FIRSTCARBONSOLUTIONS™

Moorpark Avenue Multi-Family Residential Project
Initial Study/Mitigated Negative Declaration
City of San José, Santa Clara County, California

Prepared for:

City of San José
Planning Division
200 East Santa Clara Street
San José, CA 95113
408.794.7386

Contact: Bethelhem Telahun, Environmental Review Planner

Prepared by:

FirstCarbon Solutions
2999 Oak Road, Suite 250
Walnut Creek, CA 94597
925.357.2562

Contact: Mary Bean, Project Director
Tsui Li, Project Manager

Report Date: April 25, 2023

THIS PAGE INTENTIONALLY LEFT BLANK

San José Signed Page Goes Here (provided by San José)

THIS PAGE INTENTIONALLY LEFT BLANK

Table of Contents

Figures

Tables

Appendices

THIS PAGE INTENTIONALLY LEFT BLANK

ACRONYMS AND ABBREVIATIONS

AB	Assembly Bill
ABAG	Association of Bay Area Governments
ACM	asbestos-containing material
ADA	Americans with Disabilities Act
ADT	Average Daily Traffic
ADU	accessory dwelling units
AERMOD	American Meteorological Society/EPA Regulatory Model
APN	Assessor's Parcel Number
AQP	Air Quality Plans
ARB	California Air Resources Board
ATCM	Airborne Toxic Control Measures
BAAQMD	Bay Area Air Quality Management District
BACT	Best Available Control Technology
BERD	Built Environmental Research Directory
BMP	Best Management Practice
C&D	Construction and Demolition
CAAQS	California Ambient Air Quality Standards
CalEEMod	California Emissions Estimator Model
Cal/EPA	California Environmental Protection Agency
CAL FIRE	California Department of Forestry and Fire Protection
CALGreen	California Green Building Standards Code
Cal/OSHA	California Occupational Safety and Health Administration
CalRecycle	Department of Resources Recycling and Recovery
Caltrans	California Department of Transportation
CBC	California Building Standards Code
CCR	California Code of Regulations
CDDD	Construction and Demolition Diversion Deposit
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CESA	California Endangered Species Act
CH_4	methane
CLUP	Comprehensive Land Use Plan
CMP	Congestion Management Program
CNDDB	California Natural Diversity Database
CNEL	Community Noise Equivalent Level
CNPS	California Native Plant Society

CO	carbon monoxide
CO_2e	carbon dioxide equivalent
CRHR	California Register of Historical Resources
CTC	California Transportation Commission
CUHSD	Campbell Union High School District
CUSD	Campbell Union School District
CWA	Clean Water Act
dB	decibel
dBA	A-weighted decibel
DNL	day/night average sound level
DPM	diesel particulate matter
DTSC	Department of Toxic Substances Control
du	dwelling units
EIR	Environmental Impact Report
EMFAC	Emissions Factors model
EOP	Emergency Operations Plan
EPA	Environmental Protection Agency
ESA	Environmental Site Assessment
EV	electric vehicle
FAA	Federal Aviation Administration
FAR	floor area ratio
FCS	FirstCarbon Solutions
FEMA	Federal Emergency Management Agency
FHSZ	Fire Hazard Severity Zone
FIRM	Flood Insurance Rate Map
FMMP	Farmland Mapping and Monitoring Program
FTA	Federal Transit Administration
GHG	greenhouse gas
GHGRS	GHG Reduction Strategy
GIS	Geographic Information Systems
H_2S	hydrogen sulfide
HAA	Housing Accountability Act
HARP2	Hotspots Analysis and Reporting Program
HDM	Highway Design Manual
HI	Hazard Index
HM	Hydromodification Management
HMP	Hydromodification Management Plan
HOA	Homeowner's Association
HOV	High Occupancy Vehicle

HRA	Health Risk Assessment
HRE	Historic Resources Evaluation Report
HVAC	heating, ventilation, and air conditioning
in/sec	inches per second
ITE	Institute of Transportation Engineers
IWMP	Integrated Waste Management Plan
kBTU	kilo-British Thermal Unit
kWh	kilowatt-hour
LAFCo	Local Agency Formation Commission
LBP	lead-based paint
lbs	pounds
LEED™	Leadership in Energy and Environmental Design
L_{eq}	Noise Equivalent Level
LID	Low Impact Development
L_{max}	maximum A-weighted noise level
LOS	Level of Service
LT-1	long-term noise measurement
LTA	Local Transportation Analysis
MBTA	Migratory Bird Treaty Act
MERV	Minimum Efficiency Reporting Value
mgd	million gallons per day
MIR	Maximally Impacted Sensitive Receptor
MLD	Most Likely Descendant
MM	Mitigation Measure
mm/sec	millimeters per second
MPO	Metropolitan Planning Organization
MRP	Municipal Regional Stormwater NPDES Permit
msl	mean sea level
MT	metric ton
MTC	Metropolitan Transportation Commission
MUN	Mixed-Use Neighborhood
Muni Water	San José Municipal Water System
N_2O	nitrous oxide
NAAQS	National Ambient Air Quality Standards
NAHC	Native American Heritage Commission
NESHAP	National Emissions Standards for Hazardous Air Pollutants
NFIP	National Flood Insurance Program
NHTSA	National Highway Traffic Safety Administration
NO_2	nitrogen dioxide

NOI	Notice of Intent
NO_X	nitrogen oxides
NPDES	National Pollutant Discharge Elimination System
NPPA	Native Plant Protection Act
NRHP	National Register of Historic Places
NWIC	Northwest Information Center
OCP	organochlorine pesticide
OEHHA	Office of Environmental Health Hazard Assessment
OHP	California Office of Historic Preservation
OPR	Governor's Office of Planning and Research
PBCE	Planning, Building, and Code Enforcement
PDA	Priority Development Area
PDO	Park Dedication Ordinance
PERP	Portable Equipment Registration Program
PG&E	Pacific Gas and Electric Company
PIO	Park Impact Ordinance
PM	particulate matter
PM_{10}	particulate matter less than 10 microns in diameter
$PM_{2.5}$	particulate matter less than 2.5 microns in diameter
PM_x	particulate matter
ppm	parts per million
PPV	peak particle velocity
PRC	Public Resources Code
QSD	Qualified Stormwater Developer
RAP	Removal Action Plan
REC	Recognized Environmental Condition
REL	Reference Exposure Level
RHNA	Regional Housing Needs Assessment
R-M	Residential Multiple
ROG	reactive organic gas
RPS	Renewable Portfolio Standards
RTP	Regional Transportation Plan
RWQCB	Regional Water Quality Control Board
San José Water	San José Water Company
SB	Senate Bill
SCVHCP	Santa Clara Valley Habitat Conservation Plan
SCVHP	Santa Clara Valley Habitat Plan
SJCC	San José City College
SJCE	San José Clean Energy

SLCP	Short-Lived Climate Pollutant
SLF	Sacred Lands File
SMARA	Surface Mining and Reclamation Act
SMP	Soil Management Plan
SO_2	sulfur dioxide
SO_X	sulfur oxide
SR	State Route
SRA	State Responsibility Area
State Water Board	California State Water Resources Control Board
SWPPP	Storm Water Pollution Prevention Plan
TAC	toxic air contaminant
TCM	Treatment Control Measure
TCR	Tribal Cultural Resource
TDM	Transportation Demand Management
TDP	Transportation Development Policy
USACE	United States Army Corp of Engineers
USC	United States Code
USFWS	United States Fish and Wildlife Service
USGS	United States Geological Survey
UWMP	Urban Water Management Plan
Valley Water	Santa Clara Valley Water District
VMT	Vehicle Miles Traveled
VOC	volatile organic compound
VTA	Santa Clara Vehicle Transportation Authority
ZEV	Zero-Emission Vehicle

THIS PAGE INTENTIONALLY LEFT BLANK

SECTION 1: INTRODUCTION

This Initial Study of environmental impacts has been prepared to conform to the requirements of the California Environmental Quality Act (CEQA), the CEQA Guidelines (Title 14, California Code of Regulations [CCR] § 15000, *et seq*.) and the regulations and policies of the City of San José. The purpose of this Initial Study is to provide objective information regarding the potential environmental consequences of the proposed project to the decision-makers who will be reviewing and considering the project.

The City of San José is the Lead Agency under CEQA and has prepared this Initial Study to evaluate the environmental impacts that might reasonably be anticipated to result from the annexation from Santa Clara County into the City of San José, pre-zoning, vesting tentative map, and Site Development Permit approval to allow for the demolition of the 14 existing residential buildings (consisting of 30 multi-family units) and their associated structures and landscaping, and the construction of 41 residential townhomes, with 17 townhomes incorporating ground floor 1-bedroom or studio accessory dwelling units restricted as very low or low income rental units. The townhomes will be constructed in five, 3-story multi-family buildings at 2323, 2369, 2389, and 2391 Moorpark Avenue and Central Way.

All documents referenced in this Initial Study are available for public review in the Office of Planning, Building and Code Enforcement at San José City Hall, 200 East Santa Clara Street, during normal business hours.

THIS PAGE INTENTIONALLY LEFT BLANK

SECTION 2: PROJECT INFORMATION

2.1 - PROJECT TITLE

Moorpark Avenue Multi-family Residential Project

2.2 - PROJECT LOCATION

2323, 2369, 2389, and 2391 Moorpark Avenue and Central Way in San José, California.

2.3 - LEAD AGENCY CONTACT

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

Bethelhem Telahun, Environmental Review Planner
Phone: 408.535.5624
Email: bethelhem.telahun@sanjoseca.gov

2.4 - PROJECT APPLICANT

TTLC Management Inc. and Arizona Corporation
dba TTLC San José-Moorpark LLC
12647 Alcosta Boulevard, Suite 470
San Ramon, CA 94583

2.5 - ASSESSOR'S PARCEL NUMBERS

APNs 282-01-014, -015, -016, -022, -023, -024, -025

2.6 - ZONING DISTRICT AND GENERAL PLAN DESIGNATIONS

2.6.1 - Existing

Unincorporated County of Santa Clara Zoning: Santa Clara County R1 and R3.
Envision San José 2040 General Plan Land Use Designation: Mixed-Use Neighborhood.

2.6.2 - Proposed

The proposed project would require annexation into the City of San José and pre-zoning. The proposed zoning district is R-M Residential Multiple.

2.7 - PROJECT-RELATED APPROVALS, AGREEMENTS AND PERMITS

- Annexation
- Pre-zoning
- Site Development Permit
- Subdivision/Lot Merger Application

2.8 - HABITAT PLAN DESIGNATIONS

The project site is within the Santa Clara Valley Habitat Conservation Plan (SCVHCP) area and is designated as follows:[1]

- Land Cover Designation: Urban–Suburban
- Development Zone: Urban Development
- Fee Zone: Urban Areas (No Land Cover Fee)
- Owl Conservation Zone: None

The project site is not located within a burrowing owl fee zone, wetland fee zone, serpentine fee zone, plant survey area, or a wildlife survey area. The project site is not located next to, or adjacent to, a designated reserve.

[1] Santa Clara Valley Habitat Agency. Habitat Agency Geobrowser. Website: http://www.hcpmaps.com/habitat/. Accessed December 15, 2020.

SECTION 3: PROJECT DESCRIPTION

3.1 - ENVIRONMENTAL SETTING

3.1.1 - Detailed Project Location

The project site is located at 2323, 2369, 2389, and 2391 Moorpark Avenue in unincorporated Santa Clara County, California (Figure 1). The approximately 2-acre project site is surrounded by a residential neighborhood to the west, Moorpark Avenue and medical facilities to the south, single-family housing and Central Way to the east, and a portion of Central Way as well as a noise barrier and Interstate 280 (I-280) to the north (Figure 2). Regional access is provided to the site via I-280 and Interstate 880 (I-880). The project site is also within less than 0.5-mile to a major transit corridor[2] along Bascom Avenue. The project site consists of Assessor's Parcel Numbers (APNs) 282-01-014, -015, -016, -022, -023, -024, and -025. The project site is located in the *San José West, California* United States Geological Survey (USGS) 7.5-minute Topographic Quadrangle Map, (Latitude 37° 18' 59.49'' North; Longitude 121° 56' 7.64'' West).

3.1.2 - Site History

The area surrounding the project site was developed with orchards and rural residential properties from at least 1889. Santa Clara Valley Medical Center has been present to the south of the project site since at least 1889. The project site and surrounding areas to the north, west, and east were originally orchards with rural residences until the 1940s when single-family residences were developed. In the late 1960s, a swath of residences adjacent to the north were demolished and I-280 was constructed. By 1968, the project site was developed with residential buildings and associated landscape. The area remains residential to the west and east, with I-280 adjacent to the north, and Moorpark Avenue and Santa Clara Valley Medical Center to the south.[3]

Currently, four of the seven parcels (APNs 282-01-022, -023, -024, -025) on the project site are developed with 14 residential buildings, consisting of 30 multi-family dwelling units, some of which have attached or integrated carports, as well as a contemporary storage building, two metal storage containers, and associated landscaping. Three parcels (APNs 282-01-014, 015, and 016) are currently vacant.

3.1.3 - Land Use and Zoning Designations

The project site is currently located in unincorporated Santa Clara County, along its border with the City of San José, and is also within San José's Urban Service Area boundary and the Envision San José 2040 General Plan (General Plan) West Valley Planning Area. According to the General Plan, the project site is designated Mixed-Use Neighborhood (MUN), as shown in Figure 3. Properties designated MUN are "intended for development primarily with either townhouse or small lot single-

[2] Public Resources Code Section 21155 ("For purposes of this section, a high-quality transit corridor means a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours.").

[3] Heiny, C.J, and Langry, P.M. 2019. Moorpark Phase I Environmental Site Assessment and Preliminary Soil Quality Evaluation, Cornerstone Earth Group. December 5.

family residences and also existing neighborhoods that were historically developed with a wide variety of housing types, including a mix of residential densities and forms."

The project site is currently zoned by the County as R1 on the northeastern portion of the site and R3 on the southwestern portion of the site (Figure 4). The proposed project would require annexation into the City of San José and includes pre-zoning to the R-M Multiple Residence Zoning District. The Multiple Residence zoning district is meant "for the construction, use and occupancy of higher density residential development and higher density residential-commercial mixed-use development."[4] Applications for annexation and pre-zoning were submitted in January 2020.

The proposed project would be consistent with the General Plan Land Use designation of Mixed-Use Neighborhood and would also be consistent with the R-M zoning district standards.

3.2 - PROJECT DESCRIPTION

3.2.1 - Project Overview

TTLC San José-Moorpark, LLC (applicant) is seeking approval for site annexation, pre-zoning, vesting tentative map, and a Site Development Permit. The proposed project involves the demolition of all existing structures, including 14 existing residential buildings containing 30 multi-family rental units, along with several storage buildings, carports, paving, and landscaping. The proposed project would construct 41 for-sale townhomes within five 3-story buildings. These 3-story townhome buildings would contain 2 and 3-bedroom residential units ranging in size from approximately 1,100 to 1,800 square feet with attached two-car garages (Figure 5). Buildings 1 and 3 would each provide nine attached townhome units. Buildings 2 and 4 would each provide eight attached townhome units. Building 5 would provide seven attached townhome units. Seventeen of the townhomes would include an attached 1-bedroom or studio accessory dwelling unit (ADU) on the ground floor, and these ADUs would be restricted for rent to very low and low income households.[5] The 17 affordable ADUs are the proposed project's "replacement units" for the existing on-site units that the City of San José determined are "protected units" pursuant to the Housing Crisis Act of 2019.[6] These ADUs are included in select townhomes in Buildings 1, 2, and 3. The proposed project would provide parking and common areas and would install a private looped drive.

3.2.2 - Parking, Site Access, and Transit

Access to the project site would be provided from a private looped drive connecting to the Central Way cul-de-sac. Permeable pavers would be used in the private drive. The proposed project would provide 82 garage parking spaces and 25 guest parking spaces, for a total of 107 parking spaces. The proposed parking spaces would exceed the San José Zoning Ordinance requirement of 106 parking spaces.[7] The proposed project would also include 12 on-site bicycle parking spaces and 41 bicycle parking spaces in private garages.

---

[4] San José Municipal Code Section 20.30.010(C)(3)

[5] For conservative analysis, the replacement units are analyzed as individual units in the air quality, noise, and transportation analyses.

[6] City of San José. Replacement Unit Determination Form. Website: https://www.sanjoseca.gov/home/showpublisheddocument/80034. Accessed November 11, 2022.

[7] AB-2097, Residential, commercial, or other development types: parking requirements. CA Stat. § 65585. 2022. https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB2097

Several bus stops are located within a short walking distance of the site. The closest stops include the Ginger and Middle bus station, located 0.18 mile south of the project site; the Moorpark and Empey stop, located 0.1 mile west of the project site; the Moorpark and Thornton stop, located 0.2 mile west of the project site; the Valley Medical Center stop, located 0.2 mile south of the project site; and the South Bascom and Renova stop, located 0.25 mile southeast of the project site. As defined by Public Resource Code § 21064.3, the closest "major transit stop"[8] is the Bascom and Renova southbound stop, located within 0.5 mile of the project site.

The applicant is aware of the City of San José's desire to realign Moorpark Avenue to improve local circulation and safety; therefore, as a condition of approval of the project, the applicant would convey property to the City in support of this realignment. The southern portion of the project site, which corresponds to Lot E on the project's tentative subdivision map (Figure 6), would be dedicated to the City of San José for the future realignment of Moorpark Avenue by the City.

However, for the purpose of conservative analysis, this Draft IS/MND includes a separate analysis of the air quality and transportation construction impacts related to the realignment of Moorpark Avenue.

3.2.3 - Building Design

As shown in Figures 7a through 7d, each residential building would be three stories high. Building 1, Building 2, and Building 3would each be 38 feet, 9 inches tall. Building 4 and Building 5 would be 29 feet, 5 inches tall. Exterior materials would include horizontal fiber cement siding, stucco with light sand finish, shingle roofing, stucco window trim, and contemporary flush panel garage doors.

3.2.4 - Landscaping and Open Space

The proposed project would require the removal of 47 trees, 23 of which are considered "Ordinance Sized Trees." Eight trees would be preserved, including four Mexican fan palms on-site and four Ordinance Sized Trees located off-site: Paradox walnut, a coast live oak, a buckhorn, and a coast redwood. The City of San José requires mitigation for trees removed on development sites. According to the Preliminary Arborist Report, dated March 2021, the removal of 47 trees would require an estimate of 137 replacement trees based on the City's required tree replacement ratios. The proposed project would also include new shrubs, vines, and groundcover, which would be installed along setbacks and in common areas on the project site (Figure 8). Additionally, other vegetation such as shrubs and grasses would be incorporated throughout the site. The project's proposed plant palette is consistent with the City's recommended plant list; it includes drought tolerant California native species such as incense cedar (*Calocedrus decurrens*), Catalina ironwood (*Lyonothamnus floribundus*), and western redbud (*Cercis occidentalis*) as well as drought tolerant Mediterranean-climate species such as strawberry tree (*Arbutus unedo*) and crape myrtle (*Lagerstroemia*). The proposed plant palette does not include species that are prohibited by the City or species that are invasive to Santa Clara County. Therefore, the proposed project is consistent with the City's plant palette and low water irrigation requirements. Furthermore, the proposed plant palette is subject to City review and approval.

[8] "Major Transit Stops" contain at least one the following: (a) An existing rail or bus rapid transit station, (b) A ferry terminal served by either a bus or rail transit service, (c) The intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.

The proposed project would provide 9,375 square feet of common open spaces, which would include a playground, seating areas, a lending library, and pet areas.

3.2.5 - Lighting

The proposed project would provide outdoor lighting and new light fixtures that would comply with the San José Outdoor Lighting Policy, including lighting for pedestrian walkways and building exteriors, security lighting, and parking garage lighting.[9]

3.2.6 - Utilities

The project site is currently within the service area of the following utility service providers:

- Water: Santa Clara County Water District
- Electricity: Pacific Gas and Electric Company (PG&E)
- Gas: PG&E
- Sewer and Storm Drain: City of San José

3.2.7 - Public Improvements

The proposed project would dedicate right-of-way along Moorpark Avenue to the City of San José in support of the City's desire to realign Moorpark Avenue. The realignment of Moorpark Avenue would improve traffic and safety conditions and would provide an overall improved residential neighborhood. Other public improvements would include storm drain lines, water lines, and sanitary sewer lines.

3.2.8 - Construction

For the purposes of CEQA analysis, construction would begin in March 2024 and would conclude in October 2025.[10] Construction activities would include typical phases such as demolition, site preparation and grading, building construction, paving, and architectural coating.

3.3 - PROJECT OBJECTIVES

The project objectives include:

- Development of 41 multi-family residential townhomes, with 17 townhomes including 1-bedroom or studio ground floor ADUs deed restricted for rent to very low and low income households.
- Development of a residential project with attractive on-site amenities such as playground, seating areas, a lending library, and pet areas.
- Better utilize the proposed urban infill site through construction of higher density residential units.

[9] City of San José, California. 2000. City Council Policy 4-3, Outdoor Lighting on Private Developments. Website: https://www.sanjoseca.gov/home/showpublisheddocument?id=12835. Accessed January 11, 2021.

[10] Note that construction emissions would likely decrease if the construction schedule moved to later years because of improvements in technology and more stringent regulatory requirements.

- Implementation of the housing objectives of the San José General Plan by providing attractive and modern housing in close proximity to existing transportation corridors and urban areas, thereby decreasing vehicle miles traveled.
- Dedicate land for the realignment of Moorpark Avenue.

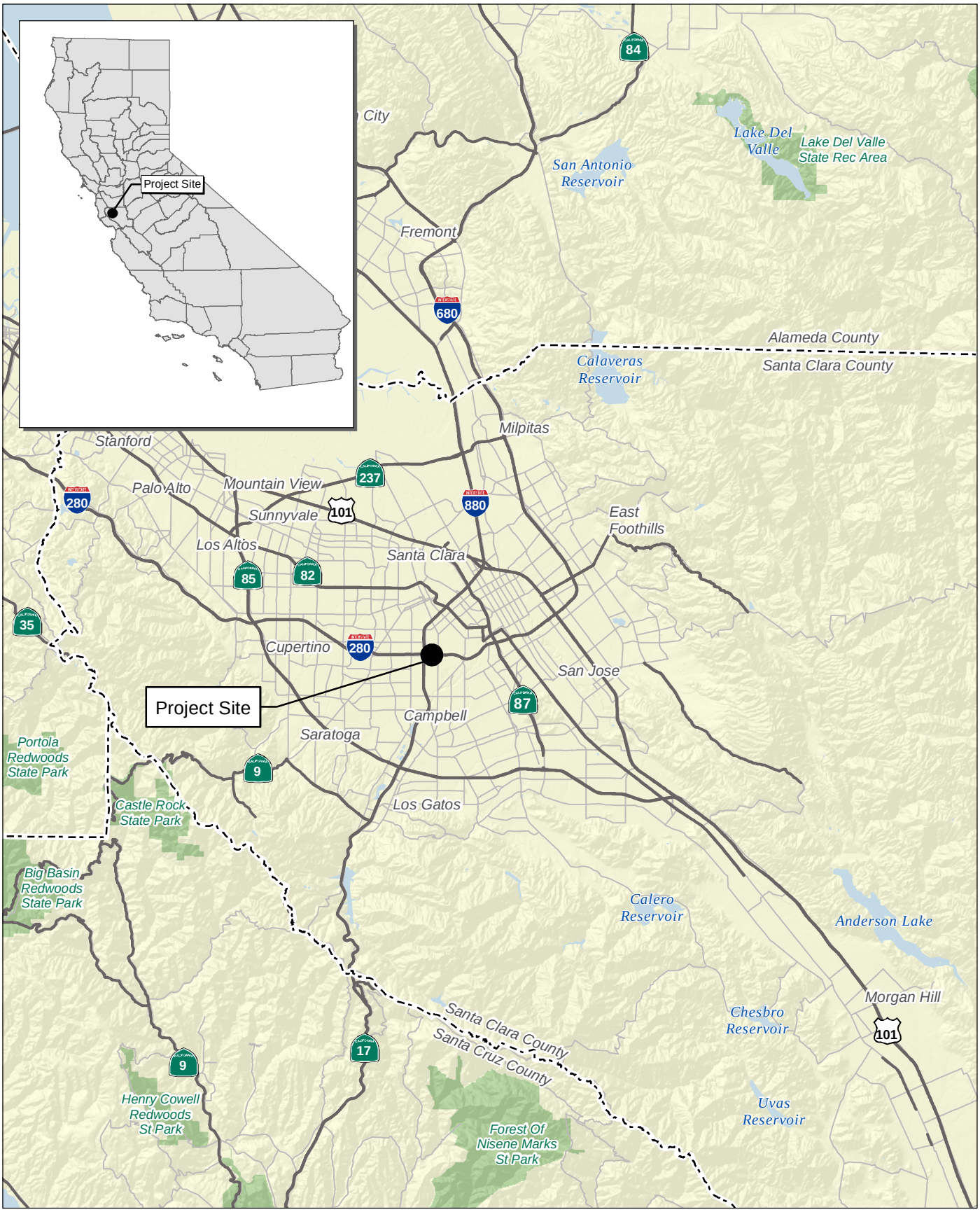
3.4 - REQUIRED DISCRETIONARY APPROVALS AND MINISTERIAL ACTIONS

The proposed project qualifies as a "housing development project," as defined in the Housing Accountability Act (Gov. Code, § 65589.5(h)(2)). The applicant submitted a preliminary application on July 31, 2020, under the Housing Crisis Act of 2019, enacted through Senate Bill (SB) 330 (Government Code § 65941.1(d)(1)). The proposed project requires the following discretionary approvals and actions, including:

- Annexation approval by the Local Agency Formation Commission (LAFCo)
- Pre-zoning
- Site Development Permit
- Subdivision/Lot Merger
- Vesting Tentative Map

Subsequent ministerial actions would be required for the implementation of the proposed project including issuance of demolition, tree removal, grading, improvement (for utilities, landscaping, pervious/impervious surface areas), and building permits.

THIS PAGE INTENTIONALLY LEFT BLANK



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

FIRSTCARBON SOLUTIONS™

5 2.5 0 5 Miles

Figure 1
Regional Location Map

THIS PAGE INTENTIONALLY LEFT BLANK

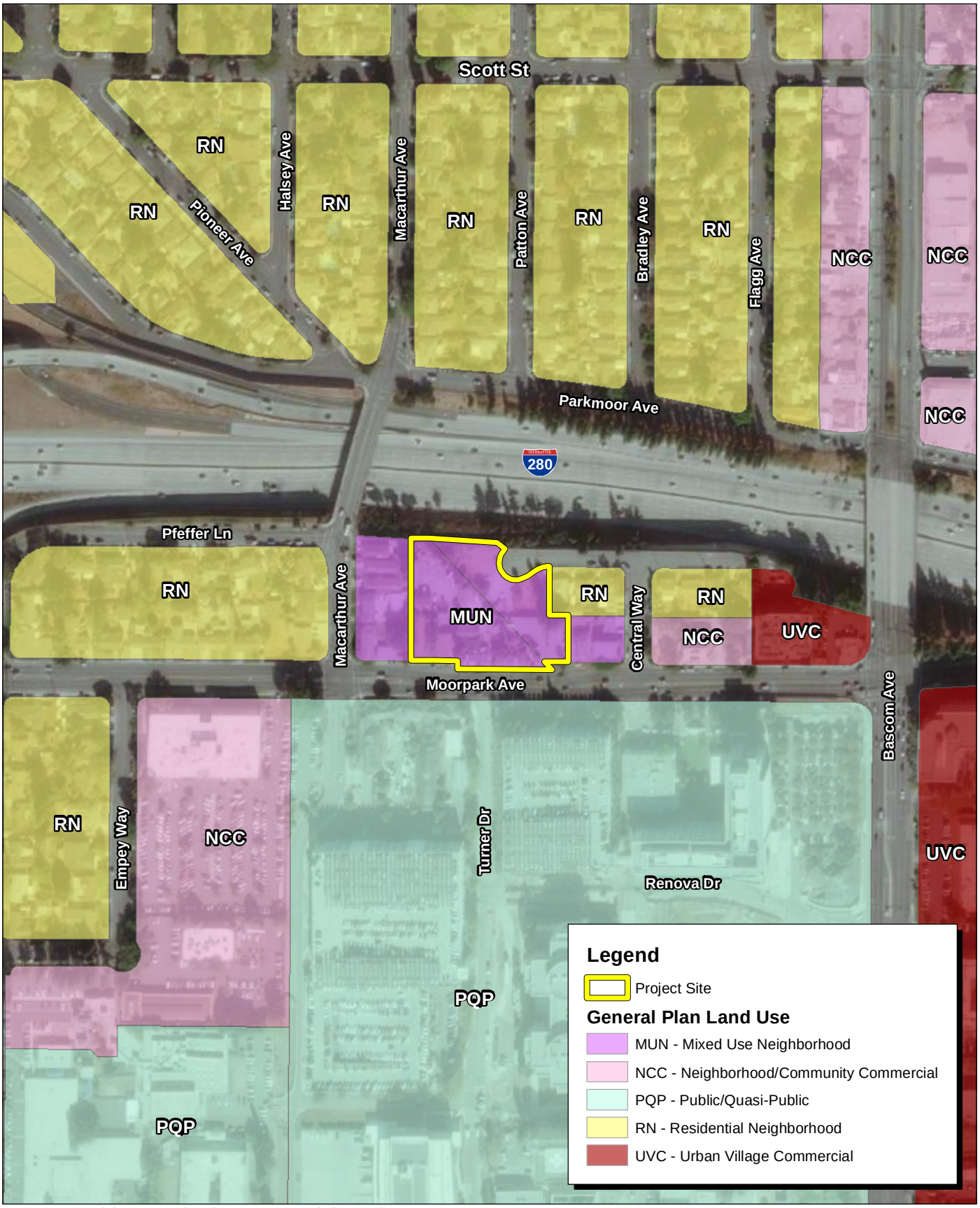
Source: Google Earth Aerial Imagery.

FIRSTCARBON SOLUTIONS™

350 175 0 350
Feet

Figure 2
Local Vicinity Map

THIS PAGE INTENTIONALLY LEFT BLANK



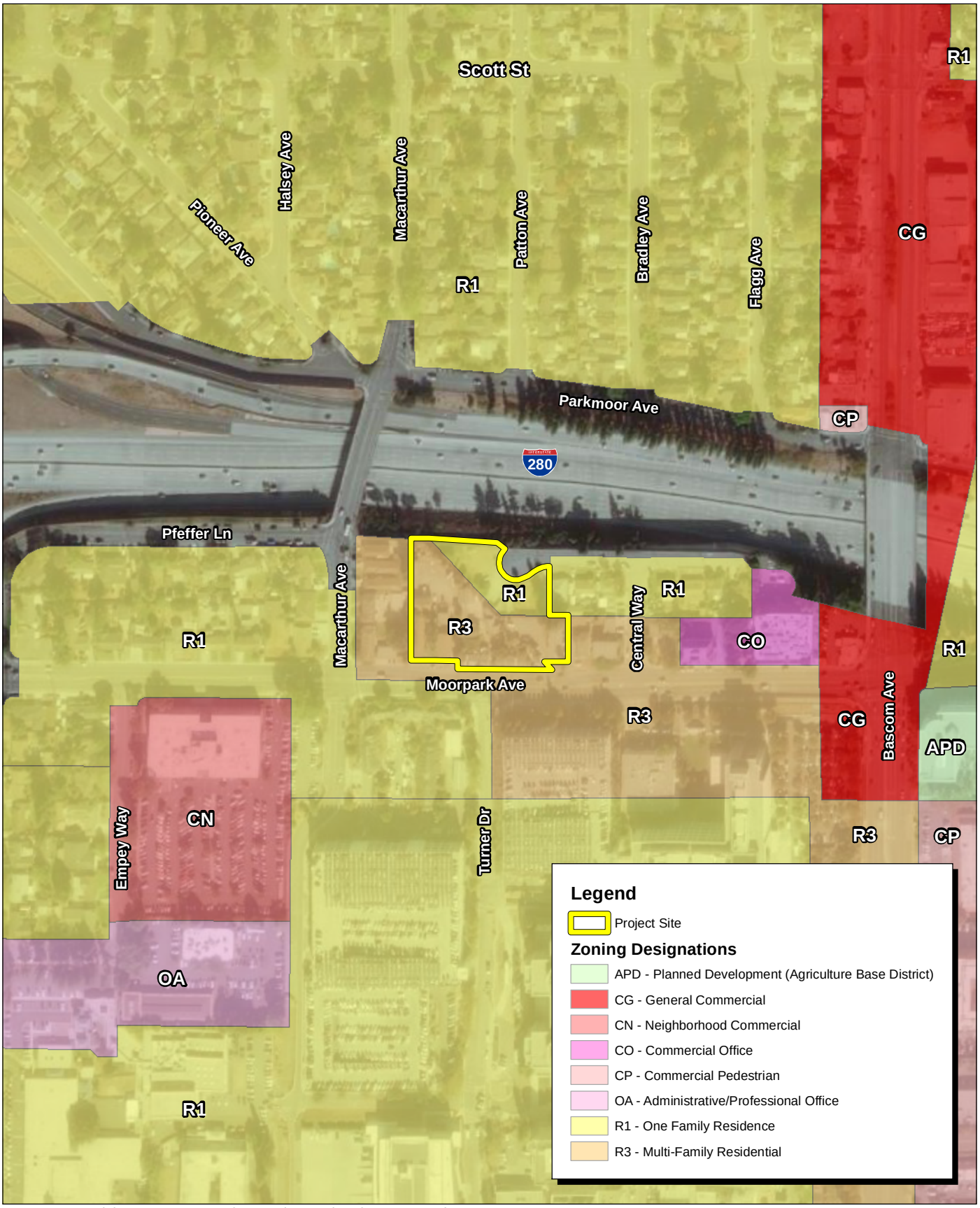
Source: ESRI Aerial Imagery. City of San Jose General Plan Land Use Data.

FIRSTCARBON SOLUTIONS™

300 150 0 300
Feet

Figure 3
General Plan Land Use Map

THIS PAGE INTENTIONALLY LEFT BLANK



Source: ESRI Aerial Imagery. County of Santa Clara & City of San Jose Zoning Data.

FIRSTCARBON SOLUTIONS™

300 150 0 300
Feet

Figure 4
Zoning Map

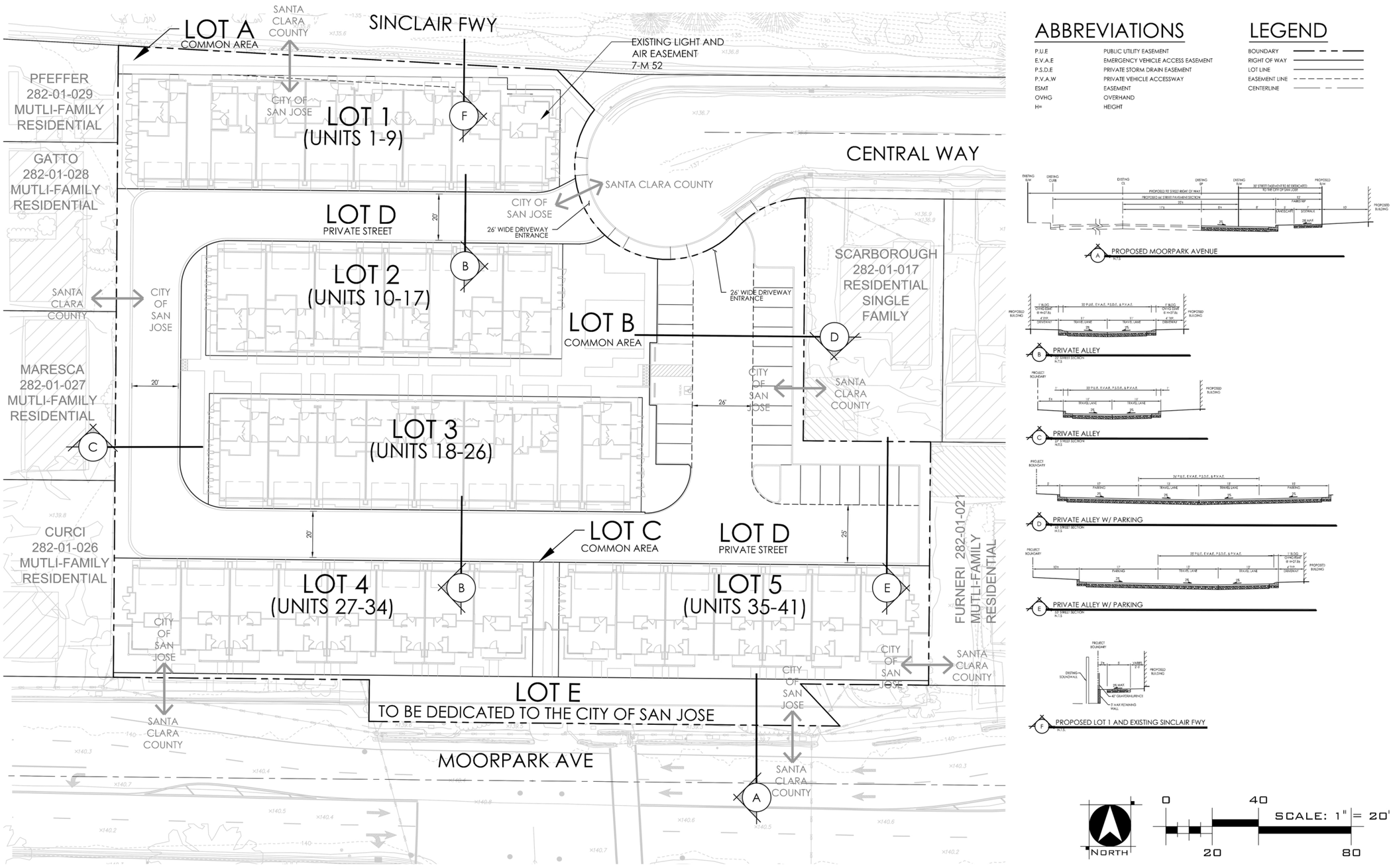
THIS PAGE INTENTIONALLY LEFT BLANK

Source: R3 Studios, September 9, 2022.

FIRSTCARBON SOLUTIONS™

Figure 5
Site Plan

THIS PAGE INTENTIONALLY LEFT BLANK



Source: Wood Rodgers, September 9, 2022.

FIRSTCARBON SOLUTIONS™

Figure 6
Vesting Tentative Map

THIS PAGE INTENTIONALLY LEFT BLANK

REAR ELEVATION

LEFT ELEVATION

FRONT ELEVATION

RIGHT ELEVATION

Source: SDG Architects, Inc., September 9, 2022.

FIRSTCARBON SOLUTIONS™

Figure 7a
Elevation Plan - Building 1

THIS PAGE INTENTIONALLY LEFT BLANK

REAR ELEVATION

LEFT ELEVATION

FRONT ELEVATION

RIGHT ELEVATION

0 2' 4' 6' 8' 16'

Source: SDG Architects, Inc., September 9, 2022.

FIRSTCARBON SOLUTIONS™

Figure 7b
Elevation Plan - Building 2

THIS PAGE INTENTIONALLY LEFT BLANK

REAR ELEVATION

LEFT ELEVATION

FRONT ELEVATION

RIGHT ELEVATION

0 2' 4' 6' 8' 16'

Source: SDG Architects, Inc., September 9, 2022.

FIRSTCARBON SOLUTIONS™

Figure 7c
Elevation Plan - Building 3

THIS PAGE INTENTIONALLY LEFT BLANK

REAR ELEVATION

LEFT ELEVATION

FRONT ELEVATION

RIGHT ELEVATION

0 2' 4' 6' 8' 16'

Source: SDG Architects, Inc., September 9, 2022.

FIRSTCARBON SOLUTIONS™

Figure 7d
Elevation Plan - Building 4

THIS PAGE INTENTIONALLY LEFT BLANK

REAR ELEVATION

LEFT ELEVATION

FRONT ELEVATION

RIGHT ELEVATION

0 2' 4' 6' 8' 16'

Source: SDG Architects, Inc., September 9, 2022.

FIRSTCARBON SOLUTIONS™

Figure 7e
Elevation Plan - Building 5

THIS PAGE INTENTIONALLY LEFT BLANK

Source: R3 Studios, September 9, 2022.

FIRSTCARBON SOLUTIONS™

Figure 8
Landscape Plan

THIS PAGE INTENTIONALLY LEFT BLANK

SECTION 4: SETTING, ENVIRONMENTAL CHECKLIST, AND 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 CEQA Guidelines, identifies environmental impacts that could occur if the proposed project is implemented.

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

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

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

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

4.1 - AESTHETICS

4.1.1 - Setting

The City of San José is located in the eastern portion of the Santa Clara Valley, between the Santa Cruz Mountains to the west and the Hamilton/Diablo Range to the east. The northern extension of the Santa Cruz Mountains contains peaks of 3,000 feet in elevation, and the Diablo Mountain range reaches a summit elevation of nearly 4,000 feet. These mountain ranges provide a scenic backdrop for the City of San José and the Silicon Valley as a whole, however views of the natural landscape are typically obstructed within the developed urban areas of the City due to the scale of surrounding development (high- and mid-rise residential and commercial buildings).

Four of the seven project parcels are developed and consist of 14 residential buildings containing 30 multi-family dwelling units, some of which have attached or integrated carports, as well as a contemporary storage building and two metal storage containers, and associated landscape. The three remaining parcels are currently vacant. The project site is surrounded by the following uses:

- North: a portion of Central Way, a noise barrier, I-280
- South: Moorpark Avenue, medical facilities
- East: Single-family housing, Central Way
- West: Residential

Views of the project site from Moorpark Avenue are unobstructed. Views of the project site from I-280 are obstructed by a hill and a wall along the side of the highway. The Santa Cruz Mountains are visible to those traveling west on Moorpark Avenue. View of the project site and surrounding area are shown in Figure 9.

Applicable Plans, Policies, and Regulations

California Scenic Highway Program

The State Scenic Highway Program is under the jurisdiction of the California Department of Transportation (Caltrans). The program intends to protect and enhance the natural scenic beauty of California highways and adjacent corridors. The State laws governing the Scenic Highway Program are in the Streets and Highways Code, Sections 260 through 284.[11] The nearest State-designated Scenic Highway is State Route (SR) 9, which is approximately 6.6 miles southwest of the site. The portion of I-280 that is eligible for the State Scenic Highway Program, from SR-17 to the western Santa Clara County Line, is approximately 0.34 mile west of the site.[12]

Senate Bill 743

SB 743 was signed by Governor Brown in September 2013. SB 743 made several changes applicable to CEQA for projects located in areas served by transit (Public Resources Code [PRC] Section 21099), and it was included in the CEQA Guidelines in the comprehensive December 2018 updates. Under SB 743, the proposed project's aesthetic impacts are not considered significant impacts on the

[11] State of California. 1969. Streets and Highways Code, Sections 260-284: State Scenic Highways.

[12] California Department of Transportation (Caltrans). 2017. List of Eligible and Officially Designated State Scenic Highway. Website: https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways. Accessed December 28, 2020.

environment because the proposed project is a residential project; and the proposed project is located on an infill site within a transit priority area. A transit priority area is an area within 0.5 mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in an adopted Transportation Improvement Program. This provision for aesthetic impacts does not include impacts to historic or cultural resources.

Envision San José 2040 General Plan

The General Plan identifies Gateways and Urban Corridors where preservation and enhancement of views of the natural and manufactured environment are crucial.[13] The project site is not on or adjacent to any Gateways. All State and Interstate Highways within the City's Sphere of Influence are considered Urban Corridors, the closest to the project site being I-280 which is immediately north of the project site.

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects within the City. The following policies are specific to aesthetic resources.

The proposed project qualifies as "a housing development project" under the Housing Crisis Act of 2019 (Housing Crisis Act) and the Housing Accountability Act (HAA). Under the Housing Crisis Act, affected cities may not impose or enforce design standards on or after January 1, 2020, that are not objective design standards. (Government Code 66300(b)(1)(C)) An "objective design standard" is defined as "a design standard that involves no personal or subjective judgment by a public official and is uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal of an application." (Government Code 66300(a)(7)). In addition, under the HAA, housing development projects need only demonstrate consistency or compliance with "applicable, objective general plan . . . standards and criteria, in effect at the time that the application was deemed complete." (Government Code 65589.5(j)(1)). Under the HAA, "objective" is defined in the same manner as under the Housing Crisis Act. (See Government Code 65589.5(h)(8).) Many of the General Policies identified below involve subjective judgment and therefore do not apply to the proposed project. Nevertheless, the proposed project is designed to be consistent with the General Plan's aesthetic policies, especially the ones regarding height, pedestrian amenities, landscaping, building design, and building scale.

