanted sound and is usually objectionable because it is disturbing or annoying. The objectionable nature of sound could be caused by its *pitch* or its *loudness*. There are several methods of characterizing sound. The most common in California is the A-weighted sound level or dBA. This scale gives greater weight to the frequencies to which the human ear is most sensitive. The Envision San José 2040 General Plan applies the Day-Night Level (DNL) descriptor in evaluating noise conditions. The DNL represents the average noise level over a 24-hour period and penalizes noise occurring between the hours of 10 PM and 7 AM by 10 dB. Leq is the equivalent noise level or average A-weighted noise level during the measurement period.

Since the sensitivity to noise increases during the evening and at night -- because excessive noise interferes with the ability to sleep -- 24-hour descriptors have been developed that incorporate artificial noise penalties added to quiet-time noise events. The *Community Noise Equivalent Level* (*CNEL*) is a measure of the cumulative noise exposure in a community, with a 5 dB penalty added to evening (7:00 pm - 10:00 pm) and a 10 dB addition to nocturnal (10:00 pm - 7:00 am) noise levels. The *Day/Night Average Sound Level* (*DNL* or L_{dn}) is essentially the same as CNEL, with the exception that the evening time period is dropped and all occurrences during this three-hour period are grouped into the daytime period.

Construction is a temporary source of noise for residences and other land uses located near construction sites. Construction noise can be significant for short periods of time at any particular location and generates the highest noise levels during grading and excavation, with lower noise levels occurring during building construction. Typical hourly average construction-generated noise levels are approximately 80 to 85 dBA measured at a distance of 50 feet from the site during busy construction periods. Some construction techniques, such as impact pile driving, can generate very high levels of noise (105 dBA L_{max} at 50 feet) that are difficult to

[32] The project description for the Noise and Vibration Assessment, which is based partially on the amount of traffic that would be generated by the project, included an additional 7,118 sf of commercial uses along N. 27th St. that are no longer part of the project. The previously proposed project with the same number of residential units and additional commercial development would have generated more traffic trips than the currently proposed residential-only project. Therefore, the impacts described in this section represent a worst-case scenario and impacts would be lower than described in this section of the Initial Study.

control. Construction activities can elevate noise levels at adjacent businesses and residences by 15 to 20 dBA or more during construction hours.

Vibration Fundamentals

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

The two primary concerns with construction-induced vibration, the potential to damage a structure and the potential to interfere with the enjoyment of life, are evaluated against different vibration limits. Human perception to vibration varies with the individual and is a function of physical setting and the type of vibration. Persons exposed to elevated ambient vibration levels, such as people in an urban environment, may tolerate a higher vibration level.

Environmental Setting

The proposed project site is located in area of primarily industrial, commercial, and single- and multi-family residential uses. The nearest major roadways are US-101 which is approximately 900 feet east of the site and E. Santa Clara St., located 370 feet south of the site. The nearest noise sensitive receptors are the residential uses located approximately 230 feet west and northwest of the site. The existing noise environment at the site results primarily from local vehicular traffic. Secondary sources of noise include distant traffic and aircraft.

Two long-term (LT-1 and LT-2) and 2 short-term (ST-1 and ST-2) noise measurements were taken at the site and in the project vicinity, as shown on and described in Appendix G and Table 4.13-1, below. Hourly average noise levels at LT-1 typically ranged from 56 to 62 dBA L_{eq} during the day and from 45 to 60 dBA L_{eq} at night. The day-night average noise level on Thursday, September 8, 2022 was 62 dBA DNL. Hourly average noise levels at LT-2 typically ranged from 56 to 60 dBA L_{eq} during the day and from 50 to 59 dBA L_{eq} at night. The day-night average noise level on Thursday, September 8, 2022 was 62 dBA DNL. At ST-1, the 10-minute average noise level measured between 11:40 a.m. and 11:50 a.m. on Wednesday, September 7, 2022 was 54 dBA L_{eq}.

During the noise measurement, jets produced noise levels of approximately 53 dBA. Local traffic along N. 28th St. typically produced noise levels ranging from 50 to 60 dBA, with loud vehicle generating noise levels of 67 dBA. Distant US-101 freeway noise levels were approximately 51 to 53 dBA. At ST-2, the 10-minute average noise level measured was between 12:00 p.m. and 12:10 p.m. on Wednesday, September 7, 2022 and was 58 dBA L_{eq}. During the noise measurement, aircraft produced noise levels ranging from 53 to 55 dBA. Local traffic noise levels produced by 12 autos and 1 truck ranged from 55 to 76 dBA.

Source: Illingworth & Rodkin, North 27th Street Noise and Vibration Assessment, September 28, 2022.

NOISE MEASUREMENT LOCATIONS **FIGURE 8**

Regulatory Framework

Federal

Federal Transit Administration's Transit Noise and Vibration Impact Assessment Manual

The Federal Transit Administration's (FTA) Transit Noise and Vibration Impact Assessment Manual includes general assessment criteria for construction noise. During daytime hours, the hourly average noise level limit is 80 dBA L_{eq} at residential land uses and 90 dBA L_{eq} at commercial and industrial land uses.

State

California Building Code

The current (2019) version of the California Building Code (CBC) requires interior noise levels attributable to exterior environmental noise sources to be limited to a level not exceeding 45 dBA DNL/CNEL in any habitable room.

Local

Envision San José 2040 General Plan

The City's Envision San José 2040 General Plan includes goals and policies pertaining to noise and vibration. Community Noise Levels and Land Use Compatibility (commonly referred to as the Noise Element) of the General Plan utilizes the DNL descriptor and identifies interior and exterior noise standards for residential uses. The Envision San José 2040 General Plan and the San José Municipal Code include the following criteria for land use compatibility and acceptable noise levels in the City.

Table 4.13-1:
General Plan Land Use Compatibility Guidelines (Table EC-1)

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

5. Sports Arena, Outdoor Spectator Sports			
6. Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters			

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

Normally Acceptable (White):

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 (Gray):

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

Unacceptable (Black):

New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies. Development will only be considered when technically feasible mitigation is identified that is also compatible with relevant design guidelines.

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects with the City. The following policies are specific to noise and vibration and are applicable to the proposed project. In addition, the noise and land use compatibility guidelines set forth in the General Plan are shown in Table 4.13-1, above.

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

Interior Noise Levels

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

Exterior Noise Levels

- The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (refer to Table EC-1 in the General Plan). The acceptable exterior noise level objective is established for the City, except in the environs of the San José International Airport and the Downtown, as described below
  - For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. Some common use areas that meet the 60 dBA DNL exterior standard will be available to all residents. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. On sites subject to aircraft overflights or adjacent to elevated roadways, use noise attenuation techniques to achieve the 60 dBA DNL standard for noise from sources other than aircraft and elevated roadway segments
  - For single family residential uses, use a standard of 60 dBA DNL for exterior noise in private usable outdoor activity areas, such as backyards.

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

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

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

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

San José Municipal Code

Per the San José Municipal Code Title 20 (Zoning Ordinance) Noise Performance Standards, the sound pressure level generated by any use or combination of uses on a property shall not exceed the decibel levels indicated in the table below at any property line, except upon issuance and in compliance with a Special Use Permit as provided in Chapter 20.100.

Table 4.13-2: City of San José Zoning Ordinance Noise Standards

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

Chapter 20.100.450 of the Municipal Code establishes allowable hours of construction within 500 feet of a residential unit between 7:00 AM to 7:00 PM on Monday through Friday, unless otherwise expressly allowed in 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.

Noise and Vibration Environmental Checklist

Would the project result in:	Potentially Significant Impact	Less than Significant Impact with Mitigation	Less than Significant Impact	No Impact	Checklist Source(s)
a. Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☒	☐	☐	1,2,3,4,24
b. Generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☒	☐	1,24,25
c. For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☒	☐	1,24,25

Impacts Evaluation

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

Temporary Construction Noise

Construction noise from redevelopment of the project site would temporarily increase ambient noise levels at nearby sensitive receptors. Construction phases utilizing such equipment or tools would include demolition, site preparation, grading/excavation, trenching/foundation, building construction-exterior, building construction interior/architectural coating, and paving. Foundation construction techniques involving impact or vibratory pile driving equipment, which can cause excessive noise, are not expected with the proposed project.

During each phase of construction, there would be a different mix of equipment operating, and noise levels would vary by phase and vary within phases, based on the amount of equipment in operation and the location at which the equipment is operating. Sensitive receptors in proximity to the project site include the single-family residences approximately 230 feet to the west and northwest of the site on N. 26th and N. 27th Streets.

The City of San José does not establish noise level thresholds for construction activities. As an alternative, this analysis uses the noise limits established by the Federal Transit Administration (FTA) to identify the potential for impacts due to substantial temporary construction noise. The FTA identifies construction noise limits in the Transit Noise and Vibration Impact Assessment Manual[33]. During daytime hours, an exterior threshold of 80 dBA Leq shall be enforced at residential land uses and 90 dBA Leq shall be enforced at commercial and industrial land uses.

As shown in Table 4.13-3, construction noise levels would intermittently range from 77 to 86 dBA L_{eq} when activities would occur approximately 50 feet from nearby receptors. Construction noise levels would not exceed 90 dBA L_{eq} at the commercial land uses that border the site to the north, west, or south. Similarly, the nearest residences to the site would be located 150 feet or further from construction activities and would not be subject to construction noise levels exceeding 80 dBA L_{eq}. However, since project construction is expected to last for a period of approximately 29 months, and considering that the project site is within 500 feet of existing residential uses and within 200 feet of existing commercial uses, this temporary construction impact would be considered significant in accordance with Policy EC-1.7 of the City's General Plan.

