Draft Initial Study

1520 West San Carlos Mixed Use Project

Prepared by

CITY OF SAN JOSE

CAPITAL OF SILICON VALLEY

In Consultation with

DAVID J. POWERS & ASSOCIATES, INC.

ENVIRONMENTAL CONSULTANTS & PLANNERS

MAY 2023

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[1] All other reference documents are noted in Section 5.0 of this document.

SECTION 1.0 INTRODUCTION AND PURPOSE

1.1 PURPOSE OF THE INITIAL STUDY

The City of San José, as the Lead Agency, has prepared this Initial Study for the 1520 West San Carlos Mixed Use Project in compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations §15000 et. seq.) and the regulations and policies of the City of San José, California.

As proposed, the project would remove all buildings on-site to construct a mixed-use building at 1520 West San Carlos in the City of San José. This Initial Study evaluates the environmental impacts that might reasonably be anticipated to result from implementation of the proposed project.

1.2 PUBLIC REVIEW PERIOD

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

Cassandra van der Zweep, Planner IV
City of San José
200 East Santa Clara Street
San Jose, Ca 95113
Cassandra.vanderZweep@sanjoseca.gov

1.3 CONSIDERATION OF THE INITIAL STUDY AND PROJECT

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

1.4 NOTICE OF DETERMINATION

If the project is approved, the City of San José will file a Notice of Determination (NOD), which will be available for public inspection and posted within 24 hours of receipt at the County Clerk's Office for 20 days. The filing of the NOD starts a 30-day statute of limitations on court challenges to the approval under CEQA (CEQA Guidelines Section 15075(g)).

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

1520 West San Carlos Mixed-use Project (File Nos. H23-004, T21-037, and ER21-039)

2.2 LEAD AGENCY CONTACT

Cassandra van der Zweep, Planner IV

Cassandra.vanderZweep@sanjoseca.gov

2.3 PROJECT APPLICANT

Viji Mani
MV3
22561 Poppy Drive
Cupertino, CA 95014

2.4 PROJECT LOCATION

1520 West San Carlos Street, and 315, 325, 329, and 345 Willard Avenue. See Figures 2.4-1, 2.4-2, and 2.4-3 for Regional, Vicinity, and Aerial figures.

2.5 ASSESSOR'S PARCEL NUMBER

Assessor's Parcel Numbers (APNs) 277-18-021, 277-18-024, 277-18-025, 277-18-026

2.6 GENERAL PLAN DESIGNATION AND ZONING DISTRICT

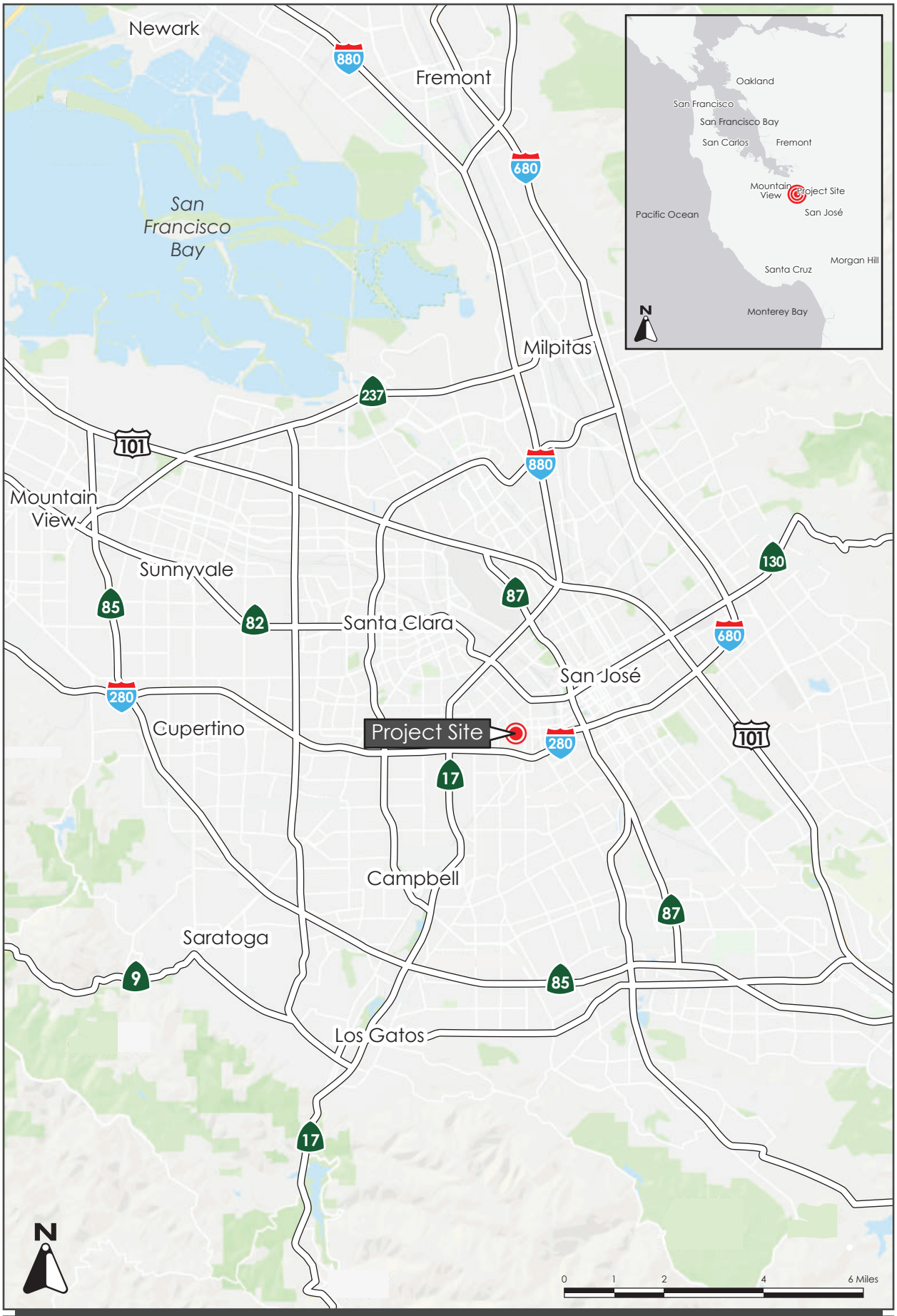
Zoning Districts - Urban Village Zoning District
General Plan Designation- Urban Village - Density: 55 to 250 Dwelling Units per Acre