General Plan Relevant Aesthetic Policies

Policies	Description
Policy CD-1.1	Require the highest standards of architecture and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
Policy CD-1.7	Require developers to provide pedestrian amenities, such as trees, lighting, recycling and refuse containers, seating, awnings, art, or other amenities, in pedestrian areas along

[13] City of San José. 2020. Envision San José 2040: General Plan. Website: https://www.sanjoseca.gov/home/showpublisheddocument?id=22359. Accessed December 28, 2020.

General Plan Relevant Aesthetic Policies

Policies	Description
	project frontages. When funding is available, install pedestrian amenities in public rights-of-ways.
Policy CD-1.8	Create an attractive street presence with pedestrian-scaled building and landscaping elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity throughout the City.
Policy CD-1.9	Give the greatest priority to developing high-quality pedestrian facilities in areas that will most promote transit use and bicycle and pedestrian activity. In pedestrian-oriented areas such as Downtown, Urban Villages, or along Main Streets, place commercial and mixed-use building frontages at or near the street-facing property line with entrances directly to the public sidewalk, provide high-quality pedestrian facilities that promote pedestrian activity, including adequate sidewalk dimensions for both circulation and outdoor activities related to adjacent land uses, a continuous tree canopy, and other pedestrian amenities. In these areas, strongly discourage parking areas located between the front of buildings and the street to promote a safe and attractive street facade and pedestrian access to buildings.
Policy CD-1.11	To create a more pleasing pedestrian-oriented environment, for new building frontages, include design elements with a human scale, varied and articulated facades using a variety of materials, and entries oriented to public sidewalks or pedestrian pathways. Provide windows or entries along sidewalks and pathways; avoid blank walls that do not enhance the pedestrian experience.
Policy CD-1.12	Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
Policy CD-1.13	Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.
Policy CD-1.17	Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.
Policy CD-1.18	Encourage the placement of loading docks and other utility uses within parking structures or at other locations that minimize their visibility and reduce their potential to detract from pedestrian activity.
Policy CD-1.19	Encourage the location of new and relocation of existing utility structures into underground vaults or within structures to minimize their visibility and reduce their potential to detract from pedestrian activity. When above ground or outside placement is necessary, screen utilities with art or landscaping.
Policy CD-1.22	Include adequate, drought tolerant landscaped areas in development and require provisions for ongoing landscape maintenance.

General Plan Relevant Aesthetic Policies

Policies	Description
Policy CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
Policy CD-1.24	Within new development projects, include preservation of ordinance sized and other significant trees, particularly natives. Avoid any adverse effect on the health and longevity of such trees through design measures, construction, and best maintenance practices. When tree preservation is not feasible, include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.
Policy 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.
Policy H-3.1	Require the development of housing that incorporates the highest possible level of amenities, fit and finish, urban design and architectural quality.
Policy H-3.2	Design high density residential and mixed residential/commercial development, particularly development located in identified Growth Areas, to: 5. Use architectural elements or themes from the surrounding neighborhood when appropriate. 7. Create a building scale that does not overwhelm the neighborhood.

THIS PAGE INTENTIONALLY LEFT BLANK

Photograph 1: Moorpark Avenue looking east.

Photograph 2: Moorpark Avenue looking north at project site.

Photograph 3: Moorpark Avenue looking south.

Photograph 4: Moorpark Avenue looking west.

FIRSTCARBON SOLUTIONS™

Figure 9
Site Photographs

THIS PAGE INTENTIONALLY LEFT BLANK

4.1.2 - Environmental Checklist and Impact Discussion

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

Impact Discussion

Except as provided in Public Resources Code Section 21099, would the project:

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

No impact. A scenic vista is defined as a viewpoint that provides expansive views of a highly valued landscape for the benefit of the public. The City of San José is located in the southern end of the San Francisco Bay, surrounded by the Santa Cruz Mountains to the west, and a series of low hills to the south. Existing urban development within the City and in the areas surrounding the project site mostly obstruct views of the Santa Cruz Mountains south of the City.

The project site itself does not offer broad views of the surrounding Santa Cruz Mountains or low hills given its flat topography and surrounding urban development. Further, there are no scenic vistas visible from the project site. The existing views of the Santa Cruz Mountains available to those traveling west on Moorpark Avenue and Central Way would not be impacted by the proposed project. As such, development of the site would not have a substantial impact on scenic vistas and there would be **no impact**.

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

No impact. The nearest officially designated State Scenic Highway is SR-9, which is approximately 6.6 miles southwest of the project site. The portion of I-280, from SR-17 to the western Santa Clara County Line, is eligible for the State Scenic Highway Program and is approximately 0.34 mile southwest of the site.[14] The project site is not visible from this portion of I-280. Even if this portion of I-280 were to obtain official designation, the proposed project still would not obstruct any views from a State Scenic Highway.

Moreover, according to the Envision San José 2040 General Plan Scenic Corridors Diagram, the proposed project is not located near a designated scenic gateway or rural scenic corridor.[15] The nearest scenic corridor to the project site is a scenic gateway along Stevens Creek Boulevard, 0.46 mile north of the project site. Therefore, the proposed project would not damage scenic resources, such as rock outcroppings or historic buildings within a State Scenic Highway, and **no impact would occur.**

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

Less than significant impact. The approximately 2-acre project site is in an urbanized area and is surrounded by a residential neighborhood to the west, Moorpark Avenue and medical facilities to the south, single-family housing and Central Way to the east, and a portion of Central Way, a noise barrier, and I-280 to the north. Under SB 743, the proposed project's aesthetic impacts are not considered significant impacts on the environment because the proposed project is a residential project and is located on an infill site within a transit priority area. However, to thoroughly consider potential impacts, the following analysis considers the proposed project's consistency with applicable zoning and relevant regulations governing scenic quality.

The project proposes to demolish 14 existing residential buildings (containing 30 total units), storage buildings, carports, paving, and landscaping and would construct 41 townhomes, including 17 ADUs, within five 3-story buildings with a maximum height of 38 feet, 9 inches. Section 20.85.020(E) of the San José Municipal Code allows a maximum building height of 45 feet for the project site. Therefore, the height of the proposed building is less than the maximum height allowed per the Municipal Code. Furthermore, the proposed project would be in the R-M zoning district. The purpose of the R-M zoning district is to reserve land for the construction, use, and occupancy of higher density residential development and higher density residential-commercial mixed-use development.[16] As such, the proposed project would be consistent with the R-M zoning district.

[14] California Department of Transportation (Caltrans). 2017. List of Eligible and Officially Designated State Scenic Highway. Website: https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways. Accessed December 28, 2020.

[15] City of San José. 2020. Envision San José 2040: General Plan – Scenic Corridors Diagram. Website: https://www.sanjoseca.gov/home/showpublisheddocument/22565/636688980487230000. Accessed September 15, 2021.

[16] City of San José. 2021. San José Zoning Ordinance, Chapter 20.30 – Residential Zoning Districts. Website:

The proposed project would provide common open spaces, which would include landscaping, a playground, seating areas, a lending library, and pet areas. Parking lot trees, evergreen screen trees, accent trees, and shrubs would be planted along the perimeter of the project site.

In conclusion, the proposed development would occur on a site that is substantially surrounded by urban uses, including residential and commercial land uses. The proposed building incorporates architectural elements and themes from the surrounding neighborhood and creates a building scale that, while larger than the surrounding buildings, does not overwhelm the neighborhood. As such, the project proposes to construct a building that is compatible in scale, massing, design, and intensity with the existing surrounding development. The planting of trees and other landscaping on-site would provide a softening visual element.

Therefore, the proposed project would not conflict with applicable zoning and other regulations governing scenic quality, and impacts would be **less than significant**.

4) Create a new source of substantial light or glare which will adversely affect day or nighttime views in the area?

Less than significant impact. The project site currently contains single story residential buildings. With the proposed development, the proposed project would increase the amount of light and glare compared to existing conditions. The new sources of light would originate from interior and exterior lighting of the building, as well as interior lighting for the common open space. New sources of glare would result from light reflecting off surfaces such as windows and car lights from residents driving in and out of the building driveway.

To reduce potential impacts related to glare and light trespass, the proposed project would be required to conform to City Council Policy 4-3: Outdoor Lighting on Private Developments, pertaining to how lights are directed, shielded, and the hours they should be used. The proposed project would not create a new source of light or glare that would substantially affect day or nighttime views in the area, and impacts would be **less than significant**.

Mitigation Measures

None.

Conclusion

Conformance with existing General Plan policies, federal, and State policies would ensure that the proposed project would not result in significant adverse visual or aesthetic impacts. **(Less than significant impact).**

https://library.municode.com/ca/san_jose/codes/code_of_ordinances?nodeId=TIT20ZO_CH20.30REZODI_PT1GE_20.30.010REZODI. Accessed August 20, 2021.

4.2 - AGRICULTURAL AND FOREST RESOURCES

4.2.1 - Setting

The project site is currently developed with 14 existing residential buildings, storage buildings, carports, and a surface parking lot and is surrounded by mostly residential and commercial uses. The project site does not have agricultural uses.

Applicable Plans, Policies, and Regulations

Farmland Mapping and Monitoring Program

The State Legislature established the California Department of Conservation Farmland Mapping and Monitoring Program (FMMP) in 1982 to assess the location, quality, and quantity of agricultural lands and conversion of them over time. The FMMP classifies the project site and its surroundings as "Urban and Built-up Land."[17] Common examples of "Urban and Built-Up Land" are residential, institutional, industrial, commercial, landfill, golf course, airports, and other utility uses. Additionally, project site is not zoned for agricultural use.[18] The Important Farmland Finder Map for Santa Clara County designates the project site as Urban and Built-Up Land.[19]

Williamson Act

The Williamson Act, classified in 1965 as the California Land Conservation Act, allows local governments to enter into contracts with private landowners, offering tax incentives in exchange for an agreement that the land will remain undeveloped or related open space use only for a period of 10 years. There is no forest land located on or adjacent to the project site and the site is not subject to a Williamson Act Contract.[20]

Fire and Resource Assessment Program

The California Department of Forestry and Fire Protection (CAL FIRE) identifies forest land, timberland, and lands zoned for timberland production that can (or do) support forestry resources.[21] Programs such as CAL FIRE's Fire and Resource Assessment Program 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.

---

[17] California Department of Conservation. 2016. Santa Clara County Important Farmland 2016. Website: https://santaclaralafco.org/sites/default/files/scl16.pdf. Accessed December 29, 2020.

[18] City of San José. Zoning Map.

[19] California Department of Conservation. 2000. California Important Farmland Finder. Website: https://maps.conservation.ca.gov/DLRP/CIFF/. Accessed January 11, 2021.

[20] County of Santa Clara Department of Planning and Development. 2020. Williamson Act and Open Space Easement. Website: https://www.sccgov.org/sites/dpd/Programs/WA/Pages/WA.aspx Accessed December 29, 2020.

[21] 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)).

Envision San José 2040 General Plan

Envision San José 2040 Relevant Agricultural Resources Policies

Policies	Description
Policy LU-12.3	Protect and preserve the remaining farmlands within San José's sphere of influence that are not planned for urbanization in the timeframe of the General Plan through the following means: • Limit residential uses in agricultural areas to those which are incidental to agriculture. • Restrict and discourage subdivision of agricultural lands. Encourage contractual protection for agricultural lands, such as Williamson Act contracts, agricultural conservation easements, and transfers of development rights. • Prohibit land uses within or adjacent to agricultural lands that would compromise the viability of these lands for agricultural uses. • Strictly maintain the Urban Growth Boundary in accordance with other goals and policies in this Plan.
Policy LU-12.4	Preserve agricultural lands and prime soils in non-urban areas in order to retain the aquifer recharge capacity of these lands.

4.2.2 - Environmental Checklist and Impact Discussion

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

Impact Discussion

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

No impact. The project site does not support agricultural activities. The California Department of Conservation FMMP map for Santa Clara County designates the project site as "Urban and Built-Up." Therefore, development of the proposed project would not convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to nonagricultural use. **No impact would occur**.

2) Conflict with existing zoning for agricultural use, or a Williamson Act Contract?

No impact. The project site is currently zoned by the County as R1 on the northeastern portion of the site and R3 on the southwestern portion of the site (Figure 4). The proposed project would require annexation into the City of San José and pre-zoning to the R-M Multiple Residence Zoning District. The land is not encumbered by a Williamson Act Contract, as indicated by the Santa Clara County Williamson Act map published by the California Department of Conservation. Therefore, the proposed project would not conflict with any existing agricultural zoning or with a Williamson Act Contract. **No impact would occur**.

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

No impact. The project site is currently zoned by the County as R1, one family residence on the northeastern portion of the site and R3, multi-family residential, on the southwestern portion of the site[22] (Figure 4). The proposed project would require annexation into the City of San José and pre-zoning to the R-M Multiple Residence Zoning District. These conditions preclude the possibility of a conflict with a forest zoning designation. **No impact would occur.**

4) Result in a loss of forest land or conversion of forest land to non-forest use?

No impact. The project site does not contain, nor is it adjacent to, any forested land. This condition precludes the possibility of loss of forest land or its conversion to non-forest. **No impact would occur**.

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

No impact. The project site is not adjacent to or in the immediate vicinity of any existing agricultural operations. There is no Prime Farmland, Unique Farmland, or Farmland of Statewide Importance in the City. Furthermore, the project site is not forested and is not considered suitable for forest land.

[22] County of Santa Clara. 2018. Zoning Ordinance of the County of Santa Clara. Website: https://www.sccgov.org/sites/dpd/DocsForms/Documents/ZonOrd.pdf Accessed December 29, 2020.

This condition precludes the possibility of the loss of forest land. No indirect impacts on farmland or forest land would occur.

Standard Permit Conditions

None.

Mitigation Measures

None.

Conclusion

There would be **no impacts** to agricultural resources.

4.3 - AIR QUALITY

This analysis is based on the technical memorandum prepared by FirstCarbon Solutions (FCS), titled Air Quality and Greenhouse Gas Emissions and Energy Impacts Analysis for the TTLC Moorpark Avenue Multi-family Residential Project, City of San José, Santa Clara County, California; dated September 16, 2022; revised December 6, 2022; and March 15, 2023. The memorandum is contained in Appendix A of this document.

4.3.1 - Setting

Air Pollutants

Air quality is determined by the measurement of concentrations of various pollutants in the atmosphere. The concentration of a given pollutant in the atmosphere is determined by the amount of pollutants released within an area, transport of pollutants to and from surrounding areas, local and regional meteorological conditions, and the surrounding topography of the air basin. The major determinants of transport and dilution are wind, atmospheric stability, terrain, and, for photochemical pollutants, sunlight. Based on federal and State regulations, carbon monoxide (CO), nitrogen oxides (NO_X), ozone, particulate matter (PM), sulfur oxides (SO_X), hydrogen sulfide (H_2S), visibility-reducing particles, sulfates, and lead have been identified as major criteria pollutants. For the purposes of CEQA, CO, particulate matter less than 10 microns in diameter (PM_{10}), particulate matter less than 2.5 microns in diameter ($PM_{2.5}$), SO_X, and ozone precursors (NO_X and reactive organic gas [ROG]) are the pollutants of principle concern in this analysis.

Air pollutants relevant to the CEQA checklist questions for Air Quality are briefly described below.

- Ozone is a gas that is formed when ROGs and NO_X—both byproducts of incomplete fuel combustion exhaust—undergo slow photochemical reactions in the atmosphere in the presence of sunlight. Ozone concentrations are generally highest during the summer months when direct sunlight, light wind, and warm temperature conditions are conducive to its formation. Health effects can include, but may not be limited to, respiratory system irritation, reduced lung function, and aggravated chronic lung disease.
- Reactive organic gases, or volatile organic compounds (VOCs), are defined as any compound of carbon—excluding CO, carbon dioxide (CO_2), carbonic acid, metallic carbides or carbonates, and ammonium carbonate—that participates in atmospheric photochemical reactions. Although there are slight differences in the definition of ROG and VOCs, the two terms are often used interchangeably.
- Nitrogen dioxide (NO_2) forms quickly in the atmosphere from NO emissions. Health effects from NO_2 can include the following: the potential to aggravate chronic respiratory disease and respiratory symptoms in sensitive groups; risk to public health implied by pulmonary and extra-pulmonary biochemical and cellular changes and pulmonary structural changes; contribution to atmospheric discoloration; increased visits to the hospital for respiratory illnesses.
- CO is a colorless, odorless gas produced by the incomplete combustion of fuels. CO concentrations tend to be the highest during winter mornings with little to no wind when

surface-based inversions trap the pollutant at ground levels. Because CO is emitted directly from internal combustion engines and motor vehicles operating at slow speeds are a primary source of CO in the Santa Clara County region, the highest ambient CO concentrations are generally found near congested transportation corridors and intersections. Potential health effects from CO depends on exposure and can include slight headaches; nausea; aggravation of angina pectoris (chest pain), and other aspects of coronary heart disease; decreased exercise tolerance in persons with peripheral vascular disease and lung disease; impairment of central nervous system functions; possible increased risk to fetuses; and death.

- SO_X include sulfur dioxide (SO_2) and sulfur trioxide. SO_2 is a colorless, pungent gas. The gas has a strong odor at levels greater than 0.5 parts per million (ppm), similar to rotten eggs. Sulfuric acid is formed from SO_2 leading to acid deposition and can harm natural resources and materials. Although SO_2 concentrations have been reduced to levels well below State and federal standards, further reductions are desirable because SO_2 is a precursor to sulfate and PM_{10}.
- PM_{10} and $PM_{2.5}$ consist of extremely small, suspended particles or droplets of 10 microns and 2.5 microns or smaller aerodynamic diameters. Some sources of PM, like pollen and windstorms, are naturally occurring. However, most PM is caused by road dust, diesel soot, combustion products, abrasion of tires and brakes, and construction activities in populated areas. Health effects from short-term exposure (hours/days) can include the following: irrigation of the eyes, nose, throat; coughing; phlegm; chest tightness; shortness of breath; aggravate existing lung disease, causing asthma attacks and acute bronchitis; those with heart disease can suffer heart attacks and arrhythmias. Health effects from long-term exposure can include the following: reduced lung function, chronic bronchitis; changes in lung morphology; or death.
- Toxic air contaminants (TACs) refer to a diverse group of air pollutants that can affect human health but have not had ambient air quality standards established for them. Diesel particulate matter (DPM) is a TAC emitted from construction equipment and diesel fueled vehicles. Some short-term (acute) effects of DPM exposure include eye, nose, throat, and lung irritation, coughs, headaches, light-headedness, and nausea. Studies have linked elevated particle levels in the air to increased hospital admissions, emergency room visits, asthma attacks, and premature deaths among those suffering from respiratory problems. Human studies on the carcinogenicity of DPM demonstrate an increased risk of lung cancer, although the increased risk cannot be clearly attributed to diesel exhaust exposure.[23]

Sensitive Receptors

The Bay Area Air Quality Management District (BAAQMD) defines sensitive receptors as facilities or land uses that include members of the population that are particularly sensitive to the effects of air pollutants, such as children, the elderly, and the chronically ill. These facilities include residences, school playgrounds, child-care centers, retirement homes, and convalescent homes. The proposed project is surrounded by urban uses, including residential and commercial land uses. The closest existing sensitive receptors include the following:

[23] International Agency for Research on Cancer. 2012. IARC: Diesel Engine Exhaust Carcinogenic. June 12.

- Single-family residences immediately adjacent to the east and west of the project site.
- Santa Clara Valley Medical Center, approximately 210 feet south of the project site.
- San José City College, approximately 775 feet east of the project site.
- Chandler Tripp School, approximately 1,050 feet southwest of the project site.

Applicable Plans, Policies, and Regulations

Federal Clean Air Act

The Federal Clean Air Act establishes pollutant thresholds for air quality in the United States and the United States Environmental Protection Agency (EPA) administers it at the federal level. The EPA is responsible for establishing the National Ambient Air Quality Standards (NAAQS), which are required under the Federal Clean Air Act and have been established for six major air pollutants: CO, NO_X, ozone, PM_{10}, $PM_{2.5}$, SO_X, and lead.

California Clean Air Act

In addition to being subject to federal requirements, California has its own more stringent regulations under the California Clean Air Act which are administered by the California Air Resources Board (ARB) at the State level under the California Environmental Protection Agency (Cal/EPA). The ARB is responsible for meeting the State requirements of the Federal Clean Air Act, administering the California Clean Air Act, and establishing the California Ambient Air Quality Standards (CAAQS). The CAAQS include the same six air pollutants covered by the NAAQS but also include standards for hydrogen sulfide, sulfates, visibility-reducing particulates, and vinyl chloride. The California Clean Air Act requires all air districts in the State to achieve and maintain both the NAAQS and the CAAQS.

BAAQMD

Clean Air Plan

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

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

Other Responsibilities

The BAAQMD is the primary agency responsible for ensuring that air quality standards (NAAQS and CAAQS) are attained and maintained in the Air Basin through comprehensive planning, regulation, enforcement, technical innovation, and promotion of the public understanding of air quality issues. The BAAQMD prepares plans to attain ambient air quality standards in the Air Basin, such as ozone attainment plans for the national ozone standard, Clean Air Plans for the California standard, and PM plans to fulfill federal air quality planning requirements. The BAAQMD has permit authority over stationary sources, acts as the primary reviewing agency for environmental documents, and develops regulations that must be consistent with, or more stringent than, the National and State air quality laws and regulations. The BAAQMD also inspects stationary sources of air pollution; responds to citizen complaints; monitors ambient air quality and meteorological conditions; and implements programs and regulations required by the Clean Air Act, the Clean Air Act Amendments of 1990, and the California Clean Air Act.

BAAQMD CEQA Air Quality Guidelines

The purpose of the BAAQMD CEQA Guidelines is to assist lead agencies in evaluating air quality impacts of projects and plans proposed in the San Francisco Bay Area Air Basin (Air Basin). The Guidelines provide BAAQMD-recommended procedures for evaluating potential air quality impacts during the environmental review process consistent with CEQA requirements. The BAAQMD developed quantitative thresholds of significance for its CEQA Guidelines in 2010, which were also included in its updated subsequent guidelines.[24,25] BAAQMD's adoption of the 2010 thresholds of significance was later challenged in court. In an opinion issued on December 17, 2015, related to the BAAQMD CEQA Guidelines, the California Supreme Court held that CEQA does not generally require an analysis of the impacts of locating development in areas subject to environmental hazards unless the project would exacerbate existing environmental hazards. The Supreme Court also found that CEQA requires an analysis of human exposure to environmental hazards in specific circumstances, such as development proposed near airports and the siting of schools on or near hazardous waste sites. The Supreme Court further held that public agencies may voluntarily conduct this analysis for their own public projects when not required by CEQA (*CBIA v. BAAQMD* [2016] 2 Cal.App.5th 1067, 1083).

In view of the Supreme Court's opinion, the BAAQMD published a new version of its CEQA Guidelines in May 2017.[26] The BAAQMD CEQA Guidelines state that local agencies may rely on thresholds designed to reflect the impact of locating development near areas of toxic air contamination where CEQA requires such analysis or where the agency determines such analysis would assist in making a decision about the project. However, the thresholds are not mandatory and agencies should apply them only after determining that they reflect an appropriate measure of a project's impacts. The BAAQMD's Guidelines for implementing the thresholds are for informational purposes only, to assist local agencies.

[24] Bay Area Air Quality Management District (BAAQMD). 2010. California Environmental Quality Act Air Quality Guidelines. June 2.
[25] Bay Area Air Quality Management District (BAAQMD). 2012. California Environmental Quality Act Air Quality Guidelines. May.
[26] Bay Area Air Quality Management District (BAAQMD). 2017. California Environmental Quality Act Air Quality Guidelines. May.

Envision San José 2040 General Plan

The General Plan includes policies to avoid or mitigate impacts resulting from planned development projects with the City. The following policies are specific to air quality and apply to the proposed project.

Envision San José 2040 Relevant Air Quality Policies

Policies	Description
Policy MS-10.1	Assess projected air emissions from new development in conformance with the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines and relative to State and federal standards. Identify and implement air emissions reduction measures.
Policy MS-10.2	Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.
Policy MS-11.1	Require completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution such as freeways and industrial uses. Require new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project designs or be located an adequate distance from sources of toxic air contaminants (TACs) to avoid significant risks to health and safety.
Policy MS-11.2	For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.
Policy MS-11.3	Review projects generating significant heavy-duty truck traffic to designate truck routes that minimize exposure of sensitive receptors to TACs and particulate matter.
Policy MS-11.4	Encourage the installation of air filtration, to be installed at existing schools, residences, and other sensitive receptor uses adversely affected by pollution sources.
Policy MS-11.5	Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.
Policy MS-12.2	Require new residential development projects and projects categorized as sensitive receptors to be located an adequate distance from facilities that are existing and potential sources of odor. An adequate separate distance will be determined based upon the type, size and operations of the facility.
Policy MS-13.1	Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At a minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.
Policy MS-13.2	Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's Airborne Toxic Control Measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

4.3.2 - Environmental Checklist and Impact Discussion

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

Impact Discussion

Threshold of Significance

Where available, the significance criteria established or recommended by the BAAQMD were used to make the following CEQA significance determinations. The BAAQMD has adopted standards of significance for construction and operation. The thresholds of significance are shown in Table 1. In developing thresholds of significance for air pollutants, the BAAQMD considered the emission levels for which a project's individual emissions would be cumulatively considerable. If a project exceeds the identified significance thresholds, its emissions would be cumulatively considerable, resulting in significant adverse air quality impacts to the region's existing air quality conditions.

Table 1: BAAQMD Thresholds of Significance

Pollutant	Construction Thresholds Average Daily Emissions (pounds/day)	Operational Thresholds	
		Average Daily Emissions (pounds/day)	Annual Average Emissions (tons/year)
Criteria Air Pollutants			
ROG	54	54	10
NO_X	54	54	10
PM_{10}	82 (exhaust)	82	15
$PM_{2.5}$	54 (exhaust)	54	10
CO	Not Applicable	9ppm (8-hour average) or 20 ppm (1-hour average)	

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

Notes:
ROG = reactive organic gases, NO_X = nitrogen oxides, CO= carbon monoxide
PM_{10} = particulate matter less than 10 microns in diameter
$PM_{2.5}$ = particulate matter less than 2.5 microns in diameter
µg/m^3 = micrograms per cubic meter
Source: Bay Area Air Quality Management District (BAAQMD). 2017. California Environmental Quality Act Air Quality Guidelines.

Impact Discussion

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

Less than significant impact with mitigation incorporated. The project site is located in the San Francisco Bay Area Air Basin, where the BAAQMD regulates air quality. The EPA is responsible for identifying nonattainment and attainment areas for each criteria pollutant within the Air Basin. The Air Basin is designated nonattainment for State standards for 1-hour and 8-hour ozone, 24-hour PM_{10}, annual PM_{10}, and annual $PM_{2.5}$.[27]

The BAAQMD has adopted several air quality policies and plans to address regional air quality standards, the most recent of which is the 2017 Clean Air Plan. The 2017 Clean Air Plan was adopted in April of 2017 and serves as the regional AQP for the Air Basin for attaining NAAQS. The primary goals of the 2017 Clean Air Plan are to protect public health and protect the climate. The 2017 Clean Air Plan acknowledges that the BAAQMD's two stated goals of protection are closely related. As such, the 2017 Clean Air Plan identifies a wide range of control measures intended to decrease both criteria pollutants[28] and GHG.[29] The 2017 Clean Air Plan also accounts for projections of population

[27] Bay Area Air Quality Management District (BAAQMD). 2017. California Environmental Quality Act. Air Quality Guidelines. May.

[28] The United States Environmental Protection Agency (EPA) has established National Ambient Air Quality Standards (NAAQS) for six of the most common air pollutants—carbon monoxide, lead, ground level ozone, particulate matter, nitrogen dioxide, and sulfur dioxide—known as "criteria" air pollutants (or simply "criteria pollutants").

[29] A greenhouse gas (GHG) emission is any gaseous compound in the atmosphere that is capable of absorbing infrared radiation,

growth provided by the Association of Bay Area Governments and Vehicle Miles Traveled (VMT) provided by the Metropolitan Transportation Commission (MTC) and identifies strategies to bring regional emissions into compliance with federal and State air quality standards. A project would be judged to conflict with or obstruct implementation of the 2017 Clean Air Plan if it would result in substantial new regional emissions not foreseen in the air quality planning process.

The BAAQMD does not provide a numerical threshold of significance for project-level consistency analysis with AQPs. Therefore, the following criteria will be used for determining a project's consistency with the AQP.

- **Criterion 1:** Does the project support the primary goals of the AQP?
- **Criterion 2:** Does the project include applicable control measures from the AQP?
- **Criterion 3:** Does the project disrupt or hinder the implementation of any AQP control measures?

Criterion 1

The primary goals of the 2017 Clean Air Plan, the current AQP to date, are to:

1. Attain air quality standards;
2. Reduce population exposure to unhealthy air and protect public health in the Bay Area; and
3. Reduce GHG emissions and protect the climate.

A measure for determining whether the proposed project supports the primary goals of the AQP is if the proposed project would not result in an increase in the frequency or severity of existing air quality violations, cause or contribute to new violations, or delay timely attainment of air quality standards or the interim emission reductions specified in the AQPs. This measure is determined by comparing project emissions to the significance thresholds identified by the BAAQMD for construction- and operation-related pollutants. These significance thresholds are applied in the evaluation of Impact 4.3(b), below. As discussed under Impact 4.3(b) and Impact 4.3(c), the proposed project would not significantly contribute to cumulative nonattainment pollutant violations or expose sensitive receptors to substantial pollutant concentrations after incorporating identified mitigation. Fugitive dust control measures would be required to be implemented during the construction of the proposed project in order to reduce localized dust impacts. Standard Permit Condition SC AQ-1 requires the inclusion of Best Management Practices (BMPs) recommended by the BAAQMD to reduce potential impacts related to fugitive dust emissions from use of construction equipment. As discussed under Impact 4.3(c), project construction activity and operation of construction equipment would generate exhaust and DPM emissions that would result in potentially significant health risk impacts, which would not be consistent with the AQP Criterion 1. Moreover, construction DPM emissions generated during unmitigated project construction would result in an incremental cancer risk of approximately 13.5 in one million, which would exceed the 10 in one million threshold set by the BAAQMD and require mitigation. As a result, the proposed project would be required to implement MM AIR-1, which would require the use of Tier 4 Final engines for

thereby trapping and holding heat in the atmosphere. By increasing the heat in the atmosphere, GHG emissions are responsible for the greenhouse effect, which ultimately leads to global warming.

construction equipment equal to or greater than 25 horsepower. With the implementation of SC AQ-1 and MM AIR-1 the proposed project would be consistent with Criterion 1.

Criterion 2

Another measure for determining whether a project is consistent with the AQP is to determine whether it is inconsistent with the growth assumptions incorporated into the AQP and, thus, whether it would interfere with the region's ability to comply with federal and California air quality standards. The development of the AQP is based in part on the General Plan Land Use determinations of the various cities and counties that constitute the Air Basin. The General Plan Land Use Map designates the project site as Mixed-Use, which is intended for residential and neighborhood commercial/retail uses.[30] As such, the proposed project falls within the land use designation contemplated for development in the applicable General Plan. Considering this information, the proposed project would not directly or indirectly result in substantial unplanned population growth. Therefore, the overall development of the project site would generally be consistent with the growth assumptions incorporated into the Clean Air Plan.

The AQPs also assume that all mandatory regulations to reduce air pollution would be adhered to. Therefore, to conform to the assumptions in the AQP, a project must be consistent with all applicable measures contained in the applicable AQP. The Clean Air Plan contains 85 control measures to reduce air pollutants and GHGs at the local, regional, and global levels. Along with the traditional stationary, area, mobile source, and transportation control measures, the Clean Air Plan contains several control measures designed to protect the climate and promote mixed-use and compact development to reduce vehicle emissions and exposure to pollutants from stationary and mobile sources. The Clean Air Plan also includes an account of the implementation status of control measures identified in the 2010 Clean Air Plan.

Table 2 lists the relevant Clean Air Plan policies to the proposed project and evaluates the proposed project's consistency with the policies. As shown below, the proposed project would be consistent with applicable measures.

Table 2: Project Consistency with Applicable Clean Air Plan Control Measures

Control Measure	Project Consistency
Buildings Control Measures	
BL1: Green Buildings	**Consistent**. The proposed project would not conflict with the implementation of this measure. The proposed project will comply with the latest energy efficiency standards and incorporate applicable energy efficiency features designed to reduce project energy consumption.

[30] City of San José. 2011. General Plan Land Use Map.

Control Measure	Project Consistency
BL4: Urban Heat Island Mitigation	**Consistent.** The proposed project would incorporate landscaping throughout the site. The proposed project would provide landscaping, including trees, shrubs, vines, and groundcover according to City standards that would reduce the urban heat island effect.
Energy Control Measures	
EN1: Decarbonize Electricity Generation	**Consistent.** The proposed project would not conflict with the implementation of this measure. The proposed project would comply with the latest energy efficiency standards and incorporate applicable energy efficiency features designed to reduce project energy consumption. In addition, as a low-rise residential development, the proposed project would be required to comply with the standards contained in the applicable California Building Standards Code (CBC), Title 24, which includes rooftop solar panels. The proposed project would be consistent with this measure.
EN2: Decrease Electricity Demand	**Consistent.** The proposed project would be required to conform to the energy efficiency requirements of the CBC, also known as Title 24, which was adopted to meet an Executive Order in the Green Building Initiative to improve the energy efficiency of buildings through aggressive standards. The 2022 Title 24 Standards are the current State building regulations, which went into effect on January 1, 2023. Proposed buildings that would receive building permits after January 1, 2023, would be subject to the 2022 Title 24 Standards, including the proposed project.
Natural and Working Lands Control Measures	
NW2: Urban Tree Planting	**Consistent.** The proposed project would incorporate new landscaping, including new trees, shrubs, vines, and groundcover, which would be installed along setbacks and in common areas on the project site.
WA3: Green Waste Diversion	**Consistent.** The waste service provider for the proposed project will be required to meet Assembly Bill (AB) 341, Senate Bill (SB) 939, and SB 1374 requirements that require waste service providers to divert green waste. All plant refuse generated during operations of the proposed project would be recycled off-site.
WA4: Recycling and Waste Reduction	**Consistent.** The waste service provider for the proposed project will be required to meet the AB 341 and SB 939 and SB 1374 requirements that require waste to be recycled.

Control Measure	Project Consistency
Stationary Control Measures	
SS36: Particulate Matter from Trackout	**Consistent with Mitigation.** Mud and dirt that may be tracked out onto the nearby public roads during construction activities shall be removed promptly by the contractor based on the BAAQMD's requirements. Standard Permit Condition SC AQ-1 would require the proposed project to implement BMPs recommended by the BAAQMD for fugitive dust emissions during construction.
SS37: Particulate Matter from Asphalt Operations	**Consistent.** Asphalt used during project construction would be subject to BAAQMD Regulation 8, Rule 15-Emulsified and Liquid Asphalts. Although this rule does not directly apply to the proposed project, it does limit the ROG content of asphalt available for use during construction by regulating the sale and use of asphalt. Using asphalt from facilities that meet BAAQMD regulations, the proposed project would be consistent with this Clean Air Plan measure.
Transportation Control Measures	
TR9: Bicycle and Pedestrian Access and Facilities	**Consistent.** The proposed project would include 11 bicycle parking spaces. Several bus stops are located within a short walking distance of the site, including the Ginger and Middle stop, located 0.18 mile south of the project site; the Moorpark and Thornton stop, located 0.20 mile west of the project site; and the South Bascom and Renova stop, located 0.25 mile southeast of the project site. Therefore, the proposed project would not conflict with and be consistent with the BAAQMD's effort to encourage planning for bicycle and pedestrian facilities.
Source: Bay Area Air Quality Management District (BAAQMD). 2017. Final 2017 Clean Air Plan. April 19.	

In summary, the proposed project would not conflict with any applicable measures under the 2017 Clean Air Plan after implementing Standard Permit Condition SC AQ-1; therefore, the proposed project would be consistent with Criterion 2.

Criterion 3

The proposed project would not preclude extension of a transit line or bike path, propose excessive parking beyond parking requirements, or otherwise create an impediment or disruption to implementation of any AQP control measures. As shown in Table 2 above, the proposed project would incorporate several AQP control measures as project design features, such as utilizing asphalt which would be compliant with BAAQMD regulations, complying with energy efficiency standards contained in the 2022 California Building Standards Code (CBC), and installing landscaping across the project site. Considering this information, the proposed project would not disrupt or hinder the implementation of any AQP control measures. The proposed project is therefore consistent with Criterion 3.

Summary

As discussed above, the proposed project would be consistent with all three criteria after incorporating Standard Permit Condition SC AQ- 1 and MM AIR-1. Thus, the proposed project would not conflict with the 2017 Clean Air Plan. Therefore, impacts associated with conflicting with or obstructing the 2017 Clean Air Plan would be **less than significant** with mitigation incorporated.

2) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is nonattainment under an applicable federal or State ambient air quality standard?

Less than significant impact. This impact is related to the cumulative effect of a project's criteria pollutant emissions. By its nature, air pollution is largely a cumulative impact resulting from emissions generated over a large geographic region. The nonattainment status of regional pollutants results from past and present development within the Air Basin and this regional impact is a cumulative impact. Therefore, new development projects (such as the proposed project) within the Air Basin would contribute to this impact only on a cumulative basis. No single project would be sufficient in size, by itself, to result in nonattainment of regional air quality standards. Instead, a project's emissions may be individually limited but cumulatively considerable when evaluated in combination with past, present, and future development projects.

Potential regional impacts could result in exceedances of State or federal standards for NO_X, PM_{10} and $PM_{2.5}$, or CO. NO_X emissions are of concern because of potential health impacts from exposure to NO_X emissions during both construction and operation and as a precursor in the formation of airborne ozone. PM_{10} and $PM_{2.5}$ are of concern during construction because of the potential to emit exhaust emissions from the operation of off-road construction equipment and fugitive dust during earth-disturbing activities (construction fugitive dust). CO emissions are of concern during project operation because operational CO hotspots are related to increases in on-road vehicle congestion and resulting health effects such as those described earlier in Section 4.3.1.

ROG emissions are also important because of their participation in the formation of ground level ozone. Ozone is a respiratory irritant and an oxidant that increases susceptibility to respiratory infections and that can cause substantial damage to vegetation and other materials. Elevated ozone concentrations result in reduced lung function, particularly during vigorous physical activity. This health problem is particularly acute in sensitive receptors such as the sick, elderly, and young children.

The cumulative analysis focuses on whether a specific project would result in cumulatively considerable emissions. According to Section 15064(h)(4) of the CEQA Guidelines, the existence of significant cumulative impacts caused by other projects alone does not constitute substantial evidence that the proposed project's incremental effects would be cumulatively considerable. Rather, the determination of cumulative air quality impacts for construction and operational emissions is based on whether the proposed project would result in emissions that exceed the BAAQMD thresholds of significance for construction and operations on a project level. The thresholds of significance represent the allowable amount of emissions each project can generate without generating a cumulatively considerable contribution to regional air quality impacts. Therefore, a project that would not exceed the BAAQMD thresholds of significance on the project

level also would not be considered to result in a cumulatively considerable contribution to these regional air quality impacts. Construction and operational emissions are discussed separately below.

Construction Emissions

During construction, fugitive dust would principally be generated from demolition, site grading, and other earthmoving activities. The majority of this fugitive dust would remain localized and would be deposited near the project site; however, the potential for impacts from fugitive dust exists unless control measures are implemented to reduce the emissions from this source. Exhaust emissions would also be generated from the operation of the off-road construction equipment and on-road construction vehicles.

Construction Fugitive Dust

The BAAQMD does not recommend a numerical threshold for fugitive dust particulate matter emissions. Instead, the BAAQMD bases the determination of significance for fugitive dust on considering the control measures to be implemented. If the appropriate emission control measures are implemented for a project as recommended by the BAAQMD, then fugitive dust emissions during construction are not considered significant. Fugitive dust control measures shall be implemented during construction activities as outlined in Standard Permit Condition SC AQ- 1. With the incorporation of this condition, short-term construction fugitive dust impacts would be less than significant.

Construction Air Pollutant Emissions: ROG, NO_X, Exhaust PM_{10}, and Exhaust $PM_{2.5}$

California Emissions Estimator Model (CalEEMod) Version 2020.4.0 was used to estimate the proposed project's construction emissions. CalEEMod provides a consistent platform for estimating construction and operational emissions from a wide variety of land use projects and is the model recommended by the BAAQMD for estimating project emissions. Estimated construction emissions are compared with the applicable thresholds of significance established by the BAAQMD to assess ROG, NO_X, exhaust PM_{10}, and exhaust $PM_{2.5}$ construction emissions to determine significance for this criterion.

For CEQA analysis purposes, construction of the proposed project is expected to begin in March 2024 and conclude in October 2025. The preliminary construction schedule is shown in Table 3 below. Note that construction emissions would likely decrease if the construction schedule moved to later years because of improvements in technology and more stringent regulatory requirements. The duration of construction activity and associated equipment represents a reasonable approximation of the expected construction fleet as CEQA Guidelines require.

Table 3: Preliminary Construction Schedule

Phase	Phase Start Date	Phase End Date	Working Days per Week	Total Number of Working Days
Demolition	3/4/2024	3/29/2024	5	20
Site Preparation	3/30/2024	4/2/2024	5	2
Grading	4/3/2024	4/8/2024	5	4
Building Construction 2024	4/9/2024	10/14/2024	5	135
Building Construction 2025	3/1/2025	5/30/2025	5	65

Phase	Phase Start Date	Phase End Date	Working Days per Week	Total Number of Working Days
Paving	5/31/2025	6/13/2025	5	10
Architectural Coating	6/14/2025	10/31/2025	5	100

The calculations of pollutant emissions from the construction equipment account for the type of equipment, horsepower and load factors of the equipment, and the duration of equipment use. Average daily construction emissions are compared with the significance thresholds in Table 4.

Table 4: Unmitigated Construction Emissions (Average Daily Rate)

Parameter	Year	Air Pollutants (tons/year) ROG	NO_X	PM_{10} (Exhaust)	$PM_{2.5}$ (Exhaust)
Project Construction					
Demolition	2024	0.02	0.16	0.01	0.01
Site Preparation	2024	<0.01	0.01	<0.01	<0.01
Grading	2024	<0.01	0.03	<0.01	<0.01
Building Construction	2024	0.11	0.80	0.03	0.03
	2025	0.07	0.57	0.02	0.02
Paving	2025	<0.01	0.03	<0.01	<0.01
Architectural Coating	2025	0.55	0.06	<0.01	<0.01
Total Emissions (tons/year)[1]		**0.76**	**1.66**	**0.07**	**0.06**
Daily Average					
Total Emissions (lbs/year)[1]		1,513	3,310	131	125
Average Daily Emissions (lbs/day)[2]		4.5	9.85	0.39	0.37
Significance Threshold (lbs/day)		**54**	**54**	**82**	**54**
Exceeds Significance Threshold?		**No**	**No**	**No**	**No**

Notes:
[1] Totals may not add up due to rounding. Calculations use unrounded totals.
[2] Calculated by dividing the total lbs of emissions by the total number of nonoverlapping working days of construction (336 workdays).
lbs = pounds ROG = reactive organic gases NO_X = oxides of nitrogen
PM_{10} = particulate matter less than 10 microns in diameter
$PM_{2.5}$ = particulate matter less than 2.5 microns in diameter
Source: CalEEMod Output (see Appendix A).

As indicated in Table 4, the construction emissions from all construction activities are below the recommended thresholds of significance; therefore, the proposed project's construction would have less than significant impact related to emissions of ROG, NO_X, exhaust PM_{10}, and exhaust $PM_{2.5}$. As previously discussed, the proposed project would implement Standard Permit Condition SC AQ- 1 for dust control BMPs recommended by the BAAQMD to reduce potential impacts related to fugitive

dust emissions during project construction. Therefore, project construction would have a **less than significant impact.**

As shown in Section 3, Project Description, 4,489 square feet of project frontage (Lot E) would be dedicated for the realignment of Moorpark Avenue to be constructed by the City in the future. In order to provide a conservative analysis, the construction of Moorpark realignment as part of the proposed project is also analyzed as an option in the Air Quality and Greenhouse Gas Emissions and Energy Impacts Analysis (Appendix A), to provide full disclosure of project impacts in the unlikely event that the project applicant is responsible for the constructing the realignment of Moorpark Avenue. The associated construction impacts are found to be insignificant and would not materially alter the air quality impact discussions and findings presented herein. Please refer to Appendix A for details.

Operational Emissions

Operational Air Pollutant Emissions: ROG, NO_X, PM_{10}, and $PM_{2.5}$

Operational emissions would include area, energy, and mobile sources. Area sources would include emissions from architectural coatings, consumer products, and landscape equipment. Energy sources include emissions from the combustion of natural gas for water and space heating. As the City has an all-electric ordinance which eliminates on-site consumption of natural gas, energy source emissions are zero, as shown in Table 5. Mobile sources include exhaust and road dust emissions from the vehicles that would travel to and from the project site. Pollutants of concern include ROG, NO_X, PM_{10}, and $PM_{2.5}$.