Impact NOI-1: The proposed project would result in a significant temporary construction-related noise impact to surrounding residential, commercial, and industrial uses for more than 12 months.

Mitigation and Avoidance Measures

In accordance with General Plan policies and the City's Municipal Code, which limits construction hours, the following Mitigation Measures will be included in the project to reduce and avoid impacts related to construction noise.

MM NOI-1: Pursuant to General Plan Policy EC-1.7, prior to issuance of any grading or demolition permits, the project applicant shall prepare 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. The plan shall be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. Project construction

[33] Federal Transit Administration, *Transit Noise and Vibration Impact Assessment Manual*, FTA Report No. 0123, September 2018.

TABLE 14.13-3 Construction Noise Levels

operations shall use best available noise suppression devices and techniques including, but not limited to, the following:

- Pile driving is prohibited.
- 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. Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.
- Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses, if necessary to reduce noise to acceptable levels.
- 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 adjacent land uses and nearby residences. Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to current 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.

With implementation of MM NOI-1, the project would have a less than significant construction noise impact in accordance with General Plan Policy EC-1.7. (**Less than Significant Impact with Mitigation)**

Permanent Operational Noise

Permanent operational noise is generated by project traffic and mechanical equipment. According to Policy EC-1.2 of the City's General Plan, a significant permanent noise increase would occur if the project would increase noise levels at noise-sensitive receptors by 3 dBA DNL or more where ambient noise levels exceed the "normally acceptable" noise level standard. Where ambient noise levels are at or below the "normally acceptable" noise level standard, noise level increases of 5 dBA DNL or more would be considered significant.

The City's General Plan defines the "normally acceptable" outdoor noise level standard for the nearby residential land uses to be 60 dBA DNL. Existing ambient levels, based on the measurements made in the project vicinity, exceed 60 dBA DNL. Therefore, a significant impact would occur if the proposed project would permanently increase ambient levels by 3 dBA DNL.

The project's contribution to increased traffic noise levels would be approximately one dBA DNL or less on all roadway segments. This is a less than significant impact.

The proposed project would include mechanical equipment on the rooftop or parking garage. While specific mechanical equipment details are not known at this time, the roof deck of the proposed building includes shed roofs and parapet walls as screening for rooftop mechanical equipment. These noise barriers would block the line-of-sight between the noise source and the nearest receptors. With the Condition of Approval COA-1, the operational noise levels produced by the project would be well below ambient noise levels, and would not substantially increase the ambient noise environment at the nearest noise-sensitive receptors.

The noise analysis also evaluated the potential for the project generated traffic to contribute significantly to increased noise levels. Peak hour turning movement data for existing, background, background plus project, and cumulative traffic conditions at six intersections in the vicinity of the project site were compared to the existing traffic volumes. Traffic noise increases were conservatively estimated to determine that the project would result in an increase of 1 dBA DNL or less along all evaluated roadway segments. This is a less than significant impact.

Redevelopment of the project site would be required to comply with the City's noise standards and General Plan policies to minimize operational noise at adjacent sensitive receptors (i.e., residential uses). Condition of Approval COA-1 is included in the project to ensure that the impact would be less than significant. **(Less than Significant Impact)**

b. Would the project result in generation of excessive groundborne vibration or groundborne noise levels?

Vibration levels due to project construction would vary depending on soil conditions, construction methods, and equipment used. Five Wounds Church is the nearest historic building in the project area and is located approximately 345 feet southeast of the project site. The remaining buildings in the project area are assumed to be of normal, conventional construction.

When determining whether the project would potentially affect the structural integrity of the church, typical vibration levels of construction equipment are considered along with distance to the structure that could be affected. Table 4.13-4 shows typical vibration levels that could be expected from construction equipment at a distance of 25 feet and also summarizes the minimum safe setback distances to maintain to achieve the 0.08 in/sec PPV threshold for historical buildings and the 0.2 in/sec PPV threshold for all other buildings. Table 4.13-5 summarizes the vibration levels expected at nearby buildings.

TABLE 4.13-4: Vibration Source Levels for Construction Equipment and Minimum Safe Setbacks

Equipment		PPV at 25 ft. (in/sec)	0.08 in/sec PPV Minimum Safe Setback (feet)	0.20 in/sec PPV Minimum Safe Setback (feet)
Clam shovel drop		0.202	59	26
Hydromill (slurry wall)	in soil	0.008	4	2
	in rock	0.017	7	3
Vibratory Roller		0.210	61	27
Hoe Ram		0.089	28	13
Large bulldozer		0.089	28	13
Caisson drilling		0.089	28	13
Loaded trucks		0.076	24	11
Jackhammer		0.035	12	6
Small bulldozer		0.003	2	<1

Source: Transit Noise and Vibration Impact Assessment Manual, Federal Transit Administration, Office of Planning and Environment, U.S. Department of Transportation, September 2018, as modified by Illingworth & Rodkin, Inc., September 2022.

TABLE 4.13-5: Calculated Vibration Levels at Nearest Buildings (in/sec PPV)					
Equipment		**PPV at 25 ft. (in/sec)**	**PPV at North/West Conventional (60 feet)**	**PPV at South Conventional (150 feet)**	**PPV at East Historic (345 feet)**
Clam shovel drop		0.202	0.077	0.028	0.011
Hydromill (slurry wall)	in soil	0.008	0.003	0.001	0.000
	in rock	0.017	0.006	0.002	0.001
Vibratory Roller		0.210	0.080	0.029	0.012
Hoe Ram		0.089	0.034	0.012	0.005
Large bulldozer		0.089	0.034	0.012	0.005
Caisson drilling		0.089	0.034	0.012	0.005
Loaded trucks		0.076	0.029	0.011	0.004
Jackhammer		0.035	0.013	0.005	0.002
Small bulldozer		0.003	0.001	0.000	0.000

Source: Transit Noise and Vibration Impact Assessment Manual, Federal Transit Administration, Office of Planning and Environment, U.S. Department of Transportation, September 2018, as modified by Illingworth & Rodkin, Inc., September 2022.

As shown in Table 4.13-5, groundborne vibration levels due to project construction activities would not exceed the City's 0.08 in/sec PPV threshold at the Church of the Five Wounds, which represents the nearest historic building to the project site. All other structures in the project vicinity would be located at least 60 feet or further from the project site, and groundborne vibration levels attributable to project construction would not exceed the 0.20 in/sec PPV threshold. Neither cosmetic, minor, or major damage is expected as a result of the project at historic or conventional buildings near the project site.

While vibration levels may still be perceptible at nearby structures would not be expected to be affected, given the intermittent and short duration of the phases that have the highest potential of producing vibration (use of jackhammers and other high-power tools). By use of administrative controls, such as notifying neighbors of scheduled construction activities and scheduling construction activities with the highest potential to produce perceptible vibration during hours with the least potential to affect nearby businesses, perceptible vibration can be kept to a minimum.

The proposed project will be required to meet all City Municipal Code requirements to reduce impacts to a less than significant level. **(Less than Significant Impact)**

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

Norman Y. Mineta San José International Airport is a public-use airport located approximately 2.6 miles northwest of the project site. According to the City's new Airport Master Plan Environmental Impact Report, the project site lies outside the 60 dBA CNEL contour line (see Figure 8 of the noise and vibration assessment). The project site is also outside of the CNEL noise contour lines for Reid-Hillview Airport.[34]

Aircraft noise levels less than 65 dBA CNEL would be considered compatible at exterior use areas and within buildings proposed by the project. Therefore, proposed project redevelopment allowed under the Special Use Permit would not expose people residing or working in the project area to excessive noise levels. **(Less than Significant Impact)**

Conclusion

Construction of the proposed project may have significant impacts related to short-term construction noise and vibration. However, the incorporation of standard measures into the project consistent with the General Plan, Municipal Code, and recommendations of the site-specific noise analysis would reduce potential construction-related impacts to a less than significant level. **(Less than Significant Impact with Mitigation)**

Non-CEQA Effects

Per *California Building Industry Association v. Bay Area Air Quality Management District, 62 Cal. 4th 369 (BIA v. BAAQMD)*, effects of the environment on the project are not considered CEQA impacts. The following discussion is included for informational purposes only because the City of San José has policies that address existing noise conditions affecting a proposed project.

Traffic noise levels at the site are anticipated to increase by up to 1 dBA DNL and would reach 63 dBA DNL along the west boundary of the building adjoining N. 27th St. and near the southeast corner of the building nearest to Santa Clara Street and N. 28th St. This is a less than significant impact.

The project proposes a podium level courtyard that would be fully shielded from local traffic noise by the building itself. Future exterior noise levels at the podium level courtyard would be 55 dBA DNL or less assuming the acoustical shielding provided by the building. A roof deck is

[34] Projected 2022 CNEL noise contours, Santa Clara County Comprehensive Land Use Plan, Reid-Hillview Airport, amended 11/16/2016. Accessed December 6, 2022 at https://countyairports.sccgov.org/sites/g/files/exjcpb686/files/Document/ALUC_RHV_CLUP.pdf.

also proposed. Assuming the shielding provided by the 5-foot shed roofs and parapet walls, exterior noise levels at the roof deck is expected to be 58 dBA DNL or less. Exterior noise levels at the acoustically shielded residential outdoor use areas would not exceed the City's 60 dBA DNL exterior noise standard and would be considered compatible with the proposed land use.

Standard residential construction provides approximately 15 dBA of exterior-to-interior noise reduction, assuming the windows are partially open for ventilation. Standard construction with the windows closed provides approximately 20 to 25 dBA of noise reduction in interior spaces. Where exterior noise levels range from 60 to 65 dBA DNL, the inclusion of adequate forced-air mechanical ventilation is often the method selected to reduce interior noise levels to acceptable levels by closing the windows to control noise. Where noise levels exceed 65 dBA DNL, forced-air mechanical ventilation systems and sound-rated construction methods are normally required.