2.7 HABITAT PLAN DESIGNATION

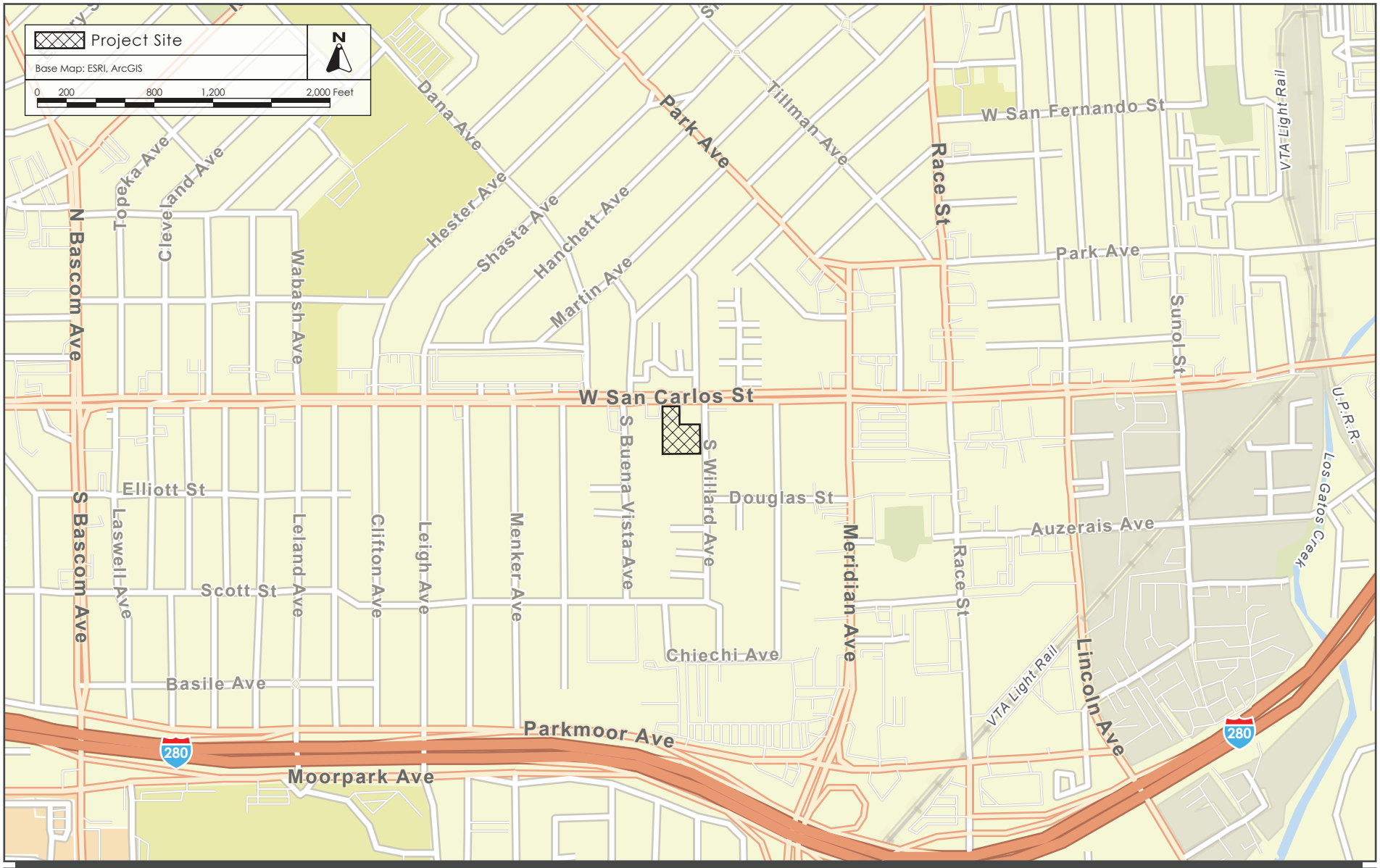
Urban-Suburban Land Cover

2.8 PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS

Lot Line Adjustment
Site Development Permit
Subdivision Map
Grading Permit
Encroachment Easements and other public works clearances



REGIONAL MAP | FIGURE 2.4-1



VICINITY MAP

FIGURE 2.4-2

AERIAL PHOTOGRAPH AND SURROUNDING LAND USES | FIGURE 2.4-3

SECTION 3.0 PROJECT DESCRIPTION

3.1 PROJECT LOCATION

The 1.62-acre project site is comprised of four parcels [Assessor's Parcel Numbers (APNs) 277-18-021, 277-18-024, 277-18-025, 277-18-026] located on the south side of West San Carlos Street approximately 140 feet west of South Willard Avenue. The site addresses are 1520 West San Carlos Street, and 315, 325, 329, and 345 Willard Avenue.

The project site is in the Urban Village Zoning District.

The project site is designated Urban Village - Density: 55 to 250 Dwelling Units per Acre (DU/AC) in the General Plan and the West San Carlos Urban Village Plan. This designation supports residential development only on parcels meeting a minimum size of 0.5 acre. Residential development along West San Carlos Street or Meridian Avenue is encouraged to include pedestrian-oriented, ground-floor commercial uses that front onto the street. This designation also supports a broad range of commercial development including retail and office. Residential densities lower than 55 DU/AC are acceptable for mixed-use projects that include small amounts of residential in combination with significant amounts of non-residential square footage.

3.2 PROJECT DESCRIPTION

3.2.1 Proposed Project

The proposed project would include the demolition of all existing buildings on-site (one commercial building and 11 residential structures) and the removal of 29 trees (26 ordinance size and 3 non-ordinance size) to allow for the construction of a mixed-use building consisting of 256 residential units (approximately 217 market rate units and 39 affordable units) and approximately 15,202 square feet of commercial space. The project applicant is also requesting an approximately 38 percent parking reduction. The development would require a site development permit for the proposed development on-site. The development also includes a Tentative Map to combine the existing four lots into one lot for the development.

The building would have a maximum height of approximately 85 feet and would be eight stories along the West San Carlos frontage, stepping down to six stories at the southern end of the site. The commercial space would be located on the ground floor and second floor of the building along the West San Carlos frontage. The market-rate units would be located in the eight-story portion of the building and the affordable units would be located in a six-story portion of the building. The affordable units would be accessible from a separate entrance along Willard Avenue.

The proposed project includes approximately 45,342 square feet of common open space and 13,797 square feet of private open space in the form of terraces, roof decks, balconies, and amenity rooms located throughout the development. A site plan and building elevations are shown in Figures 3.2-1 and 3.2-2.

3.2.2 Parking and Circulation

Parking for all residential units and commercial space would be located in a garage within the building which would have one level of below-grade and one at-grade level. The parking garage would be accessible from a driveway on Willard Avenue.

The on-site parking would include 261 vehicular spaces, 68 motorcycle spaces, and 77 bicycle parking spaces. Based on the proposed size of the project, the parking required by the Municipal Code would be 425 automobile spaces. The project would be required to implement a Transportation Demand Management (TDM) plan to qualify for a reduction in the number of parking spaces required for the development.

The proposed project would widen the existing eight-foot sidewalk along the north project frontage along West San Carlos by 12 feet resulting in a sidewalk with a total width of 20 feet. The sidewalk along the Willard Avenue project frontage is proposed to be 15 feet wide and would meet the minimum sidewalk width required per San Carlos Urban Village Plan's Policy CS-4.5 for all other streets within the urban village.

The TDM plan would encourage use of multimodal transportation options and enhance access to bus services, bicycle facilities, and pedestrian infrastructure in the area around the project site to the maximum extent possible.