Project operations were analyzed starting in 2025, the first calendar year following project construction. The major sources for operational emissions of ROG, NO_X, PM_{10}, and $PM_{2.5}$ include motor vehicle traffic and the occasional repainting of buildings. The 14 existing residential buildings, along with seven storage buildings, carports, paving, and landscaping would be removed as part of the proposed project. Therefore, the emissions generated from the operation of the existing residences and structures were included in the analysis baseline to estimate the net change in emissions. Assumptions used to estimate operational emissions were consistent with those presented in the Transportation Analysis Report prepared by TJKM for the proposed project.[31] Operational emissions of the respective pollutants were calculated using CalEEMod, Version 2020.4.0. For detailed assumptions used to estimate emissions, see Appendix A. Table 5 presents the net maximum daily emissions, while Table 6 shows the net annual emissions from project operations.

Table 5: Average Daily Operational Emissions

Emissions Source	Pounds per Day[1]			
	ROG	NO_X	PM_{10}	$PM_{2.5}$
Area	2.75	0.04	0.16	0.16
Energy	0.01	0.12	0.01	0.01

[31] TJKM. 2022. 2323-2391 Moorpark Avenue Transportation Analysis Report. June.

Emissions Source	Pounds per Day[1]			
	ROG	NO_X	PM_{10}	$PM_{2.5}$
Mobile (Motor Vehicles)	0.59	0.63	0.01	0.01
Maximum Daily Project Emissions	3.35	0.80	0.18	0.17
Existing Maximum Daily Emissions	*1.75*	*0.67*	*0.13*	*0.13*
Net Daily Project Emissions[2]	**1.60**	**0.13**	**0.05**	**0.05**
Thresholds of Significance	**54**	**54**	**82**	**54**
Exceeds Significance Threshold?	**No**	**No**	**No**	**No**

Notes:
ROG = reactive organic gases NO_X = nitrous oxides.
PM_{10} = particulate matter less than 10 microns in diameter
$PM_{2.5}$ = particulate matter less than 2.5 microns in diameter
[1] The highest daily project emissions occurred in the winter run for NO_X, PM_{10}, and $PM_{2.5}$. The highest maximum daily emissions are drawn from the summer and winter CalEEMod runs.
[2] Totals may not add up due to rounding. Calculations use unrounded results.
Source: CalEEMod Output (see Appendix A).

Table 6: Annual Operational Emissions

Emissions Source	Tons per Year			
	ROG	NO_X	PM_{10}	$PM_{2.5}$
Area	0.5	0.01	0.03	0.03
Energy[1]	<0.01	0.02	<0.01	<0.01
Mobile (Motor Vehicles)	0.11	0.11	<0.01	<0.01
Project Annual Emissions	0.61	0.15	0.03	0.03
Existing Annual Emissions	*0.32*	*0.12*	*0.02*	*0.02*
Net Annual Project Emissions[2]	**0.29**	**0.02**	**0.01**	**0.01**
Thresholds of Significance	**10**	**10**	**15**	**10**
Exceeds Significance Threshold?	**No**	**No**	**No**	**No**

Notes:
ROG = reactive organic gases NO_X = oxides of nitrogen
PM_{10} = particulate matter less than 10 microns in diameter
$PM_{2.5}$ = particulate matter less than 2.5 microns in diameter
[1] Energy source emissions are displayed as zero due to the all-electric requirement for the proposed project. Energy source emissions shown here would otherwise consist of on-site combustion of natural gas for water and space heating.
[2] Totals may not add up due to rounding. Calculations use unrounded results.
Source: CalEEMod Output (see Appendix A).

As shown in Table 5 and Table 6, the proposed project would not result in operational air pollutants or precursors emissions that would exceed the BAAQMD's thresholds of significance. Therefore, the ongoing, long-term project operations would not have the potential to generate a significant

quantity of air pollutants. Thus, long-term operational impacts associated with criteria pollutant emissions generated by the proposed project would be **less than significant**.

Operational Carbon Monoxide Hotspot

The CO emissions from traffic generated by a proposed project can be a concern at the local level. Congested intersections can result in high, localized concentrations of CO.

The BAAQMD recommends a screening analysis to determine whether a project has the potential to contribute to a CO hotspot. The screening criteria identify when site-specific CO dispersion modeling is necessary. The proposed project would result in a less than significant impact to air quality for local CO if the following screening criteria are met:

1. The proposed project is consistent with an applicable Congestion Management Program established by the County congestion management agency for designated roads or highways, regional transportation plan, and local congestion management agency plans; or
2. The project traffic would not increase traffic volumes at affected intersections to more than 44,000 vehicles per hour; or
3. The project traffic would not increase traffic volumes at affected intersections to more than 24,000 vehicles per hour where vertical and/or horizontal mixing is substantially limited (e.g., tunnel, parking garage, bridge underpass, natural or urban street canyon, below-grade roadway).

Based on the information provided in the Transportation Analysis Report prepared by TJKM,[32] the existing VMT within the project area is 9.62 miles per trip per person and the proposed project VMT is 9.54 miles per trip per person. The City's threshold of significance is 10.12 miles per trip per person. Therefore, the proposed project would not have a VMT impact. However, a Local Transportation Analysis (LTA) was conducted to identify operational issues related to potential CO hot spots due to the proposed project. As indicated in the LTA prepared for the proposed project, the study intersections selected in consultation with City of San José staff, Turner Avenue at Moorpark Avenue and Central Way at Moorpark Avenue, operate within the City of San José standard of Level of Service (LOS) D or better during the AM and PM peak-hours. The City's LOS standard refers to the measurement of vehicle traffic delay and congestion on the local roadway network. As discussed in the LTA, the proposed project would not have any adverse effects at the study intersection. In addition, as demonstrated in the TJKM Transportation Analysis Report, the proposed project would not generate any new daily trips in the AM and PM peak-hours beyond what is currently experienced under existing conditions. Furthermore, the adjacent roadways are not located in an area where vertical or horizontal atmospheric mixing is substantially limited. Therefore, based on the above criteria, the proposed project would not exceed the CO screening criteria and would have a **less than significant impact** related to CO.

[32] TJKM. 2022. 2323-2391 Moorpark Avenue Draft Transportation Analysis Report. June.

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

Less than significant impact with mitigation incorporated. The BAAQMD defines a sensitive receptor as the following: "Facilities or land uses that include members of the population that are particularly sensitive to the effects of air pollutants, such as children, the elderly, and people with illnesses. Examples include schools, hospitals, and residential areas." As specified by the BAAQMD, health risk and hazard impacts should be analyzed for sensitive receptors within a 1,000-foot radius of the project site.[33] The closest existing sensitive receptors include the following:

- Single-family residences, immediately adjacent to the west and east project boundaries.
- Santa Clara Valley Medical Center, approximately 210 feet south of the project site.
- San José City College, approximately 775 feet east of the project site.

The proposed project would result in a potentially significant impact on sensitive receptors if any of the following three following criteria are met:

- **Criterion 1:** Construction of the proposed project would exceed the BAAQMD health risk significance thresholds.
- **Criterion 2:** Operation of the proposed project would exceed the BAAQMD health risk significance thresholds.
- **Criterion 3:** The proposed project would result in a generation of TACs that would cause an exceedance of the BAAQMD cumulative health risk significance thresholds.
- **Criterion 4:** The proposed project would result in a CO hotspot.

Criterion 1: Project Construction Toxic Air Pollutants

An assessment was made of the potential health impacts on surrounding sensitive receptors resulting from TAC emissions during construction. The assessment is provided below, while Appendix A provides the detailed assumptions and modeling parameters.

DPM has been identified by the ARB as a carcinogenic substance. Major sources of DPM include off-road construction equipment and heavy-duty delivery and vendor trucks and worker activities. For purposes of this analysis, DPM is represented as exhaust emissions of $PM_{2.5}$.

Estimation of Construction DPM Emissions

Construction DPM emissions were estimated using CalEEMod, Version 2020.4.0, as described under Impact 4.3(b). Construction was assumed to begin in March 2024 and conclude in October 2025. Project construction emissions were assumed to be distributed over the project site with a working schedule of 8 hours per day, 5 days per week. Table 7 summarizes the emission rates of DPM emissions during construction of the proposed project and DPM emissions during construction of the proposed project with the application of MM AIR-1. As identified in the Health Risk Assessment (HRA), DPM emissions generated by project construction would result in an exceedance of cancer risk thresholds and would require the implementation of MM AIR-1 to ensure impacts are **less than significant.**

[33] Bay Area Air Quality Management District (BAAQMD). 2017. California Environmental Quality Act Air Quality Guidelines.

For the purpose of conservative analysis discussed above, the construction health risks of Moorpark realignment are also analyzed and the impacts are found to be insignificant and would not materially alter the construction health risks findings presented herein. Please refer to Appendix A for details.

Table 7: Project DPM Construction Emissions

Scenario	On-site DPM—Area (tons/year)	Off-site DPM—Road Segments (tons/year)[1]	Total Local DPM Emissions (tons/year)
Proposed Project (Unmitigated)	6.19E-02	1.18E-04	6.20E-02
Mitigated Project[2]	4.64E-03	1.18E-04	4.75E-03

Notes:
DPM = diesel particulate matter
[1] The off-site emissions are adjusted to represent construction vehicle travel routes from within approximately 1,000 feet of the project site.
[2] The emissions associated with the mitigated project displayed here incorporate the use of Tier 4 Final engines for all construction equipment rated for 25 horsepower or greater, as required with MM AIR-1.
[3] All values expressed here are in scientific notation. For example, 6.19E-02 equals 0.0619.
Source: CalEEMod Output and Construction Health Risk Assessment Calculations; see Appendix A.

To assess impacts to off-site sensitive receptors, the American Meteorological Society/EPA Regulatory Model (AERMOD) air dispersion model was used to estimate the DPM emission concentrations at nearby sensitive receptors within 1,000 feet of the project site.

Estimation of Cancer Risks

The BAAQMD has developed a set of guidelines for estimating cancer risks resulting from exposure to TACs.[34] These guidelines require the use of Hotspots Analysis and Reporting Program (HARP2) software to identify the cancer risk associated with DPM generated during construction activities.

Estimation of Non-Cancer Chronic Hazards

An evaluation of the potential non-cancer effects of chronic chemical exposures was also conducted. Adverse health effects are evaluated by comparing the annual receptor concentration of each chemical compound with the appropriate reference exposure limit. Available reference exposure limits promulgated by the Office of Environmental Health Hazard Assessment (OEHHA) were considered in the assessment.

Risk characterization for non-cancer health hazards from TACs is expressed as a hazard index. The Hazard Index (HI) is a ratio of the predicted concentration of the proposed project's emissions to a concentration considered acceptable to public health professionals, termed the reference exposure limit. The HI assumes that chronic sub-threshold exposures adversely affect a specific organ or organ system (toxicological endpoint). For each discrete chemical exposure, target organs presented in regulatory guidance were used. Each chemical concentration or dose is divided by the appropriate toxicity Reference Exposure Level (REL) to calculate the HI. For compounds affecting the same toxicological endpoint, this ratio is summed. Where the total equals or exceeds 1, a health hazard is

[34] Bay Area Air Quality Management District (BAAQMD). 2020. BAAQMD Health Risk Assessment Modeling Protocol.

presumed to exist. For purposes of this assessment, the TAC of concern is DPM for which the OEHHA has defined a reference exposure limit for DPM of 5 micrograms per cubic meter ($\mu g/m^3$). The principal toxicological endpoint assumed in this assessment was through inhalation.

Table 8 summarizes the cancer risk and hazard index results for unmitigated project construction at the Maximally Impacted Sensitive Receptor (MIR), a single-family residence immediately adjacent to the east of the project site. $PM_{2.5}$ exhaust emissions generated during unmitigated project construction would result in an incremental cancer risk of approximately 13.5 in one million. Therefore, mitigation to reduce construction-related DPM emissions would be required to reduce this impact to **less than significant**.

Table 8: Unmitigated Estimated Cancer Risks and Chronic Non-Cancer Hazards

Cancer Risk Scenario	Cancer Risk (risk per million)	Chronic Non-Cancer Hazard Index[1]	TAC Concentration (from AERMOD)[2]
Resident MIR	**13.5**	<0.01	0.0393
Thresholds of Significance	**10**	**1**	**0.3**
Exceeds Individual Source Threshold?	**Yes**	**No**	**No**

Notes:
MIR = Maximally Impacted Sensitive Receptor
REL = Reference Exposure Level
[1] Chronic non-cancer Hazard Index (HI) was estimated by dividing the annual DPM concentration (as $PM_{2.5}$ exhaust) by the REL of 5 $\mu g/m^3$.
[2] TAC concentration taken from AERMOD is always at the MIR identified during the original construction air dispersion model (a single-family residence immediately adjacent to the east of the project site).
Emissions Source: Appendix A.
Thresholds Source: Bay Area Air Quality Management District (BAAQMD). 2017. California Environmental Quality Act Air Quality Guidelines. May.

As shown in Table 8, project construction would result in DPM emissions that would exceed the BAAQMD cancer risk threshold for a residential receiver. As such, the proposed project would be required to implement MM AIR-1, which would require the use of Tier 4 Final engines for all construction equipment equal to or greater than 25 horsepower. As shown in Table 9 below, the implementation of MM AIR-1 would ensure that construction DPM emissions generated by the proposed project would not result in an exceedance of BAAQMD cancer risk and chronic non-cancer hazard index thresholds. As such, this impact would be **less than significant** with implementation of MM AIR-1.

Table 9: Mitigated Estimated Cancer Risks and Chronic Non-Cancer Hazards (MM AIR-1)

Cancer Risk Scenario[1]	Cancer Risk (risk per million)	Chronic Non-Cancer Hazard Index[2]	TAC Concentration (from AERMOD)[3]
Resident MIR	1.06	<0.01	<0.01
Thresholds of Significance	**10**	**1**	**0.3**

Cancer Risk Scenario[1]	Cancer Risk (risk per million)	Chronic Non-Cancer Hazard Index[2]	TAC Concentration (from AERMOD)[3]
Exceeds Individual Source Threshold?	**No**	**No**	**No**

Notes:
1 The mitigated project construction cancer risk and chronic non-cancer hazard estimates shown here incorporate the use of Tier 4 Final engines for all construction equipment rated for 25 horsepower or greater, as required with MM AIR-1.
2 Chronic non-cancer HI was estimated by dividing the annual DPM concentration (as $PM_{2.5}$ exhaust) by the REL of 5 $\mu g/m^3$.
3 TAC concentration taken from AERMOD is always at the MIR identified during the original construction air dispersion model (a single-family residence immediately adjacent to the east of the project site).
REL = Reference Exposure Level
MIR = Maximally Impacted Sensitive Receptor
Emissions Source: Appendix A.
Thresholds Source: Bay Area Air Quality Management District (BAAQMD). 2017. California Environmental Quality Act Air Quality Guidelines. May.

As noted in Table 9, the proposed project's construction emissions would not exceed any applicable BAAQMD significance threshold after incorporating MM AIR-1. Therefore, project construction would not result in significant health impacts to nearby sensitive receptors with incorporation of the identified mitigation.

Criterion 2: Project-Specific Operational Toxic Air Pollutants

The proposed project is a residential project and would not have on-site sources of TACs during operation. As mentioned previously, the proposed project is not expected to generate any new daily trips in the AM and PM peak-hours beyond what is currently experienced under existing conditions. Thus, the proposed project would not generate a significant amount of DPM emissions during operation and would not result in significant health impacts to nearby sensitive receptors during operation.

Criterion 3: Cumulative Health Risk Assessment

The BAAQMD recommends assessing the potential cumulative impacts from sources of TACs within 1,000 feet of a project. As a result, a cumulative HRA was performed that examined the cumulative impacts of the proposed project's construction emissions and sources of TAC emissions within 1,000 feet of the project. As previously discussed, the MIR was determined to be a single-family residence located immediately adjacent to the east of the project site.

- **Health Risks for Local Roadways.** The BAAQMD pre-calculated concentrations and the associated potential cancer risks and $PM_{2.5}$ concentration increases for each county within their jurisdiction for roadways that carry at least 30,000 average daily trips. For certain areas, the BAAQMD also included local roadways that meet BAAQMD's "major roadway" criteria of 10,000 vehicles or 1,000 trucks per day. The latest available screening tool is in the form of a Geographic Information System (GIS) raster file.
- **Freeway Screening Analysis Tool**. The BAAQMD prepared a GIS tool that contains pre-estimated cancer risk and $PM_{2.5}$ concentration increases for highways within the Bay Area.

The closest freeways to the project site are I-280, approximately 50-feet north of the project site, and Highway 17, approximately 1,275 feet west of the project site.

- **Stationary Source Risk and Hazard Screening Tools**. The BAAQMD prepared a GIS tool[35] with the location of permitted stationary sources. For each emissions source, the BAAQMD provides conservative estimates of cancer risk and $PM_{2.5}$ concentrations. Based on information from the GIS tool, no BAAQMD-permitted stationary sources exist within 1,000 feet of the project site.
- **Rail Screening Tools.** The BAAQMD prepared GIS tools that contain estimated cancer risks and $PM_{2.5}$ concentrations from railroad operations at any point within the Air Basin. The closest railroad to the project site is an Amtrak line approximately 4,900 feet southeast of the project site.

The cumulative health risk results during project construction, including health risks from the existing stationary sources, are summarized in Table 10.

Table 10: Summary of the Cumulative Health Impacts at the MIR During Construction

Source	Source Name/Source Type	Distance from MIR[1] (feet)	Cancer Risk (per million)	Chronic Hazard Index	Maximum Annual $PM_{2.5}$ Concentration ($\mu g/m^3$)
Mitigated Construction[2]	Diesel Construction Equipment	10	1.06	<0.01	<0.01
Existing Roadways					
Existing Local Roadways		10	5.06	N/A	0.11
Existing Highways					
Existing Highways		50	41.53	N/A	1.17
Existing Rail					
Existing Railways		4,900	2.74	N/A	<0.01
Cumulative Health Risks					
Cumulative Total with Mitigated Project Construction			50.39	<0.01	**1.29**
BAAQMD Cumulative Thresholds of Significance			**100**	**10**	**0.8**
Threshold Exceedance?			**No**	**No**	**Yes**

Notes:
[1] The MIR is a single-family residence immediately adjacent to the east of the project site.
[2] The mitigated project construction cancer risk and chronic non-cancer hazard estimates shown here incorporate the use of Tier 4 Final engines for all construction equipment rated for 25 horsepower or greater, as required with MM AIR-1.
MIR = Maximally Impacted Sensitive Receptor
N/A = no data available
Source: Appendix A.

[35] Bay Area Air Quality Management District (BAAQMD). 2022. Permitted Stationary Sources Risk and Hazards. Website: https://baaqmd.maps.arcgis.com/apps/webappviewer/index.html?id=845658c19eae4594b9f4b805fb9d89a3. Accessed September 13, 2022.

As noted in Table 10, the cumulative impacts from mitigated project construction and existing sources of TACs would be less than the BAAQMD cumulative thresholds of significance for cancer risk and non-cancer chronic hazard; however, mitigated project construction and existing sources of TACs would exceed the BAAQMD cumulative threshold of significance for annual $PM_{2.5}$ concentrations of 0.8 µg/m^3, ultimately resulting in a community annual $PM_{2.5}$ concentration of 1.29 µg/m^3. Nonetheless, as shown in Table 10, the proposed project's contribution to that exceedance in community annual $PM_{2.5}$ concentration constitutes less than an estimated 0.01 µg/m^3. As such, without implementation of the proposed project, the area would otherwise experience an annual $PM_{2.5}$ concentration of 1.28 µg/m^3, which is currently above the BAAQMD's threshold of 0.8 µg/m^3. Therefore, because the proposed project would be implementing mitigation sufficient to reduce the proposed project's health risk impacts to below the BAAQMD's single-source thresholds and the annual $PM_{2.5}$ concentration would exceed BAAQMD thresholds without implementation of the proposed project, the proposed project would not be cumulatively considerable or result in a significant cumulative health risk impact.

Criterion 4: CO Hotspot

As discussed under Impact 4.3(b), project operational CO hotspot impact would be less than significant.

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

Less than significant impact. As stated in the BAAQMD 2017 Air Quality Guidelines, odors are generally regarded as an annoyance rather than a health hazard. The ability to detect odors varies considerably among the populations and is subjective. The BAAQMD does not have a recommended odor threshold for construction activities. However, the BAAQMD recommends operational screening criteria based on the distance between receptors and types of sources known to generate odors.

The type of uses that are considered to have objectionable odors include wastewater treatments plants, compost facilities, landfills, solid waste transfer stations, fiberglass manufacturing facilities, paint/coating operations (e.g., auto body shops), dairy farms, petroleum refineries, asphalt batch plants, chemical manufacturing, and food manufacturing facilities. Three such facilities, operated by San José Water Company (San José Water), were identified within the 1- and 2-mile odor screening distances for wastewater and pumping facilities. Nonetheless, public records retrieved from the BAAQMD show that no odor complaints were filed for these locations between January 1, 2018, and the time at which this analysis was prepared. Moreover, as the proposed project is a residential project, it is not anticipated to generate objectionable odors that may affect a substantial number of people. Therefore, this impact would be **less than significant**.

Standard Permit Conditions

SC AQ-1 The following measures shall be implemented during all phases of construction to control dust and exhaust at the project site:

- Water active construction areas at least twice daily or as often as needed to control dust emissions.
- Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- Remove visible mud or dirt track-out onto adjacent public roads 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 the California Code of Regulations [CCR]). 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 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.

Impact AIR-1

$PM_{2.5}$ exhaust emissions generated during unmitigated project construction would result in an incremental cancer risk of approximately 13.5 in one million at the MIR, which would exceed the 10 in one million threshold set by the BAAQMD. Therefore, the project could conflict with the applicable air quality plan and could expose sensitive receptors to substantial pollutant concentrations prior to incorporation of mitigation.

Mitigation Measures

MM AIR-1 Prior to issuance of any demolition, grading permits, and/or building permits (whichever occurs earliest), the project applicant shall prepare and submit a construction operations plan that includes specifications of the equipment to be used during construction to the Director of Planning, Building, and Code Enforcement (PBCE) or the Director's Designee. 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.

- For all construction equipment larger than 25 horsepower operating on the site for more than two days continuously or 20 total hours, shall, at a minimum meet United States Environmental Protection Agency (EPA) Tier 4 Final emission standards.
- If Tier 4 Final equipment is not available, all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to ARB Level 3 verifiable diesel emission control devices that altogether achieve an 85 percent reduction in particulate matter exhaust and 40 percent reduction in NO_X in comparison to uncontrolled equipment.

The project applicant shall submit a construction operations plan prepared by the construction contractor that outlines how the contractor will achieve the measures outlined in this mitigation measure. The plan shall be submitted to the Director of Planning, Building, and Code Enforcement (PBCE) or the Director's designee for review and approval prior to the issuance of any demolition, grading and/or building permits (whichever occurs earliest). The plan shall include, but not be limited to the following:

- List of activities and estimated timing.
- Equipment that would be used for each activity.
- Manufacturer's specifications for each equipment that provides the emissions level; or the manufacturer's specifications for devices that would be added to each piece of equipment to ensure the emissions level meet the thresholds in the mitigation measure.
- How the construction contractor will ensure that the measures listed are monitored.
- How the construction contractor will remedy any exceedance of the thresholds.
- How often and the method the construction contractor will use to report compliance with this mitigation measure.

4.3.3 - Conclusion

The proposed project would result in less than significant impacts to air quality after incorporation of Standard Permit Condition SC AQ-1 and MM AIR-1.

Non-CEQA Impacts

The Proposed Project as a Receptor

The proposed project would locate new sensitive receptors (residents) that could be subject to existing sources of TACs at the project site. However, the California Supreme Court concluded in *California Building Industry Association v. BAAQMD* that agencies generally subject to CEQA are not required to analyze the impact of existing environmental conditions on a project's future users or residents. Although impacts from existing sources of TAC emissions on sensitive receptors on the project site are not subject to CEQA, Policy MS-11.1 of the City of San José General Plan requires the completion of an

analysis of cumulative TAC sources for new sensitive land uses, such as new residential developments, and incorporation of effective mitigation into project designs to avoid significant risks to health and safety.[36]

To determine the necessity of measures beyond those already required for the proposed project through compliance with regulations, the BAAQMD screening analysis was applied at the project site to evaluate whether existing TACs that could adversely affect individuals living within the proposed project. The BAAQMD-provided tools for use in screening potential sources of TACs identified for use in the project construction cumulative assessment were also used for this purpose.

Table 11 summarizes the cumulative health impacts at the project site at project buildout.

Table 11: Summary of the Cumulative Health Impacts at the Project Site

Source	Source Name/Source Type	Distance from Project Site (feet)	Cancer Risk (per million)	Chronic Hazard Index	$PM_{2.5}$ Concentration ($\mu g/m^3$)
Existing Roadways[2]					
Existing Local Roadways		10	5.30	N/A	0.11
Existing Highways[3]					
Existing Highways		50	70.48	N/A	1.82
Existing Rail[4]					
Existing Railways		4,900	2.74	N/A	<0.01
Cumulative Health Risks					
		Cumulative Total	**78.52**	**N/A**	**1.93**
		BAAQMD Cumulative Thresholds of Significance	**100**	**10**	**0.8**
		Threshold Exceedance?	**No**	**No**	**Yes**

Notes:
1 Assumes emissions remain constant with time.
2 Greatest value for cancer risk and annual $PM_{2.5}$ concentrations on-site was found at coordinates 37°18'58.46"N, 121°56'3.65"W.
3 Greatest value for cancer risk and annual $PM_{2.5}$ concentrations on-site was found at coordinates 37°19'1.12"N, 121°56'7.98"W.
4 Greatest value for cancer risk on-site was found at coordinates 37°19'0.50"N, 121°56'4.35"W, and the greatest value for annual $PM_{2.5}$ concentrations on-site was found at coordinates 37°18'59.46"N, 121°56'3.67"W.
N/A = no data available
Source: Appendix A.

As shown in Table 11, the cumulative health impacts to the future on-site residents from existing TAC emission sources located within 1,000 feet of the project site would exceed the BAAQMD's cumulative significance threshold for annual $PM_{2.5}$ concentration. As a result, COA AIR-1 would be recommended to ensure that future on-site residents were not exposed to unacceptable annual $PM_{2.5}$ concentrations. COA AIR-1 would demonstrate project compliance with Policy MS-11.1 of the

[36] City of San José. Amended in 2022. Envision San José 2040 General Plan.

San José General Plan and ensure that the future residences would be equipped with heating, ventilation, and air conditioning (HVAC) units with a MERV of at least 13, which is also required for new low-rise residential developments under Title 24, Part 6, Subchapter 7, Section 150.0(m)12.C. As specified by Title 24, Part 6, Subchapter 7, Section 150.0(m)12.C, the required filtration system for the proposed project would need to demonstrate at least an 85 percent reduction in particulates originating from outdoors ranging from 1.0 to 3.0 microns per cubic meter ($\mu g/m^3$). Assuming an 85 percent reduction in the annual $PM_{2.5}$, the application of a MERV 13 or better air filtration system would result in an indoor annual $PM_{2.5}$ concentration of an estimated 0.29 $\mu g/m^3$.

Conditions of Approval

COA AIR-1 Implement Indoor $PM_{2.5}$ Reduction Measures

To demonstrate compliance with Policy MS-11.1 of the San José General Plan, the project applicant shall provide the City with documentation, prior to the issuance of certificates of occupancy, demonstrating that the project has installed indoor air filtration systems with a Minimum Efficiency Reporting Value (MERV) of 13 or better, as required under Title 24, Part 6, Subchapter 7, Section 150.0(m)12.C, to ensure that future residents do not experience a cumulative cancer risk exceeding 100 in one million or concentrations of $PM_{2.5}$ greater than 0.8 $\mu g/m^3$.

To ensure long-term maintenance and replacement of the MERV filters in the individual units, the following shall occur:

- Developer, sale, and/or rental representative shall provide notification to all affected tenants/residents of the potential health risk for affected units.
- For rental units, the owner/property manager shall maintain and replace MERV filters in accordance with the manufacturer's recommendations. The property owner shall inform renters of increased risk of exposure to toxic air contaminants when windows are open.
- For residential owned units, the Homeowner's Association (HOA) shall incorporate requirements for long-term maintenance in the Covenant Conditions and Restrictions and inform homeowners of their responsibility to maintain the MERV filter in accordance with the manufacturer's recommendations. The HOA shall inform homeowners of increased risk of exposure to toxic air contaminants when windows are open.

4.4 - BIOLOGICAL RESOURCES

This analysis is based, in part, on the technical memorandum prepared by FirstCarbon Solutions (FCS) titled, Biological Resources Constraints Analysis for the TTLC Moorpark Avenue Multi-family Residential Project, City of San José, Santa Clara County, California; dated September 12, 2021, and the Arborist Report prepared by HortScience|Bartlett Consulting; dated March 2021. These supporting documents are contained in Appendix B of this document.

4.4.1 - Setting

The project site consists of residential structures and associated landscaped areas and gardens, hardscape, and imported fill (e.g., gravel). A small area with vegetation cover directly west of the Central Way cul-de-sac is heavily disturbed, graded, filled, and used for growing corn (*Zea mays*), pumpkin (*Cucurbita pepo*), tomatoes (*Solanum lycopersicum*), and other agricultural species. Non-native annual grass and invasive plant species such as stinkwort (*Dittrichia graveolens*) are interspersed.

Where not used for growing backyard vegetables, remnant vegetation is dominated by small lawn areas and ornamental trees. Approximately 55 ornamental trees (both native and non-native) can be found on-site including, most notably two approximately 50-foot-tall coast redwoods and an approximately 50-foot-tall incense cedar. Other ornamental tree and shrub species observed include Mexican fan palm (*Washingtonia robusta*), coast live oak, oleander (*Nerium oleander*), and magnolia (*Magnolia grandiflora*). All trees are inventoried, evaluated, and listed in the Preliminary Arborist Report (Appendix C within Draft IS/MND Appendix B).

Applicable Plans, Policies, and Regulations

Federal

Endangered Species Act

The United States Fish and Wildlife Service (USFWS) has jurisdiction over species listed as threatened or endangered under the federal Endangered Species Act of 1973. Section 9 of the Endangered Species Act protects listed species from "take," which is broadly defined as actions taken to "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct." The Endangered Species Act protects threatened and endangered plants and animals and their critical habitat. Candidate species are those proposed for listing; these species are usually treated by resource agencies as if they were actually listed during the environmental review process.

Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA) implements international treaties between the US and other nations devised to protect migratory birds, their parts, eggs, and nests from activities such as hunting, pursuing, capturing, killing, selling, and shipping, unless expressly authorized in the regulations or by permit. All migratory birds and their nests are protected from take and other impacts under the MBTA (16 United States Code [USC] § 703, *et seq*.).

Clean Water Act

Section 404

The United States Army Corps of Engineers (USACE) administers Section 404 of the federal Clean Water Act (CWA), which regulates the discharge of dredge and fill material into waters of the United States.

As of the date of this report, September 28, 2021, the EPA and the USACE (hereafter the agencies) are in receipt of the U.S. District Court for the District of Arizona's August 30, 2021, order vacating and remanding the Navigable Waters Protection Rule in the case of *Pascua Yaqui Tribe v. U.S. Environmental Protection Agency*. In light of this order, these agencies have halted implementation of the Navigable Waters Protection Rule and are interpreting "waters of the United States" consistent with the pre-2015 regulatory regime until further notice.[37]

Therefore, since the agencies are interpreting "waters of the United States" consistent with the pre-2015 regulatory regime until further notice, our analysis follows 40 Code of Federal Regulations 230.3(s), which defines "waters of the United States" as follows:

1. All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
2. All interstate waters including interstate wetlands.
3. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation, or destruction of which could affect interstate or foreign commerce including any such waters:
   a) Which are or could be used by interstate or foreign travelers for recreational or other purposes; or
   b) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
   c) Which are used or could be used for industrial purposes by industries in interstate commerce.
4. All impoundments of waters otherwise defined as waters of the United States under this definition.
5. Tributaries of waters identified in paragraphs (s)(1) through (4) of this section.
6. The territorial sea.
7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (s)(1) through (6) of this section and waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA (other than cooling ponds as defined in 40 Code of Federal Regulations 423.11(m) which also meet the criteria of this definition) are not waters of the United States.

[37] United States Environmental Protection Agency (EPA). 2021. Website: https://www.epa.gov/wotus/current-implementation-waters-united-states. Accessed September 9, 2021.

Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the CWA, the final authority regarding CWA jurisdiction remains with the EPA and/or USACE.

"Wetland" refers to areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and seasonal wetlands. Wetlands are considered jurisdictional if they fall under one of the categories of waters of the United States defined above. The USACE jurisdiction typically extends up to the ordinary high-water mark.

In general, a USACE permit must be obtained before placing fill in wetlands or other waters of the United States. The type of permit depends on the impacted acreage, the purpose of the proposed fill, and other factors.

Section 401

As stated in Section 401 of the CWA, "any applicant for a federal permit for activities that involve a discharge to waters of the State, shall provide the federal permitting agency a certification from the State in which the discharge is proposed that states that the discharge will comply with the applicable provisions under the Federal Clean Water Act." Therefore, before the USACE will issue a Section 404 permit, applicants must apply for and receive a Section 401 Water Quality Certification from the Regional Water Quality Control Board (RWQCB).

State

California Endangered Species Act

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

California Fish and Game Code

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

"candidate species," which it formally notices as being under review for addition to the list of endangered or threatened species.

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

The CDFW also maintains lists of "Species of Special Concern" that serve as species "watch lists." The CDFW has identified many Species of Special Concern. Species with this status have limited distribution or the extent of their habitats has been reduced substantially, such that their populations may be threatened. Thus, their populations are monitored, and they may receive special attention during environmental review. While they do not have statutory protection, they may be considered rare under CEQA Guidelines and thereby warrant specific protection measures.

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

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

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

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

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

California Department of Fish and Wildlife Species of Concern

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

California Porter-Cologne Water Quality Control Act

The RWQCB regulates actions that would involve "discharging waste, or proposing to discharge waste, within any region that could affect the water of the State" (Water Code § 13260(a)), pursuant to provisions of the Porter-Cologne Water Quality Act. "Waters of the State" are defined as "any surface water or groundwater, including saline waters, within the boundaries of the State" (Water Code § 13050€). In 2019, the California State Water Resources Control Board (State Water Board) published the *State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State* (Procedures) to guide wetland/waters of the State determinations and the permitting process.[38]

California Native Plant Society

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

- **Rank 1A:** Plants presumed extirpated in California and either rare or extinct elsewhere
- **Rank 1B:** Plants rare, threatened, or endangered in California and elsewhere

[38] California State Water Resources Control Board (State Water Board). 2019. State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State. April 2, 2019.

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

Potential impacts to populations of CNPS ranked plants receive consideration under CEQA review. All plants appearing on the CNPS List ranked 1 or 2 are considered to meet the CEQA Guidelines Section 15380 criteria. Rank 3 and 4 plants do not automatically meet this definition. Rank 4 plants do not clearly meet CEQA standards and thresholds for impact considerations. Nevertheless, some level of CEQA review is justified for California Rare Plant Rank (CRPR) 4 taxa, and under some circumstances, a full impact analysis is warranted. Taxa that can be shown to meet the criteria for endangered, rare, or threatened status under CEQA Guidelines Section 15380(d) or that can be shown to be regionally rare or unique as defined in CEQA Guidelines Section 15125(c) must be fully analyzed in a CEQA document. Some circumstances, such as local rarity, having occurrences peripheral to the taxon's distribution, or having occurrences on unusual substrates or rare and declining habitats, provide justification for treating some CRPR 4 taxa occurrences as regionally rare or unique. One limitation to fully analyzing impacts on CRPR 4 taxa is the difficulty in obtaining current data on the number and condition of the occurrences.[39]

Regional and Local

The proposed project development will have to abide by all local and regional ordinances and regulations. Specifically, the following:

Envision San José 2040 General Plan

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

Policy ER-5.1 Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance of activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.

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

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

Policy MS-21.5 As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse effect on the health and longevity of protected or other significant trees through appropriate

[39] California Native Plant Society (CNPS). 2020. Considerations for Including CRPR 4 Plant Taxa in CEQA Biological Resource Impact Analysis. Sacramento, CA. 21 January 2020.

design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.

Policy MS-21.6 As a condition of new development, require the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.

Policy MS-21.7 Manage infrastructure to ensure that the placement and maintenance of street trees, streetlights, signs and other infrastructure assets are integrated. Give priority to tree placement in designing or modifying streets.

Policy 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.

Policy 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.

Tree Ordinance

According to Chapter 13.32 of the San José Municipal Code, an ordinance sized tree is either a single trunk or stem with a circumference of at least 38 inches measured at a height 54 inches above natural grade slope, or multiple trunks where the combined circumferences of each trunk at 54 inches above natural grade slope add up to at least 38 inches.[40]

Santa Clara Valley Habitat Plan

The Santa Clara Valley Habitat Plan (SCVHP) provides a framework for promoting the protection and recovery of natural resources, including endangered species, while streamlining the permitting process for planned development, infrastructure, and maintenance activities. The purpose of the

[40] San José Municipal Code. 2020. Chapter 13.32 - TREE REMOVAL CONTROLS. Website: https://library.municode.com/ca/san_jose/codes/code_of_ordinances?nodeId=TIT13STSIPUPL_CH13.32TRRECO_13.32.020DE. Accessed January 8, 2021.

SCVHP is to protect, enhance, and restore natural resources in specific areas of Santa Clara County and contribute to the recovery of endangered species. The SCVHP evaluates natural-resource impacts and mitigation requirements comprehensively in a way that is more efficient and effective for at-risk species and their essential habitats. The SCVHP was adopted by the City of San José on January 29, 2013.

4.4.2 - Environmental Checklist and Impact Discussion

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

Impact Discussion

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

Less than significant impact with mitigation incorporated. The project site is currently developed with multi-family residential buildings, carports, and storage units. Three parcels on the project site are currently vacant. No special-status plants or animal species were observed on the project site during the field survey that was conducted as part of the Biological Resources Constraints Analysis. No special-status plants or animal species would be expected on the project site given the fully developed status of the site and the surrounding areas. The Biological Resources Constraints Analysis determined that the project site does not contain suitable habitat for many special-status plants or special-status wildlife species, aside from nesting birds and roosting bats, due to the lack of suitable habitat, including native vegetation communities.

The project site contains the potential to support nesting birds during the nesting season. Raptors and their nests are protected under the MBTA of 1928 and California Fish and Game Code. Several native migratory or resident bird species protected under the MBTA and/or Fish and Game Code may nest in the many trees and shrubs that are found on the project site. The development of the proposed project has the potential to impact protected bird nests due to the removal of this vegetation or indirectly harm birds though the generation of noise, lights, and other man-made disturbances that could result in the abandonment of eggs or young. The removal of trees that may provide nesting habitats would be a significant impact that requires implementation of MM BIO-1 to protect potentially occurring nesting birds and reduce the impact to a less than significant level. MM BIO-1 would require specific measures, such as limiting tree and vegetation removal, requiring pre-construction surveys, and establishing buffer zones to avoid potential impacts to nesting birds if work takes place during the nesting season.

Additionally, the numerous abandoned buildings found on-site could have potential to be inhabited by roosting bats, including potentially special-status bat species, which could be disturbed or even harmed during the demolition of these structures. Additionally, many bat species are sensitive to disturbances such as light and noise that may result from the development of the proposed project. These disturbances could awaken torpid bats (if during winter hibernation period) and cause them to abandon their roosts. Therefore, the project shall implement MM BIO-2 which requires surveys for roosting bats prior to construction. The implementation of MM BIO-1 and MM BIO-2 would reduce potential impacts to special-status species by the project to a **less than significant** level.

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

No impact. The Biological Resources Constraints Analysis determined that the proposed project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the CDFW or USFWS. The project site has previously been developed and does not contain any native vegetation

communities. Therefore, the proposed project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by CDFW. Thus, the proposed project would have **no impact**.

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

No impact. The Biological Resources Constraints Analysis concluded that no wetlands or other hydrological features that meet criteria as waters of the United States or waters of the State were observed within the proposed project site during the reconnaissance-level survey. Therefore, the proposed project would have **no impact**.

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

Less than significant with impact mitigation incorporated. The Biological Resources Constraints Analysis determined that the proposed project would not significantly impact wildlife corridors. Urbanized parcels in San José are not considered important for regional movement of wildlife species. The project site does not contain connectivity to suitable habitat. As discussed previously in Checklist Question 1 of this section, several native migratory or resident birds that are protected under the MBTA and/or Fish and Game Code have potential to nest in the many trees and shrubs that are found on the project site. Additionally, there is potential for abandoned buildings found on-site to be inhabited by roosting bats, including special-status bat species. Therefore, MM BIO-1 and MM BIO-2 shall be implemented to reduce potential impacts to nesting birds and roosting bats. With implementation of MM BIO-1 and MM BIO-2, impacts would be **less than significant** levels.

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

Less than significant impact.

As identified in the *Preliminary Arborist Report* (dated March 3, 2020), prepared by HortScience, there are a total of 55 trees on the project site and of these 26 met the City's "Ordinance Sized Tree" criteria. However, no "Heritage Trees," as defined by the City's Municipal Code, are present on the project site. The proposed project would require the removal of 47 trees, 23 of which are considered "Ordinance Sized Trees." Eight trees would be preserved, including four Mexican fan palms on-site and four Ordinance Sized Trees located off-site: Paradox walnut, a coast live oak, a buckhorn, and a coast redwood.

Per the San José Planning, Building and Code Enforcement Department, a Tree Removal Permit is needed if the tree proposed to be removed is a street tree; a heritage tree; an ordinance-size tree, live or dead; or for the removal of any tree located on multi-family, commercial, industrial, or mixed-use property or in a common area. Therefore, the proposed project would be required to obtain a Tree Removal Permit and comply with the City's requirements for tree replacement, as provided in Table 12 below and in accordance with SC BIO-1. According to the project plans, all replacement

trees would be accommodated on-site. With the implementation of SC BIO-1, the proposed project would not conflict with any local policies or ordinances protecting biological resources and, impacts would be reduced to **less than significant** levels.

6) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State Habitat Conservation Plan?

No impact. The project site is located within the SCVHP boundaries and is designated "Urban Area" within the SCVHP. Therefore, the proposed project is not subject to any development fees or other requirements pursuant to the SCVHP. Additionally, the project site is not located in a land cover fee zone or any other special fee zone. No special-status plant or wildlife surveys are required, and the site is not in the Urban Reserve System Interface Zone. Therefore, the proposed project would not conflict with the SCVHP or with SC BIO-2, and no impact would occur.

Standard Permit Conditions

SC BIO-1 Forty-seven trees on-site would be removed. Two of which are orchards with a circumference of less than 38 inches and do not need to be replaced. Four trees would be replaced at 1:1 ratio, 16 trees would be replaced at a 2:1 ratio, five trees would be replaced at a 3:1 ratio, 14 trees would be replaced at a 4:1 ratio, and six trees would be replaced at a 5:1 ratio. The total number and size of replacement trees required to be planted on-site is 137.

If there is insufficient area on the project site to accommodate the required replacement trees, one or more of the following measures shall be implemented, to the satisfaction of the Director of Planning, Building, and Code Enforcement (PBCE) or the Director's designee. 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 with 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.

Table 12: Tree Replacement Ratios

Circumference of Tree to be Removed (measured at 4.5 feet above ground)	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or greater	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

Circumference of Tree to be Removed (measured at 4.5 feet above ground)	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
Notes: x:x = tree replacement to tree loss ratio Notes: - Trees greater than 38-inch circumference shall not be removed unless a Tree Removal Permit or equivalent has been approved for the removal of such tree. - For Multi-family Residential, Commercial, and Industrial properties, a permit is required for removal of trees of any size. - 38-inches in circumference equals 12.1 inches in diameter. - A 24-inch box tree can be used in lieu of two 15-gallon trees. - Single-family and two-dwelling properties may be mitigated at a 1:1 ratio				

SC BIO-2 Santa Clara Valley Habitat Plan. The project may be subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant shall submit the Santa Clara Valley Habitat Plan Coverage Screening Form (https://www.scv-habitatagency.org/DocumentCenter/View/151/Coverage-Screening-Form?bidId=) to the Director of Planning, Building, and Code Enforcement (PBCE) or the Director's designee for approval and payment of all applicable fees prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at https://scv-habitatagency.org/178/Santa-Clara-Valley-Habitat-Plan.

Mitigation Measures

Impact BIO-1

The development of the proposed project has the potential to impact protected bird nests due to the removal of vegetation or indirectly harm birds though the generation of noise, lights, and other man-made disturbances that could result in the abandonment of eggs or young. The removal of trees that may provide nesting habitats would be a significant impact that requires mitigation.