Residential units located on floors two through six would be exposed to exterior noise levels reaching 63 dBA DNL. Interior noise levels within worst-case residential units would be 48 dBA DNL, assuming that windows are open for ventilation.

Ground floor commercial uses are proposed along the west side of the building adjacent to North 27th Street and along the east side of the building adjacent to the future Five Wounds Trail. Future exterior noise levels are calculated to reach a maximum of between 63 dBA DNL and 61 dBA Leq. Standard construction materials for commercial uses would provide about 25 dBA of noise reduction in interior spaces. The inclusion of adequate forced-air mechanical ventilation systems is normally required so that windows may be kept closed at the occupant's discretion and would provide an additional 5 dBA reduction. The standard construction materials in combination with forced-air mechanical ventilation would satisfy the daytime threshold of 50 dBA L_{eq}(1-hr).

Based on the General Plan noise and land use compatibility guidelines (shown in Table 4.13-1 above), residential development is "normally acceptable" in areas with ambient noise levels up to 60 dBA DNL and is "conditionally acceptable" in areas with noise levels up to 75 dBA DNL. The project site is suitable for future residential development and existing noise levels that future residents of the site would be exposed to would be acceptable with the incorporation of proper design treatments typical of new housing near major roadways.

Pursuant to the CBC and City policy, redevelopment would implement the following Standard Permit Condition to ensure the project does not result in a substantial noise exposure for future project residents from the surrounding environment.

- 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 dBA 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.

4.14 POPULATION AND HOUSING

Environmental Setting

Based on information from the California Department of Finance, the City of San José population was estimated to be 976,482 in January 2022 and had an estimated total of 344,112 housing units with an average of 2.91 persons per household.[35] ABAG projects that the City's population will reach 1,377,145 with 472,000 households by 2040.[36]

The jobs/housing balance is the relationship between the number of housing units required as a result of local jobs and the number of residential units available in the City. This relationship is quantified by the jobs/employed resident ratio. When the ratio reaches 1.0, a balance is struck between the supply of local housing and local jobs. The jobs/employed resident ratio is determined by dividing the number of local jobs by the number of employed residents that can be housed in local housing. At the time of preparation of the Envision San José 2040 General Plan FEIR, San José had a higher number of employed residents than jobs (approximately 0.8 jobs per employed resident) but this trend is projected to reverse with full build-out under the current General Plan.

Regulatory Framework

State

Housing-Element Law

State requirements mandating that housing be included as an element of each jurisdiction's general plan is known as housing-element law. The Regional Housing Need Allocation (RHNA) is the state-mandated process to identify the total number of housing units (by affordability level) that each jurisdiction must accommodate in its housing element. California housing-element law requires cities to: 1) zone adequate lands to accommodate its RHNA; 2) produce an inventory of sites that can accommodate its share of the RHNA; 3) identify governmental and non-governmental constraints to residential development; 4) develop strategies and a work plan to mitigate or eliminate those constraints; and 5) adopt a housing element and update it on a regular basis.[37] The City of San José Housing Element and related land use policies were last updated in April 2015.

[35] California Department of Finance. "Table 2: E-5 City/County Population and Housing Estimates, 1/1/2022." Accessed November 20, 2022. Available at: http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/
[36] Association of Bay Area Governments. Available at http://projections.planbayarea.org/data Accessed November 20, 2022.
[37] California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements" Accessed September 9, 2022. http://hcd.ca.gov/community-development/housing-element/index.shtml.

Regional and Local

Plan Bay Area 2040

Plan Bay Area 2040 is a long-range transportation, land-use, and housing plan intended support a growing economy, provide more housing and transportation choices, and reduce transportation-related pollution and GHG emissions in the Bay Area. Plan Bay Area 2040 promotes compact, mixed-use residential and commercial neighborhoods near transit, particularly within identified Priority Development Areas.[38]

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

Population and Housing Environmental Checklist

Would the project:	Potentially Significant Impact	Less than Significant Impact with Mitigation	Less than Significant Impact	No Impact	Checklist Source(s)
a. Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☒	☐	1,2,3,4,25
b. Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☒	☐	1,2,3,4,25

[38] Association of Bay Area Governments and Metropolitan Transportation Commission. "Project Mapper." http://projectmapper.planbayarea.org/. Accessed September 9, 2022.

Impacts Evaluation

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

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 proposed project would remove retail commercial uses and construct of up to 198 new housing units in the City. Based on the City's average 2.91 persons per household, the project would result in approximately 576 new residents when compared to the current population of the City.

The project is consistent with the existing General Plan land use designation of *UV*. Therefore, the proposed increase in population as a result of the project has been taken into account in the Envision San José 2040 FPEIR and as projected by ABAG. In addition, the project is considered to be infill development and would not result in an expansion of urban services or infrastructure beyond the City's existing Sphere of Influence because it is located in a highly urbanized portion of the City and would connect to existing utilities that would not require capacity expansion. The project would have a less than significant impact on population growth. **(Less than Significant Impact)**

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

The project site is currently occupied by a retail commercial building. The proposed project would allow for the construction of up to 198 new residential units, consistent with the General Plan. Therefore, the proposed project would not displace substantial numbers of existing people or housing or require the construction of replacement housing. The impact would be less than significant. **Less than Significant Impact)**

Conclusion

The proposed project would have a less than significant impact on population and housing. **(Less than Significant Impact)**

4.15 PUBLIC SERVICES

Environmental Setting

Fire Protection: Fire protection services are provided to the project site by the City of San José Fire Department (SJFD). The closest fire station to the project site is Station 8, located at 802 E. Santa Clara St., about 0.58 miles southwest of the project site.

Police Protection: Police protection services are provided to the project site by the San José Police Department (SJPD) headquartered at 201 West Mission St., approximately 2 miles west of the project site. The City has 4 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.

Parks: The nearest City of San José Park is Roosevelt Park located approximately 0.44 miles southwest of the project site on N. 20th St. and E. Santa Clara St. The park includes a community center, skate park, baseball fields, playgrounds, and picnic areas.

The City of San José has adopted the Parkland Dedication Ordinance and Park Impact Ordinance, 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.

Library: The nearest library is the East San José Carnegie Branch Library located at 1102 E. Santa Clara St., approximately 0.22 miles southwest of the project site.

Schools: The project site is located within the boundaries of the San José Unified School District. Students in the project area attend Empire Gardens Elementary School at 1060 E. Empire St. and Muwekma Ohlone Middle School at 850 N. 2nd St. High school students attend San José High School at 275 N. 24th St.

Regulatory Framework

State

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 [§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 Sections 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 and a Park Impact Ordinance, consistent with the Quimby Act.

Local

Envision San José 2040 General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating public service impacts from development projects. Policies applicable to the project are presented below.

ES-3.1 Provide rapid and timely Level of Service (LOS) response time to all emergencies:

1. For police protection, use as a goal a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls.
2. For fire protection, use as a goal a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.
3. Enhance service delivery through the adoption and effective use of innovative, emerging techniques, technologies and operating models.
4. Measure service delivery to identify the degree to which services are meeting the needs of San José's community.
5. Ensure that development of police and fire service facilities and delivery of services keeps pace with development and growth in the city.

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.

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.

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.

Public Services Environmental Checklist

Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:	Potentially Significant Impact	Less than Significant Impact with Mitigation	Less than Significant Impact	No Impact	Checklist Source(s)
a. Fire Protection?	☐	☐	☒	☐	1,2,3,4
b. Police Protection?	☐	☐	☒	☐	1,2,3,4
c. Schools?	☐	☐	☒	☐	1,2,3,4,13
d. Parks?	☐	☐	☒	☐	1,2,3,4,18
e. Other public facilities?	☐	☐	☒	☐	1,2,3,4

Impacts Evaluation

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

a. Fire Protection: The project is the redevelopment of retail commercial uses with residential uses. This change in land use would result in additional residents on the project site rather than retail commercial uses. Residential uses could be considered a higher intensity use for fire protection which would require an incremental increase in the demand for such services.

The project site is currently served by the SJFD. While an incremental increase in demand may occur under the redevelopment of the site; that increase represents a small fraction of the total growth identified in the General Plan. Redevelopment of the project site, by itself, would not preclude the SJFD from meeting their service goals and would not require the construction of new or expanded fire facilities because SJFD already provides services to the site. In addition, the proposed project would be constructed in accordance with all current building and fire codes and be maintained in accordance with applicable City policies to promote public and property safety. **(Less than Significant Impact)**

b. Police Protection: Although the project site is currently developed with retail commercial uses, redevelopment of the site with residential uses could be considered a higher intensity use which would require an incremental increase in the demand for police protection services. The project site is currently served by the SJPD. While an incremental increase in demand may occur under the proposed redevelopment of the site; that increase represents a small fraction of the total growth identified in the General Plan. The project, by itself, would not preclude the SJPD from meeting their service goals and would not require the construction of new or expanded fire facilities. In addition, the proposed project would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies to promote public and property safety. **(Less than Significant Impact)**

c. Schools: The proposed project is a residential building with up to 198 new units which would have an incremental increase in student demand on school services. The project site is located within the boundaries of the San José Unified School District. According to data available from San José Unified School District, cumulative school enrollment has been decreasing over the past few years.[39] Therefore, it is not anticipated that the additional student population generated by up to 198 new residential units would require the construction of new schools.