3.2.3 Utility Connections

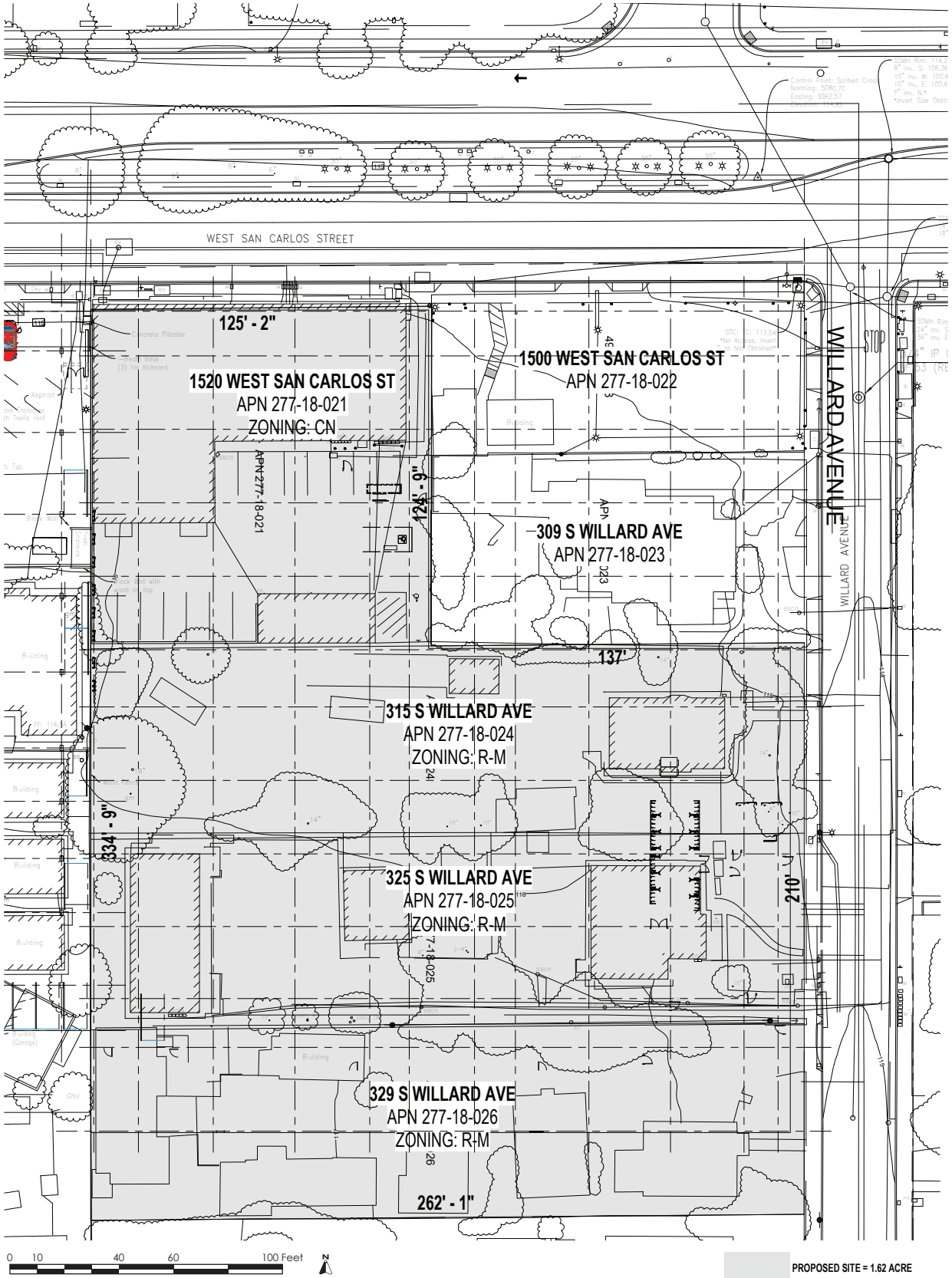
The proposed project would connect through six-inch utility lines on Willard Avenue to the existing 12-inch sanitary sewer line located in West San Carlos Street and the 21-inch storm drain line in Willard Avenue. The water service would be provided to the site via four water line connections to the existing water utilities in West San Carlos Street.

3.2.4 Green Building Measures

The proposed project would be designed with a solar array on the roof of the building and would implement low water consumption landscaping throughout the project site. Additionally, the proposed project includes an outdoor paseo which connects adjacent parcels and allows for increased pedestrian traffic and connectivity to alternative modes of transportation around the project site.

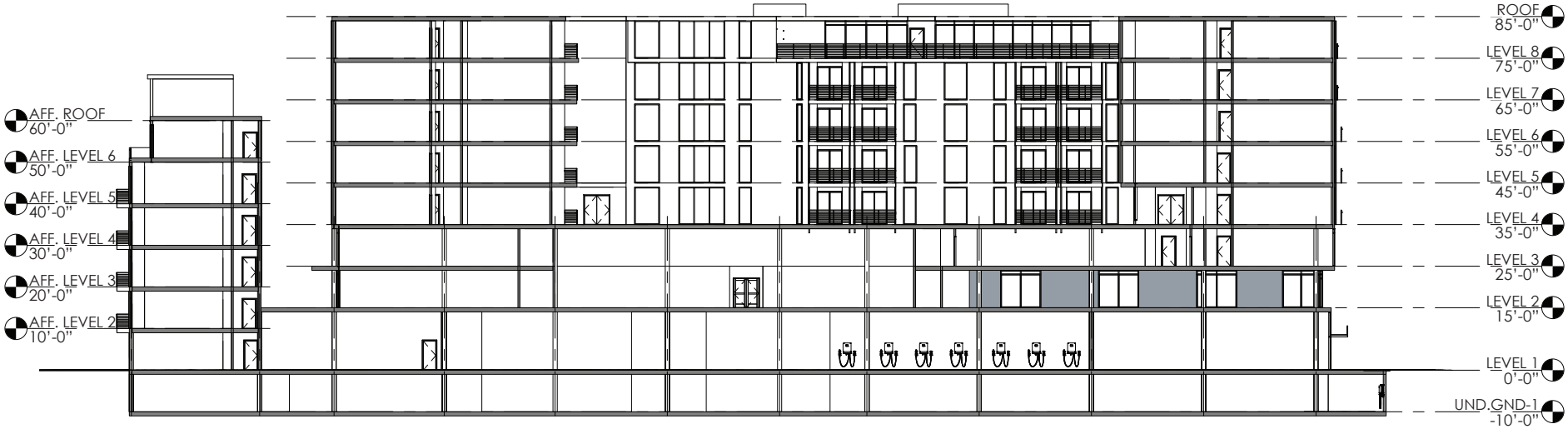
3.2.5 Construction

The proposed project would require approximately 10 feet of subsurface excavation for the underground parking and the construction of the proposed project would take approximately 16 months.



Source: Studio Current, July 1, 2022.

PROJECT SITE PLANS | FIGURE 3.2-1



Source: Studio Current, July 1, 2022.

PROJECT ELEVATIONS

FIGURE 3.2-2

SECTION 4.0 ENVIRONMENTAL SETTING, CHECKLIST, AND IMPACT DISCUSSION

This section presents the discussion of impacts related to the following environmental subjects in their respective subsections:

4.1	Aesthetics	4.12	Mineral Resources
4.2	Agriculture and Forestry Resources	4.13	Noise
4.3	Air Quality	4.14	Population and Housing
4.4	Biological Resources	4.15	Public Services
4.5	Cultural Resources	4.16	Recreation
4.6	Energy	4.17	Transportation
4.7	Geology and Soils	4.18	Tribal Cultural Resources
4.8	Greenhouse Gas Emissions	4.19	Utilities and Service Systems
4.9	Hazards and Hazardous Materials	4.20	Wildfire
4.10	Hydrology and Water Quality	4.21	Mandatory Findings of Significance
4.11	Land Use and Planning		

The discussion for each environmental subject includes the following subsections:

- **Environmental Setting** – This subsection 1) provides a brief overview of relevant plans, policies, and regulations that compose the regulatory framework for the project and 2) describes the existing, physical environmental conditions at the project site and in the surrounding area, as relevant.
- **Impact Discussion** – This subsection 1) includes the recommended checklist questions from Appendix G of the CEQA Guidelines to assess impacts and 2) discusses the project's impact on the environmental subject as related to the checklist questions. For significant impacts, feasible mitigation measures are identified. "Mitigation measures" are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370).