MM BIO-1 Prior to the issuance of any tree removal, grading, building, or demolition permits (whichever comes first), the project applicant shall schedule all 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 1 through August 31 (inclusive). Construction activities include any site disturbance such as, but not limited to, tree trimming or removal, demolition, grading, and trenching.

If construction activities cannot be scheduled between September 1 and January 31 (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified Ornithologist or Biologist to ensure that no active 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 1 through April 30 inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1 through August 31 inclusive). During this survey, the Ornithologist/Biologist shall

inspect all trees and other possible nesting habitats on-site and within 250 feet of the site for nests.

If an active nest is found within 250 feet of the project area to be disturbed by construction, the Ornithologist/Biologist, 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.

Prior to any tree removal, or approval of any grading or demolition permits (whichever occurs first), the ornithologist/biologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building, and Code Enforcement (PBCE) or the Director's designee.

Impact BIO-2

There is potential for abandoned buildings found on-site to be inhabited by roosting bats, including special-status bat species, which requires mitigation.

MM BIO-2 Prior to the issuance of any tree removal, grading, building, or demolition permits (whichever comes first), a qualified Biologist shall conduct a pre-construction survey for special-status bats to characterize potential bat habitat and identify active roost sites within 100 feet of the project site. The survey shall be conducted within 7 calendar days prior to any ground-disturbing activity. The results of the surveys and the locations of any designated buffer zones shall be submitted to the Director of Planning, Building, and Code Enforcement (PBCE), or the Director's designee. Should potential roosting habitat or active bat roosts be found in trees and/or structures to be removed or renovated under the project or within a 100-foot buffer zone from these areas, the following measures shall be implemented:

- Removal of trees and structures with active roosts shall occur when bats are active, approximately between March 1 and April 15 inclusive and between September 1 and October 15 inclusive. To the extent feasible, removal shall occur outside of bat maternity roosting season (approximately April 15 to August 31 inclusive) and outside of the months of winter torpor (approximately October 16 to February 28 inclusive).
- If removing trees and structures during the periods when bats are active is not feasible and active bat roosts being used for maternity or hibernation purposes are found on or in the immediate vicinity of the project area where tree and structure removal is planned, a no-disturbance buffer shall be established around these roost sites, typically 100 feet, or an area determined to be adequate by the qualified biologist based on-site conditions, construction activity, species, number of roosting individuals, and/or noise attenuation and frequency, along with coordination with the California Department of Fish and Wildlife (CDFW), if

necessary, until the qualified Biologist has determined that they are no longer active.

The qualified Biologist shall be present during removal of trees and structures when active bat roosts not being used for maternity or hibernation purposes are present. Trees and structures with active roosts shall be removed only when no rain is occurring and rain is not forecast to occur for 3 days following removal of the roost, and when daytime temperatures are at least 50°F (degrees Fahrenheit).

- Removal of trees with active or potentially active roost sites shall follow a two-step removal process:
  (1) On the first day of tree removal and under the supervision of the qualified biologist, branches and limbs that do not contain cavities or fissures in which bats could roost shall be cut only using chain saws. Removal of the canopy makes the tree unappealing for bats to return that evening to roost.
  (2) On the following day and under the supervision of the qualified Biologist, after confirmation that bats have not returned, the remainder of the tree may be removed, using either chain saws or other equipment (e.g., excavator or backhoe).

Structures that contain or are suspected to contain active bat roosts, but that are not being used for maternity or hibernation purposes, shall be dismantled under the supervision of the qualified biologist in the evening, after bats have emerged from the roost to forage. The structures shall be partially dismantled to substantially change roost conditions, causing the bats to abandon and not return to the roost.

4.4.3 - Conclusion

With implementation of standard permit conditions and MM BIO-1 and MM BIO-2, impacts associated with biological resources would be **less than significant**.

4.5 - CULTURAL RESOURCES AND TRIBAL CULTURAL RESOURCES

4.5.1 - Setting

Cultural resources are evidence of past human occupation and activity and include both historical and archaeological resources. These resources may be located above ground or underground and have significance in the history, prehistory, architecture, architecture of culture, of the nation, State of California, or local or tribal communities. This section describes the existing cultural resources setting and potential effects from project implementation on the project site and its surrounding area. Descriptions and analysis in this section are based on information provided by the California Native American Heritage Commission (NAHC), Northwest Information Center (NWIC), National Register of Historic Places (NRHP), California Register of Historical Resources (CRHR), California Historic Landmarks list, California Points of Historical Interest list, Built Environmental Research Directory (BERD), and the California Historical Resources Inventory. Non-confidential records search results and other correspondence is included in Appendix C.

Northwest Information Center

A records search and literature review were conducted on September 14, 2021, at the NWIC located at Sonoma State University located in Rohnert Park, California for the project site and a 0.5-mile radius surrounding it. The purpose of this review was to access existing cultural resource survey reports, archaeological site records, historic aerial photographs, and historic maps and evaluate whether any previously documented prehistoric or historic archaeological sites, architectural resources, cultural landscapes, or other resources exist within or near the project site.

The results of the records search indicate that there are seven recorded cultural resources within the 0.5-mile search radius, none of which are located within the project site. In addition, nine area-specific survey reports are on file with the NWIC for the 0.5-mile search radius, but none within the project site itself, suggesting that the project site has not been previously surveyed for cultural resources. A records search map identifying the project boundaries and a 0.5-mile search radius along with relevant non-confidential records search results can be found in Appendix C.

Pedestrian Survey and Site Visit

On September 22, 2020, FCS Senior Archaeologist Dr. Dana DePietro conducted a pedestrian survey for unrecorded cultural resources at the project site. The survey covered the subject property in its entirety, beginning in the northeast corner of the project site and moving west, using north–south transects spaced at standard 15-meter intervals whenever possible. The project site is entirely developed, consisting of several residential structures and associated landscaping elements. Visibility of native soils was therefore very poor, ranging from 5-10 percent, and only in areas along the periphery of the development. Soils in sections of poor visibility were intermittently inspected using a hand trowel. Observed soils were largely composed of medium brown loam with low clay content, interspersed with small (2 to 3-centimeter) stones primarily composed of quartz, schist, and basalt. Survey conditions were documented using digital photographs and field notes. During the survey, Dr. DePietro examined all areas of the exposed ground surface for prehistoric artifacts (e.g., fire-affected rock, milling tools, flaked stone tools, toolmaking debris, ceramics), soil discoloration and depressions that might indicate the presence of a cultural midden, faunal and human osteological

remains, and features indicative of the former presence of structures or buildings (e.g., postholes, standing exterior walls, foundations) or historic debris (e.g., glass, metal, ceramics). Particular attention was paid to the built environment and recording buildings and structures that appeared to be more than 45 years of age.

All areas of the project site were closely inspected for culturally modified soils or other indicators of potential historic or prehistoric resources. No prehistoric cultural resources or raw materials commonly used in the manufacture of tools (e.g., obsidian, Franciscan chert) were observed. Several buildings and structures more than 45 years in age that had not been previously recorded were identified. These structures were subsequently evaluated by an architectural historian and are addressed in the following section.

Historic Resource Evaluation Report

On July 20, 2021, Stacy De Shazo, MA; Evan & De Shazo, Principal Architectural Historian; and Nicole LaRochelle, BA, conducted research, an intensive level historic architectural survey for built environment resources located 2323, 2369, 2389, and 2391 Moorpark Avenue, San José, Santa Clara County within seven Assessor Parcel Numbers and totaling approximately 2 acres. The built environment resources consisted of 14 residential buildings, which includes multi-family dwelling units, duplexes, and apartments, attached or integrated carports, contemporary storage building, two metal storage containers, and associated landscape. On September 17, 2021, Stacy De Shazo, MA, completed a Historic Resources Evaluation Report (HRER) that provided recommendations and conclusions pertaining to the evaluated buildings and structures. The HRER determined that the built environment resources, at least 45 years in age, within the project site do not meet eligibility requirements for listing on the CRHR and are not currently listed on the national, State, or local register of historical resources. Additionally, none of the built environment resources within the project site appear to meet the standards outlined by the City of San José for local listing on the City of San José Historic Register or as a City Landmark. A copy of the HRER can be found in Appendix C.

Native American Heritage Commission

On September 2, 2021, FCS contacted the NAHC to determine whether any sacred sites were located within the project site or its vicinity. A response was received on September 9, 2021, indicating that the Sacred Lands File (SLF) search produced a negative result for Native American cultural resources in the project area. The NAHC included a list of eight tribal representatives available for consultation. To ensure that all Native American knowledge and concerns over potential Tribal Cultural Resources (TCRs) that may be affected by the proposed project are addressed, a letter containing project information was sent to each tribal representative on September 15, 2021. No responses have been received to date. NAHC correspondence and copies of the NAHC letters can be found in Appendix C.

Applicable Plans, Policies, and Regulations

CEQA Regulations Regarding Human Remains

Section 15064.5 of the State CEQA Guidelines specifies procedures to be used in the event of an unexpected discovery of Native American human remains on nonfederal land. These procedures are outlined in Public Resources Code Sections 5097 and 5097.98. These codes protect such remains from disturbance, vandalism, and inadvertent destruction, establish procedures to be implemented

if Native American skeletal remains are discovered during construction of a project, and establish the NAHC as the authority to resolve disputes regarding disposition of such remains.

Envision San José 2040 General Plan

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

Envision San José 2040 Relevant Cultural Resource Policies

Policies	Description
Policy ER-10.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable State laws shall be enforced.
Policy ER-10.3	Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and prehistoric resources.

4.5.2 - Environmental Checklist and Discussion of Impacts

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

Impact Discussion

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

No impact. CEQA Guidelines Section 15064.5 defines "historical resources" as resources listed in the CRHR, a local register, determined significant by the lead agency, or determined to be eligible by the California Historical Resources Commission for listing in the CRHR. The criteria for eligibility are generally set by the National Historic Preservation Act of 1966, which established the NRHP and which recognizes properties that are significant at the federal, State, and local levels. To be eligible for listing in the NRHP and CRHR, a district, site, building, structure, or object must possess integrity

of location, design, setting, materials, workmanship, feeling, and association relative to American history, architecture, archaeology, engineering, or culture. In addition, unless the property possesses exceptional significance, it must be at least 50 years old to be eligible.

The results of the NWIC record search indicated that there are six recorded historical resources within a 0.5-mile radius of the project area, none of which are within the project site itself. Results of the pedestrian survey indicated that the project site is entirely developed consisting of several residential and associated landscaping elements. Several unrecorded buildings and structures over 45 years in age were identified during the survey and were later evaluated and determined to be ineligible for listing on the CRHR. Additionally, an HRER for the project site was completed by Stacy De Shazo, MA, on September 17, 2021, which evaluated 14 built environment resources constructed between 1940 and 1954 that consisted of residential buildings, including multi-family dwelling units, duplexes, and apartments, attached or integrated carports, contemporary storage building, two metal storage containers, and associated landscape. All evaluated built environment historical resources are determined to be ineligible for listing on the CRHR. As such, the proposed project would not impact built environment historical resources within the project site. No mitigation measures are required for built environment historical resources resulting in **no impact**.

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

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

The results from the NWIC indicate that seven cultural resources (one prehistoric resource and six historic resources) are located within 0.5 mile of the project. There are no recorded prehistoric or historic archaeological resources located within the project site. However, the location of the project site and the existence of a recorded prehistoric resource in the vicinity results in the project site to be moderately sensitive for archaeological resources. Archaeological resources can include but are not limited to stone, bone, wood, or shell artifacts or features, including hearths and structural elements. Damage or destruction of these resources would have a potentially significant impact. Implementation of standard permit conditions and MM CUL-1, MM CUL-2, and MM CUL-3 would ensure that this potential impact is reduced to a **less than significant** level.

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

Less than significant impact. While it is unlikely that human remains exist within or near the project site, there is always a possibility that subsurface construction activities associated with the proposed project, such as grading or trenching, could potentially damage or destroy previously undiscovered human remains. In the event of the accidental discovery or recognition of any human remains, CEQA Guidelines Section 15064.5, Health and Safety Code Section 7050.5, and Public Resources Code Sections 5097.94 and 5097.98 must be followed. SC CUL-2 further specifies the procedures to follow

in the event human remains are uncovered. Along with compliance with required guidelines and statutes, implementation of SC CUL-2 would ensure that potential impacts to human remains are **less than significant**.

Standard Permit Conditions

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

SC CUL-2 **Human Remains.** If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building, and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

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

Mitigation Measures

Impact CUL-1

The location of the project site and the existence of a recorded prehistoric resource in the vicinity results in the project site to be moderately sensitive for archaeological resources. Archaeological resources can include but are not limited to stone, bone, wood, or shell artifacts or features, including hearths and structural elements. Damage or destruction of these resources would have a potentially significant impact.

MM CUL-1 *Monitoring*. The project applicant shall implement the following construction practices and protocols proposed as part of the project to avoid and minimize potential impacts to unknown archaeological resources:

- All construction crews and their supervisors shall receive cultural resources training by a qualified archaeologist before construction begins.
- A qualified archaeologist shall monitor archaeologically sensitive areas during initial ground disturbance to determine whether potentially significant archaeological resources are present in the project area.
- If no resources are discovered, the consulting archaeologist shall submit a report to the Director of Planning, Building, and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer prior to issuance of any grading permit verifying that the required monitoring occurred and that no further mitigation is necessary.

MM CUL-2 *Treatment Plan.* If cultural resources are encountered during ground-disturbing activities, the project applicant shall prepare a treatment plan that reflects permit-level detail pertaining to depths and locations of excavation activities. The treatment plan shall be prepared and submitted to the Director of Planning, Building, and Code Enforcement (PBCE) or the Director's designee prior to issuance of grading permit. The treatment plan shall contain, at a minimum:

- Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations.
- Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found).
- Monitoring schedules and individuals.
- Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information).
- Detailed field strategy to record, recover, or avoid the finds and address research goals.
- Analytical methods.
- Report structure and outline of document contents.
- Disposition of the artifacts.
- Security approaches or protocols for finds.

- Appendices: all site records, correspondence, and consultation with Native Americans, etc. Implementation of the plan, by a qualified Archaeologist, shall be required prior to any grading activities. The treatment plan shall utilize data recovery methods to reduce impacts on subsurface resources.

MM CUL-3 *Evaluation*. The project applicant shall notify the Director of Planning, Building, and Code Enforcement (PBCE) or the Director's designee of any finds during grading or other construction activities. Any historic or prehistoric material identified in the project area during the preliminary field investigation and during excavation activities shall be evaluated for eligibility for listing in the California Register of Historical Resources (CRHR) as determined by the California Office of Historic Preservation. Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand augering, and hand-excavation. The techniques used for data recovery shall follow the protocols identified in the approved treatment plan. Data recovery shall include excavation and exposure of features, field documentation, and recordation. All documentation and recordation shall be submitted to the Northwest Information Center and Native American Heritage Commission (NAHC) Sacred Land Files, and/or equivalent prior to occupancy. A copy of the evaluation shall be submitted to the Director of PBCE or the Director's designee.

Conclusion

The proposed project would result in a **less than significant** impact on cultural resources with implementation of the standard permit conditions and mitigation measures.

4.6 - ENERGY

This analysis is based on the technical memorandum prepared by FCS, titled Air Quality and Greenhouse Gas Emissions and Energy Impacts Analysis for the TTLC Moorpark Avenue Multi-family Residential Project, City of San José, Santa Clara County, California dated September 27, 2022; and revised December 6, 2022, and March 15, 2023. The memorandum is contained in Appendix A of this document.

4.6.1 - Applicable Plans, Policies, and Regulations

Federal Energy Policy and Conservation Act of 1975

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

EPA Off-Road Diesel Engine Emissions Standards

The EPA regulates nonroad diesel engines that power mobile equipment (bulldozers, scrapers, front-end loaders, etc.) and stationary equipment (generators, pumps, compressors, etc.). The EPA has no formal fuel economy standards for nonroad (e.g., construction) diesel engines but does regulate diesel emissions, which indirectly affects fuel economy. In 1994, EPA adopted the first set of emission standards (Tier 1) for all new nonroad diesel engines greater than 37 kilowatts (kW [50 horsepower]). The Tier 1 standards were phased in for different engine sizes between 1996 and 2000, reducing NO_X emissions from these engines by 30 percent. Subsequently, the EPA adopted more stringent emission standards for NO_X, hydrocarbons, and PM from new nonroad diesel engines. This program included the first set of standards for nonroad diesel engines less than 37 kW. It also phased in more stringent Tier 2 emission standards from 2001 to 2006 for all engine sizes and added yet more stringent Tier 3 standards for engines between 37 and 560 kW (50 and 750 horsepower, respectively) from 2006 to 2008. These standards further reduced nonroad diesel engine emissions by 60 percent for NO_X and 40 percent for PM from Tier 1 emission levels. In 2004, the EPA issued the Clean Air Nonroad Diesel Rule. This rule cut emissions from nonroad diesel engines by more than 90 percent and was phased in between 2008 and 2014. New engines built in and after 2015 across all horsepower sizes must meet Tier 4 final emission standards. In other words, new manufactured engines cannot exceed the emissions established for Tier 4 final emissions standards. These emission standards are intended to promote advanced clean technologies for nonroad diesel engines that improve fuel combustion, but they also result in slight decreases in fuel economy.

California Renewable Energy Standards

In 2002, California established its Renewables Portfolio Standard Program with the goal of increasing the percentage of renewable energy in the State's electricity mix to 20 percent of retail sales by 2010. In 2006, California's 20 percent by 2010 Renewables Portfolio Standard goal was codified under SB 107. Under the provisions of SB 107 (signed into law in 2006), investor-owned utilities were required to generate 20 percent of their retail electricity using qualified renewable energy technologies by the end of 2010. In 2008, Executive Order S-14-08 was signed into law and required that retail sellers of electricity serve 33 percent of their load with renewable energy by 2020. PG&E's

electricity mix in 2015 was 30 percent renewable. In October 2015, Governor Brown signed SB 350 to codify California's climate and clean energy goals. A key provision of SB 350 for retail sellers and publicly owned utilities requires them to procure 50 percent of the State's electricity from renewable sources by 2030.

California Building Standards Code

The Building Energy Efficiency Standards were first adopted in 1976 and have been updated periodically since then as directed by statute. The Standards contain energy and water efficiency requirements (and indoor air quality requirements) for newly constructed buildings, additions to existing buildings, and alterations to existing buildings. The Standards are conceptually divided into three basic sets. The first set is a basic set of mandatory requirements that apply to all buildings. The second set is a set of performance standards—the energy budgets—that vary by climate zone (of which there are 16 in California) and building type; thus, the Standards are tailored to local conditions and provide flexibility in how energy efficiency in buildings can be achieved. Finally, the third set constitutes an alternative to the performance standards, which is a set of prescriptive packages that provide a recipe or a checklist compliance approach.

BAAQMD Rules and Regulations

Regulation 2, Rule 1 (Permits–General Requirements)

The BAAQMD regulates new sources of air pollution and the modification and operation of existing sources through the issuances of authorities to construct and permits to operate. Regulation 2, Rule 1 provides an orderly procedure which the project would be required to comply with to receive authorities to construct or permits to operate from the BAAQMD for new sources of air pollutants, as applicable.

Regulation 2, Rule 5 (New Source Review Permitting)

The BAAQMD regulates backup emergency generators, fire pumps, and other sources of TACs through its New Source Review (Regulation 2, Rule 5) permitting process. Although emergency generators are intended for use only during periods of power outages, monthly testing of each generator is required; however, the BAAQMD limits testing to no more than 50 hours per year. Each emergency generator installed is assumed to meet a minimum of Tier 2 emission standards (before control measures). As part of the permitting process, the BAAQMD limits the excess cancer risk from any facility to no more than 10 per 1-million-population for any permits that are applied for within a 2-year period and would require any source that would result in an excess cancer risk greater than 1 per 1 million to install Best Available Control Technology (BACT) for Toxics.

Regulation 6, Rule 1 (Particulate Matter–General Requirements)

The BAAQMD regulates particulate matter emissions through Regulation 6 by means of establishing limitations on emission rates, emissions concentrations, and emission visibility and opacity. Regulation 6, Rule 1 provides existing standards for particulate matter emissions that could result during project construction or operation that the project would be required to comply with, as applicable, such as the prohibition of emissions from any source for a period or aggregate periods of more than three minutes in any hour which are equal to or greater than 20 percent opacity.

Regulation 6, Rule 6, (Particulate Matter–Prohibition of Trackout)

One rule by which the BAAQMD regulates particulate matter includes Regulation 6, Rule 6, which prohibits particulate matter trackout during project construction and operation. Regulation 6, Rule 6 requires the prevention or timely cleanup of trackout of solid materials onto paved public roads outside the boundaries of large bulk material sites, large construction sites, and large disturbed surface sides such as landfills.

Regulation 8, Rule 3 (Architectural Coatings)

This rule governs the manufacture, distribution, and sale of architectural coatings and limits the ROG content in paints and paint solvents. Although this rule does not directly apply to the proposed project, it does dictate the ROG content of paint available for use during the construction.

Regulation 8, Rule 15 (Emulsified and Liquid Asphalts)

Although this rule does not directly apply to the proposed project, it does dictate the ROG content of asphalt available for use during the construction through regulating the sale and use of asphalt and limits the ROG content in asphalt.

Regulation 9, Rule 8 (Inorganic Gaseous Pollutants–Nitrogen Oxides and Carbon Monoxide from Stationary Internal Combustion Engines)

Under Regulation 9, Rule 8, the BAAQMD regulates the emissions of nitrogen oxides and carbon monoxide from stationary internal combustion engines with an output rated by the manufacturer at more than 50 brake horsepower. As such, any proposed stationary source equipment (e.g., backup generators, fire pumps) which would be greater than 50 horsepower would require a BAAQMD permit under Regulation 9, Rule 8 to operate.

Regulation 11, Rule 2 (Hazardous Pollutants–Asbestos Demolition, Renovation, and Manufacturing)

Under Regulation 11, Rule 2, the BAAQMD regulates emissions of asbestos to the atmosphere during demolition, renovation, milling, and manufacturing, and establishes appropriate waste disposal procedures. Any of these activities which have the potential to generate emissions of airborne asbestos are required to comply with the appropriate provisions of this regulation.

Regulation 1, Rule 301 (Odorous Emissions)

The BAAQMD is responsible for investigating and controlling odor complaints in the Bay Area. The agency enforces odor control by helping the public to document a public nuisance. Upon receipt of a complaint, the BAAQMD sends an investigator to interview the complainant and to locate the odor source if possible. The BAAQMD typically brings a public nuisance court action when there are a substantial number of confirmed odor events within a 24-hour period. An odor source with five or more confirmed complaints per year, averaged over 3 years, is considered to have a substantial effect on receptors.

Several BAAQMD regulations and rules apply to odorous emissions. Regulation 1, Rule 301 is the nuisance provision that states that sources cannot emit air contaminants that cause nuisance to a number of persons. Regulation 7 specifies limits for the discharge of odorous substances where the BAAQMD receives complaints from 10 or more complainants within a 90-day period. Among other

things, Regulation 7 precludes discharge of an odorous substance that causes the ambient air at or beyond the property line to be odorous after dilution with four parts of odor-free air and specifies maximum limits on the emission of certain odorous compounds.

Lastly, the BAAQMD enforces the Portable Equipment Registration Program (PERP) Airborne Toxics Control Measure (ATCM) on behalf of the ARB. Under the PERP, owners or operators of portable engines and other types of equipment which meet the qualifications of the ATCM can register their equipment to operate throughout California. However, owners and operators of portable engines which meet the qualifications of this ATCM that do not register their equipment under the PERP must obtain individual permits from local air districts. Permits issued under the PERP must be honored by all air districts throughout California.

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

At the local level, the City of San José sets green building standards for municipal development. All projects are required to submit a Leadership in Energy and Environmental Design (LEED®), GreenPoint, or Build-It-Green checklist as part of their development permit applications. Council Policy 6-32 "Private Sector Green Building Policy," adopted in October 2008, establishes baseline green building standards for private sector new construction and provides a framework for implementing these standards. It fosters practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water, and other resources in the City of San José. Private developments are required to implement green building practices if they meet the Applicable Projects criteria defined by Council Policy 6-32 and shown in Table 13 below.

Table 13: Private Sector Green Building Policy Applicable Projects

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

San José Reach Code–Ordinance No. 30311

In September 2019, the San José City Council approved, and updated through December 2020, a building ordinance that requires new construction to include all-electric designs and prohibit the use of natural gas where electric systems and devices are available. In addition to the all-electric requirement, Ordinance No. 30311 requires the installation of Level 2 electric vehicle (EV)-Ready parking space per dwelling unit for single-family houses, duplexes, and townhouses.

Envision San José 2040 General Plan

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

Envision San José 2040 General Plan Relevant Energy Policies

Policies	Description
Policy MS-1.1	Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City's Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction.
Policy MS-2.4	Promote energy efficient construction industry practices.
Policy MS-2.2	Encourage maximized use of on-site generation of renewable energy for all new and existing buildings.
Policy MS-2.3	Utilize solar orientation, (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
Policy MS-2.11	Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize the effectiveness of passive solar design).
Policy MS-3.1	Require water efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation or other area functions.
Policy MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
Policy MS-14.1	Promote job and housing growth in areas served by public transit and that have community amenities within a 20-minute walking distance.
Policy MS-14.3	Consistent with the California Public Utilities Commission's California Long-Term Energy Efficiency Strategic Plan, as revised and when technological advances make it feasible, require all new residential and commercial construction to be designed for zero-net-energy use.
Policy TR-1.468	Through the entitlement process for new development fund needed transportation improvements for all modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.
Policy TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
Policy TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

4.6.2 - Environmental Checklist and Impact Discussion of Impacts

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

Impact Discussion

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

Less than significant impact. Energy use consumed by the proposed project was estimated and normally includes natural gas, electricity, and fuel consumption for the proposed project construction and operation. As the City has an all-electric design requirement for new construction, natural gas is not included in the energy consumption estimates below. Appendix A includes the energy calculations developed in this section.

Construction Impacts

The anticipated construction was assumed to begin in March 2024 and conclude in October 2025, but no construction would occur from mid-October through February. If the construction schedule moves to later years, construction emissions would likely decrease because of improvements in technology and more stringent regulatory requirements as older, less efficient equipment is replaced by newer and cleaner equipment. The proposed project would require demolition, site preparation, grading, building construction, paving, and architectural coating activities. These construction activities would require energy for the manufacture and transportation of building materials, preparation of the site (e.g., site clearing and grading), the actual construction of the building, paving of roadways, and the architectural coating of the constructed buildings. Petroleum-based fuels such as diesel fuel and gasoline would be the primary sources of energy for these tasks.

The on-site equipment used during the construction of the project could include gasoline- and diesel-powered construction and transportation equipment, including trucks, bulldozers, front-end loaders, forklifts, and cranes. For the purpose of conservative analysis, the construction energy consumption of Moorpark realignment is also calculated and the impacts are found to be insignificant and would not materially alter the construction energy consumption findings presented herein. Please refer to Appendix A for details. Over the entire construction duration, construction equipment is estimated to consume a total of 26,342 gallons of diesel fuel.

Fuel use associated with construction vehicle trips generated by the proposed project was also estimated including construction worker trips, haul truck trips for material transport, and vendor trips for construction material deliveries. Fuel use from these vehicles traveling to the project site was based on (1) the projected number of trips the proposed project would generate during construction, (2) average trip distances by trip type, and (3) fuel efficiencies estimated in the ARB Emissions Factors model (EMFAC) mobile source emission model. Appendix A includes the specific parameters used to estimate fuel usage. Under an unmitigated construction scenario, the proposed project would generate an estimated 194,507 VMT and a combined 9,341 gallons of gasoline and diesel for vehicle travel during construction. It should be noted that the application of MM AIR-1 would not reduce VMT or fuel consumption during project construction.

Other equipment could include construction lighting, field services (office trailers), and electrically driven equipment such as pumps and other tools. Single-wide mobile office trailers, commonly used in construction staging areas, generally range from 160 square feet to 720 square feet. A typical 720-square-foot office trailer would consume approximately 11,380 kilowatt-hour (kWh) during the construction phase (Appendix A).

The overall construction schedule and process are already designed to be efficient to avoid excess monetary costs. For example, equipment and fuel are not typically used wastefully due to the added expense of renting the equipment, maintaining it, and fueling it. Therefore, the opportunities for future efficiency gains during construction are limited. Nonetheless, it is anticipated that the proposed project's construction would not result in wasteful, inefficient, and unnecessary energy consumption. Construction-related energy impacts would be **less than significant.**

Operational Impacts

The proposed project would consume energy as part of building operations and transportation activities. Table 14 summarizes the proposed project's operational energy consumption.

Table 14: Estimated Annual Project Energy Consumption

Energy Type	Annual Consumption
Electricity	240,631 kWh/year
Natural Gas	0 kBTU/year
Vehicle Fuel Consumption	25,084 gallons

Notes:
kWh = kilowatt-hour
kBTU = kilo-British Thermal Unit
VMT = vehicle miles traveled
[1] Operational Fuel Consumption based on EMFAC2017 Emissions Inventory, Vehicle Classification (Fleet Mix) EMFAC2007 Categories. The calculations are for the year 2025, the proposed project's first full year of operation, and for Santa Clara County, where the proposed project is located (Appendix A).

Operation of the proposed project would consume an estimated 240,631 kWh of electricity. In addition, the proposed project would be required to comply with the City's Ordinance No. 30311,

which would ensure that new single-family and low-rise residential buildings are designed to be all-electric. Therefore, the proposed project is assumed to consume zero (0) kBTU of natural gas on an annual basis. Moreover, the 2022 CBC would require the proposed project to incorporate rooftop solar. The proposed project's buildings would be designed and constructed following the State's Building Energy Efficiency Standards. Project-related vehicle trips would consume an estimated 25,084 gallons of gasoline and diesel annually. Moreover, the project is located in an urbanized portion of San José and would provide commercial development close to jobs, amenities, and services. Transportation fuel consumption would not be wasteful, inefficient, or unnecessary. Impacts would be **less than significant**.

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

Less than significant impact. The proposed project would be served with electricity provided by PG&E or San José Clean Energy (SJCE). PG&E currently provides customers with three power service options, including normal power service, 50 percent Solar Choice, and 100 percent Solar Choice.[41] SJCE currently provides two power service options. One service option consists of 40 percent renewable sources (Greensource program) and the other consists of 100 percent renewable sources (Total Green program). As a conservative estimate, it was assumed that PG&E would serve the proposed project. In 2020, PG&E obtained 31 percent of its electricity from renewable energy sources, while the remaining electricity was sourced from nuclear (43 percent), natural gas (16 percent), and large hydroelectric (10 percent).[42] While PG&E's 2020 Renewable Portfolio Standards (RPS) reporting showed that only 31 percent of electricity sales sourced from eligible renewable sources, the RPS requirements apply to a 3-year average of utility provider electricity sourcing to allow for fluctuations in market demand and supply availability. Nonetheless, the proposed project's electricity provider is required to meet the State's 2020 objective of 33 percent and is making progress toward the State's 2024 RPS target of 44 percent. The proposed project's electricity demands would also be required to meet the State's future objective of 60 percent electricity from renewable energy sources by 2030.

The proposed project would be designed following Title 24, California's Energy Efficiency Standards for Residential Buildings, as applicable. These standards include minimum energy efficiency requirements related to building envelope, mechanical systems (e.g., HVAC and water heating systems), and indoor and outdoor lighting. Moreover, the 2022 CBC would also require the proposed project to incorporate rooftop solar. As the existing land uses were designed and constructed prior to the effective date of the 2022 CBC, the proposed project would constitute an energy efficiency design which would generally be more efficient. Incorporating the Title 24 standards into the proposed project's design would ensure that the proposed project would not result in the use of energy in a wasteful manner. The proposed project would comply with existing State energy standards and with energy conservation policies contained in the San José General Plan listed above and Climate

[41] Pacific Gas and Electric Company (PG&E). 2021. Community Renewable Programs. Website: https://www.pge.com/en_US/residential/solar-and-vehicles/options/solar/solar-choice/solar-choice.page. Accessed September 13, 2022.

[42] California Energy Commission. 2022. Power Content Label for Pacific Gas and Electric Company. Website: https://www.energy.ca.gov/filebrowser/download/3882. Accessed September 13, 2022.

Smart San José as listed in Impact 4.8(b). As such, the proposed project would not conflict with State or local renewable or energy efficiency objectives. Impacts would be **less than significant**.

Standard Permit Conditions

None.

Mitigation Measures

None.

4.6.3 - Conclusion

The proposed project would result in a **less than significant** impact on energy use.

4.7 - GEOLOGY AND SOILS

4.7.1 - Setting

The following discussion is based, in part, on the Preliminary Geotechnical Investigation prepared by Cornerstone Earth Group on December 2, 2019. The Preliminary Geotechnical Investigation is included as Appendix D of this report.

Regional Geology

The City of San José is located within the Santa Clara Valley, which is a broad alluvial plain that lies between the Santa Cruz Mountains to the southwest and west, and the Diablo Range to the northeast. The San Andreas Fault system, including the Monte Vista-Shannon Fault, exists within the Santa Cruz Mountains and the Hayward and Calaveras Fault systems exist within the Diablo Range.

Seismicity and Seismic Hazards

The San Francisco Bay Area is one of the most seismically active regions in the United States. The significant earthquakes that occur in the Bay Area are generally associated with the crustal movements along well-defined active fault zones of the San Andreas Fault system, which regionally trends in the northwesterly direction.

Hazards associated with earthquakes include surface rupture, ground shaking, and secondary hazards such as liquefaction. However, structural damage attributed to earthquakes largely stems from strong seismic ground shaking. The intensity of ground shaking expected at a particular site depends upon the magnitude of the earthquake, the distance to the epicenter, and the geology of the area between the epicenter and the property. A specific site may experience greater movement if it is underlain by poorly consolidated material and in proximity to the causative fault or as a result of a strong seismic event.

Liquefaction

Liquefaction is a seismic phenomenon in which loose, saturated granular and non-plastic, fine-grained soils lose their structure or strength when subjected to high-intensity 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. The phenomenon occurs under three general conditions: shallow groundwater, low-density non-plastic soils, and high-intensity ground motion. The intensity of ground motion at a particular site depends on, among other things, poorly consolidated materials and proximity to the causative fault.

Lateral Spreading

Lateral spreading typically occurs as a form of horizontal displacement of relatively flat-lying alluvial material toward an open or “free” face such as an open body of water, channel, or excavation. Typically, lateral spreading is associated with liquefaction of one or more subsurface layers near the bottom of the exposed slope.

Landslides

Physical factors such as slope, soil, vegetation, and precipitation influence the potential for landslides. Landslides require a slope and may occur naturally from seismic activity, excessive saturation, and wildfires or from unnatural conditions such as construction disturbance, vegetation removal, and excavation.

On-Site Geologic Conditions

Topography and Soils

According to the Preliminary Geotechnical Investigation, three 20-foot borings were drilled on-site on October 25, 2019. The first boring indicated that the project site's undocumented fill soils consist of medium-dense clayey sands to a depth of 3.5 feet. The fill is underlain by hard sandy lean clays to 5 feet underlain by loose to medium-dense clayey and silty sands to 12.5 feet, which is underlain by very stiff lean clay to the maximum depth explored of 20 feet. The second boring indicated that below the surface pavement is hard lean clay with various amounts of sands to a depth of 8 feet underlain by loose to medium-dense silty sands to a depth of 12.5 feet. The sand layer is underlain by very stiff lean clay to a depth of 17 feet underlain by loose clayey sand to the maximum depth of 20 feet. The third boring indicated that there is undocumented fill to a depth of approximately 2 feet consisting of medium-depth silty sand. The fill is underlain by hard sandy lean clay to 4 feet underlain by loose to medium-dense poorly graded and clayey sands to a depth of about 13 feet. The upper sands are underlain by very stiff lean clay to 18 feet underlain by loose clay sands to the maximum depth of 20 feet.

Groundwater

According to the Preliminary Geotechnical Investigation, groundwater was not encountered during the site investigation. Based on previous geotechnical investigations in the area and a review of historic high groundwater maps, it is anticipated that the high groundwater level will be greater than 50 feet below current grades. Because of the presence of shallow sand layers, perched groundwater could potentially be encountered following periods of heavy rainfall due to surface water infiltration. Fluctuations in groundwater levels can occur as a result of many factors, including seasonal fluctuations, underground drainage patterns, regional fluctuations, and other factors.

Paleontological Resources

Paleontological resources are fossils, the remains or traces of prehistoric life preserved in the geologic record. They range from the well-known and well publicized (such as mammoth and dinosaur bones) to scientifically important fossils. The project site is underlain by Holocene alluvial fan material deposits, which have low potential to yield significant fossils at the surface but may contain resources at depth.[43]

Applicable Plans, Policies, and Regulations

Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Earthquake Fault Zoning Act regulates development in California near known active faults due to hazards associated with surface fault ruptures. The Earthquake Fault Zones

[43] City of San José. Envision San José 2040 General Plan Final EIR. November 2011.

indicate areas with potential surface fault rupture hazards. Areas within the Alquist-Priolo Earthquake Fault Zone require special studies to evaluate the potential for surface rupture to ensure that no structures intended for human occupancy are constructed across an active fault.

California Building Standards Code

Every three years the California Building Standards Commission adopts an updated version of the building codes. The building codes are based on national model codes, amended by the State as the CBC, and often further amended by local jurisdictions. The 2022 CBC (CCR Title 24), the current version of the code, became effective January 1, 2023.

Compliance with the 2022 CBC requires that (with very limited exceptions) structures for human occupancy be designed and constructed to resist the effects of earthquake motions. The Seismic Design Category for a structure is determined in accordance with either CBC Section 1613–Earthquake Loads or the American Society of Civil Engineers Standard No. 7-05, Minimum Design Loads for Buildings and Other Structures. In brief, based on the engineering properties and soil type at a proposed site, the site receives a Site Class ranging from A to F. The Site Class is then combined with Spectral Response (ground acceleration induced by earthquake) information for the location to arrive at a Seismic Design Category ranging from A to D, of which D represents the most severe conditions. A qualified Geotechnical Engineer must determine the classification of a specific site and related calculations.

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

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 geological resources and are applicable to the proposed project.

Envision San José 2040 Relevant Geology and Soil Policies

Policies	Description
Policy EC-3.1	Design all new or remodeled habitable structures in accordance with the most recent California Building Standards Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.
Policy EC-4.1	Design and build all new or remodeled habitat structures in accordance with the most recent California Building Standards 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.

Envision San José 2040 Relevant Geology and Soil Policies

Policies	Description
Policy EC-4.2	Development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.
Policy EC-4.4	Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
Policy EC-4.5	Ensure that any development activity that requires grading does not impact adjacent properties, local creeks, and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 1 and April 30.
Policy ES-4.9	Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.

City of San José Municipal Code

Title 24 of the San José Municipal Code includes the current California Building Standards, 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 (CBC Part 6 Excavation and Grading).

4.7.2 - Environmental Checklist and Discussion of Impacts

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
1. Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:				
a. Rupture of a known earthquake fault, as described on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Special Publication 42.)	☐	☐	☒	☐
b. Strong seismic ground shaking?	☐	☐	☒	☐

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
c. Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐
d. Landslides?	☐	☐	☐	☒
2. Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐
3. Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☒	☐
4. Be located on expansive soil, as defined in Section 1802.3.2 of the California Building Standards Code (2007), creating substantial direct or indirect risks to life or property?	☐	☐	☒	☐
5. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒
6. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☒	☐

Impact Discussion

As previously discussed in Section 4.3, Air Quality, on December 17, 2015, the California Supreme Court issued an opinion in CBIA vs. BAAQMD holding that CEQA is primarily concerned with the impacts of a project on the environment and generally does not require agencies to analyze the impact of existing conditions on a project's future users or residents unless the project risks exacerbating those environmental hazards or risks that already exist. In light of this ruling, the effect of existing geologic conditions on future residents of the proposed project would not be considered an impact under CEQA Guidelines. Nevertheless, the City maintains development policies pertaining to structural safety and geologic hazards with which the proposed project must comply.

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

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

Less than significant impact. Surface rupture represents the breakage of ground along the surface trace of a fault. A surface rupture may result in particularly adverse consequences when buildings are located within the rupture zone. Building structures cannot accommodate rapid displacement involved with surface ruptures. To avoid seismic hazards, the Alquist-Priolo Earthquake Fault Zoning Act prohibits construction of structures for human occupancy in regions with active faults. Under the Act, the State Geologist establishes and maps out regulatory zones known as "earthquake fault zones" around the surface traces of active faults. The Seismic Hazards Mapping Act addresses non-surface fault rupture and earthquake hazards, including seismically induced landslides and liquefaction. The Act resulted in a mapping program that identifies areas with the potential for liquefaction, landslide, strong ground shaking, or other earthquake and geologic hazards.

The City and the project site are not located in an identified Alquist-Priolo fault zone. The San Andreas Fault line, including the Monte Vista-Shannon Fault, passes through the Santa Cruz Mountains southwest of the City of San José. Two other major active faults near the City include the Hayward Fault, located to the north, and the Calaveras Fault, located in the hills to the east. The two faults merge in a series of splays and step-overs in the hills between Mission Peak and Mount Hamilton. In addition to known active faults, the City of San José mapped several smaller potentially active faults, shown on General Plan Fault Hazard Maps. The active and potentially active faults are considered potential sources of fault rupture and strong seismic ground shaking. Approximate fault distances for the nearest faults are provided in Table 15.

Table 15: Approximate Fault Distances

Fault Name	Distance (Miles)
Monte Vista-Shannon	4.8
Hayward (Southeast Extension)	8.3
San Andreas (1906)	9.3
Calaveras	11.2
Hayward (Total Length)	11.3
Sargent	12.4
Source: Cornerstone Earth Group. 2019. Preliminary Geotechnical Investigation.	

As shown in Table 15, the nearest fault is located 4.8 miles from the project site. Additionally, according to the Preliminary Geotechnical Investigation, fault rupture is not considered a significant geological hazard at the project site. Furthermore, according to the California Geological Earthquake

Hazards Zone Application, the project site is not located within a mapped earthquake fault zone.[44] Therefore, the project impacts related to fault rupture would be **less than significant**.

b) Strong seismic ground shaking?

Less than significant impact. Ground shaking is the most widespread hazardous phenomenon associated with seismic activity in San José.[45] The project site and the surrounding area could experience strong to violent ground shaking because of an earthquake and seismic activity on nearby faults. The intensity of ground shaking would vary with the distance and magnitude of the earthquake that causes the ground shaking.

To address seismic hazards and reduce risk, the City requires development projects to avoid unreasonable exposure to geologic hazards, including earthquakes, subsidence, liquefaction, and expansive soils. The City's General Plan contains policies that ensure that new development minimizes risks when placing people in known hazardous areas. The State of California has also established minimum standards for safe building design through the CBC. The building code contains specific requirements for seismic safety, excavation, foundations, retaining walls, and site demolition.

SC GEO-1 requires that building design and construction at the site be in conformance with the recommendations of the approved geotechnical investigation to avoid or minimize potential damage from seismic shaking. Further, the City would ensure the project complies with requirements specified in the CBC (CCR Title 24). Compliance with City and State building regulations and policies would ensure that seismic ground shaking does not expose people or structures to potential substantial adverse effects. Compliance with applicable codes and regulations, as well as SC GEO-1, would ensure that potential impacts remain **less than significant**.

c) Seismic-related ground failure, including liquefaction?

Less than significant impact. The project-specific Preliminary Geotechnical Investigation reviewed localized susceptibility to liquefaction and other associated hazards. According to the Preliminary Geotechnical Investigation, the site is not located within a State-designated Liquefaction Hazard Zone or within a Santa Clara County Liquefaction Hazard Zone and soil samples indicate that there is a low potential for liquefaction on the project site. Furthermore, according to the California Geological Earthquake Hazards Zone Application, the project site is not located within a mapped Liquefaction Hazard Zone.[46]

The results of the soil samples collected during the Preliminary Geotechnical Investigation indicate that there is a low to moderate potential for seismic-related settlement on the project site. However, the project is required to implement SC GEO-1 to ensure that the recommendations of the Preliminary Geotechnical Investigation related to soils are implemented. Implementation of SC GEO-1 would ensure that soils on the project site would not result in hazards due to seismic settlement.

[44] California Department of Conservation. 2020. EQ Zapp: California Earthquake Hazards Zone Application. Website: https://maps.conservation.ca.gov/cgs/EQZApp/app/. Accessed December 29, 2020.
[45] City of San José. 2010. Envision San José 2040 General Plan Draft Program EIR, Ground Shaking. Page 503.
[46] California Department of Conservation. 2020. EQ Zapp: California Earthquake Hazards Zone Application. Website: https://maps.conservation.ca.gov/cgs/EQZApp/app/. Accessed December 29, 2020.