In accordance with California Government Code Section 65996, proposed development made possible by the project would be required to pay a school impact fee to the local school districts to offset the increased demands on school facilities caused by the project. Payment of school impact fees is considered adequate mitigation of impacts to schools under CEQA. Therefore, the proposed project would have a less than significant impact on school facilities. **(Less than Significant Impact)**

d. Parks: The proposed redevelopment of the project site could result in 198 additional residential units that would place new demand on local parks. The City of San José has adopted the Parkland Dedication Ordinance (PDO) and Park Impact Ordinance (PIO), which require residential developers to dedicate public parkland or pay in-lieu fees (or both) to compensate

[39] http://www.ed-data.org/district/Santa-Clara/San-Jose-Unified. Cumulative Enrollment. Accessed November 7, 2022.

for the increase in demand for neighborhood parks. The proposed project would be subject to the requirements of the PDO and PIO. As a result, the proposed project would have a less than significant impact on park facilities. **(Less than Significant Impact)**

e. Other Public Services: The project would slightly increase the demand for other public services, including library services because it would allow additional residential development when compared to the existing condition of the site. The additional 198 residential units (576 residents) would not increase the demand such that additional libraries would need to be constructed. In addition, redevelopment under the proposed project would comply with the PDO/PIO (discussed under checklist question d.) which would offset the project's demand on other public facilities including community centers and community gardens. **(Less than Significant Impact)**

Conclusion

The proposed redevelopment of the project site with residential uses would have a less than significant impact on public services. **(Less than Significant Impact)**

4.16 RECREATION

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 41 community/neighborhood centers, 19 community gardens, and six pool facilities. Other recreational facilities include seven skate parks and over 61 miles of trails. The City's Department of Parks, Recreation, and Neighborhood Services is responsible for development, operation, and maintenance of all City park facilities.

The nearest City of San José Park is Roosevelt Park located approximately 0.44 miles southwest of the project site on N. 20th St. and E. Santa Clara St. The park includes a community center, skate park, baseball fields, playgrounds, and picnic areas.

Regulatory Framework

Quimby Act-California Code Sections 66475-66478

The Quimby Act (California Government Code Sections 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 and a Park Impact Ordinance, consistent with the Quimby Act.

Parkland Dedication Ordinance and Park Impact Ordinance

The City of San José enacted the Parkland Dedication Ordinance (PDO)[40] (Municipal Code Chapter 19.38) in 1988 to help meet the demand for new neighborhood and community parkland generated by the development of new residential subdivisions. In 1992, the City Council adopted the Park Impact Ordinance (PIO)[41], which is similar to the PDO, but applies to new non-subdivided residential projects such as apartment buildings. These ordinances are consistent with provisions of the California Quimby Act (GC § 66477), Mitigation Fee Act (GC § 66000), Subdivision Map Act (GC § 66410), and associated federal statutes.

Consistent with these ordinances, housing developers are required to dedicate land, improve parkland, 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

[40] City of San José Municipal Code Title 19.38
[41] City of San José Municipal Code Title 14.25

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 General Plan includes the following policies that are specific to recreation and applicable to development under the proposed project.

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.

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.

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 and Park Impact Ordinance 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.

PR-2.5 Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.

Recreation Environmental Checklist

Would the project:	Potentially Significant Impact	Less than Significant Impact with Mitigation	Less than Significant Impact	No Impact	Checklist Source(s)
a. Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☒	☐	
b. Include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?	☐	☐	☒	☐	

Impacts Evaluation

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

Construction of the proposed project would allow up to 198 additional residential units (576 new residents) to be developed on the project site when compared to the existing condition. Therefore, it would generate additional population in the City and would therefore, slightly increase the use of some existing City parks. As discussed in *Section 4.15 Public Services*, redevelopment would be required to comply with the City's PDO/PIO to offset its demands on existing park and other recreational facilities.

The project includes the construction of a pedestrian pathways on the north (8-foot-wide), east (5-foot-wide) and south (6-foot-wide) sides of the building and a trail entrance at the southeast corner of the site to allow future public access to the Five Wounds Trail planned for east of the site, as shown on Figure 3. For these reasons, the project would not result in a substantial physical deterioration of park and recreational facilities. **(Less than Significant Impact)**

b. Include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?

The project does not include the construction of recreational facilities. As discussed under checklist question a.), redevelopment of the project site would comply with the City's PDO/PIO to offset its park and recreation demand. If PDO/PIO fees are used to construct new or expanded recreation facilities, those facilities would be subject to CEQA when proposed. In addition, as discussed above, the project would provide access to future planned recreational facilities. For these reasons, the project would not require the construction or expansion of recreational facilities. **(Less than Significant Impact)**

Conclusion

The proposed project would not result in significant impacts to recreational facilities in the City. **(Less than Significant Impact)**

4.17 TRANSPORTATION

This section is based on a Local Transportation Analysis (LTA) that was completed for the project on February 7, 2023, by *Hexagon Transportation Consultants*, Inc. This analysis is included in Appendix H of this Initial Study.

Environmental Setting

Existing Access and Roadway Network

Vehicle access to the site is from N. 27th St. via two, two-way driveways on both sides of the existing commercial retail building (Photos 2, 3, and 4). These driveways connect behind the existing building where additional parking is provided. As shown on Figure 3, regional access to the project site is provided mainly by US 101 to the east of the site. Local access to the project site is provided via E. Santa Clara St./Alum Rock Ave., N. 27th St., and N. 24th St. These facilities are described below.

US-101 is an eight-lane freeway (three mixed-flow lanes and one HOV lane in each direction) in the vicinity of the site. US 101 extends northward through San Francisco and southward through Gilroy. Access to and from the site is provided via the Santa Clara St./Alum Rock Ave. interchange.

E. Santa Clara St. is a four-lane east-west Grand Boulevard that extends from US-101 westward through Downtown San José. The street becomes W. Santa Clara St. at the Market St. intersection. West of the Montgomery/Autumn St. intersection, W. Santa Clara St. becomes The Alameda and extends into the City of Santa Clara. East of US 101, Santa Clara Street becomes Alum Rock Avenue. Santa Clara St. has sidewalks on both sides of the street but has no bicycle facilities. Santa Clara St. has a posted speed limit of 25 mph and provides access to and from the project site via 27th St.

Alum Rock Ave. is the extension of E. Santa Clara Street east of US-101. The east-west oriented Grand Boulevard extends from US-101 to Alum Rock Park near the foothills in East San José with interchanges at US-101 and at I-680. Alum Rock Ave. is a Vision Zero Corridor, which is a commitment to prioritizing street safety and ensuring all road users – whether walking, biking, riding transit, or driving – are safe. West of the I-680 interchange, Alum Rock Ave. has a posted speed limit of 30 mph and consists of four travel lanes with median transit lanes (i.e., BRT service). Alum Rock Ave. has sidewalks on both sides of the street but has no bicycle facilities. Curb parking is prohibited along most segments of Alum Rock Ave. Alum Rock Ave. provides access to the project site via its transition to Santa Clara Street.

24th St. is a two-lane north-south local street with a posted speed limit of 25 mph. It extends from E. Julian St. southward to William St., where it becomes McLaughlin Ave. McLaughlin Ave. is a four-lane north-south City Connector Street (south of I-280) that begins at William St. and extends southward to Tuers Road, just south of Yerba Buena Road. McLaughlin Ave. provides access to westbound I-280 and from eastbound I-280 via a partial interchange. 24th Street has

sidewalks on both sides of the street and is a designated bike route (contains sharrows). 24th Street provides access to the project site via its intersection with Santa Clara Street.

27th St. is a two-lane undivided local street that runs north to south between E. Santa Clara St. and E. Julian St. 27th Street has a posted speed limit of 25 mph and curb parking is allowed on both sides of the street. 27th Street has sidewalks on both sides of the street but has no bicycle facilities. N. 27th Street provides direct access to the project site.

Existing Pedestrian Facilities

Pedestrian facilities in the project area consist primarily of sidewalks along the streets and crosswalks with pedestrian signal heads at intersections. Sidewalks are found along all previously described local roadways in the study area. The existing network of sidewalks and crosswalks provides adequate connectivity for pedestrians between the project site and other surrounding land uses and transit stops.

Crosswalks with pedestrian signal heads and push buttons are located at all the signalized intersections in the study area. Curb ramps with truncated domes are also provided at all the intersections near the site, including E. Santa Clara St. and N. 27th St. Truncated domes are the standard ADA design requirement for detectable warnings which enable people with visual disabilities to determine the boundary between the sidewalk and the street.

Existing Bicycle Facilities

In the project area, Class II striped bike lanes are present on S. 21st St. south of E. Santa Clara St., San Antonio St. east of 28th St., and King Road south of McKee Road. 24th St., 33rd St., and San Antonio St. are all designated bike routes and contain sharrows (roadways marked to be shared by motor vehicles and bicyclists).

Existing Transit Services

Existing bus service in the project vicinity is provided by the Santa Clara Valley Transportation Authority (VTA). The project area is served by frequent bus routes 22, 23, 64A, 64B, and Rapid 522. Bus routes 22 and 23 stop within walking distance of the project site on E. Santa Clara St. The three existing bus stops within walking distance of the project site include shelters with benches.

Local Route 22 provides service between the Palo Alto Transit Center and the Eastridge Transit Center. Route 22 operates along Santa Clara St. in the project study area, with 15-minute headways during the weekday peak commute hours. Bus stops are located on Santa Clara St. within walking distance of the project site at 26th St., 27th St., and 28th St.

Local Route 23 provides service between De Anza College and the Alum Rock Transit Center. Route 23 operates along Santa Clara St. in the project study area, with 15-minute headways during the weekday peak commute hours. Bus stops are located on Santa Clara St. within walking distance of the project site at 26th St., 27th St., and 28th St.

Local Route 64A provides service between the Ohlone-Chynoweth LRT Station and the McKee Road/White Road intersection. Route 64A operates along Julian St./McKee Road in the project study area, with 30-minute headways during the weekday commute hours. The closest bus stops are located at the Julian St./26th St. intersection, approximately ¼ mile north of the project site.