4.1 AESTHETICS

4.1.1 Environmental Setting

4.1.1.1 *Regulatory Framework*

State

Senate Bill 743

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

- The project is a residential, mixed-use residential, or employment center project, and
- The project is located on an infill site within a transit priority area.[2]

SB 743 also clarifies that local governments retain their ability to regulate a project's aesthetics impacts outside of the CEQA process.

Streets and Highway Code Sections 260 through 263

The California Scenic Highway Program (Streets and Highway Code, Sections 260 through 263) is managed by the California Department of Transportation (Caltrans). The program is intended to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. There are no state-designated scenic highways in San José. Interstate 280 from the San Mateo County line to State Route (SR) 17, which includes segments in San José, is an eligible, but not officially designated, State Scenic Highway.[3]

In Santa Clara County, the one state-designated scenic highway is SR 9 from the Santa Cruz County line to the Los Gatos City Limit. Eligible State Scenic Highways (not officially designated) include: SR 17 from the Santa Cruz County line to SR 9, SR 35 from Santa Cruz County line to SR 9, Interstate 280 from the San Mateo County line to SR 17, and the entire length of SR 152 within the County.

[2] An "infill site" is defined as "a lot located within an urban area that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses." A "transit priority area" is defined as "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 a Transportation Improvement Program adopted pursuant to Section 450.216 or 450.322 of Title 23 of the Code of Federal Regulations." A "major transit stop" means "a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or 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." Source: Office of Planning and Research. "SB 743 Frequently Asked Questions." 2022. Accessed November 7, 2022. https://opr.ca.gov/ceqa/sb-743/faq.html.

[3] California Department of Transportation. "Scenic Highways." Accessed November 7, 2022. https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways.

Envision San José 2040 General Plan

The 2040 General Plan identifies "gateways", freeways, and rural scenic corridors where preservation and enhancement of views of the natural and man-made environment are crucial. The segment of Bird Avenue over I-280 adjacent to the Downtown area is designated as a gateway for scenic purposes. The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to aesthetics and are applicable to the project.

General Plan Policies - Aesthetics	
Policy	**Description**
CD-1.1	Requires the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
CD-1.7	Require developers to provide pedestrian amenities, such as trees, lighting, recycling and refuse containers, seating, awnings, art, or other amenities, in pedestrian areas along project frontages. When funding is available, install pedestrian amenities in public rights-of-ways.
CD-1.8	Create an attractive street presence with pedestrian-scaled building and landscaping elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity throughout the City.
CD-1.9	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, Villages, Corridors, or along Main Streets, commercial and mixed-use building frontages should be placed at or near the street-facing property line with entrances directly to the public sidewalk. In these areas, strongly discourage parking areas located between the front of buildings and the street to promote a safe and attractive street façade and pedestrian access to buildings.
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 environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
CD-1.12	Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.
CD-1.13	Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.
CD-1.17	Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages

General Plan Policies - Aesthetics	
	with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screened parking vehicles from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.
CD-1.18	Encourage the placement of loading docks and other utility uses within parking structures to minimize their visibility and reduce their potential to detract from pedestrian activity.
CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
CD-1.24	Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse effect on the health and longevity of such trees through design measures, construction, and best management practices. When tree preservation is not feasible, include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.

4.1.1.2 *Existing Conditions*

Project Site

The project site is a 1.62-acre site located in an urbanized area of San José. The site is currently developed with a commercial building and 11 residential structures. The commercial building fronts West San Carlos Street and the residences are located along Willard Avenue. The commercial building is a single-story, white stucco structure with a blue hipped metal roof. The building has no setback from the sidewalk and has a small surface parking lot behind the building. The West San Carlos frontage of the site has no trees or landscaping.

The residential structures are single-story stucco buildings. Most of the structures have gabled roofs and porches (one with decorative wood carved siding), however there is no common architectural style. The residences are set back from the roadway and are somewhat obscured by overgrown landscaping.

Surrounding Area

To the north of the project site, across West San Carlos Street, is a four-story, multifamily development featuring red and white stucco facades and flat multileveled rooftops. Additionally, to the northeast across West San Carlos there are two single family residences. Both are single story structures with gabled rooftops.

To the east, there is a small used car lot on the corner of Willard Avenue and West San Carlos Street along with two, two-story, multifamily residences. The residences are one to two story structures with shingle rooftops.

To the south of the project site there are multiple one and two-story residences with stucco facades and hipped or gabled rooves. Some of these structures are situated along alleyways which extend from the street into the center of the block.

To the west of the project site, there is a mix of residential and commercial uses, including a bungalow court directly adjacent to the project site.

Scenic Views

Based on the City's General Plan, views of hillside areas (including the foothills of the Diablo Range and the Santa Cruz Mountains, Silver Creek Hills, and Santa Teresa Hills) and the downtown skyline are scenic features in the San José area. The project site and surrounding areas are relatively flat and prominent viewpoints, other than buildings, are limited. The project area has minimal to no scenic views of the Diablo foothills to the east, Santa Cruz Mountains to the west, Santa Teresa Hills to the south, and the Silver Creek Hills to the southeast. No natural scenic resources, such as rock outcroppings, are present on-site or in the project area.

Light and Glare

Sources of light and glare are abundant in the urban environment of the project site and project area, including but not limited to streetlights, parking lot lights, security lights, vehicular headlights, internal building lights, and reflective building surfaces and windows.

4.1.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Except as provided in Public Resources Code Section 21099, would the project:				
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☒	☐
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings?[4] If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	☐	☐	☒	☐
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☒	☐

[4] Public views are those that are experienced from publicly accessible vantage points.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Except as provided in Public Resources Code Section 21099, would the project:				

The project site is located in a transit priority area and as proposed, the project would be a residential mixed-use project. Therefore, the project would have a less than significant aesthetics impact under CEQA pursuant to SB 743. The following analysis is provided for informational purposes only.

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

As stated above the project site is a relatively flat area with limited views of scenic vistas defined by the San José General Plans. The proposed project would not substantially obstruct views of scenic resources in surrounding areas and would therefore have a less than significant impact on scenic vistas. **(Less than Significant Impact)**

b) Would the project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

The project site is located approximately six miles north of the nearest scenic highway, SR-9. Therefore, the project site is not visible from a scenic highway and would not result in damage to scenic resources within a state scenic highway. **(No Impact)**

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

The project site is located within an urbanized area that consists of residential and commercial land uses. Although the City's Zoning Ordinance does not include regulations governing scenic quality, the proposed project would comply with Title 20 of the City's Municipal Code and would be subject to a design review process conducted as part of the development permit review process to ensure that it conforms with all adopted design guidelines and other relevant policies and ordinances. For these reasons, the proposed project would not conflict with applicable zoning and other regulations governing scenic quality. **(Less than Significant Impact)**

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

The proposed project would construct an eight-story mixed-use building, which would result in more visible nighttime lighting than currently exists on-site. The proposed project would include internal building lights, security lights, and external building lights.