With implementation of SC GEO-1, the proposed project would not result in a significant risk of liquefaction or seismic-related ground failure. Therefore, impacts would be **less than significant**.

d) Landslides?

No impact. The project site is located on generally flat terrain and does not contain slopes. Furthermore, according to the California Geological Earthquake Hazards Zone Application, the project site is not located within a mapped landslide hazard zone.[47] Therefore, the proposed project would not be at risk of landslides. There would be **no impacts**.

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

Less than significant impact. Soil exposed by construction activities during project development could be subject to erosion if exposed to heavy rain, winds, or other storm events. Most of the erosion potential or loss of topsoil would occur during grading and excavation. Grading and ground disturbance increase the potential for accelerated erosion by removing protective vegetation or cover and changing natural drainage patterns.

As discussed in Section 4.10, Hydrology and Water Quality, the total acreage of impervious areas on the project site would be increased from 43,960 square feet to 65,661 square feet combined on the project site and on public streets, and pervious areas on the project site would be reduced from 34,228 square feet to 20,587 square feet. However, the proposed project would improve the drainage pattern of the site as compared to the existing conditions because the proposed project would include design features to reduce runoff and retain stormwater on-site to prevent stormwater from entering local waterways. Therefore, the proposed project would not result in substantial on-site or off-site erosion or siltation.

Projects that disturb one or more acres of soil are required to obtain the General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit), issued by the California State Water Resources Control Board (State Water Board). Because the project site is approximately 2 acres, a Construction General Permit would be required.

Additionally, the proposed project would comply with SC GEO-1, which requires all excavation and grading work to be scheduled in dry weather months or weatherize construction sites, covering stockpiled and excavated soils with secured tarps or plastic sheeting, and installing ditches to divert runoff around excavations and graded areas. With implementation of SC GEO-1 and the Construction General Permit, impacts associated with soil erosion and loss of topsoil would be minimized, and impacts would be **less than significant**.

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

[47] California Department of Conservation. 2020. EQ Zapp: California Earthquake Hazards Zone Application. Website: https://maps.conservation.ca.gov/cgs/EQZApp/app/. Accessed December 29, 2020.

Less than significant impact. According to the Preliminary Geotechnical Investigation, because there are no open faces where lateral spreading could occur, the potential for lateral spreading at the project site is considered low.

As discussed above, impacts associated with these soil and geotechnical hazards would be minimized by applying appropriate engineering and construction techniques as required by SC GEO-1.

4) Would the project be located on expansive soil, creating substantial direct or indirect risks to life or property?

Less than significant impact. The results of the Geotechnical Engineering Investigation indicate that there is a low potential for plasticity and expansion at the project site. However, because near-surface expansion of soils could result in surface runoff impacts, recommendations were provided. Implementation of SC GEO-1 would ensure that these recommendations are implemented and that impacts associated with soil expansion would be **less than significant**.

According to the Preliminary Geotechnical Investigation, the project site contains undocumented fill at depths of approximately 2 to 3.5 feet and may vary in different depths throughout the site. The fill was likely placed during original site development; however, records of placement and compaction of the fill material are not available. The fill may be highly variable following site demolition and may not uniformly support the proposed residential structures and adjacent improvements. In accordance with SC GEO-1, the proposed project would implement the Geotechnical Engineering Investigation recommendations which require undocumented fill to be evaluated, over-excavated, and recompacted during site grading pursuant to the recommendations of the Preliminary Geotechnical Investigation. Impacts would be **less than significant**.

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

No impact. The proposed project would connect to the existing sanitary sewer system owned and maintained by the City. The City's sanitary sewer system would transfer wastewater to existing wastewater treatment facilities. The proposed project would not use septic tanks or other alternative wastewater treatment or disposal systems. Therefore, no impacts would occur.

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

Less than significant impact. The project site is currently developed and, therefore, there are no unique geologic features within the project site. Therefore, the proposed project would not have an impact on a unique geological feature.

According to the Envision San José 2040 General Plan EIR (Figure 3.11-1), the project site is located in a geological unit mapped as "high sensitivity at depth (varies geographically)" for the presence of paleontological resources. According to the Envision San José 2040 General Plan EIR, areas with the highest sensitivity are those where geologic formations known to contain fossils are found close to the ground surface. However, the project site is currently developed and highly urbanized. Because

ground disturbance has already occurred on-site, the potential for discovery of significant paleontological resources on the project site is considered low. Additionally, the proposed project would adhere to SC GEO-2, which requires that if vertebrate fossils are discovered during construction, all work on the project site shall stop immediately, the find be assessed by a qualified paleontologist, and appropriate treatments be recommended. With implementation of SC GEO-2, impacts would be **less than significant**.

Standard Permit Conditions

SC GEO-1

- A Geotechnical Report shall be submitted, reviewed, and approved by the City Geologist. The Geotechnical Report shall determine the site-specific soil conditions and identify the appropriate design and construction techniques to minimize risks to people and structures, including but not limited to foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with State of California guidelines for the preparation of seismic hazard evaluation reports (CGS Special Publication 117A, 2008, and the Southern California Earthquake Center report, SCEC, 1999). A recommended minimum depth of 50 feet should be explored and evaluated in the investigation. The City Geologist shall review the Geotechnical Report and issue a Geologic Clearance.
- 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 Standards Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.

SC GEO-2 **Paleontological Resources.** If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, Director of Planning, Building, and Code Enforcement (PBCE) or the Director's designee shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of PBCE or the Director's designee.

Mitigation Measures

None.

Conclusion

With compliance with standard permit conditions, impacts associated with geology and soils would be **less than significant**.

4.8 - GREENHOUSE GAS EMISSIONS

This analysis is based on the technical memorandum prepared by FCS, titled Air Quality and Greenhouse Gas Emissions and Energy Impacts Analysis for the TTLC Moorpark Avenue Multi-family Residential Project, City of San José, Santa Clara County, California dated September 16, 2022; and revised December 6, 2022, and March 15, 2023. The memorandum is contained in Appendix A of this document.

4.8.1 - Setting

Background Information

Unlike emissions of criteria and toxic air pollutants discussed in Section 4.3, Air Quality, that have local or regional impacts, emissions of 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 over time. The principal GHGs contributing to global warming and associated climate change are carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), and fluorinated compounds. Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the transportation, industrial/manufacturing, utility, residential, commercial, and agricultural sectors.

Applicable Plans, Policies and Regulations

California Assembly Bill 32 and Executive Order S-3-05

AB 32, also known as the Global Warming Solutions Act, was passed in 2006 and established a goal to reduce GHG emissions to 1990 levels by 2020. Prior to the adoption of AB 32, the Governor of California also signed Executive Order S-3-05 into law, which set a long-term objective to reduce GHG emissions to 90 percent below 1990 levels by 2050. Cal/EPA is the State agency responsible for coordinating the GHG emissions reduction effort and establishing targets along the way.

In December 2008, the ARB approved the *Climate Change Scoping Plan*, which proposed a comprehensive set of actions designed to reduce California's dependence on oil, diversify energy sources, save energy, and enhance public health, among other goals. Per AB 32, the Scoping Plan must be updated every five years to evaluate the mix of AB 32 policies to ensure that California is on track to achieve the 2020 greenhouse gas reduction goal. The First Update to the Scoping Plan was approved on May 22, 2014, and builds upon the Scoping Plan with new strategies and recommendations. The First Update defined the ARB's priorities over the next five years and lays the groundwork to reach long-term goals set forth in Executive Order S-3-05.[48]

California Senate Bill 375

SB 375, known as the Sustainable Communities Strategy and Climate Protection Act, was signed into law in September 2008. It builds on AB 32 by requiring ARB to develop regional GHG reduction targets to be achieved from the automobile and light truck sectors for 2020 and 2035 compared to 2005 emissions. The per capita reduction targets for passenger vehicles in the San Francisco Bay

[48] California Environmental Protection Agency (Cal/EPA). 2014. Air Resources Board. Final 2013 Scoping Plan Update and Appendices. May.

Area include a 7 percent reduction by 2020 and a 15 percent reduction by 2035.[49] The four major requirements of SB 375 are:

1. Metropolitan Planning Organizations (MPOs) must meet greenhouse gas emission reduction targets for automobiles and light trucks through land use and transportation strategies.
2. MPOs must create a Sustainable Communities Strategy, to provide an integrated land use/transportation plan for meeting regional targets, consistent with the Regional Transportation Plan (RTP).
3. Regional housing elements and transportation plans must be synchronized on eight-year schedules, with Regional Housing Needs Assessment (RHNA) allocation numbers conforming to the Sustainable Communities Strategy.
4. MPOs must use transportation and air emissions modeling techniques consistent with guidelines prepared by the California Transportation Commission (CTC).

The MTC and Association of Bay Area Governments (ABAG) adopted *Plan Bay Area* in July 2013. The strategies in the plan are intended to promote compact, mixed-use development close to public transit, jobs, schools, shopping, parks, recreation, and other amenities, particularly within Priority Development Areas (PDAs) identified by local jurisdictions.

Bay Area 2010 Clean Air Plan

The Bay Area 2010 Clean Air Plan addressed air emissions in the San Francisco Bay Area Air Basin. One of the key objectives in the Clean Air Plan is climate protection. The 2010 Clean Air Plan included emission control measures and performance objectives, consistent with the State's climate protection goals under AB 32 and SB 375, designed to reduce emissions of GHGs to 1990 levels by 2020 and 40 percent below 1990 levels by 2035.

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes policies to avoid or mitigate impacts resulting from planned development projects within City limits. The following policies are specific to reducing GHG emissions and are relevant to the proposed project.

Envision San José 2040 General Plan Relevant Greenhouse Gas Policies

Policies	Description
Policy MS-1.1	Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City's Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction.
Policy MS-1.4	Foster awareness of San José's business and residential communities of the economic and environmental benefits of green building practices. Encourage design and construction of environmentally responsible commercial and residential buildings that

[49] 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.

Envision San José 2040 General Plan Relevant Greenhouse Gas Policies

Policies	Description
	are also operated and maintained to reduce waste, conserve water, and meet other environmental objectives.
Policy MS-2.3	Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
Policy MS-2.4	Promote energy efficient construction industry practices.
Policy MS-2.6	Promote roofing design and surface treatments that reduce the heat island effect of new and existing development and support reduced energy use, reduced air pollution, and a healthy urban forest. Connect businesses and residents with cool roof rebate programs through City outreach efforts.
Policy MS-2.11	Require new development to incorporate green building policies, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize effectiveness of passive solar design.).
Policy MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
Policy MS-5.6	Enhance the construction and demolition debris recycling program to increase diversion from the building sector.
Policy MS-10.5	In order to reduce vehicle miles traveled and traffic congestion, require new development within 2,000 feet of an existing or planned transit station to encourage the use of public transit and minimize the dependence on the automobile through the application of site design guidelines and transit incentives.
Policy MS-16.5	Establish minimum requirements for energy efficiency measures and on-site renewable energy generation capacity on all new housing developments.
Policy CD-2.10	Recognize that finite land area exists for development and that density supports retail vitality and transit ridership. Use land regulations to require compact, low impact development that efficiently uses land planned for growth, particularly for residential development which tends to have a long life-span. Strongly discourage small lot and single-family detached residential product types in growth areas.
Policy CD-5.1	Design areas to promote pedestrian and bicycle movements and to facilitate interaction between community members and to strengthen the sense of community.
Policy TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.
Policy TR-1.16	Develop a strategy to construct a network of public and private alternative fuel vehicle charging/fueling stations citywide. Revise parking standards to require the installation of electric charging infrastructure at new large employment sites and large, multiple family residential developments.
Policy H-4	Implement green building principles in the design and construction of housing and related infrastructure, in conformance with the Green Building Goals and Policies in the Envision General Plan and in conformance with the City's Green Building Ordinance.

Envision San José 2040 General Plan Relevant Greenhouse Gas Policies

Policies	Description
Policy H-4.2	Minimize housing's contribution to greenhouse gas emissions, and locate housing, consistent with our City's land use and transportation goals and policies, to reduce vehicle miles traveled and auto dependency.
Policy H-4.3	Encourage the development of higher residential densities in complete, mixed-use, walkable and bike able communities to reduce energy use and greenhouse gas emissions.

City's GHG Reduction Strategy

The Envision San José 2040 General Plan includes strategies, policies, and action items that are incorporated in the City's GHG Reduction Strategy to help reduce GHG emissions. The General Plan's multiple policies and actions have GHG implications, including land use, housing, transportation, water usage, solid waste generation and recycling, and reuse of historic buildings. The City's GHG Reduction Strategy is intended to meet the mandates outlined in the BAAQMD CEQA Guidelines and standards for "qualified plans," as established by the BAAQMD. In addition, the City's Green Vision, as reflected in the City's GHG Reduction Strategy, includes a monitoring component that allows for adaptation and adjustment of City programs and initiatives related to sustainability and associated reductions in GHG emissions.

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

The primary test for consistency with the City's GHG Reduction Strategy is conformance with the General Plan Land Use/Transportation Diagram and supporting policies. Pursuant to CEQA Guidelines, all land use development proposals are required to evaluate consistency with the goals and policies outlined in the City's General Plan designed to reduce GHG emissions, generally through the use of a checklist included as Attachment A to the GHG Reduction Strategy. Projects consistent with the GHG Reduction Strategy would have a less than significant impact on GHG emissions through 2030 and would not conflict with targets in the currently adopted State of California Climate Change Scoping Plan through 2030.

City of San José Municipal Code

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

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

- Wood Burning Ordinance (Chapter 9.10)
- All-Electric Ordinance (Chapter 17.845; Ordinance No. 30311)

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

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

San José Reach Code–Ordinance No. 30311

In September 2019, the San José City Council approved, and updated through December 2020, a building ordinance that requires new construction to include all-electric designs and prohibit the use of natural gas where electric systems and devices are available. In addition to the all-electric requirement, Ordinance No. 30311 requires the installation of Level 2 EV-Ready parking space per dwelling unit for single-family houses, duplexes, and townhouses.

4.8.2 - Environmental Checklist and Discussion of Impacts

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

Impact Discussion

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

Less than significant impact. Both construction and operational activities have the potential to generate GHG emissions. The proposed project would generate GHG emissions during temporary (short-term) construction activities such as demolition, site preparation, grading, building construction, paving, and architectural coating activities; running of construction equipment engines including movement of on-site heavy-duty construction vehicles; hauling materials to and from the project site; asphalt paving; coating; and construction worker motor vehicle trips.

Long-term, operational GHG emissions would result from project-generated vehicular traffic, on-site combustion of natural gas, operation of any landscaping equipment, off-site generation of electrical power over the life of the project, the energy required to convey water to and wastewater from the

project site, and the emissions associated with the hauling and disposal of solid waste from the project site.

The City chooses to rely on the BAAQMD's subject matter expertise on GHG emissions and to utilize the advisory recommendations contained in their recently adopted GHG significance thresholds for land use development projects.[50] The BAAQMD's 2022 significance thresholds for land use projects are listed below. If a land use development project cannot demonstrate consistency with Criterion A or Criterion B, that project would result in a potentially significant impact related to GHG emissions.

A. Projects must include, at a minimum, the following project design elements.
    a. Buildings:
        i. The project will not include natural gas appliances or natural gas plumbing (in both residential and nonresidential development).
        ii. The project will not result in any wasteful, inefficient, or unnecessary energy usage as determined by the analysis required under CEQA Section 21100(b)(3) and Section 15126.2(b) of the State CEQA Guidelines.
    b. Transportation:
        i. Achieve compliance with EV requirements in the most recently adopted version of CALGreen Tier 2.
        ii. Achieve a reduction in project-generated VMT below the regional average consistent with the current version of the California Climate Change Scoping Plan (currently 15 percent) or meet a locally adopted SB 743 VMT target, reflecting the recommendations provided in the Governor's Office of Planning and Research's Technical Advisory on Evaluating Transportation Impacts in CEQA:
            1. Residential projects: 15 percent below the existing VMT per capita.
            2. Office projects: 15 percent below the existing VMT per employee.
            3. Retail projects: no net increase in existing VMT, or

B. Projects must be consistent with a local GHG reduction Strategy that meets the criteria under State CEQA Guidelines Section 15183.5(b)

The City adopted its 2030 GHG Reduction Strategy (GHGRS) in August 2020. The GHGRS builds on the City's General Plan and Climate Smart San José and strives to advance urban sustainability. The GHGRS serves as a Qualified Climate Action Plan for purposes of tiering and streamlining under CEQA.[51] To determine significance for Impact 4.8.2-1, the proposed project is assessed based on BAAQMD Criterion B –consistency with the GHGRS. Table 18 shows that the proposed project is consistent with all the applicable measures in GHGRS, therefore, the proposed project's GHG impacts would be less than significant. The following GHG emissions during project construction and operation are provided for informational purposes.

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

[51] City of San José. 2020. Greenhouse Gas Reduction Strategy. Website: https://www.sanjoseca.gov/your-government/department-directory/planning-building-code-enforcement/planning-division/environmental-planning/greenhouse-gas-reduction-strategy. Assessed October 18, 2022.

Project Construction

The proposed project would emit GHG emissions during construction from the off-road equipment, worker vehicles, vendor trucks, and haul trucks. Appendix A includes detailed construction assumptions used in estimating the construction GHG emissions. The BAAQMD does not presently provide a construction-related GHG generation threshold but recommends that construction generated GHGs be quantified and disclosed. Table 16 presents the total GHG emissions generated during all construction activities.

Table 16: Construction Greenhouse Gas Emissions

Construction Phase	Year	MT CO_2e
Demolition	2024	34
Site Preparation	2024	2
Grading	2024	4
Building Construction	2024	166
	2025	74
Paving	2025	6
Architectural Coating	2025	16
Total Construction Emissions		**359**
Emissions Amortized Over 30 Years[1]		**12**

Notes:
MT CO_2e = metric tons of carbon dioxide equivalent
[1] Construction GHG emissions are amortized over the 30-year lifetime of the project.
Source: CalEEMod Output (Appendix A).

As discussed above, neither the City of San José nor BAAQMD have an adopted threshold of significance for construction-related GHG emissions. Because construction would be temporary and would not result in a permanent increase in emissions, the proposed project would not interfere with the implementation of AB 32 or SB 32. For buildings in general, it is reasonable to look at a 30-year time frame, since this is a typical interval before a new building requires the first major renovation.[52] Therefore, this analysis includes construction emissions amortized over the anticipated life of the project (30 years). The total amortized emissions generated during construction were added to the operational emissions to determine the total emissions from the project. Finally, the net change in GHG emissions was determined by subtracting the GHG emissions from the proposed project's GHG emissions from the existing site operations. As presented in Table 16, project construction emissions were estimated to be 359 MT CO_2e. When amortized over 30 years, construction emissions equal 12 MT CO_2e per year. For the purpose of conservative analysis, the GHG emissions of Moorpark realignment is also analyzed and the impacts are found to be insignificant and would not materially alter the GHG emissions findings presented herein. Please refer to Appendix A for details.

[52] International Energy Agency (IEA). 2008, July. Energy Efficiency Requirements in Building Codes, Energy Efficiency Policies for New Buildings.

Project Operation

Operational or long-term emissions occur over the life of a project. The major sources for operational GHG emissions include:

- **Motor Vehicles:** These emissions refer to GHG emissions contained in the exhaust from the cars and trucks that would travel to and from the project site. Vehicle trips associated with project operations would primarily include residents and visitors traveling to and from the project site. Trip generation rates used in estimating mobile source emissions were consistent with those presented in the Transportation Analysis Report prepared for the proposed project by TJKM, which includes trip reduction factors as appropriate, such as proximity to transit facilities.[53]
- **Natural Gas:** These emissions refer to the GHG emissions that occur when natural gas is burned on the project site; however, in accordance with City Ordinance 30311, the proposed project would be constructed to be all-electric, resulting in zero emissions from natural gas consumption.
- **Indirect Electricity:** These emissions refer to those generated by off-site power plants to supply the electricity required for the proposed project. The proposed project would be required to incorporate rooftop solar; however, according to the calculations contained in Appendix A of this analysis, the required solar system would not satisfy 100 percent of the proposed project's electricity demand. Both PG&E and SJCE are potential electricity suppliers to the proposed project for the electricity that is not covered by the required solar system. PG&E was chosen as the utility providing electricity and natural gas service to the proposed project as a conservative estimate. GHG emissions from energy consumption were calculated using PG&E's energy intensity factors for CO_2, N_2O, and CH_4.
- **Water Transport:** These emissions refer to those generated by the electricity required to transport and treat the water to be used on the project site.
- **Waste:** These emissions refer to the GHG emissions produced by decomposing waste generated by the project.

Appendix A provides a more detailed description of the assumptions used to estimate project-generated GHG emissions as well as detailed modeling results. Table 17 shows the operational GHG emissions by source including the amortized construction emissions.

Table 17: Operational Greenhouse Gas Emissions

Emission Source	Year 2025 Total Emissions (MT CO_2e per year)
Area	5
Energy	41
Mobile (Vehicles)	201
Waste	13
Water	8

[53] TJKM. 2022. 2323-2391 Moorpark Avenue Transportation Analysis Report. June.

Emission Source	Year 2025 Total Emissions (MT CO_2e per year)
Amortized Construction Emissions[1]	12
Annual Project Emissions[2]	**280**
Existing Annual Emissions	*218*
Net Annual Project Emissions	**62**

Notes:
MT CO_2e = metric tons of carbon dioxide equivalent
[1] Construction GHG emissions are amortized over the 30-year lifetime of the project.
[2] All operational emissions were taken from the Mitigated CalEEMod model results to account for BAAQMD and City requirements.
Source: CalEEMod Output (Appendix A).

As discussed above, Table 18 shows that the proposed project is consistent with BAAQMD GHG Threshold, Criterion B. Therefore, the proposed project's impacts related to GHG emissions would **be less than significant.**

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

Less than significant impact. Significance for this impact is determined by project consistency with the City's GHGRS and the ARB's 2017 Climate Change Scoping Plan Update.

City of San José Greenhouse Gas Reduction Strategy

The City of San José GHGRS was adopted in August 2020 and is included in Appendix A. The City's GHGRS includes GHG reduction measures applicable to all development projects in San José. These GHG reduction measures aim to improve energy efficiency and conservation, increase the amount of renewable energy produced in the City, reduce water-related greenhouse gas emissions, decrease the amount of waste sent to landfills, reduce vehicle trips, and promote bicycling, walking, and public transit. Compliance with the GHGRS is determined using the Development Compliance Checklist provided as part of the GHGRS. For residential projects, the applicable parts of the Development Compliance Checklist are parts 1 and 2 of Table B, reproduced below in Table 18.

Table 18: Consistency with GHG Reduction Strategy: Development Compliance Checklist

Development Compliance Checklist Item	Project Consistency
Part 1: Residential Projects Only	
Zero Net Carbon Residential Construction 1. Achieve/exceed the City's Reach Code, and 2. Exclude natural gas infrastructure in new construction, or 3. Install on-site renewable energy systems or participate in a community solar program to offset 100 percent of the project's estimated energy demand, or	**Compliant.** The proposed project would comply with the City's reach code and would be designed to be all-electric and would not include natural gas infrastructure or appliances. The proposed project would include rooftop solar panels which would provide renewable energy on-site. As a low-rise residential development, the proposed project would be required to comply with the standards contained

Development Compliance Checklist Item	Project Consistency
4. Participate in San José Clean Energy at the Total Green level (i.e., 100 percent carbon-free electricity) for electricity accounts associated with the project until which time SJCE achieves 100% carbon-free electricity for all accounts	in the 2022 CBC, Title 24, Part 6, Subchapter 8, which includes rooftop solar panels.
Part 2: Residential and Non-Residential Projects	
Renewable Energy Development 1. Install solar panels, solar hot water, or other clean energy power generation sources on development sites, or 2. Participate in community solar programs to support development of renewable energy in the community, or 3. Participate in San José Clean Energy at the Total Green level (i.e., 100 percent carbon-free electricity) for electricity accounts associated with the project.	**Compliant.** The proposed project would include rooftop solar panels. As a low-rise residential development, the proposed project would be required to comply with the standards contained in the 2022 CBC, Title 24, which includes rooftop solar panels. Therefore, the proposed project would be compliant with this checklist item.
Building Retrofits–Natural Gas This strategy only applies to projects that include a retrofit of an existing building. If the proposed project does not include a retrofit, select "Not Applicable" in the Project Conformance column. 1. Replace an existing natural gas appliance with an electric alternative (e.g., space heater, water heater, clothes dryer), or 2. Replace an existing natural gas appliance with a high-efficiency model.	**Not applicable.** The proposed project would involve the new development of residences and would not constitute a renovation. Nonetheless, the proposed project would include an all-electric design and would not include natural gas hook-ups or infrastructure.
Zero Waste Goal 1. Provide space for organic waste (e.g., food scraps, yard waste) collection containers, and/or 2. Exceed the City's construction and demolition waste diversion requirement.	**Compliant.** The proposed project would include a dedicated space for waste receptacles on-site to provide space for organic waste. Moreover, the proposed project would be required to divert at least 65 percent of waste generated during construction and demolition activities, in compliance with SB 1374 and CALGreen Sections 4.408, 5.408, 301.1.1, and 301.3.
Caltrain Modernization. 1. For projects located within 0.5 mile of a Caltrain station, establish a program through which to provide project tenants and/or residents with free or reduced Caltrain passes, or 2. Develop a program that provides project tenants and/or residents with options to reduce their vehicle miles traveled (e.g., a Transportation Demand Management (TDM) program), which could include transit passes, bike lockers and showers, or other strategies to reduce project-related VMT.	**Compliant.** The proposed project would include 11 bicycle parking spaces in addition to the garage spaces which could provide additional bike storage space for residents, which would encourage the use of alternative modes of transportation such as bicycles. Moreover, several bus stops are located within a short walking distance of the site, including the Ginger and Middle stop, located 0.18 mile south of the project site; the Moorpark and Thornton stop, located 0.20 mile west of the project site; and the South Bascom and Renova stop, located 0.25 mile southeast of the project site. The proposed project's proximity to public transportation stations further supports the future use of public transportation systems and reducing VMT in privately owned

Development Compliance Checklist Item	Project Consistency
	vehicles. However, none of the public transportation stations near the proposed project are Caltrain stations. As such, the proposed project would be compliant with this checklist item.
Water Conservation. 1. Install high-efficiency appliances/fixtures to reduce water use, and/or include water-sensitive landscape design, and/or 2. Provide access to reclaimed water for outdoor water use on the project site.	**Compliant.** The proposed project would include the installation of bioretention areas for stormwater. The bioretention areas reduce the level of treatment required for stormwater runoff from the site and provide for improved on-site irrigation of the landscaping, thereby reducing water consumption.
Source: City of San José GHG Reduction Strategy Attachment A: Development Compliance Checklist. 2020. Website: https://www.sanjoseca.gov/your-government/department-directory/planning-building-code-enforcement/planning-division/environmental-planning/greenhouse-gas-reduction-strategy.	

SB 32 2017 Scoping Plan Update

The proposed project is evaluated here for its consistency with the ARB-adopted 2017 Climate Change Scoping Plan Update. The 2017 Climate Change Scoping Plan Update addressing the SB 32 targets was adopted on December 14, 2017.[54] Table 19 provides an analysis of the project's consistency with the 2017 Scoping Plan Update measures. As shown therein, none of the measures applies to the project.

Table 19: Consistency with SB 32 2017 Scoping Plan Update

2017 Scoping Plan Update Reduction Measure	Project Consistency
SB 350: 50 Percent Renewable Mandate. Utilities subject to the legislation will be required to increase their renewable energy mix from 33 percent in 2020 to 50 percent in 2030.	**Not applicable.** This measure would apply to utilities and not to individual development projects. The proposed project would, however, purchase electricity from a utility provider subject to the SB 350 and SB 100 RPS requirements for any operational electricity demand that is not satisfied with the required solar system.
SB 350: Double Building Energy Efficiency by 2030. This is equivalent to a 20 percent reduction from 2014 building energy usage compared to current projected 2030 levels.	**Not applicable.** This measure applies to existing buildings. The proposed project would involve new development and remodeling that would meet the latest applicable building code standards.
Low Carbon Fuel Standard. This measure requires fuel providers to meet an 18 percent reduction in carbon content by 2030.	**Not applicable.** This is a Statewide measure that cannot be implemented by a project applicant or lead agency. However, vehicles accessing the proposed building at the project site would benefit from the standards.
Mobile Source Strategy (Cleaner Technology and Fuels Scenario). Vehicle manufacturers will be required to meet existing regulations mandated by	**Not applicable.** This measure is not applicable to the proposed project; however, vehicles accessing the

[54] California Air Resource Board (ARB). 2017. California's 2017 Climate Change Scoping Plan. November.

2017 Scoping Plan Update Reduction Measure	Project Consistency
the LEV III and Heavy-Duty Vehicle programs. The strategy includes a goal of having 4.2 million Zero-Emission Vehicles (ZEVs) on the road by 2030 and increasing numbers of ZEV trucks and buses.	building at the project site would benefit from the increased availability of cleaner technology and fuels.
Sustainable Freight Action Plan. The plan's target is to improve freight system efficiency 25 percent by increasing the value of goods and services produced from the freight sector, relative to the amount of carbon that it produces by 2030. This would be achieved by deploying over 100,000 freight vehicles and equipment capable of zero-emission operation and maximize near-zero-emission freight vehicles and equipment powered by renewable energy by 2030.	**Not applicable.** The proposed project is a residential development that would not support freight operations.
Short-Lived Climate Pollutant (SLCP) Reduction Strategy. The strategy requires the reduction of SLCPs by 40 percent from 2013 levels by 2030 and the reduction of black carbon by 50 percent from 2013 levels by 2030.	**Not applicable.** The proposed project would not include major sources of black carbon. In compliance with BAAQMD Regulation 6, Rule 3,[1] the proposed project would not include installing any woodstoves or fireplaces.
SB 375 Sustainable Communities Strategies. Requires Regional Transportation Plans to include a Sustainable Communities Strategy for reduction of per capita vehicle miles traveled.	**Not applicable.** The proposed project does not include the development of a Regional Transportation Plan.
Post-2020 Cap-and-Trade Program. The Post 2020 Cap-and-Trade Program continues the existing program for another 10 years. The Cap-and-Trade Program applies to large industrial sources such as power plants, refineries, and cement manufacturers.	**Not applicable.** The proposed project is not one targeted by the cap-and-trade system regulations, and, therefore, this measure does not apply to the project.
Natural and Working Lands Action Plan. ARB is working in coordination with several other agencies at the federal, State, and local levels, stakeholders, and with the public, to develop measures as outlined in the Scoping Plan Update and the governor's Executive Order B-30-15 to reduce GHG emissions and to cultivate net carbon sequestration potential for California's natural and working land.	**Not applicable**. The proposed project is in a built-up urban area and would not be considered natural or working lands.

Source:
[1] Bay Area Air Quality Management District (BAAQMD). 2015. Regulation 6 Particulate Matter and Visible Emissions, Rule 3 Wood burning Devices. October 21.
Source of Measures: California Air Resource Board (ARB). 2017. California's 2017 Climate Change Scoping Plan. November.

Summary

As presented in Table 18, the proposed project is consistent with the applicable mandatory measures of the City of San José GHG Reduction Strategy. Furthermore, as shown in Table 19, the implementation of the proposed project would not conflict with the reduction measures proposed in SB 32. Moreover, the proposed project would be required to implement the measures contained in the City's Ordinance No. 30311, which include an all-electric design for new construction and the

installation of Level 2 EV-Ready spaces per dwelling unit. Considering this information, the proposed project would not conflict with any applicable plan, policy, or regulation of an agency adopted to reduce the GHG emissions.

Standard Permit Conditions

None.

Mitigation Measures

None.

4.8.3 - Conclusion

The proposed project's impacts related to GHG emissions would **be less than significant.**

4.9 - HAZARDS AND HAZARDOUS MATERIALS

4.9.1 - Setting

Overview

Hazardous materials encompass a wide range of substances, some of which are naturally occurring and some of which are man-made. Examples include motor oil and fuel, metals (e.g., lead, mercury, and arsenic), asbestos, pesticides, herbicides, and chemical compounds used in manufacturing and other uses. A substance may be considered hazardous if, due to its chemical and/or physical properties, it poses a substantial hazard when it is improperly treated, stored, transported, disposed of, or released into the atmosphere in the event of an accident. Determining whether such substances are present on or near project sites is important because exposure to hazardous materials above regulatory thresholds can result in adverse health effects on humans, as well as harm to plant and wildlife ecology.

Existing Setting

A Phase I Environmental Site Assessment (Phase I ESA) was prepared for the project site on December 5, 2020, and is included in this report in Appendix E.

Site History

According to the Phase I ESA, the project site was developed with orchards and rural residential properties from least 1889. Santa Clara Valley Medical Center was also depicted to the south since at least 1889. The project site and surrounding areas to the north, west, and east were originally orchards with rural residences until the 1940s when single-family residences were developed. The project site was developed with orchards from at least 1930 until approximately 1950. In the late 1960s, a swath of residences adjacent to the north were demolished and Highway 280 was constructed. The project area remains residential to the west and east, with Highway 280 adjacent to the north and Moorpark Avenue and hospital to the south. According to historic aerial photographs, the site was in its present configuration by 2012.

Agricultural uses are typically associated with residual pesticides and pesticide-related metals, which can affect soil quality. Soil samples conducted on-site pursuant to the Phase I ESA determined that elevated concentrations of lead, arsenic, and chlordane were present in the surface soil samples.

On-Site Sources of Contamination

On-site Environmental Concerns

Recognized Environmental Conditions

A Recognized Environmental Condition (REC) refers to the presence or likely presence of any hazardous substances or petroleum products in, on, or at a property that are: due to be released to the environment, under conditions indicative of release to the environment, or under conditions that pose a material threat of a future release to the environment.

Asbestos and Lead Paint

Friable asbestos is any asbestos-containing material (ACM) that, when dry, can easily be crumbled or pulverized to a powder by hand, allowing the asbestos particles to become airborne. Common

examples of products that have been found to contain friable asbestos include acoustical ceilings, plaster, wallboard, and thermal insulation for water heaters and pipes.

Non-friable ACMs are materials that contain a binder or hardening agent that does not allow the asbestos particles to become airborne easily. Common examples of non-friable ACMs are asphalt roofing shingles, vinyl asbestos floor tiles, and transite (asbestos-cement) siding made with cement. Non-friable ACMs can pose the same hazard as friable asbestos during remodeling, repairs, or other construction activities that would damage the material. Use of friable asbestos products was banned in 1978.

In 1978, the Consumer Products Safety Commission also banned paint and other surface coating materials containing lead. Lead is a highly toxic metal that affects virtually every system of the body.

Other Hazards

Airports

The project site is located within the Federal Aviation Administration (FAA) Part 77 surfaces area as mapped in the Comprehensive Land Use Plan (CLUP) of the Norman Y. Mineta San José International Airport, located at 1701 Airport Boulevard, San José.[55] The CLUP protects the public from the adverse effects of aircraft noise, ensures that people and facilities are not concentrated in areas susceptible to aircraft accidents, and ensures that no structures or activities adversely affect navigable airspace. The CLUP also prevents incompatible development from encroaching on the airport and allows for its development in accordance with the current airport master plan.[56]

FAA Part 77, Objects Affecting Navigable Airspace, establishes imaginary surfaces for airports and runways as a means to identify objects that are obstructions to air navigation. Each surface is defined as a slope ratio or at a certain altitude above the airport elevation.[57]

The FAA uses Part 77 obstructions standards as elevations above which structures may constitute a safety hazard. Any penetrations of the FAA Part 77 surface are subject to review on a case-by-case basis by the FAA. The FAA evaluates the penetration based on the published flight patterns for the airport, as they exist at that time. If a safety problem is found to exist, FAA may issue a determination of a hazard to air navigation. The FAA does not have the authority to prevent the encroachment, however California law can prevent the encroachment if the FAA has made a determination of a hazard to air navigation. The local jurisdiction can establish and enforce height restrictions.[58]

[55] County of Santa Clara Department of Planning and Development. 2020. Interactive Property Assessment. Website: https://sccplanning.maps.arcgis.com/apps/webappviewer/index.html?id=fb3af8ce73b6407c939e1ac5f092bb30. Accessed December 24, 2020.

[56] Windus, W.B. 2016. Santa Clara County Airport Land Use Commission. Comprehensive Land Use Plan, Norman Y. Mineta San José International Airport. Figure 6: FAR Part 77 Surfaces. Website: https://www.sccgov.org/sites/dpd/DocsForms/Documents/ALUC_SJC_CLUP.pdf. Accessed December 24, 2020.

[57] Windus, W.B. 2016. Santa Clara County Airport Land Use Commission. Comprehensive Land Use Plan, Norman Y. Mineta San José International Airport. Website: https://www.sccgov.org/sites/dpd/DocsForms/Documents/ALUC_SJC_CLUP.pdf. Accessed December 24, 2020.

[58] Ibid.

Wildfire Hazards

A Fire Hazard Severity Zone (FHSZ) is a mapped area that designates zones (based on factors such as fuel, slope, and fire weather) with varying degrees of fire hazard (i.e., moderate, high, and very high). FHSZ maps evaluate wildfire hazards, which are physical conditions that create a likelihood that an area will burn over a 30- to 50-year period.[59]

Applicable Plans, Policies and Regulations

Government Code Section 65962.5 (Cortese List)

Section 65962.5 of the Government Code requires the California Environmental Protection Agency (Cal/EPA) to develop and update (at least annually) 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 the Department of Toxic Substances Control (DTSC), the State Water Board, and the Department of Resources Recycling and Recovery (CalRecycle).

Envision San José 2040 General Plan

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

Envision San José 2040 Relevant Hazardous Material Policies

Policies	Description
Policy EC-7.1	For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine whether any potential environmental conditions exist that could adversely impact the community or environment.
Policy EC-7.2	Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, State, and federal laws, regulations, guidelines and standards.
Policy EC-7.4	On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-based paint and asbestos-containing materials, shall be implemented in accordance with State and federal laws and regulations.
Policy EC-7.5	On development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and State requirements.

[59] California State Geoportal. 2020. California Fire Hazard Severity Zones (FHSZ). Website: https://gis.data.ca.gov/datasets/31219c833eb54598ba83d09fa0adb346. Accessed December 24, 2020.

Envision San José 2040 Relevant Hazardous Material Policies

Policies	Description
Policy EC-7.6	The City will encourage use of green building practices to reduce exposure to volatile or other hazardous materials in new construction materials.
Policy 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 impacts to human health and safety and to the environment are required of or incorporated into the projects. This applies to hazardous materials found in the soil, groundwater, soil vapor, or in existing structures.
Policy EC-7.9	Ensure coordination with the County of Santa Clara Department of Environmental Health, Regional Water Quality Control Board, Department of Toxic Substances Control or other applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists.
Policy EC-7.11	Require sampling for residual agricultural chemicals, based on the history of land use, on sites to be used for any new development or redevelopment to account for worker and community safety during construction. Mitigation to meet appropriate end use such as residential or commercial/industrial shall be provided.
Policy TR-14.2	Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.
Policy TR-14.4	Require avigation and "no build" easement dedications, setting forth maximum elevation limits as well as for acceptance of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.
Policy CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.

4.9.2 - Environmental Checklist and Discussion of Impacts

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
1. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☒	☐	☐
2. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☒	☐	☐
3. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☒	☐

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
4. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, will it create a significant hazard to the public or the environment?	☐	☐	☐	☒
5. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project result in a safety hazard or excessive noise for people residing or working in the project area?	☐	☐	☐	☒
6. Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	☐	☐	☒	☐
7. Expose people or structures, either directly or indirectly to a significant risk of loss, injury or death involving wildland fires?	☐	☐	☐	☒

Impact Discussion

As previously discussed in Section 4.3, Air Quality, on December 17, 2015, the California Supreme Court issued an opinion in *CBIA vs. BAAQMD* holding that CEQA is primarily concerned with the impacts of a project on the environment and generally does not require agencies to analyze the impact of existing conditions on a project's future users or residents unless the project risks exacerbating those environmental hazards or risks that already exist.

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

And

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

Construction

Less than significant impact with mitigation incorporated. According to the Phase I ESA, minor amounts of household cleaning and maintenance supplies have likely been used over the years within and around the structures on the project site. No significant quantities of stored or discarded hazardous materials were observed during the Phase I ESA site visit. However, small amounts of

common household hazardous chemicals (including paints, motor oils, fuels, and fertilizer) were observed within unlocked areas during the site visit. Additionally, the project site has two septic tanks.

Because of the age of the structures, building materials may contain asbestos, including subsurface asbestos-cement pipe. During demolition or renovation of the buildings, an asbestos survey would be required by BAAQMD and/or National Emissions Standards for Hazardous Air Pollutants (NESHAP) guidelines. NESHAP guidelines require the removal of potentially friable ACMs prior to building demolition or renovation that may disturb the ACM.

Based on the age of the buildings, lead-based paint may be present in structures. If demolition is planned, the removal of lead-based paint is not required if it is bonded to the building materials. However, if the lead-based paint is flaking, peeling, or blistering, it should be removed prior to demolition. In either case, applicable Cal/OSHA regulations must be followed; these include requirements for worker training, air monitoring and dust control, among others. Additionally, soil adjacent to structures that are painted with lead-containing paint can become impacted with lead as a result of the weathering and/or peeling of painted surfaces. Any debris or soil containing lead must be disposed appropriately.

Because of the potential for ACMs and lead-based paints, SC HAZ-1 requires the applicant to retain a qualified hazardous materials contractor to remove and dispose of ACMs and lead-based paints in accordance with federal and State regulations. Therefore, with compliance with SC HAZ-1, impacts would be **less than significant.**

Soil samples conducted as part of the Phase I ESA indicated elevated levels of chromium and cobalt, as well as elevated nickel concentrations in the upper six inches of soil. Additionally, elevated concentrations of lead were detected adjacent to existing structures, likely due to weathering/flaking of lead-based paints.

Elevated concentrations of mercury (one sample), arsenic (four samples), chlordane (two samples), and dieldrin (two samples) likely resulted from past applications of pesticides/termiticides. The two elevated chlordane concentrations were detected two of the four sampling locations adjacent to the cottages, indicating that termiticides may have been used around these structures but in varying amounts and/or frequencies. The chlordane concentration in one of these samples exceeded the California hazardous waste threshold, indicating that some of the soil may be considered a hazardous waste if transferred off-site for disposal. One of the elevated dieldrin concentrations was detected in a sample collected adjacent to one of the storage sheds, and the other was detected from an open area of the project site. Based on these data, the chlordane and dieldrin concentrations appear to be laterally limited in lateral extent.

The presence of elevated concentrations of lead, arsenic, and chlordane in the surface soil samples is considered a REC. RECs indicate the presence or likely presence of hazardous substances or petroleum products that pose a material threat of a future release to the environment. A Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document (MM HAZ-1) shall be conducted to reduce any hazards associated with this REC. With implementation of MM HAZ-1,

impacts associated with hazardous materials detected in soil samples would be considered **less than significant** with mitigation incorporated.

With implementation of the standard permit conditions and MM HAZ-1, impacts associated with construction of the proposed project would be **less than significant with mitigation incorporated**.

Operation

Residential developments typically do not involve the regular use, storage, transport, or disposal of significant amounts of hazardous materials. Land uses such as apartment buildings use certain chemicals on-site, which may include solvents and other cleaning chemicals for operations, as well as fertilizers and pesticides for landscaping purposes. However, the proposed project would be required to store chemicals in compliance with applicable regulations and policies that deal with hazardous materials. Therefore, impacts associated with operation of the proposed project would be **less than significant**.

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

Less than significant impact. The nearest school to the project site is Chandler Tripp Head Start, a preschool located at 780 Thornton Way, San José, California, which is 0.24 mile southwest of the project site. As described above, construction activities and project operations would involve minor routine use of hazardous substances such as diesel fuels, cleaning agents, pesticides, and fertilizers. The use of these substances would be confined to the project site and would be properly stored and contained. Any hazardous substances emitted on-site would be confined to the project site and unlikely to reach the school. Additionally, the proposed project would comply with all applicable regulations during construction and operation of the proposed project, as discussed in the previous question. Compliance with federal, State, and local laws related to the transportation of hazardous materials would ensure that impacts are less than significant. Therefore, the proposed project's impacts would be **less than significant.**

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

No impact. Based on a review of federal, State, and local regulatory agency databases conducted as part of the Phase I ESA, the project site is not currently listed on any regulatory agency databases, nor were any adjacent properties listed on any regulatory agency databases. Furthermore, new residents would be informed about the proper disposal of products containing hazardous substances per Envision San José 2040 General Plan Policy EC-6.3.

Additionally, according to the Phase I ESA, based on the information presented in the agency database report, no off-site spill incidents were reported that could have impacts on soil, soil vapor, or ground water beneath the project site. Therefore, the project site is not located on a site which is included on a list of hazardous materials sites. There would be **no impacts** associated with listed hazardous materials sites.