Local Route 64B provides service between the Almaden Expressway/Camden Ave. intersection and the McKee Road/White Road intersection. Route 64B operates along Julian St./McKee Road in the project study area, with 30-minute headways during the weekday commute hours. The closest bus stops are located at the Julian St./26th St. intersection, approximately ¼ mile north of the project site.

Rapid Route 522 provides Bus Rapid Transit (BRT) service between the Palo Alto Transit Center and the Eastridge Transit Center. East of US-101, Route 522 runs within the median transit lanes along Alum Rock Ave., with 15-minute headways during the weekday peak commute hours. The closest bus stops are located at the 24th St./Santa Clara St. intersection, approximately ¼-miles west of the project site.

Observed Existing Traffic Conditions

Traffic conditions were observed in the field to identify any existing operational deficiencies occurring within an approximately ½-mile radius of the project site. Overall, the study intersections operated well during both the AM and PM peak commute periods. No noteworthy operational issues were observed during the field observation periods.

Regulatory Framework

State

Senate Bill 743

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 greenhouse gas (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 level of service (LOS) or similar measures of vehicular capacity or traffic congestion—with vehicle miles traveled (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 one half mile of transit should be considered to have a less than significant transportation impact based on OPR guidance.

Regional

Metropolitan Transportation Commission

The Metropolitan Transportation Commission (MTC) is the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area, including Santa Clara County. MTC is charged with regularly updating the Regional Transportation Plan, a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle, and pedestrian facilities in the region. MTC and ABAG adopted 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 Valley Transportation Authority (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 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 level of service, 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

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating transportation impacts from development projects. Policies applicable to the project are presented below.

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).

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

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.

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

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.

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

TR-5.3 The minimum overall roadway performance during peak travel periods should be level of service "D" except for designated areas and specified exceptions identified in the General Plan including the Downtown Core Area. Mitigation measures for vehicular traffic should not compromise or minimize community livability by removing mature street trees, significantly reducing front or side yards, or creating other adverse neighborhood impacts.

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.

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.

Transportation Environmental Checklist

Would the project:	Potentially Significant Impact	Less than Significant Impact with Mitigation	Less than Significant Impact	No Impact	Checklist Source(s)
a. Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	☐	☐	☒	☐	1,2,3,4,6,19
b. Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?	☐	☐	☒	☐	1,8,19
c. Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☒	☐	1,19,25
d. Result in inadequate emergency access?	☐	☐	☒	☐	1,19,25

Impacts Evaluation

a. Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?

Impacts on Transit Services

The project area is served by frequent VTA bus routes including 22, 23, 64A, 64B, and Rapid 522. Bus routes 22 and 23 stop within walking distance of the project site on E. Santa Clara St. The three existing bus stops within walking distance of the project site include shelters with benches and are easily accessible via the network of sidewalks and crosswalks along E. Santa Clara St.

Since the project site is served by two bus routes, it is reasonable to assume that some residents would utilize the bus service. It is estimated that the small increase in transit demand

generated by the project could be accommodated by the current available ridership capacity of the VTA bus service.

The future 28th Street/Little Portugal BART Station is planned to the northeast of the project site. The project would include a pedestrian connection to the future Five Wounds Trail on the east side of the site. The trail is partially intended to provide pedestrian and bicycle access to the station. The proposed project would aid in facilitating this access at such time as the station and trail are constructed and operational.

A portion of the project site is located within VTA's BART Phase II tunnel easement. VTA adopted a Resolutions of Necessity on November 3, 2022, determining that the public interest and necessity require the acquisition of the project site. However, no acquisition has been completed to this date. Any future acquisition of the easement would require the project applicant to coordinate with the VTA to ensure proper building shoring and foundation. If any future actions by VTA would result in changes to the proposed project, subsequent environmental review may be necessary. **(Less than Significant Impact)**

Impacts on Bicycle Facilities

Existing bicycle facilities in the study area are very limited. There are no Class II striped bike lanes in the immediate vicinity of the project site. 24th Street is a designated bike route with shared lane markings (sharrows). No other bicycle facilities exist within ¼-mile of the project site.

The project would not remove any bicycle facilities, nor would it conflict with any adopted plans or policies for new bicycle facilities. However, as mentioned above, the future Five Wounds Trail will be situated adjacent to the eastern boundary of the project site and N. 28th Street. The proposed access to the trail included in the project would provide bicyclists with a paved path that is separated from automobiles. **(Less than Significant Impact)**

Impacts on Pedestrian Circulation

A complete network of sidewalks and crosswalks is found within the project study area. Crosswalks with pedestrian signal heads are located at all the signalized intersections in the study area. The existing pedestrian facilities provide adequate connectivity between the project site and nearby bus stops and other points of interest.

The existing attached 12-foot-wide sidewalk and curb along the project frontage on 27th Street would be reconstructed (existing driveways removed and new driveways added). The site plan shows a 3-foot-wide paved area with modular bioretention features would be added between the building and the existing sidewalk, creating a 15-foot-wide attached sidewalk with tree wells. The sidewalk would provide direct access to the residential lobby, mail room, and leasing office that would front N. 27th Street. The current site plan dated November 2022 2022, shows a 6-foot-wide path on the south, a 5-foot-wide path on the east, and an 8-foot-wide path on the north side of the building. The City Public Works Department recommends widening the 6-

foot-wide path on the south side of the building and 8-foot-wide path on the north side of the building to be at least 10 feet wide per the City of San José's Class I trail design standards. The applicant would be required to coordinate with Public Works regarding their recommendations. Therefore, the project would not conflict with policies related to pedestrian access.

b. Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?

Analysis Methodology

VMT is the total miles of travel by personal motorized vehicles a project is expected to generate in a day. VMT measures the full distance of personal motorized vehicle trips with one end within the project. Typically, development projects that are farther from other, complementary land uses (such as a major employer far from housing) and in areas without transit or active transportation infrastructure (bike lanes, sidewalks, etc.) generate more driving than development near complementary land uses with more robust transportation options. Therefore, developments located in a central business district with high density and diversity of complementary land uses and frequent transit services are expected to internalize trips and generate shorter and fewer vehicle trips than developments located in a suburban area with low density of residential developments and no transit service in the vicinity.

Per City Council Policy 5-1, the effects of the proposed project on VMT were evaluated using the methodology outlined in the City's Transportation Analysis Handbook. To determine whether a project would result in CEQA transportation impacts related to VMT, the City has developed the San José VMT Evaluation Tool (sketch tool) to streamline the analysis for development projects. Based on the location of a project, the sketch tool identifies the existing average VMT per capita for the project area.

The sketch tool evaluates a list of selected VMT reduction measures that can be applied to a project to reduce the project VMT. There are four strategy tiers whose effects on VMT can be calculated with the sketch tool:

- Project characteristics (e.g., density, diversity of uses, design, and affordability of housing) that encourage walking, biking, and transit uses,
- Multimodal network improvements that increase accessibility for transit users, bicyclists, and pedestrians,
- Parking measures that discourage personal motorized vehicle trips, and
- Transportation demand management measures that provide incentives and services to encourage alternatives to personal motorized vehicle trips.

If a project is found to have a significant impact on VMT, the impact must be reduced by modifying the project to reduce its VMT to an acceptable level and/or mitigating the impact through multimodal transportation improvements or establishing a Trip Cap.

VMT Screening Criteria for Residential Projects

CEQA transportation analysis exemption criteria are set forth in the City's Transportation Analysis Handbook, 2020 for projects that are expected to result in a less than significant VMT impact based on the project description, characteristics and/or location. Projects that meet the screening criteria do not require a CEQA-level transportation analysis. The City's screening criteria for residential projects and an explanation of how the project would satisfy the criteria are described in this chapter. Also included is a cumulative transportation impact analysis used to determine the project's consistency with the City of San José's General Plan.

The City's screening criteria set forth in the Transportation Analysis Handbook for residential projects are described below.

1. **Planned Growth Areas:** Located within a Planned Growth Area as defined in the Envision San José 2040 General Plan; and

2. **High-Quality Transit:** Located within ½ mile of an existing major transit stop or an existing stop along a high-quality transit corridor; and

3. **Low VMT Areas:** Located in an area in which the per-capita VMT is less than or equal to the CEQA significance threshold for the land use; and

4. **Transit-Supporting Project Density:**

   - Minimum of 35 units per acre for residential projects or components;
   - If located in a Planned Growth Area with a maximum density below 0.75 FAR or 35 units per acres, the maximum density allowed in the Planned Growth Area must be met; and

5. **Parking:**

   - No more than the minimum number of parking spaces required;
   - If located in Urban Villages or Downtown, the number of parking spaces must be adjusted to the lowest amount allowed; however, if the parking is shared, publicly available, and/or "unbundled", the number of parking spaces can be up to the zoned minimum; and

6. **Active Transportation**: Not negatively impact transit, bike or pedestrian infrastructure.

The residential project would meet all the above criteria as follows:

- Is located within a Planned Growth Area (based on VMT Evaluation Tool) = Criterion 1 met;
- Is located within ½-mile of high-quality transit (future 28th Street/Little Portugal BART station) = Criterion 2 met;

- Is located in an area in which the per-capita VMT is less than or equal to the CEQA significance threshold = Criterion 3 met;
- Would have a residential density of 170 DU/AC (198 DU / 1.16 AC = 170.1 DU/AC) = Criterion 4 met;
- Would provide the minimum amount of parking required = Criterion 5 met; and
- Would not negatively impact transit, bike or ped infrastructure = Criterion 6 met.