The project would be subject to Section 20.55.103 of the City's Municipal Code which requires lighting to be directed away from any residential uses and riparian areas so that there will be no glare. The proposed project would be subject to the City's design review process prior to the issuance of development permits to ensure that it is consistent with General Plan policies and the City's Design Guidelines. Compliance with the City policies and regulations would control the amount of light and glare shining on streets, sidewalks, and residential properties. Therefore, the proposed project would not adversely affect day or nighttime views in the area. **(Less than Significant Impact)**

4.2 AGRICULTURE AND FORESTRY RESOURCES

4.2.1 Environmental Setting

4.2.1.1 *Regulatory Framework*

State

Farmland Mapping and Monitoring Program

The California Department of Conservation's Farmland Mapping and Monitoring Program (FMMP) assesses the location, quality, and quantity of agricultural land and conversion of these lands over time. Agricultural land is rated according to soil quality and irrigation status. The best quality land is identified as Prime Farmland. In CEQA analyses, the FMMP classifications and published county maps are used, in part, to identify whether agricultural resources that could be affected are present on-site or in the project area.[5]

California Land Conservation Act

The California Land Conservation Act (Williamson Act) enables local governments to enter into contracts with private landowners to restrict parcels of land to agricultural or related open space uses. In return, landowners receive lower property tax assessments. In CEQA analyses, identification of properties that are under a Williamson Act contract is used to also identify sites that may contain agricultural resources or are zoned for agricultural uses.[6]

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.[7] Programs such as CAL FIRE's Fire and Resource Assessment Program and 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.[8]

4.2.1.2 *Existing Conditions*

Based on the Santa Clara County Important Farmland Finder map[9], the project site is designated as "urban and built-up land." Common examples of "urban and built-up land" include residential, institutional, commercial, landfill, golf course, airports, and other utility uses. The project area

[5] California Department of Conservation. "Farmland Mapping and Monitoring Program." Accessed November 7, 2022. http://www.conservation.ca.gov/dlrp/fmmp/Pages/Index.aspx.
[6] California Department of Conservation. "Williamson Act." http://www.conservation.ca.gov/dlrp/lca.
[7] 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)).
[8] California Department of Forestry and Fire Protection. "Fire and Resource Assessment Program." Accessed November 7, 2022. http://frap.fire.ca.gov/.
[9] California Department of Conservation. Important Farmland Finder. Accessed November 7, 2022. https://maps.conservation.ca.gov/DLRP/CIFF/.

consists of single-family residences and commercial land uses. There is no forest land located on or adjacent to the project site and the site is not subject to a Williamson Act contract.

4.2.2 Impact Discussion

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

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

As mentioned previously, the project site is designated as "urban and built-up land." The project proposes to construct an eight-story mixed-use building on a currently developed site and, as a result, would not convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to non-agricultural uses. **(No Impact)**

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

The project site is not subject to a Williamson Act contract. The site is located within the Urban Village Zoning District and would not conflict with any agricultural zoning. **(No Impact)**

c) Would the project conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timberland zoned Timberland Production?

The project site is not zoned as forest land, timberland, or timberland zoned Timberland Production. Therefore, the project would not conflict with existing zoning or cause rezoning of forest land, timberland, or timberland zoned Timberland Production. **(No Impact)**

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

As mentioned above, the project site is not zoned as forest land. The project site is located within an urbanized area and would not result in a loss of forest land or convert forest land to non-forest use. **(No Impact)**

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

The proposed project would not result in the conversion of forest lands to non-agricultural or non-forest use. For these reasons, the project would not result in impacts to agricultural or forest resources. **(No Impact)**

4.3 AIR QUALITY

The information in this section is based on part on the 1520 West San Carlos Street Mixed Use Project Air Quality Assessment, prepared by Illingworth and Rodkin Inc., dated October 20,2022. This report is included as Appendix A of this document.

4.3.1 Environmental Setting

4.3.1.1 *Background Information*

Criteria Pollutants

Air quality in the Bay Area is assessed related to six common air pollutants (referred to as criteria pollutants), including ground-level ozone (O_3), nitrogen oxides (NO_x), particulate matter (PM), carbon monoxide (CO), sulfur oxides (SO_x), and lead.[10] Criteria pollutants are regulated because they result in health effects. An overview of the sources of criteria pollutants and their associated health are summarized in Table 4.3-1. The most commonly regulated criteria pollutants in the Bay Area are discussed further below.

Table 4.3-1: Health Effects of Air Pollutants

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

High O_3 levels are caused by the cumulative emissions of reactive organic gases (ROG) and NO_x. These precursor pollutants react under certain meteorological conditions to form high O_3 levels. Controlling the emissions of these precursor pollutants is the focus of the Bay Area's attempts to

[10] The area has attained both state and federal ambient air quality standards for CO. The project does not include substantial new emissions of sulfur dioxide or lead. These criteria pollutants are not discussed further.

reduce O_3 levels. The highest O_3 levels in the Bay Area occur in the eastern and southern inland valleys that are downwind of air pollutant sources.

PM is a problematic air pollutant of the Bay Area. PM is assessed and measured in terms of respirable particulate matter or particles that have a diameter of 10 micrometers or less (PM_{10}) and fine particulate matter where particles have a diameter of 2.5 micrometers or less ($PM_{2.5}$). Elevated concentrations of PM_{10} and $PM_{2.5}$ are the result of both region-wide emissions and localized emissions.

Toxic Air Contaminants

TACs are a broad class of compounds known to have health effects. They include but are not limited to criteria pollutants. TACs are found in ambient air, especially in urban areas, and are caused by industry, agriculture, diesel fuel combustion, and commercial operations (e.g., dry cleaners). TACs are typically found in low concentrations, even near their source (e.g., diesel particulate matter [DPM] near a freeway).

Diesel exhaust is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs. Diesel exhaust is a complex mixture of gases, vapors, and fine particles. Medium- and heavy-duty diesel trucks represent the bulk of DPM emissions from California highways. The majority of DPM is small enough to be inhaled into the lungs. Most inhaled particles are subsequently exhaled, but some deposit on the lung surface or are deposited in the deepest regions of the lungs (most susceptible to injury).[11] Chemicals in diesel exhaust, such as benzene and formaldehyde, have been previously identified as TACs by the California Air Resources Board (CARB).

Sensitive Receptors

Some groups of people are more affected by air pollution than others. CARB has identified the following persons who are most likely to be affected by air pollution: children under 16, the elderly over 65, and people with cardiovascular and chronic respiratory diseases. These groups are classified as sensitive receptors. Locations that may contain a high concentration of these sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, and elementary schools.

4.3.1.2 *Regulatory Framework*

Federal and State

Clean Air Act

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

[11] California Air Resources Board. "Overview: Diesel Exhaust and Health." Accessed August 4, 2021. https://ww2.arb.ca.gov/resources/overview-diesel-exhaust-and-health.

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

Risk Reduction Plan

To address the issue of diesel emissions in the state, CARB developed the Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles. In addition to requiring more stringent emission standards for new on-road and off-road mobile sources and stationary diesel-fueled engines to reduce particulate matter emissions by 90 percent, the plan involves application of emission control strategies to existing diesel vehicles and equipment to reduce DPM (in additional to other pollutants). Implementation of this plan, in conjunction with stringent federal and CARB-adopted emission limits for diesel fueled vehicles and equipment (including off-road equipment), will significantly reduce emissions of DPM and NO_X.