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

No impact. The Norman Y. Mineta San José International Airport is located at 1701 Airport Boulevard, San José, 3.25 miles northwest of the project site.[60] The proposed project is not located within the aircraft noise contours of the airport and therefore would not result in a safety hazard or excessive noise for people residing or working in the project area due to noise levels.[61] However, under FAA Part 77, "Safe, Efficient Use, and Preservation of the Navigable Airspace," the proposed project located within the FAA 77 Surfaces area of the airport. Therefore, the maximum structure height at the project site is 412 feet above mean sea level (msl).[62] According to Google Earth, the project site is approximately 150 feet above msl. The proposed buildings would each be 29 feet, 4.5 inches tall. Therefore, the maximum height of the proposed project would be 180 msl and would not exceed the maximum structure height of 412 msl. Therefore, there would be **no impact** associated with public airports and aircraft.

The proposed project is not located within the vicinity of a private airstrip. This condition precludes the possibility that a safety hazard could result for people residing or working in the project area due to a private airstrip. Therefore, there would be **no impact**.

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

Less than significant impact. The City of San José Emergency Operations Plan (EOP) provides a programmatic framework that outlines the City's intended approach to preventing, preparing for, responding to, recovering from, and mitigating against the impacts of natural and man-made disasters and emergencies.[63] The proposed project would not interfere with the EOP. The proposed project would comply with the Fire Code requirements and would be subject to Fire Department review and approval. The project site is located near roadways that provide vehicular access to interstate highways and State routes nearby. Response vehicles would likely use these local routes in the event of an emergency. Any temporary roadway closures required during construction would be subject to City review and approval, which would ensure consistency with local emergency requirements. Construction of the proposed project would include a construction management plan to avoid impacts to emergency vehicles and emergency routes. Therefore, the proposed project would have **less than significant** impacts related to an adopted emergency response plan or emergency evacuation plan.

---

[60] County of Santa Clara Department of Planning and Development. 2020. Interactive Property Assessment. Website: https://sccplanning.maps.arcgis.com/apps/webappviewer/index.html?id=fb3af8ce73b6407c939e1ac5f092bb30. Accessed December 24, 2020.

[61] Windus, W.B. 2016. Santa Clara County Airport Land Use Commission. Comprehensive Land Use Plan, Norman Y. Mineta San José International Airport. Figure 5: 2022 Aircraft Noise Contours. Website: https://www.sccgov.org/sites/dpd/DocsForms/Documents/ALUC_SJC_CLUP.pdf. Accessed December 24, 2020.

[62] Windus, W.B. 2016. Santa Clara County Airport Land Use Commission. Comprehensive Land Use Plan, Norman Y. Mineta San José International Airport. Figure 6: FAR Part 77 Surfaces. Website: https://www.sccgov.org/sites/dpd/DocsForms/Documents/ALUC_SJC_CLUP.pdf. Accessed December 24, 2020.

[63] City of San José. 2019. City of San José Emergency Operations Plan (EOP) - 2019. Website: https://www.sanjoseca.gov/home/showpublisheddocument?id=48699. Accessed December 28, 2020.

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

No impact. The proposed project is not located within or adjacent to a FHSZ. The nearest FHSZ is located 5.45 miles south of the project site.[64] The proposed project is in an urbanized area and is surrounded by urban development. The project site is not adjacent to wildlands. This condition precludes the possibility that the proposed project would expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands. Therefore, there would be **no impacts** associated with wildfire hazards.

Standard Permit Conditions

SC HAZ-1 Asbestos and Lead-Based Paint

- 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).
- During demolition activities, all building materials containing lead-based paint (LBP) shall be removed in accordance with the California Occupational Safety and Health Administration (Cal/OSHA) Lead in Title 8, California Code of Regulations Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing LBP or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.
- All potentially friable asbestos-containing 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, California Code of Regulations, Section 1529, to protect workers from asbestos exposure.
- 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.
- 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.

Impact HAZ-1

Elevated concentrations of mercury (one sample), arsenic (four samples), chlordane (two samples), and dieldrin (two samples) likely resulted from past applications of pesticides/termiticides. The chlordane concentration in one of these samples exceeded the California hazardous waste threshold,

[64] California Department of Forestry and Fire Protection (CAL FIRE). 2020. FHSZ Viewer. Website: https://egis.fire.ca.gov/FHSZ/. Accessed December 24, 2020.

indicating that some of the soil may be considered a hazardous waste if transferred off-site for disposal. The presence of elevated concentrations of arsenic and chlordane in the surface soil samples is considered a REC.

Mitigation Measures

MM HAZ-1 Prior to issuance of any grading or demolition permits, the project applicant must obtain regulatory oversight from the Department of Toxic Substances Control, or the Santa Clara County Department of Environmental Health under their Site Cleanup Program. A Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document shall be prepared by a qualified environmental consultant under regulatory oversight and approval that identifies remedial measures and/or soil management practices to ensure construction worker safety and the health of future site occupants. The plan and evidence of regulatory oversight shall be provided to the Director of Planning, Building, and Code Enforcement (PBCE) or Director's designee and the Environmental Compliance Officer in the City of San José Environmental Services Department.

Conclusion

Impacts associated with hazards and hazardous materials would be **less than significant** with implementation of standard permit conditions and MM HAZ-1.

4.10 - HYDROLOGY AND WATER QUALITY

4.10.1 - Setting

Hydrology and Drainage

Surface Water

The City of San José owns and maintains the municipal storm drainage system which serves the project site. The lines that serve the project site are part of a network of lines that discharge to the Los Gatos Creek and then to Guadalupe River, which is located approximately 1.7 miles east of the project site. The Los Gatos Creek and Guadalupe River flow north, carrying the effluent from the storm drains into the San Francisco Bay, which is located approximately 7.5 miles north of the site. There is no overland release of stormwater directly into any water body from the project site.

Currently, the project site is developed with pervious surfaces.

Groundwater

According to the Preliminary Geotechnical Investigation performed by John R. Dye, Principal Engineer at Cornerstone Earth Group, and dated December 2, 2019, groundwater was not encountered during the site investigation. Based on previous geotechnical investigations in the area and a review of historic high groundwater maps, it is anticipated that the high groundwater level will be greater than 50 feet below current grades. Because of the presence of shallow sand layers, perched groundwater could potentially be encountered following periods of heavy rainfall due to surface water infiltration. Fluctuations in groundwater levels can occur as a result of many factors, including seasonal fluctuations, underground drainage patterns, regional fluctuations, and other factors.

Flooding and Other Inundation Hazards

Flooding

Based on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (FIRMs; map No. 06085C0233H), the project site is located in Zone D – areas in which flood hazards are undetermined but are possible.[65]

Earthquake-Induced Waves and Mudflow Hazards

There are no landlocked bodies of water near the project site that would affect the site in the event of seiche. There are no bodies of water near the project site in the event of a tsunami as the nearest is the San Francisco Bay, located approximately 7.5 miles north of the site. Based on the California Department of Conservation, the City is not located in a Tsunami Hazard Area.[66]The project area is relatively flat and there are no mountains in proximity that would affect the site in the event of a mudflow.

[65] Federal Emergency Management Agency (FEMA). 2020. FEMA Flood Map Service (06085C0233H). Website: https://msc.fema.gov/portal/search?AddressQuery=2323%20moorpark%20avenue%2C%20san%20jose%2C%20ca#searchresultsanchor. Accessed September 20, 2021.

[66] Department of Conservation. 2020. CGS Information Warehouse: Tsunami Hazard Area Map. Website: https://maps.conservation.ca.gov/cgs/informationwarehouse/ts_evacuation/?extent=-13597903.6729%2C4493258.9735%2C-13569239.7873%2C4508871.2366%2C102100&utm_source=cgs+active&utm_content=santaclara. Accessed September 20, 2021.

Water Quality

The water quality of streams, creeks, ponds, and other surface water bodies can be greatly affected by pollution carried in contaminated surface runoff. Pollutants from unidentified sources, known as "nonpoint" source pollutants, are washed from streets, construction sites, parking lots, and other exposed surfaces into storm drains.

Applicable Plans, Policies, and Regulations

Federal Emergency Management Agency

In 1968, Congress created the National Flood Insurance Program (NFIP) in response to the rising cost of taxpayer funded disaster relief for flood victims and the increasing amount of damage caused by floods. The NFIP makes federally backed flood insurance available for communities that agree to adopt and enforce floodplain management ordinances to reduce future flood damage.

FEMA manages the NFIP and creates FIRMs that designate 100-year floodplain zones and delineate other flood hazard areas. A 100-year floodplain zone is the area that has a one in one hundred (1 percent) chance of being flooded in any one year based on historical data.

Clean Water Act and Porter-Cologne Water Quality Control Act

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

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

CWA Section 303(d) lists polluted water bodies which require further attention to support future beneficial uses. San Francisco Bay and the nearby Guadalupe River are on the Section 303(d) list as an impaired water body for several pollutants.

National Pollutant Discharge Elimination System General Permit

Projects that disturb one or more acres of soil, or disturb less than 1 acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity. Construction activity subject to this permit includes clearing, grading, and ground disturbances such as stockpiling or excavation. To obtain coverage under the Construction General Permit, a Notice of Intent (NOI) must be filed with the RWQCB, and a Storm Water Pollution

Prevention Plan (SWPPP) must be developed by a certified Qualified Stormwater Developer (QSD) prior to the start of construction and must be kept on-site during construction.

The SWPPP contains site-specific BMPs to control erosion and sedimentation and maintain water quality during construction. The SWPPP also contains a summary of the structural and nonstructural BMPs to be implemented during the post-construction period, pursuant to the stormwater control practices and procedures encouraged by the City of San José and the RWQCB.

State Water Quality Control Board Nonpoint Source Pollution Program

In 1988, the State Water Board adopted the Nonpoint Source Management Program in an effort to control nonpoint source pollution in California. The Nonpoint Source Management Program requires individual permits to control discharge associated with construction activities. The Nonpoint Source Program is administered by RWQCB under the National Pollutant Discharge Elimination System (NPDES) General Permit for Construction Activities. Projects must comply with the requirements of the Nonpoint Source Program if:

- They disturb 1 acre or more of soil; or
- They disturb less than 1 acre of soil but are part of a larger development that, in total, disturbs 1 acre or more of soil.

The NPDES General Permit for Construction Activities requires the developer to submit an NOI to the RWQCB and to develop a SWPPP to control discharge associated with construction activities.

Municipal Regional Stormwater NPDES Permit/C.3 Requirements

The San Francisco Bay RWQCB also has issued a Municipal Regional Stormwater NPDES Permit (Permit Number CAS612008) (MRP). In an effort to standardize stormwater management requirements throughout the region, this permit replaces the formerly separate countywide municipal stormwater permits with a regional permit for 77 Bay Area municipalities, including the City of San José. Under provisions of the NPDES Municipal Permit, redevelopment projects that add and/or replace more than 10,000 square feet of impervious surface, or 5,000 square feet of uncovered parking area, are required to design and construct stormwater treatment controls to treat post-construction stormwater runoff. Amendments to the MRP require all post-construction runoff to be treated by using Low Impact Development (LID) treatment controls, such as biotreatment facilities, unless the project qualifies for Special Project credit reduction, which would allow the project to implement non-LID measures for all or a portion of the site depending on the project characteristics. This would also require a narrative discussion as to why the implementation of 100 percent LID measures is not feasible per the MRP.

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

The City of San José's Policy No. 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 No. 6-29 requires all new development and redevelopment project to implement post-construction BMPs and Stormwater Treatment Control Measures (TCMs) to the maximum extent practicable. This policy also established specific design standards for post-construction TCMs for projects that create, add, or replace 10,000 square feet or more of impervious surfaces.

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

The City of San José's Policy No. 8-14 implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. Policy No. 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 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).

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.

Envision San José 2040 Relevant Hydrology and Water Quality Policies

Policies	Description
Policy IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
Policy IN-3.9	Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards.
Policy MS-3.4	Promote the use of green roofs (i.e., roofs with vegetated cover), landscape-based treatment measures, pervious materials for hardscape, and other stormwater management practices to reduce water pollution.
Policy ER-8.1	Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
Policy ER-8.3	Ensure that private development in San José includes adequate measures to treat stormwater runoff.
Policy EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Standards Code and Municipal Code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and stormwater controls.
Policy EC-5.7	Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.
Policy EC-5.16	Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.

4.10.2 - Environmental Checklist and Discussion of Impacts

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

Impact Discussion

As previously discussed in Section 4.3, Air Quality, on December 17, 2015, the California Supreme Court issued an opinion in *CBIA vs. BAAQMD* holding that CEQA is primarily concerned with the impacts of a project on the environment and generally does not require agencies to analyze the impact of existing conditions on a project's future users or residents unless the project risks exacerbating those environmental hazards or risks that already exist.

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

Less than significant impact. The proposed project would include ground-disturbing activities such as grading and excavation during project construction. These activities have the potential to result in erosion, sedimentation, and runoff which could adversely affect water quality during construction. The proposed project would be required to comply with the NPDES Program. Because the project site is greater than 1 acre, the proposed project would be required to obtain coverage under the Construction General Permit which would include a SWPPP to be certified prior to the start of construction in order to control and reduce pollutant discharges to surface water bodies.

The proposed project would be subject to the RWQCB's MRP, implemented in October 2009 by Order R2-2009-0074. Under the C.3 requirements, the proposed project would be required to prepare and submit a Stormwater Control Plan that discusses the design elements and implementation measures necessary to meet the post-construction stormwater control requirements of the MRP. The C.3 measures that the proposed project would implement include landscape design measures such as directing runoff to landscaped areas and planting trees adjacent to impervious areas; reducing impervious areas; clustering structures and pavement; creating new pervious areas; installing beneficial landscaping; using water efficient irrigation systems; labeling storm drains; connecting trash and recycling enclosures to the sanitary sewer; and using bioretention areas for biotreatment.

The proposed project would be required to implement Hydromodification Management (HM) controls as part of the SWPPP. The purpose of HM control is to keep the flow rates, volumes, and durations of post-project stormwater flows at pre-project levels in order to minimize development-induced erosion in susceptible creek channels.[67] HM controls that would be implemented at the project site would include (1) underground tanks or vaults and (2) bioretention with outlet controls.

The proposed project would implement site-specific design, pollutant source control, and stormwater treatment control measures (TCMs) demonstrating compliance with Provision C.3 of the MRP (NPDES Permit Number CAS612008), to the satisfaction of the Director of PBCE to reduce potential construction-related water quality impacts as a condition of project approval. Consistent with the General Plan, implementation of the above measures shall be implemented during construction to prevent stormwater impacts and minimize potential erosion and sedimentation. The proposed project would implement measures such as installation of burlap bags filled with drain rock around storm drains, dust control measures, sweeping of paved access roads, parking areas, staging areas and residential streets, planting of vegetation, mud removal from tires, and compliance with the City of San José Grading Ordinance, and compliance with the City's Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

Compliance with the NPDES Program, which includes implementation of the SWPPP and HM controls, and the RWQCB's MRP and C.3 program would be included as a standard condition. With NPDES Program compliance, the proposed project would not violate any water quality standards or

[67] Santa Clara Valley Urban Runoff Pollution Prevention Program. 2016. C.3 Stormwater Handbook, Appendix E, Hydromodification Management Requirements. Website: http://scvurppp.org/pdfs/1516/c3_handbook_2016/Appendix_E.pdf. Accessed January 12, 2021.

waste discharge requirements. Furthermore, implementation of standard permit conditions SC HYD-1 would reduce impacts. Therefore, impacts would be **less than significant.**

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

and

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

Less than significant impact. The project site is within the Santa Clara Groundwater Subbasin, which encompasses the City of San José. The Santa Clara Valley Water District (Valley Water) manages the Santa Clara Groundwater Subbasin. The 2016 Groundwater Management Plan describes Valley Water's groundwater sustainability goals, and the strategies, programs, and activities that support those goals. Valley Water is in the process of updating their 2016 Groundwater Management Plan. As of 2018, the Santa Clara Subbasin is not designated as being in a condition of chronic overdraft and long-term yields were determined to meet statutory requirements.

According to the 2016 Groundwater Management Plan, the project site is not located in a designated recharge area.[68] The 2016 Groundwater Management Plan shows Los Gatos Creek, the closest stream to the project site, is considered an instream recharge area. The project site is located greater than 1 mile west of Los Gatos Creek and is surrounded by urban land uses; therefore, the project site does not contribute to groundwater recharge or instream recharge of groundwater aquifers.

Groundwater at the project site is presumed to be more than 50 feet below surface. Furthermore, the Phase I ESA determined that no water tanks commonly associated with domestic wells were observed on the project site. A possible agricultural well was observed in the northwest corner of project site. However, the project is not anticipated to encounter or interfere with groundwater supplies during construction activities.

Water service is provided to the project site by San José Water. San José Water receives approximately one-third of its potable water from Valley Water, some of which is pumped from the Santa Clara Subbasin. As discussed in greater detail in Section 4.18, Utilities and Service Systems, water demand resulting from the proposed project would remain consistent with what is anticipated in the General Plan and the Urban Water Management Plan (UWMP). The existing entitlements for water supplies to the City are sufficient to continue to meet the needs of San José during normal, dry, and multiple dry years, in addition to the water demands generated by the project. Therefore, the proposed project would not substantially deplete groundwater resources or conflict with a water quality control plan or groundwater management plan, and the impact would **be less than significant.**

[68] Santa Clara Valley Water District (Valley Water). 2016. 2016 Groundwater Management Plan. Figure 2-14. Santa Clara Subbasin Surface Water/Groundwater Interaction. Website: https://s3.us-west-2.amazonaws.com/assets.valleywater.org/2016%20Groundwater%20Management%20Plan.pdf. Accessed January 12, 2021.

3) i) Would the project 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 n a manner which would result in substantial erosion or siltation on- or off-site?

ii) Would the project substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?

iii) Would the project exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?

iv) Would the project impede or redirect flood flows?

Less than significant impact. The project site consists of relatively flat terrain in an urbanized area with no streams or rivers near the project site. The nearest surface water is Los Gatos Creek, located over 1 mile east of the project site. The proposed project would demolish the existing buildings and remove the existing paving on the project site, and the site would be improved with a new residential neighborhood development consisting of five 3-story, multi-family buildings, paving, bioretention, landscaping, and a drainage system connecting to an existing 12-inch storm drain line in Central Way.

According to the Preliminary Stormwater Control Plan provided by the project applicant, the total acreage of impervious areas on the project site would be increased from 43,960 square feet under the existing conditions to 47,738 square feet. Of the 47,738 square feet of impervious area, 4,489 square feet would be dedicated for the realignment of Moorpark Avenue. Pervious areas on the project site would be reduced from 38,011 square feet to 34,203 square feet. Stormwater would be directed to the pervious areas and bioretention areas on the project site. Runoff would be directed from roofs, sidewalks, and patios to landscaped areas. A storm drain system would carry stormwater runoff from the internal roadways to a storm drain in Moorpark Avenue. Source control measures would include beneficial landscaping, water efficient irrigation systems, pavement sweeping, catch basin cleaning, good housekeeping, and storm drain labeling.

Prior to the commencement of any clearing, grading, or excavation, the proposed project is required to comply with the NPDES General Construction Activities Permit, to the satisfaction of the Director of Public Works. The applicant would develop, implement, and maintain a SWPPP to control the discharge of stormwater pollutants including sediments associated with construction activities. This stormwater permit will be administered by the State Water Board.

The project shall incorporate BMPs into the project to control the discharge of stormwater pollutants including sediments associated with construction activities, including the source control measures discussed above. Prior to the issuance of a grading permit, the Department of Public Works would determine whether the applicant is required to submit an Erosion Control Plan. The Erosion Control Plan may include BMPs as specified in ABAG's Manual of Standards Erosion & Sediment Control Measures for reducing impacts on the City's storm drainage system from construction activities.

When construction is complete, a Notice of Termination for the General Permit for Construction shall be filed with the State Water Board. The Notice of Termination shall document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of,

and a post-construction stormwater management plan is in place as described in the SWPPP for the site.

Post-construction, the project is required to comply with applicable provisions of the following City Policies: City Council Policy 6-29 Post-Construction Urban Runoff Management and City Council Policy 8-14 Post-Construction Hydromodification Management. Furthermore, as a standard condition, details of specific Site Design, Pollutant Source Control, and Stormwater TCMs demonstrating compliance with Provision C.3 of the MRP (NPDES Permit Number CAS612008) would be included in the project design, to the satisfaction of the Director of PBCE.

According to the Preliminary Stormwater Control Plan prepared for the proposed project, pervious concrete pavers would be used for the roadways on-site. Bioretention areas would be included along Moorpark Avenue, along each side of the on-site roadways, in the landscaped areas near the residential buildings, and along the northern boundary of the project site. There would be 19 drainage management areas on the project site. Bioretention areas would be constructed of biotreatment soil mix, permeable rock, storm drain bubbler box, overflow pipes, and erosion control features. Bioretention soil mix would meet the requirements of the C.3 Storm Water Handbook.

Bioretention areas would be maintained quarterly or after storm events through removal of obstructions and debris, inspections, and irrigation system maintenance. Additionally, annual maintenance activities would include vegetation management; natural soil amendments and fertilizer; mulching; and inspection and maintenance of inlets, overflow pipes, and bioretention areas, plants, soil, and mulch.

Additionally, the pervious pavement would be maintained. Two to four times annually, maintenance would include inspections, preventive surface cleaning, monitoring and repair of pavement, monitoring for standing water after storm events, inspections of underdrain outlets and cleanouts, and removal of sediment and debris. As needed maintenance would include weed removal, mowing, restorative surface cleaning, power washing, and vacuuming.

Therefore, the proposed project would not result in substantial on-site or off-site erosion or siltation, alter the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which will result in flooding on or off-site. Furthermore, the proposed project would not increase the rate or amount of surface runoff and therefore would not exceed the capacity of existing or planned stormwater drainage systems, or provide substantial additional sources of polluted runoff, or otherwise substantially degrade water quality. Impacts would be **less than significant**.

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

Less than significant impact. According to FEMA FIRMs, the project site is not located within Zone D and therefore not within a 100-year flood zone.[69] The nearest Special Flood Hazard Area is located at the intersection of Moorpark Avenue and Eden Avenue, 1.07 miles west of the project site.

[69] Federal Emergency Management Agency (FEMA). 2020. FEMA Flood Map Service Center. Website: https://msc.fema.gov/portal/search?AddressQuery=2391%20Moorpark%20Avenue%2C%20San%20Jose%2C%20CA#searchresultsanchor. Accessed December 28, 2020.

Therefore, the proposed project would not place housing within or adjacent to a 100-year flood +hazard area or impede or redirect flood flows.

The project site is located more than 6 miles from the nearest tsunami inundation zone as mapped by the California Emergency Management Agency.[70] Therefore, the proposed project is not at risk of inundation from a tsunami or seiche. The proposed project is not likely to result in impacts because there is a low risk of flooding, tsunami, and seiche at the project site. Therefore, the proposed project would not expose people or structures to a significant risk of loss, injury, or death involving flooding. Impacts would be **less than significant.**

Standard Permit Conditions

SC HYD-1 Construction-related water quality

- 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.

Mitigation Measures

None.

4.10.3 - Conclusion

With implementation of standard permit conditions and best measure practices in compliance with Provision C.3 of the MRP, impacts to hydrology and water quality would be **less than significant.**

[70] California Emergency Management Agency. 2009. Tsunami Inundation map for Emergency Planning – Mountain View Quadrangle, July 31. Website: https://www.conservation.ca.gov/cgs/tsunami/maps#select-a-map. Accessed January 12, 2021.

4.11 - LAND USE AND PLANNING

4.11.1 - Setting

Existing Land Use

According to the General Plan, the project site is designated MUN, as shown in Figure 3. Properties designated MUN are "intended for development primarily with either townhouse or small lot single-family residences and also to existing neighborhoods that were historically developed with a wide variety of housing types, including a mix of residential densities and forms."

The project site is currently zoned by the County as R1 on the northeastern portion of the site and R3 on the southwestern portion of the site (Figure 4). The proposed project would require annexation into the City of San José and proposes pre-zoning to the R-M Multiple Residence Zoning District. Applications for annexation and pre-zoning were submitted in January 2020.

Surrounding Land Uses

The project site is surround by the following uses:

- North: a 14-foot noise barrier, I-280, a portion of Central Way
- South: Moorpark Avenue, Commercial
- East: Central Way, Residential
- West: Residential

Applicable Plans, Policies, and Regulations

California Senate Bill 330 (Housing Crisis Act)

SB 330, the Housing Crisis Act of 2019, became effective January 1, 2020 and declared a Statewide housing emergency through January 1, 2025. The Housing Crisis Act allows an applicant to submit a preliminary application for any housing development project, as defined in Government Code Section 65589.5(h)(2). A housing development project includes the following: residential units only; mixed-use development consisting of residential and nonresidential uses with at least two-thirds of the square footage of the project designated for residential use; transitional housing or supportive housing.

Under SB 330, eligible housing development projects are eligible for enhanced streamlining and vesting opportunities through a process initiated by the filing of a preliminary application. Once the preliminary application is deemed complete by the local jurisdiction, the housing development project is subject only to the ordinances, policies, and standards adopted and in effect at the time the preliminary application was submitted. In addition, housing development projects that meet all applicable objective general plan and zoning standards may only be subject to a total of five public hearings, including continuances and most appeal hearings.

Once a preliminary application is deemed complete, a complete project application must be submitted and accepted by the Planning Department within 180 days of submission of the preliminary application. The project must also commence construction within 30 months after the date of final approval.

Plan Bay Area 2040

Plan Bay Area is the long-range transportation and land use/housing strategy through 2040 for the Bay Area, pursuant to SB 375, the Sustainable Communities and Climate Protection Act. It lays out a development scenario for the region, which, when integrated with the transportation network and other transportation measures and policies, would reduce greenhouse gas emissions from transportation (excluding goods movement) below the per capita reduction targets identified by the ARB. The 2040 Plan Bay Area is a limited and focused update to the 2013 Plan Bay Area, with updated planning assumptions that incorporate key economic, demographic, and financial trends from the last several years.

Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan

The SCVHCP is a conservation program 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.

Envision San José 2040 General Plan

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

The proposed project qualifies as "a housing development project" under the Housing Crisis Act and the HAA. Under the Housing Crisis Act, affected cities may not impose or enforce design standards on or after January 1, 2020, that are not objective design standards. (Government Code 66300(b)(1)(C)). An "objective design standard" is defined as "a design standard that involves no personal or subjective judgment by a public official and is uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal of an application." (Government Code 66300(a)(7)). In addition, under the HAA, housing development projects need only demonstrate consistency or compliance with "applicable, objective general plan . . . standards and criteria, in effect at the time that the application was deemed complete." (Government Code 65589.5(j)(1)). Under the HAA, "objective" is defined in the same manner as under the Housing Crisis Act. (See Government Code 65589.5(h)(8)). Many of the General Policies identified below involve subjective judgment and therefore do not apply to the proposed project. Nevertheless, the proposed project is designed to be consistent with the General Plan's land use policies.

Envision San José 2040 Relevant Land Use Policies

Policies	Description
Policy IP-5.10	Nonresidential development may proceed within Urban Village areas in advance of the preparation of an Urban Village Plan. In addition, residential, mixed-use "Signature" projects may also proceed ahead of preparation of an Urban Village Plan. A Signature project clearly advances and can serve as a catalyst for the full implementation of the General Plan Urban Village strategy. Signature projects may be developed within an Urban Village area by making use of the residential pool capacity. Residential, mixed-use Signature projects may proceed within Urban Village areas in advance of the preparation of an Urban Village Plan if they fully meet the following requirements:

	1. Conform to the Land Use/Transportation Diagram. Within the Urban Village areas, Signature projects are appropriate on sites with an Urban Village, residential, or commercial Land Use/Transportation Diagram designation. 2. Incorporate job growth capacity above the average density of jobs/acre planned for the developable portions of the entire Village Planning area and, for portions of the Signature project that include housing, those portions incorporate housing density at or above the average density of dwelling units/acre planned for the entire Village Planning area. 3. Is located at a visible, prominent location within the Village so that it can be an example for, but does not impose obstacles to, subsequent other development within the Village area. Additionally, the proposed Signature project will be reviewed for substantial conformance with the following objectives: 4. Includes public parklands and/or privately maintained, publicly accessible plazas or open space areas. 5. Achieves the pedestrian friendly design guideline objectives identified within the General Plan. 6. Is planned and designed through a process that provided a substantive opportunity for input by interested community members. 7. Demonstrates high-quality architectural, landscape, and site design features. 8. Is consistent with the recommendations of the City's Architectural Review Committee or equivalent recommending body if the project is subject to review by such body.
Policy CD-1.12	Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
Policy CD-1.18	Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.
Policy CD-1.24	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
Policy CD-1.24	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
Policy CD-2.11	Within the Downtown and Urban Village Area Boundaries, consistent with the minimum density requirements of the pertaining Land Use/Transportation Diagram designation, avoid the construction of surface parking lots except as an interim use, so that long-term development of the site will result in a cohesive urban form. In these areas, whenever possible, use structured parking, rather than surface parking, to fulfill parking requirements. Encourage the incorporation of alternative uses, such as parks, above parking structures.

Policy CD-4.9	For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).
Policy CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.
Policy CD-7.1	Support intensive development and uses within Urban Villages and Corridors, while ensuring an appropriate interface with lower-intensity development in surrounding areas and the protection of appropriate historic resources.
Policy CD-7.3	Review development proposed within an Urban Village Area prior to approval of an Urban Village Plan for consistency with policies pertaining to the proposed use (e.g., general Urban Design policies). Encourage such development to be consistent with Design Policies for Urban Villages.
Policy CD-7.7	Maintain and implement land use policies that are consistent with the urban nature of Urban Village areas. Incorporate spaces and support outdoor uses for limited 24-hour uses, so long as the potential for significant adverse impacts is mitigated.
Policy TR-8.7	Encourage private property owners to share their underutilized parking supplies with the general public and/or other adjacent private developments.
Policy TR-14.2	Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.

4.11.2 - Environmental Checklist and Discussion of Impacts

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

Impact Discussion

1) Would the project physically divide an established community?

No impact. Examples of projects that have the potential to physically divide an established community include new freeways and highways, major arterial streets, and railroad lines. The proposed project, which proposes to construct five 3-story, multi-family buildings consistent with the land use designation of MUN. Implementation of this project would not include construction of dividing infrastructure.

The project site is located in a neighborhood with existing residential development. The areas west and east of the project site are residential with the I-280 to the north and Moorpark Avenue to the

south. There would be no additional infrastructure related to I-280. As described in the Project Description, access to the project site would be provided from a private drive connecting to Central Way and as a condition of approval of the proposed project, the southern portion of the site would be dedicated for the realignment of Moorpark Avenue. Thus, no infrastructure that would divide the community would be included in project plans. Because of the similar existing uses in the neighborhood to the east and the west of the project area, implementation of the proposed project would not physically divide an established community have **no impact**.

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

Less than significant impact. The project site is designated MUN according to the General Plan, which allows residential density of up to 30 dwelling units per acre (du/acre), building intensity of 0.25 to 2.0 floor area ratio (FAR), and building height of 1 to 3.5 stories. Properties designated as Mixed-Use Neighborhood are "intended for development primarily with either townhouse or small lot single-family residences and also to existing neighborhoods that were historically developed with a wide variety of housing types, including a mix of residential densities and forms."[71] The proposed project includes development of 3-story townhomes with a density of 21.9 du/acre, consistent with the Mixed-Use Neighborhood density of up to 30 du/acre and allowable height of up to 45 feet.

According to the County, the northeastern portion of the site is zoned as R1 and the southwestern portion of the site is R3. The proposed project would require annexation into the City of San José and proposes pre-zoning to the R-M Multiple Residence Zoning District. Applications for annexation and pre-zoning were submitted in January 2020. The proposed project meets all applicable objective planning and zoning standards in the R-M District as shown in the table below.

Table 20: Project Consistency with R-M District Zoning Standards

Regulations	General Plan or R-M Residential District Multiple Standard	Proposed Project
General Plan Density Standard		
Density	Up to 30 du/acre	21.9 du/acre
R-M District Standards		
Minimum Lot Size	6,000	6,000
Minimum Setback		
Front	10 foot	10 foot
Side, Interior	5 foot	5 foot
Side, Corner	7.5 feet	7.5 feet
Rear, Interior	25 feet	25 feet
Rear, Corner	15 feet	15 feet

[71] City of San José. Envision San José 2040 General Plan Land Use Chapter. Website: https://www.sanjoseca.gov/Home/ShowDocument?id=23143. Accessed November 14, 2022.

Regulations	General Plan or R-M Residential District Multiple Standard	Proposed Project
Minimum Driveway	0 foot	0 foot
Maximum Height	45 feet	45 feet
Maximum No. of Stories	N/A	3
Parking Standards[1]		
3-Bedroom Townhome	2.6 (two-car garage)	2.0 garage per unit 0.7 guest per unit
2-Bedroom Flats	2.5 (two-car garage)	2.0 garage per unit 0.7 guests per unit
Bicycle Parking	1 per 4 living units	11 spaces
Notes: 1. No additional parking is required for the 17 replacement units.		

With the proposed site annexation and pre-zoning, the proposed project would be consistent with the General Plan Land Use designation of MUN and with the R-M zoning district standards (R-M is the City's Multiple Residence District for the construction, use and occupancy of higher density residential development). The proposed project would comply with the required objective development standards (per SB 330) and parking standards set forth in the Zoning Ordinance of the Municipal Code **and impacts would be less than significant.**

Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan

The project site is within the SCVHCP area and is designated as follows:

- Land Cover Designation: Urban–Suburban
- Development Zone: Urban Development
- Fee Zone: Urban Areas (No Land Cover Fee)
- Owl Conservation Zone: None

The project site is not located within a burrowing owl fee zone, wetland fee zone, serpentine fee zone, plant survey area, or a wildlife survey area. The project site is not located next to, or adjacent to, a designated reserve. Therefore, the proposed project would not conflict with any applicable habitat conservation plan or natural community conservation plan. Impacts would be **less than significant.**

4.11.3 - Conclusion

As the project proponent submitted applications for the annexation and pre-zoning in January 2020, the proposed MUN and R-M zoning district would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect. **Impacts would be less than significant**.

4.12 - MINERAL RESOURCES

4.12.1 - Setting

Applicable Plans, Policies, and Regulations

Surface Mining and Reclamation Act

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

4.12.2 - Environmental Checklist and Discussion of Impacts

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

Impact Discussion

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

No impact. The project site is not located in one of the sites designated by the General Plan as containing mineral deposits which are of regional or Statewide significance. The State Mining and Geology Board has designated the Communications Hill Area as containing mineral deposits which are of regional significance as a source of construction aggregate materials. Neither the State Geologist nor the State Mining and Geology Board has classified any other areas in the City as containing mineral deposits which are either of Statewide significance or the significance of which requires further evaluation.[72] The Communications Hill Area is located approximately 3.9 miles southeast of the project site. Implementation of the proposed project would not result in the loss of availability of a known resource that would be of value to the region and the residents of the State. Therefore, **no impact** would occur.

[72] City of San José. 2011. Envision San José 2040 General Plan, Chapter 3, Environmental Leadership. November.

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

No impact. The project site is located on a previously developed site in a highly urbanized area of the City. The surrounding urban development includes commercial buildings and residential neighborhoods. The General Plan does not designate any mineral recovery sites near the project site. There are no known mineral deposits and no active mineral extraction sites on the project site or in the immediate vicinity. The proposed project would not result in the loss of availability of a locally important mineral recovery site. Therefore, **no impact** would occur.

Standard Permit Conditions

None.

Mitigation Measures

None.

Conclusion

There would be **no impacts** to mineral resources.

4.13 - NOISE AND VIBRATION

This analysis is based on the technical memorandum prepared by FCS dated September 6, 2022, titled, Noise Impact Analysis Report for the TTLC Moorpark Avenue Multi-family Residential Project, City of San José, Santa Clara County, California. The memorandum is contained in Appendix F of this document.

4.13.1 - Setting

Fundamentals of Noise

Noise may be defined as unwanted sound. Noise is usually objectionable because it is disturbing or annoying. The objectionable nature of sound can be caused by its pitch or its loudness. A decibel (dB) is a unit of measurement which indicates the relative amplitude of a sound. The zero on the decibel scale is based on the lowest sound level that the healthy, unimpaired human ear can detect. Sound levels in decibels are calculated on a logarithmic basis. There are several methods of characterizing sound. The most common in California is the A-weighted decibel or dBA. This scale gives greater weight to the frequencies of sound to which the human ear is most sensitive. Noise is typically expressed using one of several noise averaging methods, including: L_{eq}, L_{max}, DNL, and Community Noise Equivalent Level (CNEL). L_{eq} stands for the Noise Equivalent Level and is a measurement of the average energy level intensity of noise over a given period of time. The most common averaging period is hourly, but L_{eq} can describe any series of noise events in arbitrary duration. L_{max} is the maximum dBA during a measurement period. DNL and CNEL are described below.

In determining the daily level of environmental noise, it is important to account for the difference in response of people to daytime and nighttime noises. During the nighttime, exterior background noises are generally lower than daytime levels. Most household noise also decreases at night, making exterior noises more noticeable. Furthermore, most people sleep at night and are very sensitive to noise intrusion. To account for human sensitivity to nighttime noise levels, a descriptor, DNL (day/night average sound level), was developed. The DNL divides the 24-hour day into the daytime of 7:00 a.m. to 10:00 p.m. and the nighttime of 10:00 p.m. to 7:00 a.m. The nighttime noise level is weighted to 10 dB higher than the daytime noise level. The CNEL is another 24-hour average which includes both an evening and nighttime weighting.

Fundamentals of Vibration

Ground vibration consists of rapidly fluctuating motions or waves with an average motion of zero. This discussion uses peak particle velocity (PPV) to quantify vibration amplitude, which is defined as the maximum instantaneous positive or negative peak of the vibration wave. A PPV descriptor with units of millimeters per second (mm/sec) or inches per second (in/sec) are used to evaluate construction generated vibration for building damage and human complaints. The two primary concerns with construction-induced vibration are the potential to damage a structure and the potential to interfere with the enjoyment of life; these two concerns are evaluated against different vibration limits. Studies have shown that the threshold of perception for average persons is in the range of 0.008 to 0.012 in/sec PPV. 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.

Structural damage can be classified as cosmetic (e.g., minor cracking of building elements), or may threaten the integrity of the building. Safe vibration limits that can be applied to assess the potential for damaging a structure vary by researcher and there is no general consensus as to what amount of vibration may pose a threat for structural damage to the building. Construction-induced vibration that can be detrimental to the building is very rare and has only been observed in instances where the structure is at a high state of disrepair and the construction activity occurs immediately adjacent to the structure.

Existing Noise Conditions

The dominant noise sources in the project vicinity include traffic on local roadways primarily from traffic on I-280, which runs along the northern boundary of the project site. However, this portion of I-280 is depressed below-grade of the project site by more than 25 feet, and there is an existing 14-foot-high sound wall at the top of the embankment located on Caltrans property adjacent to the project's northern boundary line.

Existing stationary noise sources on the project site include mechanical ventilation system operations and parking lot activity. These noise sources are similar to the noise sources that would be produced by the proposed project.

The existing noise environment in the project vicinity was documented through ambient noise monitoring. Two short-term noise measurements (15-minutes each) were taken on Wednesday, August 4, 2021, and one long-term (24-hour) noise measurement was taken from 12:30 p.m. on Wednesday, August 4, 2021, to 12:30 p.m. on Thursday, August 5, 2021. The short-term noise measurements were taken between 11:45 a.m. and 12:16 p.m., during the midday peak noise hour. These measurements provide a baseline for existing noise conditions in the project vicinity. The noise monitoring locations are shown in Figure 10.

Source: Google Earth Aerial Imagery.

FIRSTCARBON SOLUTIONS™

100 50 0 100
Feet

Figure 10
Noise Measurement Locations

THIS PAGE INTENTIONALLY LEFT BLANK

Short-term Noise Measurements

The short-term noise measurements taken at the project site are summarized in Table 21. The noise measurements indicate that daytime ambient noise levels range from 64.3 dBA to 68.1 dBA L_{eq} at the project's southern boundary adjacent to Moorpark Avenue. The noise technician observed that the dominant noise sources in the project vicinity are traffic noise on Moorpark Avenue. The noise monitoring survey sheet and sound level meter results, as well as setup photos are provided in the appendix of the Noise Impact Analysis report included in Appendix F of this document.

Long-term Noise Measurement

The long-term noise measurement (LT-1) was conducted along the northern boundary of the project site, on the southern side of the cul-de-sac circle of Central Way, at the project's northeastern property line, approximately 50 feet south of the sound wall facing I-280. The 24-hour average ambient noise levels at this location averaged 66.5 dBA CNEL, with daytime average noise levels of 63.4 dBA L_{eq}, and nighttime average noise levels of 58.2 dBA L_{eq}. Measured ambient noise levels at this location exceeded 65 dBA in only 1 hour of the 24-hour period measured. The noise monitoring survey sheet and sound level meter results are provided in the appendix of the Noise Impact Analysis report included in Appendix F of this document.

Table 21: Existing Ambient Noise Levels in the Project Vicinity

Site Location	Location Description	dBA	Primary Noise Sources
ST-1	On southern property line, adjacent to Moorpark Avenue. About 170-feet west of Central Avenue	64.3 L_{eq}	Traffic on Moorpark Avenue
ST-2	Southern property line, adjacent to Moorpark Avenue and Turner Avenue intersection	68.1 L_{eq}	Traffic on Moorpark Avenue
LT-1	On the southern side of the cul-de-sac circle of Central Way, at the project's northeastern property line. Approximately 50-feet south of the sound wall facing I-280	66.5 CNEL	Traffic on I-289 and Central Avenue
Source: FirstCarbon Solutions (FCS) 2022.			

Sensitive Receptors

The project site is surrounded by a residential neighborhood to the west, Moorpark Avenue and medical facilities to the south, single-family housing and Central Way to the east, and a noise barrier and I-280 to the north. The closest noise-sensitive receptors to the proposed project site are single-family residences located immediately adjacent to the east of the project site, approximately 40 feet from the acoustic center of construction activity.

Applicable Plans, Policies, and Regulations

2014 State Building Code, Title 24, Part 2

The State Building Code, Title 24, Part 2 of the State of California Code of Regulations establishes uniform minimum noise insulation performance standards to protect persons within new buildings which house people, including hotels, motels, dormitories, apartment houses and dwellings other than single-family dwellings. Title 24 mandates that interior noise levels attributable to exterior sources shall not exceed 45 dB DNL or CNEL in any habitable room.

Envision San José 2040 General Plan

The project site is located within the City of San José and this analysis was performed using the City's noise regulations. The City of San José addresses noise in the Noise Element of the San José General Plan 2040[73] and in the City of San José Municipal Code.[74]

Envision San José 2040 Relevant Noise and Vibration Policies

Policies	Description
Policy EC-1.1	Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, State and City noise standards and guidelines as a part of new development review. 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 Standards Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected *Envision San José 2040 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 or Table 4.12-1 in this Initial Study). Residential uses are considered "normally acceptable" with exterior noise exposures of up to 60 dBA DNL and "conditionally compatible" where the exterior noise exposure is between 60 and 75 dBA DNL such that the specified land use may be permitted only after detailed analysis of the noise reduction requirements and needed noise insulation features are included in the design.
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 in Table EC-1 in the General Plan or Table 4.12-1 in this Initial Study) 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."

[73] City of San José. 2018. Envision San José General Plan 2040. Website: https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/citywide-planning/envision-san-jos-2040-general-plan. Accessed June 16, 2021.

[74] Code of Ordinance. 2021. San José Municipal Code. Website: https://library.municode.com/ca/san_jose/codes/code_of_ordinances. Accessed June 16, 2021.

Envision San José 2040 Relevant Noise and Vibration Policies

Policies	Description
	• 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-1.7	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 vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, a vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction.

City of San José Municipal Code

The Municipal Code restricts construction hours within 500 feet of a residential unit to 7:00 a.m. to 7:00 p.m. Monday through Friday, unless otherwise expressly allowed in a Development Permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.

The Zoning Ordinance limits noise levels to 55 dBA L_{max} at any residential property line and 60 dBA L_{max} at commercial property lines, unless otherwise expressly allowed in a Development Permit or other planning approval. The Zoning Ordinance also limits noise emitted by stand-by/backup and emergency generators to 55 dBA at the property line of residential properties. The testing of generators is limited to 7:00 a.m. to 7:00 p.m., Monday through Friday.

4.13.2 - Environmental Checklist and Discussion of Impacts

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

Impact Discussion

As previously discussed in Section 4.3, Air Quality, on December 17, 2015, the California Supreme Court issued an opinion in *CBIA vs. BAAQMD* holding that CEQA is primarily concerned with the impacts of a project on the environment and generally does not require agencies to analyze the impact of existing conditions on a project's future users or residents, unless the project risks exacerbating those environmental hazards or risks that already exist. Nevertheless, the City has policies and regulations that address existing noise conditions affecting a proposed project, which are also discussed below as planning considerations.