Since the project would meet the residential screening criteria, no CEQA Transportation Analysis (i.e., VMT analysis) is required. **(Less than Significant Impact)**

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

There are no existing landscaping features, roadway curves, dangerous intersections, or other visual obstructions along the project frontage that could obscure sight distance at the project driveways. The site plan does not indicate any new landscaping that could affect the sight distance at the driveways. Although street trees are present, the existing trees have high canopies and do not hinder sight distance.

Street parking is currently allowed along the project frontage on N. 27th St. and would continue to be permitted. Therefore, no parking zones (red curb) would be established immediately adjacent to the outbound project driveway.

The LTA also evaluated vehicular site access and driveway operations. As proposed, the project would remove two existing commercial driveways on 27th St. and construct two new driveways: one 16-foot-wide northern inbound only driveway and one 16-foot-wide southern outbound only driveway. The driveways would provide access to and from the below-grade parking garage. The proposed driveway widths would meet the City's standard width for one-way driveway operations.

The northern (inbound) driveway would serve as the east leg of the N. 27th St./E. St. John St. unsignalized intersection. As proposed, the driveway would be offset. However, since the northern project driveway would serve inbound trips only, the offset would not create any significant operational issues.

The east and west legs of the unsignalized intersection (project driveway and E. St. John St., respectively) would be stop-controlled. As proposed, N. 27th St. would remain uncontrolled. Since the traffic volumes on the east and west legs of the intersection would continue to be very low under project conditions, two-way stop control is the most efficient configuration, and the intersection would continue to operate adequately. Multiway stop control at this intersection is not recommended due to the low traffic volumes on the east and west legs. Multiway stop control is most often used where the volume of traffic on all legs is approximately equal. Note also that due to the proposed one-way driveway configuration, the

east leg of the intersection (inbound project driveway) would have no approach volume (westbound/outbound volume).

The project-generated trips that are estimated to occur at the project driveways are 31 inbound trips and 23 outbound trips during the AM peak hour, and 20 inbound trips and 28 outbound trips during the PM peak hour. This equates to one vehicle trip every two to three minutes at each driveway during both the AM and PM peak periods of traffic. Due to the low number of AM and PM peak hour project generated trips and the low traffic volumes on 27th St. adjacent to the site, operational issues related to vehicle queueing and/or delays are not expected to occur at the project driveways.

The City typically requires developments to provide adequate on-site stacking space for at least two inbound vehicles (40 to 50 feet) between the face of curb and any entry gates or on-site drive aisles or parking spaces. This prevents vehicles from queuing onto the street and blocking traffic. Approximately 45 feet of vehicle stacking space would be provided between the on-site drive aisle/first parking space and the face of curb at the northern inbound only driveway. Accordingly, the project would meet the City's standard for inbound vehicle stacking space.

For the reasons identified above, the proposed project would not substantially increase transportation hazards. **(Less than Significant Impact)**

d) Would the project result in inadequate emergency access?

The City of San José Fire Department requires that all portions of the buildings be within 150 feet of a fire department access road, requires a minimum of six feet clearance from the property line along all sides of the building, and requires a minimum of 13 feet and 6 inches of vertical clearance to enter a parking structure. According to the site plan, the project appears to meet all three fire access requirements, including the vertical clearance requirement (the site plan shows a 15-foot first floor height).

Typical activities related to the construction of the project could include temporary lane narrowing and/or lane closures, sidewalk and pedestrian crosswalk closures, and bike lane closures. In the event of any type of closure, clear signage (e.g., sidewalk closure and detour signs) must be provided to ensure vehicles, pedestrians and bicyclists are able to adequately reach their intended destinations safely. City approvals, including review by the San José Fire Department, would address the construction schedule, street closures and/or detours, construction staging areas and parking, and the planned truck routes to ensure impacts related to emergency access would not occur during construction.

As standard practice, redevelopment, including construction, allowed under the project would be reviewed by the San José Fire Department and Department of Public Works to ensure adequate emergency access. The proposed project would not result in impacts to emergency access. **(Less than Significant Impact)**

Conclusion

The proposed project site would have a less than significant local transportation impact**. (Less than Significant Impact)**

Non-CEQA Effects

As noted above, with the passage of SB 743 amending CEQA's evaluation of transportation impacts and the effective date of the Guidelines implementing SB 743, a project's effects on Level of Service (LOS) shall no longer be considered an impact on the environment. The following discussion is included because the City of San José has policies that address LOS as a planning or growth management matter, outside the CEQA process.

In the event a deficient LOS condition is identified, the City has discretion whether to require a project to address the deficiency by implementing roadway or other transportation improvements to restore or improve the LOS, and the relevant question under CEQA is whether those improvements would result in adverse physical changes to the environment, and not whether LOS has degraded below the condition considered acceptable.

Trip Generation

The Institute of Transportation Engineers (ITE) Trip Generation Manual, 10th Edition (2017) was utilized to calculate the vehicle trips generated by the proposed single-family development. In accordance with San José's Transportation Analysis Handbook (2018), the project is eligible for adjustments and reductions from the gross trip generation (see Appendix H). After applying the ITE trip rates, appropriate trip reductions, and existing site trip credits, it is estimated that the project would generate an additional 636 new daily vehicle trips, with 46 trips (24 inbound and 22 outbound) occurring during the AM peak hour and 30 trips (12 inbound and 18 outbound) occurring during the PM peak hour.

Trip Distribution and Assignment

The project trip distribution pattern was estimated based on existing residential travel patterns on the surrounding roadway network that reflect typical weekday AM and PM commute patterns, the locations of complementary land uses, and freeway access points. The peak hour vehicle trips generated by the project were assigned to the roadway network in accordance with the trip distribution pattern.

Approximately 75 percent of inbound project trips would approach from the south via E. Santa Clara St., and 25 percent would approach from the north via Julian St. Since the majority of project generated trips would originate from the south, very few inbound vehicle trips (7 AM peak hour trips and 4 PM peak hour trips) would pass through the mixed-use portion of the neighborhood north of the project site. Note that N. 27th Street contains a mix of residential and commercial uses along its entirety (between Santa Clara and Julian Streets). The land uses along N. 24th, N. 25th and N. 26th Streets west of the project site are almost entirely

residential uses. The project would not add trips through the residential neighborhood to the west. Accordingly, the project would not result in any "cut-through" traffic.

Intersection Operations Analysis

Traffic conditions at intersections in the project area were evaluated using LOS and compared to the City's Transportation Analysis Handbook standards. LOS is a qualitative description of operating conditions ranging from LOS A, or free-flow conditions with little or no delay, to LOS F, or jammed conditions with excessive delays. Table 4.17-1 below shows the existing, background, and project plus background intersection operations analysis results. Background conditions reflect trips from approved but not yet constructed or occupied developments in the vicinity.

Table 4.17-1: Intersection Level of Service Summary

Signalized Intersection	Peak Hour	Existing		Background		Background + Project			
		Ave. Delay (sec)	LOS	Ave. Delay (sec)	LOS	Ave. Delay (sec)	LOS	Incr. in Crit. Delay (sec)	Incr. in Crit. V/C
US-101 NB Ramps & Alum Rock Ave. *	AM	12.4	B	12.4	B	12.4	B	0.1	0.005
	PM	13.6	B	13.6	B	13.6	B	0.0	0.003
US-101 SB Ramps & E. Santa Clara St. *	AM	11.6	B	11.8	B	11.9	B	0.1	0.003
	PM	14.2	B	14.4	B	14.4	B	0.1	0.004
28th St & E. Santa Clara St.	AM	21.1	C	21.1	C	21.0	C	0.0	0.004
	PM	17.3	B	17.3	B	17.2	B	-0.1	0.003
24th St & E. Santa Clara St.	AM	22.3	C	22.5	C	22.5	C	0.0	0.002
	PM	21.1	C	21.4	C	21.4	C	0.0	0.001
*CMP Intersection									

As shown in Table 4.17-1, the LOS at signalized study intersections were evaluated against the standards of the City of San José. The results of the analysis show that all the signalized study intersections are currently operating at acceptable levels of service (LOS D or better) during the AM and PM peak hours of traffic and would continue to operate acceptably under background, background plus project, and cumulative conditions. The detailed intersection level of service calculation sheets are included in Appendix H.

The intersections of N. 27th St. and E. Santa Clara St. and N. 27th St. and E. St. John St. were assessed to determine whether traffic signals would be warranted based on peak-hour traffic volumes. It was determined that neither intersection meets the signal warrant and would not meet the warrant with the addition of project-generated traffic.

Queuing Analysis

The intersection queuing analysis was based on vehicle queuing for left-turn movements at intersections near the project site where the project would add a noteworthy number of trips.

Based on the project trip generation and trip distribution pattern, the southbound and eastbound left-turn movements at the unsignalized intersection of N. 27th St. and E. Santa Clara St. were evaluated as part of the queuing analysis for this project.

The queuing analysis indicates that the shared southbound approach and the eastbound left-turn pocket at the intersection of 27th Street/Santa Clara Street provide adequate storage capacity to accommodate the maximum vehicle queues that currently occur and would continue to occur under background and background plus project conditions during the AM and PM peak hours of traffic. The project would not add a noteworthy number of trips to any other study intersection (see Appendix H).

Parking

The project is proposing to provide 210 residential parking stalls as part of a three-level puzzle parking system within the parking garage (pit + at-grade + overhead levels). The City of San José's off-street parking requirements as described in the City's Zoning Code (Chapter 20.90, Table 20-210) for multiple dwellings with all open parking are as follows: 1.25 parking spaces for studio and one-bedroom units, 1.7 parking spaces for two-bedroom units, and 2.0 parking spaces for three-bedroom units. Based on the City's off-street parking requirements and prior to applying any relevant parking reductions, the 200-unit project, which would consist of 26 studios and 174 one-bedroom units, would require a total of 250 parking spaces (200 DU x 1.25 = 250 spaces).