Regional

2017 Clean Air Plan

The Bay Area Air Quality Management District (BAAQMD) is the agency primarily responsible for assuring that the federal and state ambient air quality standards are maintained in the San Francisco Bay Area. Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how state and federal air quality standards will be met. BAAQMD's most recently adopted plan is the Bay Area 2017 Clean Air Plan (2017 CAP). The 2017 CAP focuses on two related BAAQMD goals: protecting public health and protecting the climate. To protect public health, the 2017 CAP describes how BAAQMD will continue its progress toward attaining state and federal air quality standards and eliminating health risk disparities from exposure to air pollution among Bay Area communities. To protect the climate, the 2017 CAP includes control measures designed to reduce emissions of methane and other super-greenhouse gases (GHGs) that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.[12]

CEQA Air Quality Guidelines

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

[12] BAAQMD. *Final 2017 Clean Air Plan.* April 19, 2017. http://www.baaqmd.gov/plans-and-climate/air-quality-plans/current-plans.

Community Air Risk Evaluation Program

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

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

Envision San José 2040 General Plan

Various policies in the City's 2040 General Plan have been adopted for the purpose of reducing or avoiding impacts related to air quality, as listed in the following table. In addition, goals and policies throughout the 2040 General Plan encourage a reduction in vehicle miles traveled through land use, pedestrian, bicycle, and access to transit improvements, parking strategies that reduce automobile travel through parking supply and pricing management, and requirements for Transportation Demand Management programs for large employers.

General Plan Policies - Air Quality	
Air Pollutant Emission Reduction Policies	
Policy MS-10.1	Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement feasible air emission reduction measures.
Policy MS-10.2	Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.
Policy MS-10.3	Promote the expansion and improvement of public transportation services and facilities, where appropriate, to both encourage energy conservation and reduce air pollution.
Toxic Air Contaminants Policies	
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-11.4	Encourage the installation of air filtration, to be installed at existing schools, residences, and other sensitive receptor uses adversely affected by pollution sources.

General Plan Policies - Air Quality	
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-11.7	Consult with BAAQMD to identify stationary and mobile TAC sources and determine the need for and requirements of a health risk assessment for proposed developments.
Policy MS-11.8	For new projects that generate truck traffic, require signage which reminds drivers that the State truck idling law limits truck idling to five minutes.
Construction Air Emission Minimization Policies	
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 air toxics control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.
Policy MS-13.4	Adopt and periodically update dust, particulate, and exhaust control standard measures for demolition and grading activities to include on project plans as conditions of approval based upon construction mitigation measures in the BAAQMD CEQA Guidelines.

4.3.1.3 *Existing Conditions*

The Bay Area is considered a non-attainment area for ground-level O_3 and $PM_{2.5}$ under both the federal Clean Air Act and state Clean Air Act. The area is also considered nonattainment for PM_{10} under the state act, but not the federal act. The area has attained both state and federal ambient air quality standards for CO. As part of an effort to attain and maintain ambient air quality standards for O_3 and PM_{10}, BAAQMD has established thresholds of significance for these air pollutants and their precursors. These thresholds are for O_3 precursor pollutants (ROG and NO_X), PM_{10}, and $PM_{2.5}$, and apply to both construction period and operational period impacts.

The nearest sensitive receptors to the project site are the multi-family residences across West San Carlos to the north and west, and single-family residences directly adjacent to the east and south.

4.3.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☒	☐

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	☐	☐	☒	☐
c) Expose sensitive receptors to substantial pollutant concentrations?	☐	☒	☐	☐
d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	☐	☐	☒	☐

Significance Thresholds

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. The City of San José has considered the air quality thresholds updated by BAAQMD in May 2017 and regards these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin and conservative in terms of the assessment of health effects associated with TACs and $PM_{2.5}$. The BAAQMD CEQA Air Quality thresholds used in this analysis are identified in Table 4.3-2 below.

Table 4.3-2: Air Quality Significance Thresholds

Criteria Air Pollutant	**Construction Thresholds**	**Operational Thresholds**	
	Average Daily Emissions (lbs./day)	**Average Daily Emissions (lbs./day)**	**Annual Average Emissions (tons/year)**
ROG	54	54	10
NO_x	54	54	10
PM_{10}	82 (Exhaust)	82	15
$PM_{2.5}$	54 (Exhaust)	54	10
CO	Not Applicable	9.0 ppm (8-hour average) or 20.0 ppm (1-hour average)	
Fugitive Dust	Dust Control Measures/Best Management Practices	Not Applicable	
Health Risks and Hazards	**Single Sources Within 1,000-foot Zone of Influence**	**Combined Sources (Cumulative from all sources within 1000-foot zone of influence)**	
Excess Cancer Risk	10 per one million	100 per one million	
Hazard Index	1.0	10.0	
Incremental annual $PM_{2.5}$	0.3 $\mu g/m^3$	0.8 $\mu g/ m^3$	

Note: ROG = reactive organic gases, NOx = nitrogen oxides, PM10 = course particulate matter or particulates with an aerodynamic diameter of 10 micrometers (μm) or less, PM2.5 = fine particulate matter or particulates with an aerodynamic diameter of 2.5μm or less.

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

The 2017 Clean Air Plan, adopted by BAAQMD in April 2017, includes control measures that are intended to reduce air pollutant emissions in the Bay Area either directly or indirectly. Plans must show consistency with the control measures listed within the Clean Air Plan. At the project-level, there are no consistency measures or thresholds. The proposed project would not conflict with the latest Clean Air planning efforts since project would have emissions below the BAAQMD thresholds, the project would be considered urban infill, and the project would be located near transit with regional connections.

Table 4.3-3: Bay Area 2017 Clean Air Plan Applicable Control Measures

Control Measures	Description	Project Consistency
Transportation Measures		
Trip Reduction Programs	Encourage trip reduction policies and programs in local plans, e.g., general and specific plans. Encourage local governments to require mitigation of vehicle travel as part of new development approval, to develop innovative ways to encourage rideshare, transit, cycling, and walking for work trips.	The proposed development would be in proximity to high frequency bus lines. In addition, the project would include bicycle parking consistent with City standards and would implement a TDM program to support a parking reduction and encourage alternative modes of transportation. The project is consistent with this measure.
Bicycle and Pedestrian Access and Facilities	Encourage planning for bicycle and pedestrian facilities in local plans, e.g., general and specific plans, fund bike lanes, routes, paths and bicycle parking facilities.	The project would be required to include bicycle parking consistent with City standards. The project area is equipped with pedestrian facilities including sidewalks and crosswalks. The project would construct a 12-foot sidewalk along the Willard project frontage and a 20-foot sidewalk along the West San Carlos Street project frontage. The project is consistent with this measure. Additionally, the project would provide contributions toward the installation of an east leg crosswalk at the West San Carlos Street Buena Vista

Table 4.3-3: Bay Area 2017 Clean Air Plan Applicable Control Measures		
Control Measures	**Description**	**Project Consistency**
		Avenue intersection and towards Class IV protected bicycle lanes along San Carlos Street.
Land Use Strategies	Support implementation of Plan Bay Area, maintain and disseminate information on current climate action plans and other local best practices.	The project would be in proximity to transit services; therefore, the project is consistent with this measure. The TDM Plan would support the use of alternative modes of transportation to and from the site and would include information for residents and tenants on their transit opportunities. (refer to Section 4.17 Transportation).
Building Measures		
Green Buildings	Identify barriers to effective local implementation of CALGreen (Title 24) statewide building energy code; develop solutions to improve implementation/ enforcement. Engage with additional partners to target reducing emissions from specific types of buildings.	The project would be required to comply with Building Energy Efficiency Standards (Title 24), the City's Green Building Ordinance, and the most recent CALGreen requirements. The project is consistent with this measure.
Urban Heat Island Mitigation	Develop and urge adoption of a model ordinance for "cool parking" that promotes the use of cool surface treatments for new parking facilities, as well existing surface lots undergoing resurfacing. Develop and promote adoption of model building code requirements for new construction or reroofing/ roofing upgrades for commercial and residential multifamily housing.	The project would be required to comply with the City's Green Building Ordinance and the most recent CALGreen requirements which would increase building efficiency over standard construction. Additionally, the project would include landscaping and trees located throughout the project to reduce the heat island effect. Therefore, the project is consistent with this control measure.