Consistent with Appendix G of the CEQA Guidelines, a project would normally result in significant noise impacts if noise levels generated by the project conflict with adopted environmental standards or plans, if the project would generate substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of established standards, excessive groundborne vibration or groundborne noise levels, or expose people residing or working in the project area to excessive airplane noise.

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

Less than significant impact with mitigation incorporated.

Construction-Related Noise Impacts

Short-term Construction Impacts

For the purposes of CEQA analysis, construction would begin in March 2024 and would conclude in October 2025. For purposes of this analysis, a significant impact would occur if construction activities would result in a substantial temporary increase in ambient noise levels outside of the City's permissible hours for construction that would result in annoyance or sleep disturbance of nearby sensitive receptors. The City's permissible hours for construction activity are between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday. No construction is permitted on Saturdays, Sundays, or federal holidays.

Construction-related Traffic Noise

Noise impacts from construction activities associated with the proposed project would be a function of the noise generated by construction equipment, equipment location, sensitivity of nearby land uses, and the timing and duration of the construction activities. One type of short-term noise impacts that could occur during project construction would result from the increase in traffic flow on local streets, associated with the transport of workers, equipment, and materials to and from the project site.

The transport of workers and construction equipment and materials to the project site would incrementally increase noise levels on access roads leading to the site. Because workers and construction equipment would use existing routes, noise from passing trucks would be similar to existing vehicle-generated noise on these local roadways. Typically, a doubling of the Average Daily Traffic (ADT) hourly volumes on a roadway segment is required in order to result in an increase of 3 dBA in traffic noise levels, which, as discussed in the characteristics of nose discussion above, is the lowest change that can be perceptible to the human ear in outdoor environments. Project-related construction trips would not be expected to double the hourly traffic volumes along any roadway segment in the project vicinity. For this reason, short-term intermittent noise from construction trips would be minor when averaged over a longer time-period and would not result in a perceptible increase in hourly- or daily average traffic noise levels in the project vicinity. Therefore, short-term construction-related noise impacts associated with the transportation of workers and equipment to the project site would be **less than significant.**

Construction Equipment Operational Noise

The second type of short-term noise impact is related to noise generated during construction on the project site. Construction is completed in discrete steps, each of which has its own mix of equipment and, consequently, its own noise characteristics. These various sequential phases would change the character of the noise generated on the site and, therefore, the noise levels surrounding the site as construction progresses. Despite the variety in the type and size of construction equipment, similarities in the dominant noise sources and patterns of operation allow construction-related noise ranges to be categorized by work phase. Typical operating cycles for these types of construction equipment may involve 1 or 2 minutes of full-power operation followed by 3 or 4 minutes at lower power settings. Impact equipment, such as impact pile drivers, are not expected to be used during construction of this project.

The loudest phase of construction is typically the site preparation and grading phase as that is when the loudest pieces of heavy construction equipment would operate. For example, the maximum noise level generated by each scraper is assumed to be 85 dBA L_{max} at 50 feet from this equipment. Each bulldozer would also generate 85 dBA L_{max} at 50 feet. The maximum noise level generated by graders is approximately 85 dBA L_{max} at 50 feet.

A conservative but reasonable assumption is that this equipment would operate simultaneously and continuously over at least a 1-hour period in the vicinity of the closest existing residential receptors but would move linearly over the project site as they perform their earthmoving operations, spending a relatively short amount of time adjacent to any one receptor. A characteristic of sound is that each doubling of sound sources with equal strength increases a sound level by 3 dBA. Assuming that each piece of construction equipment operates at some distance from the other equipment, a reasonable worst-case combined noise level during this phase of construction would be 90 dBA L_{max} at a distance of 50 feet from the acoustic center of a construction area. The acoustical center reference is used because construction equipment must operate at some distance from one another on a project site, and the combined noise level as measured at a point equidistant from the sources (acoustic center) would be the worst-case maximum noise level. These operations would be expected to result in a reasonable worst-case hourly average of 86 dBA L_{eq} at a distance of 50 feet from the acoustic center of a construction area. These worst-case construction noise levels would only occur during the site preparation phase of development.

The closest noise-sensitive receptors to the proposed project site are single-family residences located directly east of the project site. The closest residence would be located approximately 40 feet from the acoustic center of construction activity where multiple pieces of heavy construction equipment would potentially operate at the project site. At this distance, worst-case construction noise levels could range up to approximately 92 dBA L_{max}, intermittently, and could have an hourly average of up to 88 dBA L_{eq}, at the façade of the nearest single-family residential home.

The proposed project would be required to comply with the City of San José Municipal Code, which limits noise-generating construction activities to the daytime hours and requires the implementation of measures that avoid or minimize significant noise impacts from construction activities.

Although there could be a relatively high single event noise exposure potential causing an intermittent noise nuisance, the effect of construction activities on longer-term (hourly or daily) ambient noise levels would be small. However, construction activities could result in a temporary increase in ambient noise levels in the project vicinity that could result in annoyance or sleep disturbance of nearby sensitive receptors. Therefore, limiting construction activities to the daytime hours would reduce the effects of noise levels produced by these activities on longer-term (hourly or daily) ambient noise levels and would reduce the potential for noise-related annoyance or sleep disturbances at nearby sensitive receptors. The City of San José Municipal Code limits construction activities to between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday. The proposed project would be required to comply with the following SC NOI-1 and MM NOI-1 related to construction noise. With implementation of SC NOI-1 and MM NOI-1 listed below, the proposed project would not result in substantial temporary increases at the off-site sensitive receptors above standards established in the General Plan, and construction noise impacts on sensitive receptors in the project vicinity would be considered **less than significant.**

Mobile Source Operational Noise Impacts

A significant impact would occur if project-generated traffic would result in a substantial increase in ambient noise levels compared with those that would exist without the project. The City considers a significant noise impact to occur if a project would cause the DNL at noise-sensitive receptors to increase by 5 dBA DNL or more where the noise levels would remain "normally acceptable"; or where it would cause the DNL at noise-sensitive receptors to increase by 3 dBA DNL or more where noise levels would equal or exceed the "normally acceptable" level.

Typically, a doubling of the ADT hourly volumes on a roadway segment is required in order to result in an increase of 3 dBA in traffic noise levels, which, as discussed in the characteristics of nose discussion above, is the lowest change that can be perceptible to the human ear in outdoor environments. Therefore, for the purposes of this analysis, a doubling of the existing ADT volumes would result in a substantial permanent increase in traffic noise levels.

Based on the traffic analysis prepared for the project by TJKM traffic consultants,[75] the proposed project is calculated to generate 302 daily trips, with 20 trips generated during the AM peak-hour and 25 trips generated during the PM peak-hour. The existing residential land uses on-site generated a total of 234 daily trips, with 15 trips generated during the AM peak-hour and 20 trips generated during the PM peak-hour. Thus, the proposed project would generate 68 net new daily trips, with 5 net new AM peak-hour trips, and 5 net new PM peak-hour trips. These net new trips would not double existing traffic trips on any roadway segment in the project vicinity. Furthermore, this percent increase in trips would result in a less than 1 dBA increase in traffic noise levels along any roadway segment in the project vicinity. This increase is below a level that would be a perceptible increase and well below a level that would be considered a substantial increase in traffic noise levels. Therefore, implementation of the proposed project would not result in a substantial increase in traffic noise levels compared with traffic noise levels existing without the project.

Stationary Source Operational Noise Impacts

A significant impact would occur if operational noise levels generated by stationary noise sources at the proposed project site would result in a substantial permanent increase in ambient noise levels in excess of any of the noise performance thresholds established by the City of San José. The Zoning Ordinance limits operational noise levels to 55 dBA L_{max} as measured at any receiving residential property.

The primary new stationary noise source associated with implementation of the proposed project would be the new mechanical ventilation systems associated with the proposed residential uses. Potential impacts associated with this new noise source are analyzed below.

Mechanical Equipment Operations

At the time of this analysis, details were not available pertaining to proposed mechanical ventilation systems for the project; therefore, a reference noise level for typical mechanical ventilation systems was used. Noise levels from typical residential mechanical ventilation equipment range from 50 dBA to 70 dBA L_{eq} at a distance of approximately 5 feet. Proposed mechanical ventilation systems could be located as close as approximately 30 feet from the nearest off-site receptors. At this distance,

[75] TJKM. 2022. Transportation Analysis Report, 2323-2391 Moorpark Avenue. June 19.

noise generated by mechanical ventilation equipment would attenuate to below 55 dBA L_{eq} at the nearest off-site residential receptors. These operational noise levels would not exceed the City's noise performance threshold of 55 dBA L_{max} as measured at the nearest residential property.

Therefore, mechanical ventilation system operational noise levels would not result in a substantial permanent increase in noise levels in excess of established standards. The impact of mechanical ventilation equipment operational noise levels on sensitive off-site receptors would be **less than significant.**

Noise Levels That Would Conflict with Any Land Use Plan, Policy, or Regulation

A significant impact would occur if the proposed multi-family residential land use development would be exposed to transportation noise levels in excess of applicable land use compatibility standards. The City considers environments with ambient noise levels of up to 60 dBA DNL to be "normally acceptable" for new residential land use development. Additionally, according to General Plan Policy EC-1.1, interior noise levels for all habitable rooms of the proposed multi-family residential development must not exceed 45 dBA DNL.

As previously discussed, the dominant noise source on the project site is traffic on I-280 to the north. According to the future noise contour map of the Noise Element of the General Plan,[76] the project site lies within the 65 dBA to 75 dBA DNL traffic noise contours of I-280. This portion of I-280 is depressed below-grade of the project site by more than 20-feet, and there is an existing 14-foot-high sound wall at the top of the embankment along the project's northern boundary line.

As noted in the Existing Noise Conditions section, a long-term noise measurement (LT-1) was conducted along the northern boundary of the project site, on the southern side of the cul-de-sac circle of Central Way, at the project's northeastern property line, approximately 50-feet south of the sound wall facing I-280. The documented 24-hour average ambient noise levels at this location averaged 66.5 dBA CNEL, with daytime average noise levels of 63.4 dBA L_{eq}, and nighttime average noise levels of 58.2 dBA L_{eq}. Measured ambient noise levels at this location exceeded 65 dBA in only one hour of the 24-hour period measured.

These projected noise levels are within the City's "conditionally acceptable" range for new residential land use development (60 dBA to 75 dBA DNL). Therefore, noise insulation features are needed to ensure that the proposed project would meet the interior noise level standard of 45 dBA DNL.

Based on the EPA's Protective Noise Levels, with a combination of walls, doors, and windows, standard construction in accordance with building code requirements for multi-family residential developments would provide 25 dBA in exterior-to-interior noise reduction with windows closed and 15 dBA or more with windows open.[77] With windows open, the interior noise levels of the proposed units exposed to the highest traffic noise levels that are projected to be experienced on the project site would not meet the interior noise standard of 45 dBA DNL for indoor sleeping areas (i.e., 66.5 dBA - 15 dBA = 51.5 dBA). However, the proposed residential buildings would include mechanical

[76] City of San José. 2010. Envision San José 2040 General Plan Draft Program EIR, Noise and Vibration. Figure 3.3-1: Existing Citywide Traffic Noise Contours Map. Page 311.

[77] United States Environmental Protection Agency (EPA). Protective Noise Levels. EPA 550/9-79-100, November 1978.

ventilation, which would allow windows to remain closed for prolonged periods of time, sufficiently reducing traffic noise levels to meet the interior noise level standard of 45 dBA DNL (i.e., 66.5 dBA–25 dBA = 41.5 dBA). With implementation of the proposed mechanical ventilation systems the projected future traffic noise levels on the project site would be reduced to ensure that the interior noise level standard is met.

Therefore, the proposed project would not conflict with the City's normally acceptable land use compatibility standard for this type of land use development. Therefore, implementation of the proposed project would not result in a conflict with applicable land use compatibility standards, and this impact would be **less than significant**.

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

Less than significant impact. In extreme cases, excessive groundborne vibration has the potential to cause structural damage to buildings. Common sources of groundborne vibration include construction activities such as blasting, pile driving, and operating heavy earthmoving equipment. In general, if groundborne vibration levels do not exceed levels considered perceptible, then groundborne noise levels would not be perceptible in most interior environments. Therefore, this analysis focuses on determining exceedances of groundborne vibration levels.

Construction-Related Vibration Impacts

A significant impact would occur if the proposed project would generate excessive groundborne vibration or groundborne noise levels. According to Policy EC-2.3 of the City's General Plan, a vibration limit of 0.08 in/sec PPV shall be used to minimize the potential for cosmetic damage to sensitive historical structures and a vibration limit of 0.20 in/sec PPV shall be used to minimize damage at buildings of normal conventional construction.

Of the variety of equipment used during construction, the small vibratory rollers anticipated to be used in the site preparation phase of construction would produce the greatest groundborne vibration levels. Small vibratory rollers produce groundborne vibration levels ranging up to 0.101 inch per second (in/sec) PPV at 25 feet from the operating equipment.

The nearest off-site structure is a commercial building located east of the project site, approximately 40 feet from the nearest construction footprint where small vibratory rollers would potentially operate. At this distance, groundborne vibration levels could range up to 0.05 PPV from operation of a small vibratory roller. This is well below the Federal Transit Administration (FTA) Construction Vibration Impact Criteria[78] of 0.2 in/sec PPV for this type of structure, a building of non-engineered timber and masonry construction, and the vibration limit of 0.08 in/sec PPV that would cause cosmetic damage to sensitive historic structures.

Therefore, construction-related groundborne vibration would not continually disturb adjacent properties or impact the general public's health, comfort, and convenience, nor would these vibration levels exceed the FTA's Construction Vibration Impact Criteria as measured at the nearest

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

receiving structures in the project vicinity. Project construction-related groundborne vibration impacts would be **less than significant**.

Operation-Related Vibration Impacts

A significant impact would occur if the proposed project would generate excessive groundborne vibration or groundborne noise levels. The City of San José Municipal Code states there shall be no activity on any site that causes ground vibration that is perceptible without instruments at the property line of the site.

Implementation of the proposed project would not include any permanent sources that would expose persons in the project vicinity to groundborne vibration levels that could be noticeable without instruments at the lot line of the project. In addition, there are no existing significant permanent sources of groundborne vibration in the project vicinity. Therefore, project operations would not generate excessive groundborne vibration levels or expose proposed uses to excessive groundborne vibration levels, and groundborne vibration impacts would be **less than significant**.

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

No impact. A significant impact would occur if the proposed project would expose people residing or working in the project area to excessive noise levels for a project located within the vicinity of a private airstrip or an Airport Land Use Compatibility Plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport.

The nearest airport to the project site is the Norman Y. Mineta San José Airport located 3.25 miles northwest of the project site. Because of the distance from and orientation of the airport runways, the project site is located well outside of the 65 dBA CNEL airport noise contours. While aircraft noise is occasionally audible on the project site from aircraft flyovers, aircraft noise associated with nearby airport activity would not expose people residing or working near the project site to excessive noise levels. Therefore, implementation of the proposed project would not expose persons residing or working in the project vicinity to noise levels from airport activity that would be in excess of normally acceptable standards for residential land use development, there would be **no project impact** associated with airport noise.

Standard Permit Conditions

SC NOI-1 **Construction-related Noise.** Noise minimization measures include, but are not limited to, the following:

- Pile Driving is prohibited.
- Limit construction to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific “construction noise mitigation plan” and a finding by the Director of Planning, Building, and Code Enforcement (PBCE) that the

construction noise mitigation plan is adequate to prevent noise disturbance of affected residential use.

- Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Prohibit unnecessary idling of internal combustion engines.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.
- If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
- Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.
- Mechanical equipment shall be selected and designed by the project applicant to reduce impacts on surrounding uses to meet the City's 55 dB(A) noise level requirement at the property line of 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 and installation of noise barriers, such as enclosures and parapet walls, to block the line of sight between the noise source and the nearest receptors. Other alternate measures may be optimal, such as locating equipment in less noise-sensitive areas, such as the rooftop away from the northern and eastern edges, where feasible.

Impact NOI-1

The project would result in substantial noise generating activities continuing for more than 12 months, which is considered a significant impact pursuant to General Plan Policy EC-1.7.

Mitigation Measures

MM NOI-1 Prior to the issuance of any demolition, grading or building permits, the project applicant shall prepare and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction (i.e., prior to grading permits) and implemented during construction to reduce noise impacts on neighboring residents and other uses.

As part of the noise logistics plan, the project applicant shall include, but is not limited to, the following best management practices:

- Construction activities shall be limited to daytime hours between 7:00 a.m. and 7:00 p.m. on weekdays.
- Construction operations shall be required to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. Because project construction would occur within 500 feet of residential uses and would last longer than 12-months, the following noise reduction measures shall be included:
  - Equipment staging and laydown areas shall be located at the furthest practical distance from nearby residential land uses. To the extent possible, staging and laydown areas should be located at least 500 feet of existing residential dwellings.
  - All equipment shall be fitted with factory equipped mufflers and be in good working condition. Construction contracts shall specify that all construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers and other State required noise attenuation devices.
  - Haul trucks shall not be allowed to idle for periods greater than five minutes, except as needed to perform a specified function (e.g., concrete mixing).
  - On-site vehicle speeds shall be limited to 15 miles per hour, or less (except in cases of emergency).
  - Backup beepers for all construction equipment and vehicles shall be broadband sound alarms or adjusted to the lowest noise levels possible, provided that the Occupational Safety and Health Administration and California Division of Occupational Safety and Health's safety requirements are not violated. On vehicles where backup beepers are not available, alternative safety measures such as escorts and spotters shall be employed.
  - During construction, stationary construction equipment shall be placed such that emitted noise is directed away from sensitive noise receivers.

The construction noise logistics plan shall be submitted to the Director of Planning, Building, and Code Enforcement (PBCE) or the Director's designee for review prior to issuance of any demolition, grading, or building permits.

Conclusion

Implementation of the proposed project would result in construction activities that could result in a temporary increase in ambient noise levels in the project vicinity that could result in annoyance or sleep disturbance of nearby sensitive receptors. Therefore, the proposed project would be required to implement SC NOI-1 and MM NOI-1. All other project-related noise and vibration impacts would be **less than significant.**

Non-CEQA

In addition to the impact analysis outlines above, the proposed project must also demonstrate compliance with the State and City interior and land use compatibility noise standards. Based on the technical analysis prepared by FCS dated September 6, 2022, titled, Noise Impact Analysis Report for the TTLC Moorpark Avenue Multi-family Residential Project, the project would be exposed to ambient noise levels in excess of the City's normally acceptable noise land use compatibility standards. Documented noise levels on the project site are within the City's "conditionally acceptable" range for new residential land use development (60 dBA to 75 dBA DNL). Therefore, noise insulation features are needed to ensure that the project would meet the interior noise level standard of 45 dBA DNL.

Based on the EPA's Protective Noise Levels, with a combination of walls, doors, and windows, standard construction in accordance with building code requirements for multi-family residential developments would provide 25 dBA in exterior-to-interior noise reduction with windows closed and 15 dBA or more with windows open. With windows open, the interior noise levels of the proposed units exposed to the highest traffic noise levels that are projected to be experienced on the project site would not meet the interior noise standard of 45 dBA DNL for indoor sleeping areas (i.e., 66.5 dBA - 15 dBA = 51.5 dBA). However, the proposed residential buildings would include mechanical ventilation, which would allow windows to remain closed for prolonged periods of time, sufficiently reducing traffic noise levels to meet the interior noise level standard of 45 dBA DNL (i.e., 66.5 dBA – 25 dBA = 41.5 dBA). With implementation of the proposed mechanical ventilation systems the projected future traffic noise levels on the project site would be reduced to ensure that the interior noise level standard is met.

Therefore, the project must comply with the following Standard Permit Condition to ensure that the project would incorporate design features to comply with the State and City interior and land use compatibility noise standards.

Standard Permit Condition

SC NOI-2 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

4.14.1 - Setting

Based on information from the Department of Finance, the City of San José population was estimated to be approximately 1,049,187 in January 2020.[79] The City had approximately 336,727 housing units in January 2020.[80] The ABAG projects that there will be approximately 448,310 households in the City by 2040.[81] The average number of persons per household in San José is approximately 3.19.[82]

Applicable Plans, Policies and Regulations

California Housing Element Law

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

Association of Bay Area Governments

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

Plan Bay Area 2040

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

[79] State of California, Department of Finance. 2020. E-1 Population Estimates for Cities, Counties and the State with Annual Percent Change–January 1, 2019, and 2020. Website: http://dof.ca.gov/Forecasting/Demographics/Estimates/E-1/ Accessed December 29, 2020.

[80] State of California, Department of Finance. 2020. E-5 Population and Housing Estimates for Cities, Counties, and the State, 2011-2020 with 2010 Census Benchmark. http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/ Accessed December 29, 2020.

[81] Association of Bay Area Governments (ABAG). 2017. Projections 2040.: Forecasts for Population, Household and Employment for the Nine County San Francisco Bay Area Region. Website: http://projections.planbayarea.org/ Accessed December 29, 2020.

[82] State of California, Department of Finance. 2020. E-5 Population and Housing Estimates for Cities, Counties, and the State, 2011-2020 with 2010 Census Benchmark. http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/ Accessed December 29, 2020.

Area is a limited and focused update to the 2013 Plan Bay Area with updated planning assumptions that incorporate key economic, demographic, and financial trends from the last several years.

General Plan

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

General Plan Relevant Population and Housing Policies

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

4.14.2 - Environmental Checklist and Discussion of Impacts

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

Impact Discussion

A project can induce substantial unplanned 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).

1) Would the project induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

Less than significant impact. The proposed project includes development of five 3-story multi-family buildings, providing 58 new units; 41 attached 2- and 3-bedroom residential dwelling units and 17 replacement rental units. Since 2015, the total population of San José has increased by an average of 4,229 residents per year.[83] Considering an average rate of 3.19 persons per household in San José in 2020, it is estimated that the project could house 185 individuals.[84] Current estimates indicate that the population of San José was 1,049,187 in January 2020; even assuming that the project were to bring in only new residents, as opposed to current City residents moving into the project, the project's contribution to population growth would only represent 0.01 percent of the current population.[85] More importantly, the proposed project is consistent with its land use and zoning designations. Therefore, the proposed project would not directly or indirectly result in substantial unplanned population growth, and impacts would be **less than significant**.

[83] Calculation from average yearly population increase as estimated by the State from 2010-2020.

[84] Calculation: 58 units X 3.19 average persons per household in San José. However, this is a conservative analysis as the replacement units would likely house fewer residents than the 3.19 person per household average.

[85] Existing tenants were not accounted for in this calculation. This calculation provides a conservative estimate.

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

Less than significant impact. The project site consists of 14 existing residential buildings with a total of 30 units, including multi-family dwelling units, duplexes, and apartments, some of which have attached or integrated carports, as well as a contemporary storage building, two metal storage containers, and associated landscapes. Residents of the existing on-site units have already vacated. Considering an average rate of 3.19 persons per household in San José in 2020, it is estimated that 95 people were displaced as a result of the project.[86] However, the proposed project would provide enough housing for approximately 185 people, so it would offset and overcompensate for the number of people displaced. Therefore, impacts would be **less than significant**.

Standard Permit Conditions

None.

Mitigation Measures

None.

Conclusion

Impacts to population and housing would be **less than significant**.

[86] Calculation: 30 units X 3.19 average persons per household in San José

4.15 - PUBLIC SERVICES

4.15.1 - Setting

Fire Protection Services

Fire protection services for the project site are provided by the San José Fire Department. The San José Fire Department responds to all fires, hazardous materials spills, and medical emergencies (including injury accidents) throughout the City. Emergency response is provided by 30 engine companies, nine truck companies, one urban search and rescue company, one hazardous incident team company, and numerous specialty teams and vehicles. The closest stations to the project site are Station 4, located at 710 Leigh Avenue, 1 mile east of the project site, and Station 10, located at 511 South Monroe Street, 1.3 miles west of the project site. The General Plan Policy ES-3.1-2 identifies a service goal for total response time of 8 minutes and total travel time of 4 minutes or less for 80 percent of emergency incidents.[87]

Police Protection Services

Police protection services for the project site are provided by the San José Police Department, headquartered at 201 West Mission Street. Officers are dispatched from police headquarters, located 4.6 miles northeast of the project site. The Envision San José 2040 General Plan Policy ES-3.1-1 identifies a service goal of 6 minutes or less for 60 percent of all Priority 1 (emergency) calls and 11 minutes or less for 60 percent of all Priority 2 (non-emergency) calls.[88]

Schools

The project site is currently located within the Campbell Union School District (CUSD) for kindergarten through grade 9 and within the Campbell Union High School District (CUHSD) for grades 9 through 12. The project site is currently within the attendance boundaries of Del Mar High School (9-12) located at 1224 Del Mar Avenue, San José, CA; Monroe Middle School (6-8), located at 1055 South Monroe Street; and Lynhaven Elementary School (K-5), located at 881 South Cypress Avenue. CUHSD district-wide enrollment as of October 2020 is 8,528 students and the current capacity is 11,158. Del Mar High School has a capacity of 2,131 students and the current enrollment is 1,326 students. The five-year projected enrollment for Del Mar High School is 1,440 students.[89]

Parks

The City's Department of Parks, Recreation, and Neighborhood Services is responsible for the development, operation, and maintenance of all City park facilities. The City of San José owns over 200 parks and 60 miles of scenic trails. The nearest municipal parks to the project site are Frank M. Santana Park, located at 511 South Monroe Street, San José, 0.45 mile northwest of the project site, and Buena Vista Park, located on Scott Street, San José, 0.8 mile northeast of the project site.

The City adopted the Parkland Dedication Ordinance (PDO) and Park Impact Ordinance (PIO),which require residential developers to dedicate public park land or pay in lieu fees (or both) to

[87] City of San José. 2011. Envision San José 2040 General Plan, Chapter 4 – Quality of Life. Website: https://www.sanjoseca.gov/home/showpublisheddocument?id=22359. Accessed December 30, 2020.
[88] Ibid.
[89] Dizon, April. Chief Business Officer, Campbell Union High School District. Personal communication: email. January 18, 2021.

compensate for the increase in demand for neighborhood parks. Additionally, the General Plan sets goals for park and community center acreage provisions based on City population size. The target ratio is 3 acres per 1,000 residents.[90]

Libraries

The City of San José is served by the San José Public Library System. The San José Public Library System consists of one main library (Dr. Martin Luther King Jr., jointly operated with San José State University) and 24 branch libraries. The San José Public Library operates the largest public library system between San Francisco and Los Angeles.

4.15.2 - Environmental Checklist and Discussion of Impacts

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

Impact Discussion

1) Would the project result in substantial adverse physical impacts associated with the provision of or need for new or physically altered fire protection facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives?

Less than significant impact. The San José Fire Department provides fire protection services to the project site. The proposed project would increase the residential population of the City by up to approximately 185 persons. However, the proposed project is consistent with the project site's General Plan Land Use designation and would not substantially increase demand for fire department facilities beyond what was assumed in the Envision San José 2040 General Plan EIR. The Envision San José 2040 General Plan EIR evaluated the need for new fire stations with buildout of the General Plan and concluded that implementation of the general plan would result in an increase in calls for fire protection services but would not result in the need for construction of fire stations in excess of

[90] Tkalcevic, Mike B. City of San José Parks, Recreation and Neighborhood Services. Personal communication: email. February 12, 2021.

those currently planned. In addition, the San José Fire Department would review the proposed project plans to ensure that adequate emergency access would be provided. Additionally, the applicant would be required to pay the applicable fire department development fees.[91] Therefore, impacts to fire protection services would be **less than significant**.

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

Less than significant impact. The police department headquarters that currently serve the project site is located approximately 4.6 miles northeast. As reported in the Envision San José 2040 General Plan EIR, police services would continue to be dispatched from police headquarters and no additional stand-alone police facilities are anticipated. The Envision San José 2040 General Plan EIR evaluated the need for new police stations with buildout of the General Plan and concluded that implementation of the general plan would result in an increase in calls for police protection services and may require the need for expansion of existing police facilities or the location of new facilities within Planned Growth Areas. Construction of new police facilities would require supplemental environmental review but is not anticipated by the Envision San José 2040 General Plan EIR to have significant adverse environmental impacts.

The proposed project would be constructed in accordance with the 2022 CBC and would be required to be maintained in accordance with applicable City policies to promote public and property safety. The increase in police service needs by the proposed development represents a small fraction of the total growth identified in the General Plan, which anticipated the type of development proposed at this location. The proposed project, by itself, would not preclude the police department from meeting their service goals and would not require the construction of new or expanded police facilities. Therefore, the proposed project would **not significantly impact** police protection services requiring the construction of new or remodeled facilities.

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

Less than significant impact. The proposed project would increase the residential population of the City by up to approximately 185 persons. Assuming that 24 percent of the new residents would be under 18 years old, the number of students within the school districts could increase by up to 32 students. The proposed project would be annexed into the City of San José but would remain in the CUSD and CUHSD district instead of the San José Unified School District.

According to correspondence with CUSD, the proposed project would be able to accommodate the students generated from the project with payment of development fees. The current assessed rate for residential developments is $2.65 per square foot. The CUSD estimates that the proposed project

[91] Estrada, Hector. San José Fire Department. Personal communication: phone call. January 22, 2021.

would generate approximately 21 elementary and middle school students within the CUSD, who would attend Lynnhaven Elementary and Monroe Middle School.[92]

According to CUHSD, at a yield rate of 0.09 grade 9-12 students per unit, the proposed project would yield four high school students total, and a net increase of one student within the CUHSD, who would attend Del Mar High School. According to CUHSD, the district can accommodate the students generated by the project with the existing facilities. [93] Additionally, residential development fees for CUHSD are $1.22 per square foot. Payment of the development fees for CUHSD would help to offset any impacts of the proposed project.[94]

With payment of the applicable development fees for each school district, impacts would be **less than significant.**

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

Less than significant impact. As discussed in Section 4.16, Recreation, the proposed project would provide 9,375 square feet of common open space, which includes a playground, seating areas, a lending library, and pet areas. The presence of the amenities could reduce the additional demand for and increased use of existing park facilities by residents. However, because the project could introduce up to approximately 185 residents to the City's population, it is likely there would be an increase in use of nearby parks, such as Frank M. Santana Park and Buena Vista Park. The proposed project would not increase the demand for park facilities beyond what was assumed in the Envision San José 2040 General Plan EIR. The Frank M. Santana Park is located 0.45 mile northwest of the project site and would provide park services to the proposed project. The Frank M. Santana Park is 5.22 acres and has a baseball field, open turf for games, and walking paths.

The City's PDO and PIO requires residential developments to dedicate land, pay in lieu fees, include parks and trails development, or a combination of these.[95] Pursuant to the Municipal Code, park impact fees that are collected shall be used for the development of park facilities or recreational facilities and must serve or benefit the residential project that paid the fees.[96]

The proposed project is consistent with the project site's General Plan Land Use designation and would not substantially increase demand for parks beyond what was assumed in the Envision San José 2040 General Plan EIR. Additionally, the proposed project would be required to pay park impact in lieu fees prior to the issuance of the building permit. Therefore, impacts would be **less than significant.**

---

92 Tran, Christina. Campbell Union School District. Personal communication: email. January 15, 2021.

93 Dizon, April. Chief Business Officer, Campbell Union High School District. Personal communication: email. January 18, 2021.

94 Campbell Union High School District. 2020. Developer Fees. Website: https://www.cuhsd.org/apps/pages/developer_fees. Accessed February 4, 2021.

95 City of San José. 2021. Parkland Dedication Ordinance, San José Municipal Code Chapter 19.38. Website: https://library.municode.com/ca/san_jose/codes/code_of_ordinances?nodeId=TIT19SU_CH19.38PADE. Accessed August 23, 2021.

96 City of San José. 2021. Use of Park Impact Fees, San José Municipal Code Chapter 14.25.350. Website: https://library.municode.com/ca/san_jose/codes/code_of_ordinances?nodeId=TIT14PUWOIM_CH14.25PAIMRE_PT3PAIMRE_14.25.350USPAIMFE. Accessed August 23, 2021.

5) Would the project result in substantial adverse physical impacts associated with the provision of or need for new or physically altered library and other facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives?

Less than significant impact. The Envision San José 2040 General Plan EIR considered the increased demand for public facilities, such as libraries, associated with the anticipated growth at full buildout of the General Plan. The closest public library to the project site is the Bascom Branch Library located at 1000 South Bascom Avenue, San José, 1 mile south of the project site. While the proposed project would increase the demand for libraries and other public facilities, the proposed project would not substantially increase demand for libraries and other public facilities beyond what was assumed in the Envision San José 2040 General Plan EIR. Therefore, impacts would be **less than significant.**

Standard Permit Conditions

None.

Mitigation Measures

None.

Conclusion

Impacts to public services would be **less than significant**.

4.16 - RECREATION

4.16.1 - Setting

The City of San José owns and maintains approximately 3,536 acres of parkland, including neighborhood parks, community parks, and regional parks, for a total of 209 public parks. The City has 41 community/neighborhood centers 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.

Applicable Plans, Policies and Regulations

General Plan

The following are the goals and policies established by the Envision San José 2040 General Plan[97] and are applicable to the proposed project:

General Plan Applicable Recreation Policies

Policies	Description
Policy PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
Policy PR-1.2	Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
Policy PR-2.4	To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a 3/4-mile radius of the project site that generates the funds.
Policy PR-2.5	Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, dog parks, sport fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.

4.16.2 - Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
1. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility will occur or be accelerated?	☐	☐	☒	☐

[97] City of San José. 2011. Envision San José 2040 General Plan – Chapter 4 Quality of Life. Page 235-236.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
2. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☒	☐

Impact Discussion

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

Less than significant impact. The proposed project would include the construction of 58 residential units and provide 9,375 square feet of common open space, which includes a playground, seating areas, a lending library, and pet areas. The presence of the amenities could reduce the additional demand for and increased use of existing park facilities by residents. However, because the project could introduce up to approximately 185 residents to the City's population, it is likely there would be an increase in use of nearby parks, such as Frank M. Santana Park and Buena Vista Park.

As previously discussed in Section 4.15, Public Services, the City adopted a PDO and PIO requiring new residential developments to either provide parkland, pay impact fees, or improve or construct recreational facilities. Additionally, the General Plan sets goals for park and community center acreage provisions based on City population size. The project could increase the residential population of the City of San José by up to approximately 185 persons.[98] However, the proposed project is consistent with the project site's General Plan Land Use designation and would not substantially increase demand for parks or other recreational facilities, beyond what was assumed in the Envision San José 2040 General Plan EIR. In addition, the proposed project would be subject to park impact in lieu fees prior to the issuance of the building permit. Therefore, impacts would be **less than significant**.

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

Less than significant impact. The proposed project would provide 9,375 square feet of common open space, including a playground, a lending library, pet areas, and seating areas. While residents may choose to use other public recreational facilities in the vicinity, the addition of up to approximately 185 residents would not require the construction or expansion of recreational facilities that may have an adverse physical effect on the environment. Therefore, impacts would be **less than significant**.

[98] Existing tenants were not accounted for in this calculation. This calculation provides a conservative estimate.

Standard Permit Conditions

None.

Mitigation Measures

None.

Conclusion

Impacts to recreation would be **less than significant**.

4.17 - TRANSPORTATION

The following discussion is based, in part, on the Transportation Analysis Report prepared for the proposed project dated June 19,2022, by TJKM. The Transportation Analysis Report is included as Appendix H of this document.

4.17.1 - Setting

The Transportation Analysis Report conducted for this project is utilized determine the potential transportation impacts as a result of implementation of the proposed project based on the standards and methodologies set forth by the City of San José's Transportation Analysis Policy and Transportation Analysis Handbook.

The project site is located on Moorpark Avenue at the north of the T-intersection of Moorpark Avenue and Turner Avenue. Access to the project site would be provided via two two-way driveways on Central Way.

Existing Conditions

Roadway Network

Regional access to the project site is provided by I-280 and Interstate 880 (I-880). Important roadways adjacent to the project site are discussed below:

1. **Interstate 280 (I-280)** is an eight-lane freeway (three mixed-flow lanes and one High Occupancy Vehicle (HOV) lane in each direction) in the vicinity of the project site. I-280 extends northward through San Francisco and southward through San José. Access to and from the site is provided via the I-280 ramps on Moorpark Avenue and Parkmoor Avenue.
2. **Interstate 880 (I-880)** is an eight-lane freeway in the vicinity of the project site. I-880 extends northward through Oakland and southward through San José. Access to and from the site is provided via the I-880 ramps on Moorpark Avenue and the I-880 ramps from the I-280.
3. **State Route 17 (SR-17)** is an eight-lane freeway in the vicinity of the project site. SR-17 extends northward through San José and turns into I-880 at the interchange with I-280 near the project site. SR-17 extends southward through Santa Cruz. Access to and from the site is provided via the interchange of I-880 and Stevens Creek Boulevard in the north and the interchange of SR-17 and Hamilton Avenue in the south.
4. **Moorpark Avenue** is an east–west roadway classified as a City Connector Street as per San José General Plan and extends from Lawrence Expressway to Kingman Avenue. It is four-lanes wide throughout most of the study area; it narrows to two lanes between Menker Avenue and Kingman Avenue. Moorpark Avenue turns into one-way street between South Bascom Avenue and Menker Avenue and accommodates only eastbound traffic. As shown in Figure 5, Site Plan, Moorpark Avenue provides indirect access to the project site through Central Way for vehicular traffic and direct access to the project site for pedestrian traffic through a walkway (Figure 5). The posted speed limit is 35 mph.
5. **South Bascom Avenue** within the project vicinity is a six-lane, north–south roadway classified as a Main Street in San José General Plan. South Bascom Avenue extends from E Mozart

Avenue to Steven Creek Boulevard, where it turns into North Bascom Avenue. The speed limit along South Bascom Avenue is 35 mph.

6. **MacArthur Avenue/Ginger Lane** within the project vicinity is a two-lane, north–south roadway. MacArthur Avenue extends from Stevens Creek Boulevard to Moorpark Avenue, where it turns into Ginger Lane and extends between Moorpark Avenue and Enborg Lane. The speed limit along MacArthur Avenue and Ginger Lane is 25 mph.
7. **Turner Avenue** is a two-lane, north–south Street that extends between Moorpark Avenue and Clover Drive.
8. **Central Way** is a two-lane, north–south/east–west cul-de-sac that currently has inlet and outlet on Moorpark Avenue. Central Way provides direct access to the project site.

Pedestrian Facilities

Pedestrian facilities in the project area include a concrete walkway on Moorpark that provides pedestrian access to the project site. In the project vicinity, signalized intersections are equipped with countdown pedestrian signal heads.

The South Bascom Avenue and Moorpark Avenue intersection has crosswalks on all legs except the north leg. The Moorpark Avenue and Turner Avenue intersection has crosswalks on the south and east legs. The Moorpark Avenue and Ginger Lane-MacArthur Avenue intersection has crosswalks on all the legs. There are continuous sidewalks present on Moorpark Avenue along both sides near the project site.

Bicycle Facilities

Class II Bike Lanes are lanes on roadways designated for use by bicycles through striping, pavement legends and signs. The nearest Class II bicycle facility in project vicinity runs on Moorpark Avenue, west of Pfeffer Lane/Thornton Way.

Class IV Bike Lanes (Class IV) are separated bike lanes, also known as cycle tracks or protected bike lanes, are a dedicated bikeway that combines the user experience of a multiuse path but are located on a street. They are physically distinct from the sidewalk and separated from motor vehicle traffic by a physical object such as parking, a curb, or posts. The City of San José Better Bike Plan 2025, dated October 2020, describes a list of existing and proposed bicycle facilities in the City. According to the Bike Plan, Class IV protected bike lanes are proposed on Moorpark Avenue between Winchester Boulevard and South Bascom Avenue, and South Bascom Avenue between West Hedding Street and Fruitdale Avenue.

Class III Bike Boulevards are basic bike routes on calmer streets that are enhanced with additional elements to increase comfort for people bicycling. These elements include crossing enhancements and traffic calming features such as speed humps, bulb outs, or traffic diverters. A Class III Bike Boulevard is proposed on Thornton Avenue between Moorpark Avenue and Downing Avenue.

Transit Service

The Santa Clara Vehicle Transportation Authority (VTA) operates bus service and light rail services in the City of San José. The proposed project site is served by VTA local bus Route 25 at bus stops

located along both Moorpark Avenue and Ginger Lane, and Route 61 with the nearest bus stop located on South Bascom Avenue. These routes run on weekdays and weekends. The bus stops are accessible to and from the project site via existing sidewalks and crosswalks within the vicinity of the project site. As such, the project site is within less than 0.5 mile to a major transit corridor (PRC § 21155).

There are two bus stops in the immediate vicinity of the project site. One stop is located on Moorpark Avenue/Thornton Way, and the second stop is located on Ginger Lane/Middle Drive. Both bus stops are located approximately 0.3 mile (5-minute walking distance) from the project site and are accessible to and from the project site via existing sidewalks and crosswalks along Moorpark Avenue. Table 22 describes the services and frequency during the week and weekend for VTA bus routes.

Table 22: Existing Transit Services

Route	From	To	Weekdays		Weekends	
			Operating Hours	Headway (minutes)	Operating Hours	Headway (Minutes)
25	Alum Rock Station (Bay 3)	Stelling and Stevens Creek	5:31 a.m.–10:40 p.m.	15-35	5:46 a.m.–10:00 p.m.	20-35
61	Good Samaritan Hospital	Sierra and Piedmont	5:23 a.m.–9:56 p.m.	20-45	6:57 a.m.–7:53 p.m.	30

Existing Levels of Service

The existing operations of the study intersections were evaluated for the highest 1-hour volume during the weekday morning and evening peak periods. A peak-hour factor of 1.00 was used at the study intersections for the existing conditions analysis. The results of the LOS analysis using the TRAFFIX software program for Existing Conditions are summarized in Table 23.

Under this scenario, the study intersection operates within applicable jurisdictional standards of the City of San José Level of Service (LOS D) or better during the AM and PM peak-hours. It should be noted that the LOS summary results presented in Table 23 are based on an isolated intersection analysis method adopted by the City of San José.

Table 23: Intersection Level of Service Analysis–Existing Conditions

Intersection	Control	Peak-Hour[1]	Existing Conditions			
			Average Delay[2]	LOS[3]	Critical V/C[4]	Critical Delay[5]
Turner Avenue/ Moorpark Avenue	Signal	AM PM	16.3 15.1	B B	0.641 0.759	30.1 25.7
Moorpark Avenue/ Central Way	Two-Way Stop	AM PM	13.4 18.2	B C	– –	– –

Intersection	Control	Peak-Hour[1]	Existing Conditions			
			Average Delay[2]	LOS[3]	Critical V/C[4]	Critical Delay[5]

Notes:
1 AM–morning peak-hour, PM–evening peak-hour
2 Average intersection delay expressed in seconds per vehicle for signalized intersections.
3 LOS = Level of Service
4 Critical V/C–Critical Volume-to-Capacity ratio
5 Critical delay is expressed in seconds per vehicle for signalized intersections.

Regulatory Framework

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.[99] The following policies are specific to transportation. The proposed project qualifies as "a housing development project" under the Housing Crisis Act of 2019 (Housing Crisis Act) and the Housing Accountability Act (HAA). Under the Housing Crisis Act, affected cities may not impose or enforce design standards on or after January 1, 2020, that are not objective design standards (Government Code 66300(b)(1)(C)). An "objective design standard" is defined as "a design standard that involves no personal or subjective judgment by a public official and is uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal of an application" (Government Code 66300(a)(7)). In addition, under the HAA, housing development projects need only demonstrate consistency or compliance with "applicable, objective general plan . . . standards and criteria, in effect at the time that the application was deemed complete" (Government Code 65589.5(j)(1)). Under the HAA, "objective" is defined in the same manner as under the Housing Crisis Act (See Government Code 65589.5(h)(8)). Many of the General Policies identified below involve subjective judgment and therefore do not apply to the proposed project. Nevertheless, the proposed project is designed to be consistent with the General Plan's transportation policies.

Envision San José 2040 Relevant Transportation Policies

Policy	Description
Policy TR-1.1	Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and Vehicle Miles Traveled (VMT).
Policy TR-1.2	Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.
Policy TR-1.4	Through the entitlement process for new development, fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.

[99] City of San José. 2011. Envision San José 2040 General Plan – Chapter 6 Land Use and Transportation. Page 319-334.