Since the project site is located within 2,000 feet of a future 28th Street/Little Portugal BART station, the project qualifies for a 20 percent reduction in the City's parking requirement. After applying a 20 percent parking reduction, the project would be required to provide a total of 200 residential parking spaces (250 x 0.8 = 200 spaces). The project provides 210 spaces, 10 more spaces than required.

The City requires one bicycle parking space for every four residential units (per Chapter 20.90, Table 20-210 of the City's Zoning Code). Thus, the project is required to provide a total of 50 bicycle parking spaces to serve future residents.

According to the site plan, the project is proposing to provide a total of 55 bicycle parking spaces, which would exceed the City's bicycle parking requirements. The site plan shows 50 long-term bicycle parking spaces would be provided within the residential building on floors 2 through 6 (10 spaces on each floor) and 5 short-term spaces would be provided within a small bike room at the northwest corner of the building near the inbound driveway on N. 27th St.

4.18 UTILITIES AND SERVICE SYSTEMS

Environmental Setting

Water Supply

Water service is provided to the City of San José by three water retailers, San José Water Company, the City of San José Municipal Water System, and the Great Oaks Water Company. Water services to the project site would be supplied by San José Water Company. Water use at the existing 21,454 sf retail commercial building is primarily for restrooms and landscape irrigation and is approximately 1,949 gallons per day sf or 711,385 gallons per year.[42]

Sanitary Sewer/ Wastewater Treatment

Sanitary sewer lines serving the site are owned and maintained by the City of San José. There is an existing 6" VCP sanitary sewer main along N. 27th St., which currently serves the existing retail commercial building.

Wastewater from the City of San José is treated at the San José-Santa Clara Regional Wastewater Facility (the Facility). The Facility is a regional wastewater treatment facility serving eight tributary sewage collection agencies and is administered and operated by the City of San José's Department of Environmental Services. The Facility provides primary, secondary, and tertiary treatment of wastewater and has the capacity to treat 167 million gallons of wastewater a day. The Facility treats an average of 110 million gallons of wastewater per day and serves 1.4 million residents.[43]

The Facility is currently operating under a 120 million gallon per day dry weather effluent flow constraint. This requirement is based upon the SWRCB and the RWQCB concerns over the effects of additional freshwater discharges on the saltwater marsh habitat and pollutant loading to the Bay from the Facility. Approximately ten percent of the plant's effluent is recycled for non-potable uses. The remainder is discharged into the Bay after treatment which removes 99 percent of impurities to comply with state regulations. The Facility has an available treatment capacity of 10 million gallons of wastewater per day.

Stormwater Drainage

The project site is located in a developed area served by an existing storm drainage system. The project site is currently developed with a 21,454-sf retail commercial building. The site contains approximately 44,130 square feet (87.4 percent) of impervious surfaces and 6,292 square feet (12.6 percent) of pervious surfaces.

[42] U.S. Energy Information Administration. https://www.eia.gov/consumption/commercial/reports/2012/water/, accessed February 17, 2023.
[43] City of San José. "San José-Santa Clara Regional Wastewater Facility." Accessed October 11, 2022. https://www.sanjoseca.gov/your-government/environment/water-utilities/regional-wastewater-facility

Solid Waste

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California Integrated Waste Management Board in 1996 and was reviewed in 2004 and 2007. Each jurisdiction in the county has a diversion requirement of 50 percent per year. According to the IWMP, the County has adequate disposal capacity beyond 2022.

In October 2007, the San José City Council adopted a Zero Waste Resolution which set a goal of 75 percent waste diversion by 2013 and zero waste by 2022. In 2019, there were approximately 600,000 tons of material generated in San José that was disposed in various landfills throughout the state. Newby Island, however, only received approximately 290,000 tons of that material. The total permitted landfill capacity of the five operating landfills in the City is approximately 5.3 million tons per year. Existing uses on the project site currently generate approximately 2.5 pounds per day per 1,000 sf, or 54 pounds per day of solid waste.[44]

Regulatory Framework

State

State Water Code

Pursuant to the State Water Code, water suppliers providing water for municipal purposes to more than 3,000 customers or supplying more than 3,000 acre-feet (approximately 980 million gallons) of water annually must prepare and adopt an urban water management plan (UWMP) and update it every five years. As part of a UWMP, water agencies are required to evaluate and describe their water resource supplies and projected needs over a 20-year planning horizon, water conservation, water service reliability, water recycling, opportunities for water transfers, and contingency plans for drought events. San José Water Company adopted its most recent 2015 UWMP in June 2016.[45]

Assembly Bill (AB) 939

California AB 939 established the California Integrated Waste Management Board (CalRecycle), which required all California counties to prepare Integrated Waste Management Plans. In addition, AB 939 required all municipalities to divert 50 percent of their waste stream by the year 2000.

Assembly Bill 341

Assembly Bill 341 (AB 341) sets forth the requirements of the statewide mandatory commercial recycling program in the Public Resources Code. All businesses that generate four or more cubic yards of garbage per week and multi-family dwellings with five or more units in California

[44] CalRecycle. https://www2.calrecycle.ca.gov/wastecharacterization/general/rates, accessed February 17, 2023.
[45] San José Water Company UWMP, https://www.sanjoseca.gov/home/showdocument?id=422, accessed February 17, 2023.

are required to recycle. AB 341 sets a statewide goal for 75 percent disposal reduction by the year 2020.

Assembly Bill 1826

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 of 50 percent reduction in organic waste disposed by the year 2020."

Senate Bill 1383

Senate Bill 1383 (SB 1383) establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025. The bill grants CalRecycle the regulatory authority required to achieve the organic waste disposal reduction targets and establishes an additional target that not less than 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 2017, California adopted the most recent version of the California Green Building Standards Code, which establishes mandatory green building standards for new and remodeled structures in California. These standards include a mandatory set of guidelines and more stringent voluntary measures for new construction projects, in order to achieve specific green building performance levels as follows:

- Reduce indoor water use by 20 percent;
- Reduce 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
- Provide readily accessible areas for recycling by occupant.
- The City of San José requires 75 percent diversion of nonhazardous construction and demolition debris for projects that qualify under CALGreen, which is more stringent than the state requirement of 65 percent (San José Municipal Code Section 9.10.2480).

Local

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

Climate Smart San José provides a comprehensive approach to achieving sustainability through new technology and innovation. The Zero Waste Strategic Plan outlines policies to help the City of San José foster a healthier community and achieve its Climate Smart San 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.

San José Construction & Demolition Diversion Program

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

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

Private Sector Green Building Policy

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

Envision San José 2040 General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating utilities and service system impacts from development projects. Policies applicable to the proposed project are presented below.

MS-3.1 Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.

MS-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.

IN-3.1 Achieve minimum level of services:

• For sanitary sewers, achieve a minimum level of service "D" or better as described in the Sanitary Sewer Level of Service Policy and determined based on the guidelines provided in the Sewer Capacity Impact Analysis (SCIA) Guidelines.

• For storm drainage, to minimize flooding on public streets and to minimize the potential for property damage from stormwater, implement a 10-year return storm design standard throughout the City, and in compliance with all local, State and Federal regulatory requirements.

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.

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.

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

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

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

Utilities and Service Systems Environmental Checklist

Would the project:	Potentially Significant Impact	Less than Significant Impact with Mitigation	Less than Significant Impact	No Impact	Checklist Source(s)
a. Require or result in the relocation or construction of new or expanded water, or wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	☐	☐	☒	☐	1,2,3,4,25

b. Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☒	☐	1,2,3,4,30
c. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☒	☐	1,2,3,4
d. Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	☐	☐	☒	☐	1,2,3,4
e.Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	☐	☐	☒	☐	1,2,3,4

Impacts Evaluation

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

The project site is currently developed with 21,454 sf of retail commercial uses and electricity, natural gas, and telecommunications facilities are available at the site. The City of San José owns and maintains the sanitary sewer and storm drain system in the project area. These lines would serve the proposed project site. Redevelopment of the project site would connect to existing water, wastewater, and other utility lines in the vicinity of the site. Utility improvements would include new water laterals, fire hydrants, and a sanitary lateral. The project includes two new storm drain connections with manholes at the north and south ends of the proposed building, and a new 15-inch storm drain line within N. 27th Street running the length of the building, connecting to an existing line within St. John Street. Construction of utility improvements would occur with the project footprint and would not cause significant environmental effects.

As described in *Section F. Energy*, the project would have a less than significant impact related to natural gas and electricity use (among other energy sources). Any necessary provision/relocation of telecommunication facilities would be coordinated between the project applicant and telecommunication provider and no significant environmental effects are anticipated as a result of the project.

As described in *Section J. Hydrology and Water Quality*, the project would not significantly impact storm drainage facilities. There are existing storm drain lines and manholes within N. 27th St. that can serve the proposed project site. The proposed project would result in an increase of approximately 2,733 sf in impervious surfaces on the 1.16 acres site. Because the site is almost completely developed and the existing building is comparable to the footprint of the proposed structure, it is not expected that there would be a significant difference in the generation of stormwater as a result of the project. Stormwater generated would be managed and treated in accordance with City policies, which includes implementation of a stormwater control plan.

For the reasons presented above and below in sections b-e, below, the project is not expected to require or result in the relocation or construction of new or expanded water, wastewater treatment, storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects. **(Less than Significant Impact)**

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

The proposed project is consistent with the General Plan land use designation for the site and thus, would be consistent with the growth forecasted in the General Plan and analyzed in the 2016 UWMP. Based on the number of units and bedrooms per unit, the projected water usage for the project would be approximately 28,500 gallons per day or 10.4 million gallons per year.[46] This would result in an increase in estimated water demand when compared to current water demand in the City.