Table 4.3-3: Bay Area 2017 Clean Air Plan Applicable Control Measures		
Control Measures	**Description**	**Project Consistency**
Natural and Working Lands Measures		
Urban Tree Planting	Develop or identify an existing model municipal tree planting ordinance and encourage local governments to adopt such an ordinance. Include tree planting recommendations, the Air District's technical guidance, best management practices for local plans, and CEQA review.	Any trees removed would be required to be replaced in accordance with the City's tree replacement policy. Therefore, the project is consistent with this control measure. Refer to Section 4.4 Biological Resources.
Waste Management Measures		
Recycling and Waste Reduction	Develop or identify and promote model ordinances on community-wide zero waste goals and recycling of construction and demolition materials in commercial and public construction projects.	The City adopted the Zero Waste Strategic Plan which outlines policies to help the City foster a healthier community and achieve its Green Vision goals. In addition, the project would comply with the City's Construction and Demolition Diversion Program during construction which ensures that at least 75 percent of construction waste generated by the project is recovered and diverted from landfills. Therefore, the project is consistent with this control measure.

Construction Emissions

Emissions of air quality contaminants would be produced during construction through the operation of construction equipment and hauling trips, on- and off-site. The air quality model averaged emissions for each year of construction to estimate the daily emissions of the proposed project.

The construction schedule assumed that the earliest possible start date would be June 2023 and the project would be built out over a period of approximately 16 months or 350 workdays. The earliest year of operation was assumed to be 2025. The summary of construction emissions is shown in Table 4.3-4 below.

Table 4.3-4 Construction Period Emissions				
Year	**ROG**	**Nox**	**PM_{10} Exhaust**	**$PM_{2.5}$ Exhaust**
Construction Emissions Per Year (Tons)				
2023	0.17	1.43	0.07	0.06
2024	1.64	1.88	0.10	0.08
Average Daily Construction Emissions Per Year (pounds/day)				
2023 (153 construction workdays)	2.18	18.68	0.95	0.76
2024 (197 construction workdays)	16.68	19.05	0.97	0.78
BAAQMD Thresholds (pounds per day)	54 lbs./day	54 lbs./day	82 lbs./day	54 lbs./day
Exceed Threshold?	No	No	No	No
Source: Illingworth & Rodkin, Inc. 1520 West San Carlos Street Mixed Use Project Air Quality Assessment. October 20, 2022.				

The proposed project would not exceed the BAAQMD air quality thresholds for criteria air pollutants during construction of the proposed project. Therefore, the proposed project would result in a less than significant ai quality impact from criteria pollutants during construction.

Operational Emissions

The proposed project would produce criteria pollutant emissions as a result of energy consumption and vehicles trips associated with the project site. The estimated operational emissions are shown below in Table 4.3-5.

Table 4.3-5 Operational Period Emissions				
Year	**ROG**	**Nox**	**PM_{10}**	**$PM_{2.5}$**
2025 Annual Project Operational Emissions (tons/year)	1.84	0.59	1.08	0.28
BAAQMD Thresholds (tons /year)	10 tons/yr	10 tons/yr	15 tons/yr	10 tons/yr
Exceed Threshold?	No	No	No	No
2025 Daily Project Operational Emissions (pounds/day)1	10.10	3.23	5.92	1.55
BAAQMD Thresholds (pounds/day)	54 lbs./day	54 lbs/day.	82 lbs./dau	54 lbs./day
Exceed Threshold?	No	No	No	No
Source: Illingworth & Rodkin, Inc. 1520 West San Carlos Street Mixed Use Project Air Quality Assessment. October 20, 2022.				

The operational emissions of the proposed project would not exceed the BAAQMD thresholds. Therefore, the proposed project would have a less than significant impact from operational criteria air pollutants and would not conflict with or obstruct implementation of the Clean Air Plan. **(Less than Significant Impact)**

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

As stated in the BAAQMD CEQA Air Quality Guidelines, air pollution by its nature is largely a cumulative impact. No single project is sufficient in size to, by itself, to result in nonattainment of ambient air quality standards. If a project exceeds the identified significance thresholds, its emissions

would be cumulatively considerable, resulting in significant adverse air quality impacts to the region's existing air quality conditions.

As discussed in Air Quality response a) operational criteria pollutant emissions associated with the proposed project would not result in emissions above established BAAQMD thresholds (see Table 4.3-4) and the project is part of the planned growth in the City of San José. The proposed project, by itself, would not result in a cumulatively considerable net increase of any criteria pollutant for which the region is in nonattainment. Therefore, the proposed project would result in a less than significant impact. **(Less than Significant Impact)**

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

Fugitive Dust

Project construction activities, particularly during site preparation and grading, would temporarily generate airborne dust in the form of PM_{10} and $PM_{2.5}$. Sources of this airborne dust would include disturbed soils at the construction site and trucks carrying uncovered loads of soils. Unless properly controlled, vehicles leaving the site could deposit mud on local streets, which could be an additional source of airborne dust after it dries. The BAAQMD CEQA Air Quality Guidelines consider these impacts to be less than significant if best management practices are implemented to reduce these emissions.

Standard Permit Condition

Measures to reduce DPM and fugitive dust (i.e., $PM_{2.5}$) emissions from construction are recommended to ensure that health impacts to nearby sensitive receptors are minimized. During any construction period ground disturbance, the applicant shall ensure that the project contractor implements both basic and additional measures to control dust and exhaust. Implementation of the dust control measures recommended by BAAQMD and listed below would reduce the air quality impacts associated with grading and new construction to a less-than-significant level. The contractor shall implement the following enhanced best management practices:

- Water active construction areas at least twice daily or as often as needed to control dust emissions.
- Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- Remove visible mud or dirt track-out onto adjacent public roads using wet-power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- Pave new or improved roadways, driveways, and sidewalks as soon as possible.
- Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- All vehicle speeds on unpaved roads shall be limited to 15 mph
- Replant vegetation in disturbed areas as quickly as possible.

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

This standard permit condition would reduce fugitive dust consistent with BAAQMD CEQA Guidance and the City's Standard Permit Conditions. Therefore, the proposed project would not expose sensitive receptors to hazardous levels of fugitive dust during construction.

Project Construction Toxic Air Contaminant Exposure

Per BAAQMD guidance, only sensitive receptors within 1,000 feet of TAC sources need to be evaluated. As shown below on Figure 4.3-1, the nearest sensitive receptors to the project are the residential properties located to the north, south, east, and west of the site. The cancer maximally exposed individual (MEI) is located on the second floor (15 feet above ground level) of a multi-family residence southeast of the site and the annual $PM_{2.5}$ concentration MEI is the first floor (five feet above ground) of a single-family residence south of the project site.