Envision San José 2040 Relevant Transportation Policies

Policy	Description
Policy TR-1.5	Design, construct, operate, and maintain public streets to enable safe, comfortable, and attractive access and travel for motorists and for pedestrians, bicyclists, and transit users of all ages, abilities, and preferences.
Policy TR-1.6	Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.
Policy TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
Policy TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.
Policy TR-5.3	Development projects' effects on the transportation network will be evaluated during the entitlement process and will be required to fund or construct improvements in proportion to their impacts on the transportation system. Improvements will prioritize multimodal improvements that reduce VMT over automobile network improvements.
Policy TR-8.4	Discourage, as part of the entitlement process, the provision of parking spaces significantly above the number of spaces required by code for a given use.
Policy TR-8.6	Allow reduced parking requirements for mixed-use developments and for developments provided shared parking or a comprehensive TDM program, or developments located near major transit hubs or within Urban Villages and other Growth Areas.
Policy TR-8.9	Consider adjacent on-street and City-owned off-street parking spaces in assessing need for additional parking required for a given land use or new development.
Policy TR-9.1	Enhance, expand, and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.
Policy CD-2.3	Enhance pedestrian activity by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Corridors, Main Streets, and other locations where appropriate.
Policy CD-2.10	Recognize that finite land area exists for development and that density supports retail vitality and transit ridership. Use land use regulations to require compact, low impact development that efficiently uses land planned for growth, especially for residential development which tends to have a long life-span. Strongly discourage small lot and single-family detached residential product types in growth areas.
Policy CD-3.3	Within new development, create a pedestrian friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.
Policy CD-3-6	Encourage a street grid with lengths of 600 feet or less to facilitate walking and biking. Use design techniques such as multiple building entrances and pedestrian paseos to improve pedestrian and bicycle connections.

San José Better Bike Plan 2025

The San José Better Bike Plan 2025[100] defines the City's vision to make bicycling an integral part of daily life in San José. The plan recommends policies, projects, and programs to realize this vision and create a San José community where bicycling in convenient, safe, and commonplace. The plan includes the following goals for improving bicycle access and connectivity: (1) complete 500 miles of bikeways, (2) achieve a 5 percent bike mode share, (3) reduce bicycle collision rates by 50 percent, (4) add 5,000 bicycle parking spaces, and (5) achieve Gold-Level Bicycle Friendly Community status. The Bike Plan defines a 500-mile network of bikeways that focuses on connecting off-street bikeways with on-street bikeways.

Senate Bill 743 and City Council Policy 5-1

Historically, transportation analysis has utilized delay and congestion on the roadway system as the primary metric for the identification of traffic impacts and potential roadway improvements to relieve traffic congestion. However, the State of California has recognized the limitations of measuring and mitigating only vehicle delay at intersections and in 2013 passed SB 743, which requires jurisdictions to stop using congestion and delay metrics, such as LOS, as the measurement for CEQA transportation analysis. With the adoption of SB 743 legislation, public agencies are required to base the determination of transportation impacts on VMT rather than LOS.

In adherence to SB 743, the City of San José has adopted a new Transportation Analysis Policy, City Council Policy 5-1. The policy replaces its predecessor (Policy 5-3). The new transportation policy establishes the thresholds for transportation impacts under CEQA Guidelines, removing LOS and replacing with VMT. 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 business park 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 a low-density of residential developments and no transit service in the vicinity.

The intent of this change is to shift the focus of transportation analysis under CEQA Guidelines from vehicle delay and roadway vehicle capacity to a reduction in vehicle emissions, and the creation of robust multimodal networks that support integrated land uses. The new transportation policy aligns with the General Plan, which focuses new development growth within Planned Growth Areas, bringing together office, residential, and supporting service land uses to internalize trips and reduce VMT. All new development projects are required to analyze transportation impacts using the VMT metric and conform to City Council Policy 5-1.

According to the policy, an employment (e.g., office, R&D) or residential project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing

[100] City of San José. 2020. San José Better Bike Plan 2025. Website; https://www.sanjoseca.gov/home/showpublisheddocument/68962/637477999451470000. Accessed September 22, 2021.

average regional VMT per employee or the existing average citywide VMT per capita, respectively. 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 an LTA to disclose non-CEQA transportation issues, including local transportation operations, intersection LOS, site access and circulation.

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 have a less than significant VMT impact. Under Policy 5-1, the screening criteria are:

1. Small infill projects
2. Local-Serving Retail
3. Local-Serving Public Facilities
4. Transit Supportive Projects in Planned Growth Areas with Low VMT and High-Quality Transit
5. Restricted Affordable, Transit Supportive Residential Projects in Planned Growth Areas with High-Quality Transit
6. Transportation Projects that reduce or do not increase VMT

According to the General Plan, the project site is not located in a planned growth area.[101] Therefore, a VMT analysis was performed. See Impact 4.17(b).

As established in City Council Policy 5-1 "Transportation Analysis Policy" (2020), the City of San José uses VMT as the metric to assess transportation impacts from new development.

Per the Governor's Office of Planning and Research (OPR) Technical Advisory on Evaluating Transportation Impacts in CEQA,[102] adding affordable housing to infill locations generally improves jobs housing match, in turn shortening commutes and reducing VMT. Further, " . . . low-wage workers in particular would be more likely to choose a residential location close to their workplace, if one is available." In areas where existing jobs housing match is closer to optimal, low-income housing nevertheless generates less VMT than market-rate housing. Therefore, a project consisting of a high percentage of affordable housing may be a basis for the lead agency to find a less than significant impact on VMT. Evidence supports a presumption of less than significant impact for a 100 percent affordable residential development (or the residential component of a mixed-use development) in infill locations. Lead agencies may develop their own presumption of less than significant impact for residential projects (or residential portions of mixed-use projects) containing a particular amount of affordable housing, based on local circumstances and evidence. Furthermore, a project which includes any affordable residential units may factor the effect of the affordability on VMT into the assessment of VMT generated by those units.

[101] City of San José. Envision San José 2040 General Plan Planned Growth Areas Diagram. Website: https://www.sanjoseca.gov/home/showpublisheddocument/22559/637510550298470000. Accessed November 14, 2022.
[102] California Governor's Office pf Planning and Research. 2018. Technical Advisory on Evaluating Transportation Impacts in CEQA. December. Website: https://opr.ca.gov/ceqa/docs/20190122-743_Technical_Advisory.pdf. Accessed December 13, 2022.

Assembly Bill 2097

AB 2097, which comes into effect in January 2023, prohibits a public agency from imposing any minimum automobile parking requirement on any residential, commercial, or other development project, as defined, that is located within 0.5 mile of public transit, as defined, with certain exceptions and provisions.

The bill, notwithstanding the above-described prohibition, would authorize a city, county, or city and county to impose or enforce minimum automobile parking requirements on a housing development project if the public agency makes written findings, within 30 days of the receipt of a completed application, that not imposing or enforcing minimum automobile parking requirements on the development would have a substantially negative impact, supported by a preponderance of the evidence in the record, on the public agency's ability to meet its share of specified housing needs or existing residential or commercial parking within 0.5 mile of the housing development. The bill would create an exception from the above-described provision if the housing development project (1) dedicates a minimum of 20 percent of the total number of housing units to very low, low-, or moderate-income households, students, the elderly, or persons with disabilities, (2) contains fewer than 20 housing units, or (3) is subject to parking reductions based on any other applicable law. The bill would prohibit these provisions from reducing, eliminating, or precluding the enforcement of any requirement imposed on a housing development project that is located within 0.5 mile of public transit to provide EV supply equipment installed parking spaces or parking spaces that are accessible to persons with disabilities.

Metropolitan Transportation Commission

The MTC is the transportation planning, coordinating, and financing agency for the nine county San Francisco Bay Area, including Santa Clara County. MTC is charged with regularly updating the RTP, a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle, and pedestrian facilities in the region. MTC and ABAG adopted Plan Bay Area 2040 in July 2017, which includes the region's Sustainable Communities Strategy (integrating transportation, land use, and housing to meet GHG reduction targets set by ARB) and RTP (including a regional transportation investment strategy for revenues from federal, State, regional and local sources over the next 24 years).

Congestion Management Program

The Santa Clara Valley Transportation Authority oversees the Santa Clara Congestion Management Program (CMP). The relevant State legislation requires that all urbanized counties in California prepare a CMP in order to obtain each county's share of the increased gasoline tax revenues. The legislation requires that each CMP contain the following five mandatory elements: (1) a system definition and traffic LOS standard element, (2) a transit service and standards element, (3) a trip reduction and TDM element, (4) a land use impact analysis program element, and (5) a capital improvement element. The Santa Clara County CMP includes the five mandated elements and three additional elements, including a countywide transportation model and database element, an annual monitoring and conformance element, and a deficiency plan element.

4.17.2 - Environmental Checklist and Discussion of Impacts

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

Impact Discussion

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

Less than significant impact. The proposed project's consistency with City Council Policy 5-1 is included in the discussion of VMT under Question 2, below.

Interstate 280/Winchester Boulevard Transportation Development Policy

The I-280/Winchester Boulevard Transportation Development Policy (TDP) outlines the partial funding for the implementation of a new westbound off-ramp from I-280 to Winchester Boulevard via a traffic impact fee imposed on the proposed development. The purpose of the TDP is to alleviate traffic congestion associated with the anticipated intensification of development in the vicinity of the interchange and to provide more direct access from I-280 northbound to West San José Urban Village areas and surrounding areas. According to the analysis done by TJKM, the existing residential development generates 234 daily trips, including 15 trips during AM peak-hour and 20 trips during PM peak-hour. The proposed project is calculated to generate 302 daily trips, with 20 trips generated during the AM peak-hour and 25 trips generated during the PM peak-hour. Thus, the proposed project would generate 68 net new daily trips, with 5 net new AM peak-hour trips, and 5 net new PM peak-hour trips.[103] Therefore, there would be nominal impacts anticipated to I-280/Winchester Boulevard Interchange.

Transit Facilities

TJKM's transportation analysis concluded that the proposed project would add nominal trips to the existing transit facilities, which could be accommodated by the existing transit capacity. Therefore,

[103] TJKM. 2022. Transportation Analysis Report, 2323-2391 Moorpark Avenue. June 19.

the proposed project would not have adverse effects on transit facilities on the project site or in the surrounding area. Impacts associated with transit facilities would be **less than significant.**

Pedestrian Facilities

The proposed project would not have an adverse effect on the existing or planned pedestrian facilities in the project vicinity. The area currently has driveways fronting Moorpark Avenue. The proposed project will only have vehicle access points on Central Way, allowing for continuous sidewalks along Moorpark Avenue. The project proposes to dedicate a portion of the project site to provide pedestrian connectivity along the project frontage on Moorpark Avenue. With both vehicle access points via Central Way and Moorpark Avenue and pedestrian connectivity along Moorpark Avenue, the proposed project would have adequate accessibility. Furthermore, the proposed improvements by project applicant as shown in the site plan (Figure 5), would comply with City of San José requirements. Therefore, impacts associated with pedestrian facilities would be **less than significant.**

Bicycle Facilities

The proposed project would contribute a fair share for the implementation of future Class IV bike lanes along Moorpark Avenue as per the City of San José standards. An impact on bicyclists occurs if the proposed project disrupts existing bicycle facilities or conflicts or creates inconsistencies with adopted bicycle system plans, guidelines, and policies. Because bicycle facilities would provide connectivity between the project site and the adjacent residential neighborhoods, the proposed project would not have an adverse effect on the existing or planned bicycle facilities in the immediate project vicinity.

Based on the discussion provided above, the proposed project would not conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, nor would it decrease the performance or safety of existing facilities. Impacts would be **less than significant**.

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

Less than significant impact.

Based on the VMT analysis screening criteria in the Transportation Analysis Handbook 2020[104] to determine conformance to Council Policy 5-1, the proposed project is below the City's residential project screening threshold. Based on the VMT Evaluation tool, the existing residential area VMT is 9.62 per capita. The project VMT is 9.5 per capita, which is below the City's residential threshold of 10.12. Therefore, the proposed project would not result in an impact on the transportation system based on the City's VMT impact criteria. Impacts would be **less than significant.**

[104] City of San José. 2020. Transportation Analysis Handbook 2020. Website: https://www.sanjoseca.gov/home/showdocument?id=28461. Accessed September 22, 2021.

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

Less than significant impact.

On-Site Circulation

TJKM examined the proposed project's site plan in order to evaluate the adequacy of on-site vehicle circulation, including emergency vehicles. Based on the evaluation, the proposed on-site vehicle circulation is adequate and would not result in any traffic operations issues that would result in safety hazards.[105] Emergency vehicle access is discussed in more detail in Question 4, below.

Sight Distance Analysis

Sight distance is evaluated to determine whether a driver will have adequate visibility to enter a roadway safely without resulting in a conflict with traffic already on the roadway. The project access points would be required to be free and clear of any obstructions that would materially and adversely affect sight distance, thereby ensuring that exiting vehicles can see pedestrians on the sidewalk and other vehicles traveling on adjacent roadways. The proposed project would adhere to regulations and requirements set forth in the City's Municipal Code, Chapter 15, Part 3, Landscape Installation Requirements.[106] The proposed project driveways are at the west end of Central Way cul-de-sac. Cul-de-sacs reduce the number of motor vehicle accidents compared to grid-based roadways, and generally encourage safer driving practices. The Central Way cul-de-sac is wide enough for vehicles to easily maneuver in and out of driveways and service and emergency vehicles to turn around. There were no conflicts observed turning into and out of the project driveways.

According to the Caltrans Highway Design Manual (HDM), Chapter 200,[107] the required minimum stopping sight distance for design speed of 35 mph (Moorpark Avenue) is 250 feet. The distance between the intersection of Turner Avenue/Moorpark Avenue and Central Way/Moorpark Avenue is approximately 330 feet, which is adequate. The line of sight for vehicles exiting the driveways and vehicles traveling eastbound/westbound on Moorpark Avenue is clear and visible. Therefore, the proposed project would not cause any hazards due to inadequate sight distance and **impacts would be less than significant.**

Future Moorpark Avenue Realignment

The applicant is aware of the City of San José's desire to realign Moorpark Avenue to improve local circulation and safety; therefore, as a condition of approval of the project, the applicant would convey property to the City in support of this realignment. If the applicant becomes required to construct the street realignment work during project construction, the Moorpark Avenue and Turner Avenue intersection should be reconfigured by signal modification timing due to the curb line shift that matches with the existing Moorpark alignment to the east and west. The Moorpark Avenue and Turner Avenue intersection improvements would be required to include vehicle detection, curb and

[105] TJKM. 2021. Transportation Analysis Report – 2323-2391 Moorpark Avenue. July 19.

[106] City of San José. 2020. City of San José Municipal Code – Chapter 15, Part 3. Website: https://library.municode.com/ca/san_jose/codes/code_of_ordinances?nodeId=TIT15PUUT_CH15.11WAEFLASTNERELA_PT3LAINRE. Accessed September 22, 2021.

[107] California Department of Transportation (Caltrans). 2020. Highway Design Manual – Chapter 200, Geometric Design and Structure Standards. Website: https://dot.ca.gov/-/media/dot-media/programs/design/documents/chp0200-a11y.pdf. Accessed September 22, 2021.

sidewalk enhancements, new signalized crosswalk for the west leg of the intersection, and Americans with Disabilities Act (ADA) compliance. Since work would be conducted in the public right-of-way, a traffic control plan would be required. A traffic control plan would detail the work area, warning and construction signs, night operations, use of flaggers, bicycle considerations, and other special considerations. The traffic control plan would provide pedestrian connectivity and safety along Moorpark Avenue and ensure that the realignment work would not increase any hazards.

For the reasons provided above, the proposed project would not substantially increase hazards on the project site. Furthermore, the proposed project would be subject to City review to ensure compliance with traffic engineering standards and as the project is proposed, the project would not increase hazards due to geometric design features or incompatible uses. Therefore, impacts would be **less than significant**.

4) Would the project result in inadequate emergency access?

Less than significant impact. TJKM examined the project site plan in order to evaluate the adequacy of on-site vehicle circulation, including emergency vehicle access. TJKM reviewed internal and external access for the project site for vehicles, pedestrians, and bicycles.

Access to the project site would be provided via two access points on the Central Way frontage. The east–west driveway is 20-foot wide and north–south driveway is 26-feet wide. Based on the evaluation, the driveways are expected to be adequate for passenger vehicles accessing the site. In addition, the 95th percentile queueing at the outbound approach of the project driveway is expected to be minimal.

TJKM also evaluated the adequacy of on-site circulation for vehicles, garbage trucks, and emergency vehicles. All circulation aisles are 20- to 26-feet wide and accommodate two-way travel. The turning radii are adequate for the garbage and delivery trucks. Emergency vehicles would access the project site via the proposed driveway on Central Way. Overall, the proposed on-site vehicle circulation would be adequate and would not result in any significant operational issues. There were no conflicts observed with vehicles on the eastern driveway with shrubbery. The proposed project would adhere to regulations and requirements set forth in the City's Municipal Code, Chapter 15, Part 3, Landscape Installation Requirements.[108]

Based on the evaluation, the proposed on-site vehicle circulation is adequate and would not result in any traffic operations issues and would allow for adequate emergency access. Impacts would be **less than significant.**

4.17.3 - Non-CEQA Effects

In addition to the analysis provided above, the following discussion is not required under CEQA Guidelines but is provided here to help the decision-makers in their consideration of the project.

[108] City of San José. 2020. City of San José Municipal Code – Chapter 15, Part 3. Website: https://library.municode.com/ca/san_jose/codes/code_of_ordinances?nodeId=TIT15PUUT_CH15.11WAEFLASTNERELA_PT3LAINRE. Accessed September 22, 2021.

Trip Generation

TJKM developed estimated project trip generation for the proposed project based on published trip generation rates from the Institute of Transportation Engineers (ITE) publication Trip Generation (10th Edition). Based on ITE Trip Generation (10th Edition), the existing residential development generates 234 daily trips, including 15 trips during AM peak-hour and 20 trips during PM peak-hour. These trips are deducted from the trip generation of the proposed project. In addition, TJKM applied trip discounts to the proposed project trip generation that are consistent with the City of San José and VTA Traffic Analysis Guidelines in terms of development densities and location-based mode share adjustments in consultation with the City of San José staff.

TJKM used published trip rates for the ITE land use Multi-family Housing (Mid-Rise) (ITE Code 221) for the townhomes and Multi-family Housing (Low-Rise) (ITE Code 220) for the ADU units for the proposed project. Table 24 shows the net trip generation expected to be generated by the proposed project. The proposed project is calculated to generate 302 daily trips, with 20 trips generated during the AM peak-hour and 25 trips generated during the PM peak-hour. Thus, the proposed project would generate 68 net new daily trips, with 5 net new AM peak-hour trips, and 5 net new PM peak-hour trips.

Table 24: Project Trip Generation

	Size	Daily		AM Peak-hour			PM Peak-hour		
		Rate	Trips	In	Out	Total	In	Out	Total
Proposed Land Use									
Multi-family Housing (Mid-Rise) (ITE Code 221)[3]	41 du	5.44	223	4	11	15	11	7	18
Multi-family Housing (Low-Rise) (ITE Code 220)[2]	17 du	7.32	*123*	*2*	*6*	*8*	*6*	*4*	*10*
Location-based Mode Share Reduction[4]	–	–	*45*	*1*	*2*	*3*	*2*	*1*	*3*
Existing Land Use									
Single-family Detached Housing (ITE Code 210)[1]	7 du	9.44	66	1	4	5	4	3	7
Multi-family Housing (Low-Rise) (ITE Code 220)[2]	23 du	7.32	168	2	8	10	8	5	13
Existing Land Use Total Trips			234	3	12	15	12	8	20
TOTAL NET TRIPS			**68**	**2**	**3**	**5**	**3**	**2**	**5**

Notes:
du = Dwelling Units
[1] Single-family Detached Housing (ITE Land Use Code 210) vehicle trip rates are based upon the number of dwelling units.
[2] Multi-family Housing (Low-Rise) (ITE Land Use Code 220) vehicle trip rates are based upon the number of dwelling units.
[3] Multi-family Housing (Mid-Rise) (ITE Land Use Code 221) vehicle trip rates are based upon the number of dwelling units.
[4] Location-based Mode Share Adjustments: Based on VMT Evaluation Tool. 13 percent reduction for Urban Low Transit for residential land use.
Source: ITE Trip Generation Manual, 10th Edition, 2017.

Project Trip Distribution and Assignment

Trip distribution is a process that determines in what proportion vehicles would be expected to travel between the project site and various destinations outside the project study area. Assignment determines the various routes that vehicles would take from the project site to each destination using the calculated trip distribution.

Project access will be provided via two full-access driveways along the Central Way frontage. Existing driveways are located along Moorpark Avenue and Central Way. The proposed project trips and existing trips would be re-routed from Moorpark Avenue toward Central Way.

Intersection Traffic Operations

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. The results of the intersection LOS analysis show that the study intersection operates within standards of the City of San José LOS D or better during the AM and PM peak-hours. Therefore, the proposed project would not have any adverse effects at the study intersection.

Standard Permit Conditions

None.

Mitigation Measures

None.

4.17.4 - Conclusion

The proposed project would result in **less than significant** impacts related to transportation.

4.18 - TRIBAL CULTURAL RESOURCES

4.18.1 - Setting

Applicable Plans, Policies, and Regulations

State

Assembly Bill 52

AB 52, effective July 2015, established a new category of resources for consideration by public agencies called Tribal Cultural Resources (TCRs). AB 52 requires lead agencies to provide notice of projects to tribes that are traditionally and culturally affiliated with the geographic area if they have requested to be notified. Where a project may have a significant impact on a TCR, consultation is required until the parties agree to measures to mitigate or avoid a significant effect on a TCR or until it is concluded that mutual agreement cannot be reached.

Under AB 52, TCRs are defined as follows:

- Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are also either:
  - Included or determined to be eligible for inclusion in the California Register of Historic Resources, or
  - Included in a local register of historical resources as defined in Public Resources Code Section 5020.1(k).
- A resource determined by the lead agency to be a TCR.

Assembly Bill 52 Tribal Consultation

AB 52 notification were sent to tribal representatives in October 2022 and no response was received to schedule a meeting. Subsequently, the City held a consultation meeting with Tamien Nation on April 20, 2023.

Local

Envision San José 2040 General Plan

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

Envision San José 2040 Relevant Utilities and Service System Policies

Policy	Description
Policy ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
Policy ER-10.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon their discovery during construction,

	development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.
Policy ER-10.3	Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.
Policy IP-12.3	Use the Environmental Clearance process to identify potential impacts and to develop and incorporate environmentally beneficial actions, particularly those dealing with the avoidance of natural and humanmade hazards and the preservation of natural, historical, archaeological and cultural resources.

4.18.2 - Environmental Checklist and Discussion of Impacts

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
4. 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 America tribe, and that is: (a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k), or	☐	☒	☐	☐
(b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1.	☐	☒	☐	☐

4) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 20174 as a site, feature, place, or cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe and:

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

Less than significant impact with mitigation incorporated. A review of the CRHR, local registers of historic resources, NWIC, and NAHC SLF records search results failed to identify any previously listed

TCRs that may be adversely affected by the proposed project. Tribal consultation conducted by the City of San José pursuant to AB 52 to identify eligible or potentially eligible TCRs defined in Public Resources Code Section 21074 and Section 5020.1(k) identified the following standard permit condition to be implemented during project construction. The Cultural Awareness Training standard permit condition would ensure that construction workers are trained to recognize potential TCRs during all earthmoving activities. This would ensure that any undiscovered subsurface TCRs within the subsurface area of effect would be identified and subsequently protected. Any Native American human remains present on-site would be protected through implementation of the standard permit conditions and mitigation measures identified in Section 4.5. Collectively, implementation of MM CUL-1 through MM CUL-3, and the City's standard permit conditions would ensure that the project would not cause a substantial adverse change in the significance of a TCR that is listed or eligible for listing in the CRHR or the local register of historical resources. Impacts would be **less than significant with mitigation incorporated.**

(b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native Tribe.

Less than significant impact with mitigation incorporated. No TCRs were identified during the Native American consultation process. If cultural resources are encountered during construction, City Standard Permit Conditions and mitigation measures MM CUL-1 through MM CUL-3 would reduce cultural resource impacts to a less than significant level. For these reasons, the project would not result in a substantial adverse change to a TCR. Impacts would be **less than significant with mitigation incorporated.**

Standard Permit Condition

SC TRIBAL-1 Cultural Awareness Training

Prior to issuance of grading permits, the project applicant shall be required to submit evidence that a Cultural Awareness Training will be provided to construction personnel prior to ground disturbances. The training shall be facilitated by the project archaeologist in coordination with a Native American representative registered with the Native American Heritage Commissions for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3.

Mitigation Measures

Refer to MM CUL-1 through MM CUL-3

4.18.3 - Conclusion

With implementation of standard permit condition and MM CUL-1 through -3, impacts associated with TCRs would be **less than significant**.

4.19 - UTILITIES AND SERVICE SYSTEMS

4.19.1 - Setting

The approximately 2-acre project site is currently occupied by residential structures with existing water, electric, gas, stormwater, and sanitary sewer utility connections.

The project site is currently within the service area of the following utility service providers:

- Water: Santa Clara County Water District, San José Water
- Electricity: Pacific Gas and Electric Company (PG&E)
- Gas: PG&E
- Sewer and Storm Drain: City of San José

Water Service and Supply

The proposed project would be served by San José Water. The 2020 UWMP documents information on water supply, water usage, recycled water, water conservation programs, water shortage contingency planning, and water supply reliability in Santa Clara County.[109] It also serves as a resource for water supply planners and policymakers and addresses the water supply future of Santa Clara County over the next 25 years.

Wastewater/Sanitary Sewer System

The project site is currently within the district service area of the West Valley Sanitation District. The West Valley Sanitation District collects and conveys wastewater for treatment at the San José-Santa Clara Regional Wastewater Facility. The San José-Santa Clara Regional Wastewater Facility is the largest advanced wastewater treatment facility in the western United States. Occupying over 2,600 acres at the southern edge of the San Francisco Bay, it serves more than 1.4 million residents in eight cities and portions of Santa Clara County.[110]

Storm Drainage

The project site is located within an urbanized area served by an existing storm drainage system. Storm drain lines serving the project site are owned and maintained by the City of San José. The City's stormwater drainage system consists of a network of inlets, manholes, pipes, outfalls, channels, and pump stations that collect, convey, and discharge runoff to receiving water bodies. The primary receiving water body for the site is the Guadalupe River, which eventually discharges to the South San Francisco Bay.

Solid Waste

The project site is currently located within the unincorporated County District West area and is served by GreenTeam of San José. GreenTeam of San José is a local San Francisco Bay Area waste management company that provides recycling and garbage services to the City of San José.

[109] City of San José. 2021. Urban Water Management Plan 2020. Website: https://www.sanjoseca.gov/home/showdocument?id=422. Accessed September 22, 2021.

[110] Skidmore, Owings & Merrill. 2020. San José-Santa Clara Regional Wastewater Facility Master Plan. Website: https://www.som.com/projects/san_jos-santa_clara_regional_wastewater_facility_master_plan. Accessed December 30, 2020.

GreenTeam of San José provides service to approximately 48,000 single-family homes in the western and central sections of the City of San José and all of the multi-family apartments and condominium complexes in the City as well as the City parks and facilities, such as the San José Airport, the San José Convention Center, and police departments. GreenTeam provides C&D debris boxes and hauling services.[111]

Applicable Plans, Policies, and Regulations

State

Assembly Bill 939 (1989)

The California Integrated Waste Management Act of 1989, or AB 939, established the Integrated Waste Management Board, required the implementation of integrated waste management plans, and mandated that local jurisdictions divert from the landfill at least 50 percent of solid waste generated beginning January 1, 2000.

Assembly Bill 341 (2011)

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

Assembly Bill 1826 (2014)

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

Senate Bill 1383 (2016)

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

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

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

[111] GreenTeam of San José. 2020. GreenTeam of San José. Website: https://www.greenteam.com/san-jose. Accessed December 30, 2020.

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

Local

Envision San José 2040 General Plan

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

Envision San José 2040 Relevant Utilities and Service System Policies

Policy	Description
Policy MS-3.1	Require water efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.
Policy MS-3.2	Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply as building codes permit.
Policy MS-3.3	Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.
Policy IN-3.3	Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.
Policy IN-3.5	Require development which will have the potential to reduce downstream LOS to lower than "D," or development which would be served by downstream lines already operating at a LOS lower than "D," to provide mitigation measures to improve the LOS to "D" or better, either acting independently or jointly with other developments in the same area or in coordination with the City's Sanitary Sewer Capital Improvement Program.
Policy IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
Policy IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.
Policy IN-3.10	Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES) permit.

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.

Private Sector Green Building Policy

The City of San José's Green Building Policy for private sector new construction encourages building owners, architects, developers, and contractors to incorporate meaningful sustainable building goals early in building design process. This policy establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. It is also intended to enhance the public health, safety and welfare of San José residents, workers, and visitors by fostering practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water, and other resources in the City of San José.[112]

Construction and Demolition Diversion Program

More than 30 percent of landfill waste is construction and demolition debris. Projects are required to comply with this program to receive either a Certificate of Final Occupancy or a refund if a deposit is paid. The Construction and Demolition Diversion Deposit Program (CDDD) requires projects to divert at least 50 percent 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 nonresidential project. There is no minimum valuation for a demolition project and no square footage limit for the deposit applicability. The deposit is fully refundable if C&D materials were reused, donated, or recycled at a City-certified processing facility. Reuse and donation require acceptable documentation, such as photos, estimated weight quantities, and receipts from donations centers stating materials and quantities. Though not a requirement, the permit holder may want to consider conducting an inventory of the existing building(s), determining the material types and quantities to recover, and salvaging materials during deconstruction.

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

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

[112] City of San José. 2020. Green Building. Website: https://www.sanjoseca.gov/your-government/environment/energy/green-building#:~:text=%20Green%20Building%20%201%20Building%20Healthier%20Structures.,Green%20Building%20Policies%20demonstrate%20our%20commitment. %20More%20. Accessed September 22, 2021.

4.19.2 - Environmental Checklist and Discussion of Impacts

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

Impact Discussion

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

and

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

Less than significant impacts.

Water

Water service would be provided to the project site by San José Water. San José Water's service area spans 139 square miles, including most of the Cities of San José and Cupertino, the entire cities of

Campbell, Monte Sereno, Saratoga, the Town of Los Gatos, and parts of unincorporated Santa Clara County. Potable water provided to the service area is sourced from groundwater, imported treated surface water, and local surface water. A fourth and growing source of supply is nonpotable recycled water. Just over 50 percent of San José Water's water supply is purchased from Valley Water, about 33 percent is pumped from local groundwater aquifers, and about 7 percent comes from local surface water sources. According to the 2020 UWMP, total water use for potable water within the San José Municipal Water System's (Muni Water) service area is expected to be 21,080 million gallons in 2025 and is projected to increase to 33,552 million gallons in 2045.[113] Additionally, Muni Water is able to meet water demands within its service area in normal water years through 2045. The proposed project could increase the residential population of San José by up to approximately 185 persons, based on a conservative estimate. According to the 2020 UWMP, water use in 2020 was 118 gallons per capita per day.[114] Based on this rate, the proposed project would result in a demand of 21,830 gpd, or 7.97 million gallons per year. The proposed project's water demand would be approximately 0.02 percent of the projected demand in 2045, which is nominal.

The project applicant has acquired a "will serve" letter from San José Water to assure adequate water is available to serve the proposed mixed uses (Appendix G). The "will serve" letter determines that the project site has existing water infrastructure to serve the proposed project. Additionally, according to the "will serve" letter, there is an existing water main from the end of Central Way crossing APNs 282-01-014, -024, and -025, which may require relocation and/or enlargement depending on both the fire protection requirements and the civil improvement plans approved by the City of San José.[115] According to the General Plan Draft Program EIR, under buildout conditions, water demand could exceed water supply during dry and multiple dry years after 2025. The certified General Plan Draft Program EIR concluded, however, that with the implementation of existing regulations and General Plan policies, water demand would not exceed water supply.[116] Therefore, impacts would be **less than significant**.

Wastewater

As discussed in more detail below, the San José-Santa Clara Regional Wastewater Facility has sufficient capacity to accommodate the proposed project. The proposed project is not expected to necessitate the expansion or construction of wastewater treatment facilities. Additionally, the proposed project would connect to the existing sanitary sewer drain system owned and maintained by the City of San José. Therefore, the proposed project would not exceed wastewater treatment requirements and impacts would be **less than significant**.

Storm Drainage

As described previously in Section 4.10, Hydrology and Water Quality, the proposed project would not result in the construction of new stormwater drainage facilities or expansion of existing facilities. Although the total acreage of impervious areas on the project site would be increased from 43,960 square feet to 65,661 square feet, the proposed project would improve the drainage pattern of the

[113] San José Water Company (San José Water). 2021. 2020 Urban Water Management Plan. Website: https://www.sanjoseca.gov/home/showdocument?id=422. Accessed September 22, 2021.
[114] Ibid.
[115] Tollner, Breanna. Water Services Representative, San Joe Water. Personal communication: email. January 12, 2021.
[116] City of San José. 2011. Envision San José 2040 General Plan Draft Program EIR. Website: https://www.sanjoseca.gov/home/showpublisheddocument/22039/636688304347700000. Accessed September 22, 2021.

site as compared to the existing conditions. Runoff from the project site would be managed and treated in accordance with City policies, which includes implementation of a Stormwater Control Plan, as well as the NPDES Construction General Permit and SWPPP. The proposed project would implement landscape design measures such as directing runoff to landscaped areas and planting trees adjacent to impervious areas; reducing impervious areas; clustering structures and pavement; creating new pervious areas; installing beneficial landscaping; using water efficient irrigation systems; labeling storm drains; connecting trash and recycling enclosures to the sanitary sewer; and using bioretention areas for biotreatment. Therefore, impacts would be **less than significant**.

Electric Power and Natural Gas

The proposed project would be served by the existing electric power infrastructure. Impacts related to electric power and natural gas are discussed in more detail previously in Section 4.6, Energy. The proposed project would not utilize natural gas, in compliance with San José Ordinance 30311.

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

Less than significant impact. The San José-Santa Clara Regional Wastewater Facility currently treats 110 million gallons of wastewater per day (mgd) on average and has the capacity to treat 167 mgd. The San José-Santa Clara Regional Wastewater Facility has the capacity to treat 167 million gallons of wastewater per day (mgd) during dry weather flow, with the City allocated 108.6 mgd of existing capacity. The City of San José generates approximately 69.8 mgd of dry weather average flow, leaving 38.8 mgd of excess treatment capacity.[117] The proposed project could increase the residential population of San José by up to approximately 130 persons, resulting in an increase in wastewater generation as compared to existing conditions.

Upon annexation of the project site, detachment from the West Valley Sanitation District would occur.[118] Development under the proposed project is consistent with General Plan population growth projections, and wastewater generated by the proposed project would not require the expansion of treatment facilities or the construction of new facilities.

The Envision San José 2040 General Plan EIR states that average wastewater flow rates are approximately 70 to 80 percent of domestic water use and 85 to 95 percent of business use (assuming no internal recycling or reuse programs). For the purposes of this analysis, wastewater flow rates are assumed to be 80 percent of the total on-site water use. Based on this wastewater flow rate assumption, implementation of the proposed project would generate approximately 17,464 gpd, or 6.37 million gallons of wastewater per year. As stated above, the City currently has approximately 38.8 mgd of excess treatment capacity at the facility; therefore, the proposed project's contribution to wastewater would be nominal.

The San José-Santa Clara Regional Wastewater Facility has sufficient capacity to accommodate the proposed project. The proposed project is not expected to necessitate the expansion or construction of wastewater treatment facilities. Additionally, the proposed project would connect to the existing

[117] City of San José. 2011. Envision San José 2040 General Plan Draft Program EIR. September 2011.
[118] Kam, Alan. Senior Engineer, West Valley Sanitation District. Personal communication: email. February 9, 2021.

sanitary sewer drain system owned and maintained by the City of San José. Therefore, the proposed project would not exceed wastewater treatment requirements and impacts would be **less than significant.**

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

and

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

Less than significant impact. The General Plan Draft Program EIR concluded that the increase in waste generated from buildout of the General Plan would not exceed the capacity of existing landfills that serve the City. Based on CalRecycle multi-family residential waste generation rate of 8.6 pounds per unit per day, the proposed project would generate 498.8 pounds of solid waste per day (about 91.03 tons per year).[119] The increases in solid waste generation from development of the proposed project would be minimized with ongoing implementation of the City's Climate Smart Plan. All solid waste generated by the proposed project would be treated at landfills with adequate disposal capacity beyond 2030.

Construction of the proposed project would involve the generation of construction debris from demolition of the existing building and the removal of hardscaped surfaces, trees, and other landscaping. Through the process of acquiring building, utility, site development, and special use permits from the City, the proposed project would be required to comply with the City's Construction and Demolition Diversion Program, which requires that at least 50 percent of the construction waste generated is diverted from landfills. There are four landfills serving the City of San José, including the Guadalupe Landfill, the Kirby Canyon Landfill, the Newby Island Sanitary Landfill, and the Zanker Road Landfill. Material that cannot be recycled or reused would be transported to one of the four landfills or to other appropriate regional landfills during the construction and demolition of the project site as well as the operational phase of the project.

The proposed development would be required to comply with applicable federal, State, and local regulations related to solid waste. For example, the proposed project would adhere to Envision San José 2040 General Plan Policies MS-6.10 and MS-9.6, which encourage safe collection of wastes for disposal and recycle, and with the City's Zero Waste Strategic Plan. The Zero Waste Strategic Plan sets forth a goal of diverting 100 percent of waste from landfill and converting to waste-to-energy by 2040, as well as implementing user-friendly recycling and composting programs to reduce per capita solid waste sent to landfill and incineration.[120] Implementation of the Zero Waste Strategic Plan in combination with existing regulations and programs such as the General Plan policies discussed above, would ensure that buildout of the General Plan would not result in significant impacts from

[119] Department of Resources Recycling and Recovery (CalRecycle). 2019. "Estimated Solid Waste Generation Rates." Website: https://www2.calrecycle.ca.gov/WasteCharacterization/General/Rates#Residential.

[120] City of San José Environmental Services Department. 2008. Integrated Waste Management Zero Waste Strategic Plan. Website: https://www.sanjoseca.gov/home/showdocument?id=32051. Accessed September 23, 2021.

the provision of landfill capacity to accommodate the City's increased population. Therefore, the proposed project would not violate applicable federal, State, and local statutes and regulations related to solid waste. Impacts would be **less than significant**.

Standard Permit Conditions

None.

Mitigation Measures

None.

Conclusion

The proposed project would result in **less than significant impacts** related to utilities and service systems.

4.20 - WILDFIRE

Environmental Setting

The project site is located in an urbanized area and surrounded by a residential neighborhood to the west, Moorpark Avenue and medical facilities to the south, single-family housing and Central Way to the east, and a noise barrier wall and I-280 to the north (Figure 2). The project site is located in a State Responsibility Area (SRA) and is not located in a Fire Hazard Severity Zone (FHSZ) by CAL FIRE.[121] The closest FHSZ is approximately 5.5 miles southwest of the project site.

Applicable Plans, Policies and Regulations

California Fire Code

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

General Plan

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

General Plan Relevant Wildfire Policies

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

4.20.1 - Environmental Checklist and Impact Discussion

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

[121] California Department of Forestry and Fire Protection (CAL FIRE). 2020. FHSZ Viewer. Website: https://egis.fire.ca.gov/FHSZ/ Accessed December 29, 2020.

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

Impact Discussion

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

No impact. The project site is located in an urbanized portion of the City of San José and is not categorized as an FHSZ by CAL FIRE. The project site is located over 5.5 miles from land designated as "High Fire Hazard Severity Zone." Therefore, in the event of a wildfire, the proposed project is not expected to impair an adopted emergency response plan or emergency evacuation plan, and **no impacts** would occur.

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

No impact. The project site is located in an urbanized portion of the City of San José and is not within a FHSZ as mapped by CAL FIRE.[122] The project site is not susceptible to wildfires. The proposed structures would be built according to the current CBC, which contains standards for building materials, systems, and assemblies used in the exterior design and construction of new buildings. **No impact** would occur.

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

No impact. The project site is located in an urbanized portion of the City of San José and has a lack of interface with any natural areas susceptible to wildfire. The proposed project would not install wildfire

[122] California Department of Forestry and Fire Protection (CAL FIRE). 2020. FHSZ Viewer. Website: https://egis.fire.ca.gov/FHSZ/ Accessed December 29, 2020.

infrastructure such as roads, fuel breaks, emergency water sources, or other items. **No impact** would occur.

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

No impact. The project site is located in an urbanized portion of the City of San José, is relatively flat, and is located over 5.5 miles from land designated as "High Fire Hazard Severity Zone." As such, the proposed project would not expose people or structures to significant post-fire risks. **No impact would** occur.

Standard Permit Conditions

None.

Mitigation Measures

None.

Conclusion

There would be no wildfire impacts.

4.21 - MANDATORY FINDINGS OF SIGNIFICANCE

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

1) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

Less than significant impact with mitigation incorporated. The proposed project would demolish existing structures on the project site and construct five 3-story multi-family buildings. As related to the proposed project, as described previously in Section 4.4.2, Biological Resources, the proposed project would not result in significant environmental impacts to wildlife or plant species with mitigation incorporated. There are no known special-status species on the project site given the developed status of the site and its surrounding areas, though this analysis provides for mitigation in the event any nesting birds or roosting bats are encountered. Therefore, with implementation of MM BIO-1 and MM BIO-2, the proposed project would not substantially degrade the quality of the environment at a project- or cumulative-level in terms of biological resources.

2) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

Less than significant impact with mitigation incorporated. The combined effects of past, current, and future projects in the project area in combination with the proposed project in an urban area of Santa Clara County, therefore, **would not result in significant cumulative impacts**.

The proposed project would have no impacts related to aesthetics, agricultural resources, forest resources, energy, greenhouse gas emissions, hydrology, land use, mineral resources, noise, population, public services, recreation, utilities, or wildfires. The project, therefore, would **not contribute to cumulative impacts** to these areas.

The project is proposed in an established, urban area and there are no planned or proposed developments in the immediate site vicinity that could contribute to cumulative environmental items listed above. The project's air quality, cultural resources, geology, transportation and soils and hazardous materials impacts are specific to the project site and would not contribute to cumulative impacts elsewhere. The proposed project includes BAAQMD-recommended mitigation and avoidance measures (MM AIR-1) to reduce temporary, construction-related impacts related to air quality and measures designed to ensure impacts are reduced to a less than significant level. Additionally, MM AIR-1 ensures construction equipment would meet emission standards during all construction activities. The project includes mitigation and avoidance measures (MM CUL-1 through MM CUL-3) to reduce construction related impacts related to historical, archaeological, and TCRs as well as the accidental discovery or recognition of human remains. Therefore, with implementation of the foregoing mitigation measures, the proposed project would **not result in adverse impacts at a project- or cumulative-level**.

3) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

Less than significant impact with mitigation incorporated. Based on the discussion previously provided in the Project Description Section and the impact analysis in Sections 2.1 through 2.19 of this IS/MND, the proposed project would not cause substantial adverse effects on human beings, either directly or indirectly, because the project's potential impacts would be mitigated to a less than significant level. Therefore, with implementation of the standard permit conditions and MM AIR-1, MM HAZ-1, and MM NOI-1, the proposed project would not result in substantial adverse effects on human beings. Impacts would be **less than significant** with mitigation incorporated.

Standard Permit Conditions

Implementation of SC AQ-1, SC BIO-1, SC CUL-1, SC CUL-2, SC GEO-1, SC GEO-2, SC HAZ-1, SC HYD-1, SC NOI-1, and SC TRIBAL-1.

Conditions of Approval

Implementation of COA AIR-1.

Mitigation Measures

Implementation of MM AIR-1, MM BIO-1, MM BIO-2, MM CUL-1, MM CUL-2, MM CUL-3, MM HAZ-1, and MM NOI-1.

Conclusion

With implementation of the standard permit conditions and mitigation measures above, the proposed project would not substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory; would not result in significant cumulative impacts; and would not result in substantial adverse effects on human beings. Impacts would be less than significant with mitigation incorporated.

THIS PAGE INTENTIONALLY LEFT BLANK

SECTION 5: AUTHORS AND CONSULTANTS

5.1 - LEAD AGENCY

City of San José

Department of Planning, Building, and Code Enforcement

Bethelhem Telahun, Environmental Review Planner
Tina Garg, Supervisor Environmental Review Planner

5.2 - CONSULTANTS

FirstCarbon Solutions (FCS)

Mary Bean, Project Director
Tsui Li, Project Manager
Stephanie Shepard, Assistant Project Manager
Maddie Dolan, Assistant Project Manager
Philip Ault, Senior Air Quality/Noise Scientist
Jessica Coria, Air Quality Specialist
Robert Carroll, Biologist
Dana DePietro, Senior Cultural Resources Specialist
Karlee McCracken, GIS/Graphics
Susie Harris, Publications Manager
Alec Harris, Publications Coordinator
Melissa Ramirez, Document Specialist

THIS PAGE INTENTIONALLY LEFT BLANK