San José Water Company provides water to the project area. Their most recent Urban Water Management Plan (adopted in July 2016 by the Company Board of Directors) determined that with utilization of conservation measures and recycled water, water supplies would be adequate to supply customers in its service area upon the City's projected General Plan buildout demand. Further, the proposed project would be required to implement the City of San José's Private Development Green building code standards which employ water conservation measures. **(Less than Significant Impact)**

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

The proposed project is the redevelopment of the existing retail commercial development with residential uses, consistent with the General Plan land use and zoning designations for the site.

[46] Email communication with Anthony Ho, Architect LMPD Architects. February 18, 2023.

Wastewater in the City of San José is treated at the RWF. The RWF has the capacity to provide tertiary treatment of up to 167 million gallons of wastewater per day (mgd) but is limited to a 120 mgd dry weather effluent flow by the State and Regional Water Quality Control Boards. Based on the General Plan FPEIR, the City's average dry weather flow is approximately 69.8 million gallons per day and the City's capacity allocation is approximately 108.6 mgd, leaving the City with approximately 38.8 mgd of excess treatment capacity.

Development allowed under the General Plan (which includes the project) would not exceed the City's allocated capacity at the RWF; therefore, redevelopment of the project would have a less than significant impact on wastewater treatment capacity. **(Less than Significant Impact)**

d.,e. 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? Would the project comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

The redevelopment allowed under the proposed project could generate additional solid waste compared to that of existing retail commercial uses on the site. The City's General Plan FPEIR concluded that growth identified in the General Plan would not exceed the capacity of existing landfills serving the City of San José. The increase in solid waste generation from redevelopment of the project would be avoided through implementation of the City's Zero Waste Strategic Plan, which set a goal of 75 percent waste diversion by 2013 and zero waste by 2022.

The Waste Strategic Plan in combination with existing regulations and programs, would ensure that full buildout of the General Plan would not result in significant impacts on solid waste generation, disposal capacity or otherwise impair the attainment of solid waste reduction goals. Furthermore, with the implementation of City policies to reduce waste, the project would comply with all federal, state, and local statutes and regulations related to solid waste.

The proposed project is consistent with the development assumptions in the General Plan and would have a less than significant impact on landfill capacity. The proposed project design would be required to comply with all federal, state, and local statutes and regulations related to solid waste disposal. **(Less than Significant Impact)**

Conclusion

Redevelopment of the project site would have a less than significant impact on utilities and service systems. **(Less than Significant Impact)**

4.19 WILDFIRE

Environmental Setting

The project site is located in a highly urbanized area of San José surrounded by commercial, office, industrial, and residential development. It is not located within a Very-High Fire Hazard Severity Zone for wildland fires, as designated by the California Department of Forestry and Fire Protection.[47]

Regulatory Framework

State

Public Resources Code 4201 – 4204

Sections 4201 through 4204 of the California Public Resources Code direct Cal Fire to map Fire Hazard Severity Zones (FHSZ) within State Responsibility Areas (SRA), based on relevant factors such as fuels, terrain, and weather. Mitigation strategies and building code requirements to reduce wildland fire risks to buildings within SRAs are based on these zone designations.

Government Code 51175 – 51189

Sections 51175 through 51189 of the California Government Code directs Cal Fire to recommend FHSZs within Local Responsibility Areas (LRA). Local agencies are required to designate VHFHSZs in their jurisdiction within 120 days of receiving recommendations from Cal Fire, and may include additional areas not identified by Cal Fire as VHFHSZs.

California Fire Code

The 2016 California Fire Code establishes the requirements for development within wildland-urban interface areas, including regulations for wildfire protection building construction, hazardous vegetation and fuel management, and defensible space maintained around buildings and structures.

Local

San José Fire Department Wildland-Urban Interface Fire Conformance Policy

Buildings proposed to be built within the SJFD WUI shall comply with all WUI materials and construction methods per California Building Code Chapter 7A and California Residential Code (CRC) Section R337. The applicant shall, prior to construction, provide sufficient detail to demonstrate that the building proposed to be built complies. Building Permit Plans are also to be approved by the SJFD.

[47] MTC/ABAG Resilience. Hazard Viewer Maps for Wildfire Severity Zones. Accessed at https://mtc.maps.arcgis.com/apps/webappviewer/index.html?id=4a6f3f1259df42eab29b35dfcd086fc8 on November 8, 2022.

Wildfire Environmental Checklist

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	Less than Significant Impact	No Impact	Checklist Source(s)
a. Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒	1,2,3,4
b. Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	☐	☐	☐	☒	1,2,3,4,23,25
c. Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	☐	☐	☐	☒	1,2,3,4,20,25
d. Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	☐	☐	☐	☒	1,2,3,4,20,23,25

Impacts Evaluation

The project site is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones. Therefore, redevelopment of the project site would not result in wildfire impacts. **(No Impact)**

4.20 MANDATORY FINDINGS OF SIGNIFICANCE

Does the project:	Potentially Significant Impact	Less than Significant Impact with Mitigation	Less than Significant Impact	No Impact	Checklist Source(s)
a. 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?	☐	☒	☐	☐	1-30
b. 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 the past projects, the effects of other current projects, and the effects of probable future projects.	☐	☐	☒	☐	1-30
c. Have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☒	☐	☐	1-30

Impacts Evaluation

a. Would 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?

As discussed in the individual resource sections, the proposed project would allow the redevelopment of the retail commercial uses on-site with residential uses; however, the project would not degrade the quality of the environment with implementation of the identified *Standard Permit Conditions* and conformance with General Plan policies. The project is consistent with the General Plan land use designation and Zoning Ordinance. The proposed

Density Bonus request to eliminate the requirement of 0.75 FAR of commercial space on-site (approximately 7,145 sf) would not result in any additional environmental impacts given the amount of existing commercial development within the project area. In fact, some impacts could be less, including traffic, air quality, noise, and GHG emissions, because traffic generation would be slightly reduced.

As discussed in *Section 4.3 Air Quality*, the proposed project would be required to implement the identified MM AQ-1 and *Standard Permit Conditions* during all phases of construction to reduce dust and other particulate matter emissions.

As discussed in *Section 4.4 Biological Resources*, the project would not impact sensitive habitats or species. With implementation of the identified MM BIO-1.1 through MM BIO-1.4 and *Standard Permit Conditions*, the project would not impact nesting raptors or migratory birds and all trees removed would be replaced per City standards. The proposed project is consistent with the activity described in Section 2.3.2 of the SCVHP and would require discretionary approval by the City. The project would be subject to all applicable SCVHP conditions and fees prior to the issuance of any grading permits.

Earthmoving activities on-site may result in the loss of unknown subsurface cultural resources. Implementation of the identified *Standard Permit Conditions* in *Section 4.5 Cultural Resources* would avoid or reduce potential impacts to cultural resources to a less than significant level.

As discussed in *Section 4.9 Hazards and Hazardous Materials*, the project could result in impacts to construction workers, future occupants, nearby communities, and the environment from exposure to potentially hazardous soil conditions resulting from previous railroad uses on-site. Implementation of MM HAZ-1, which includes soil testing, would reduce impacts to a less than significant level.

Construction noise impacts would be reduced to a less than significant level with the implementation of MM NOI-1 as discussed in *Section 4.13 Noise and Vibration.*

Based on the analysis provided in this Initial Study, the proposed project would not have the potential to substantially degrade the quality of the environment. Redevelopment of the site would also not 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. *Standard Permit Conditions* are included in the project to reduce all identified potential biological, air quality, archaeological/historic resources, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, and noise impacts to a less than significant level. **(Less than Significant Impact with Mitigation)**

b. Would 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 the past projects, the effects of other current projects, and the effects of probable future projects).

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."

Based on the analysis provided in this Initial Study, the proposed project would not significantly contribute to cumulative impacts, because the proposed project is the redevelopment of an existing developed site. The site is completely developed with the exception of some small landscaped areas and would continue in this condition as a result of redevelopment. In addition, the project site is surrounded by existing urban development that is designated for industrial/commercial/residential uses in the City's General Plan.

Land uses in the project area are being redeveloped from what was originally constructed. All such projects are required to mitigate for impacts and include *Standard Permit Conditions* to reduce impacts and not contribute to cumulative traffic, air quality, noise, or greenhouse gas emissions. **(Less than Significant Impact)**

c. Have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?

Based on the analysis provided in this Initial Study, the proposed project includes all necessary *Standard Permit Conditions* and Mitigation Measures to reduce potential direct and indirect impact on human beings, including hazardous materials, noise, and air quality. Therefore, the project would not result in environmental effects that would cause substantial adverse effects on human beings, either directly or indirectly. **(Less than Significant Impact with Mitigation)**

Conclusion

With the implementation of all identified *Standard Permit Conditions* and Mitigation Measures, and conformance with all applicable federal, state, regional, City, and General Plan policies, the project would have less than significant impacts related to the CEQA mandatory findings of significance. **(Less than Significant Impact with Mitigation)**

CHECKLIST SOURCES

1. Professional judgment and expertise of the environmental specialist preparing this assessment, based upon a review of the site and surrounding conditions, as well as review of project plans.
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9. Santa Clara County. *Final Santa Clara Valley Habitat Plan*. August 2012.
10. City of San José. *Historic Resources Inventory*. September 23, 2014.
11. A/HC Archaeological and Historic Consultants, *Archaeological Sensitivity Assessment, 70 N. 27th Street,* San José, CA, August 30, 2022.
12. Cornerstone Earth Group, *Phase I Environmental Site Assessment Report, 70-80 North 27th Street*, May 11, 2021.
13. San José Unified School District. Enrollment. https://www.sjusd.org/our-schools/schools/. Accessed September 7, 2022.
14. City of San José. Post-Construction Urban Runoff Management (Policy 6-29). October 4, 2011.
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