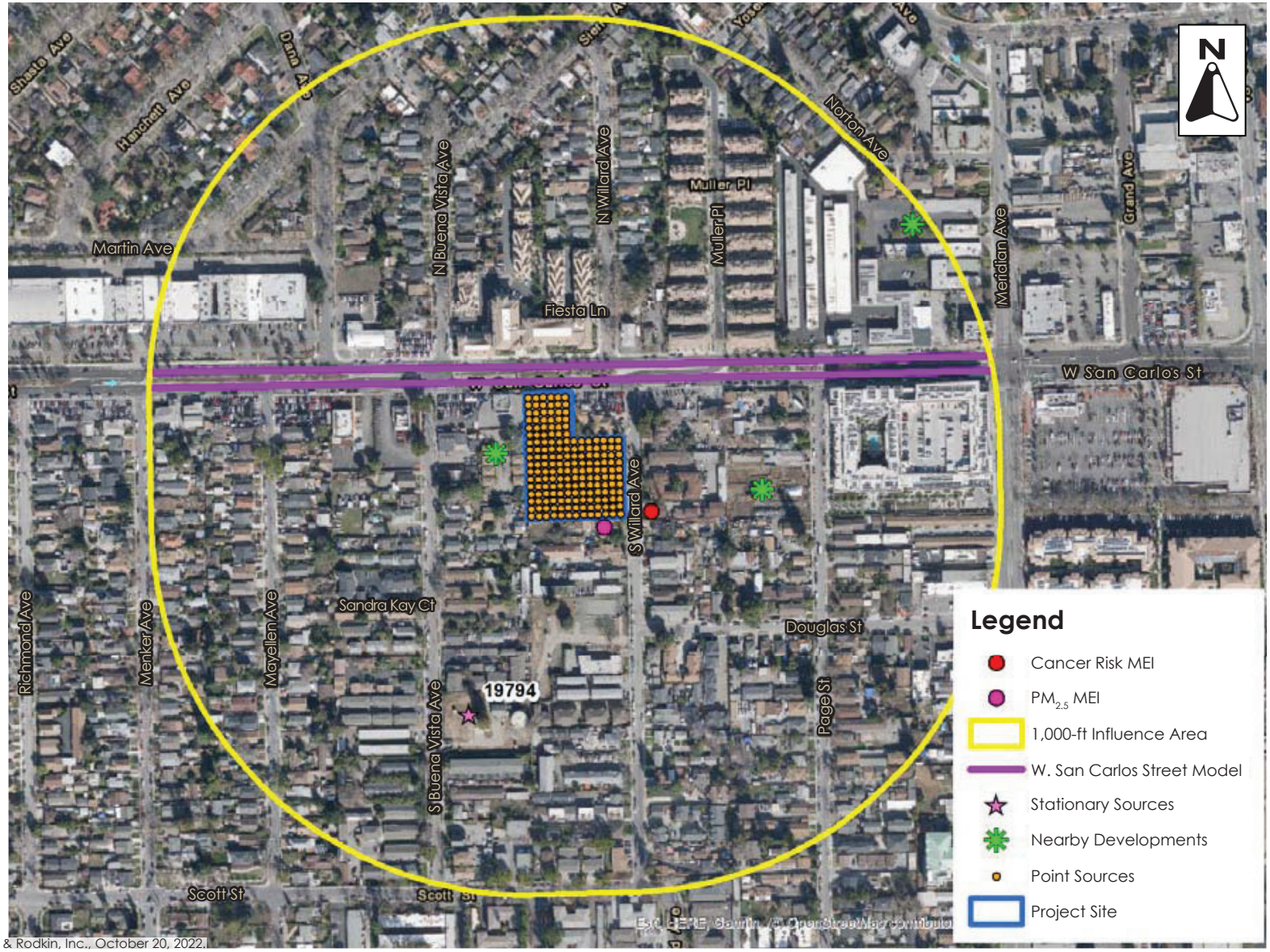
Project impacts related to increased community health risk can occur either by introducing a new source of TACs with the potential to affect existing sensitive receptors in the project vicinity or by significantly worsening existing cumulative TAC impacts. This project would introduce new sources of TACs during construction (on-site construction and truck hauling emissions) to surrounding sensitive receptors. These health hazards are quantified below in Table 4.3-6.

Table 4.3-6 Community Risk Impacts

Source	Cancer Risk (Per Million)	Annual $PM_{2.5}$ ($\mu g/m^3$)	Hazard Index
Project Construction	**61.34 (infant)**	**1.08**	0.04
BAAQMD Single-Source Threshold	10	0.3	1.0
Exceed Threshold?	**Yes**	**Yes**	No

Source: Illingworth & Rodkin, Inc. 1520 West San Carlos Street Mixed Use Project AQ Assessment. October 20, 2022.

The construction MEI would have a cancer risk of 61.34 cases per one million, for infants, which exceeds the BAAQMD significance threshold of 10 cases per one million. The maximum residential cancer risk for adults would be 0.74 cases per one million which is below the BAAQMD threshold of 10 cases per one million. The maximum-annual $PM_{2.5}$ concentration was calculated to be 1.08 $\mu g/m^3$, which exceeds the threshold of 0.3 $\mu g/m^3$, and maximum hazard index (HI) was found to be 0.04, which is below the threshold.



Source: Illingworth & Rodkin, Inc., October 20, 2022.

OFF-SITE MEI LOCATION

FIGURE 4.3-1

The proposed project's construction would exceed the Cancer Risk and Annual $PM_{2.5}$ BAAQMD single source BAAQMD threshold for construction emissions and, therefore, the proposed project would have a significant community risk impact during construction.

IMPACT AIR-1 Construction activities associated with the proposed project would expose the maximum exposed individual (MEI) to a cancer risk of 61.34 cases per one million (for infants) which is which exceeds the Bay Area Air Quality Management District (BAAQMD) significance threshold of 10 cases per one million and an annual $PM_{2.5}$ level of 1.08, exceeding BAAQMD Community Risk single source thresholds of 0.03 $\mu g/m^3$ of $PM_{2.5}$ concentration.

Mitigation Measures

In addition to the Standard Permit Conditions listed above and in conformance with General Plan Policies MS-10.1 and MS-13.1, the following mitigation measure would be implemented during all demolition and construction activities to reduce TAC emissions impacts.

MM-AIR-1.1 Prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest), the project applicant shall submit a construction operations plan to the Director of Planning, Building and Code Enforcement or Director's designee that includes specifications of the equipment to be used during construction. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth below.

- All construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall, at a minimum, meet U.S. Environmental Protection Agency (EPA) Tier 4 final or interim emission standards for particulate matter (PM_{10} and $PM_{2.5}$).
    - If use of Tier 4 equipment is not available, alternatively use equipment that meets U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve an 85 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment; alternatively (or in combination).

- Alternatively, the project applicant could develop a plan that reduces on- and near-site construction diesel particulate matter emissions by a minimum of 85 percent or greater. The plan shall be accompanied by a letter signed by an air quality specialist and shall be submitted for review and approval by the Director of Planning, Building and Code Enforcement or Director's designee prior to the issuance of any demolition, grading, or building permits (whichever occurs first).

Elements of the plan could include a combination of some of the following measures:

- Use Tier 4 or alternatively fueled equipment (refer to first sub bullet above),
- Installation of electric power lines during early construction phases to avoid use of diesel generators and compressors,
- Use of electrically-powered equipment,
- Forklifts and aerial lifts used for exterior and interior building construction shall be electric or propane/natural gas powered,
- Change in construction build-out plans to lengthen phases, and
- Implementation of different building techniques that result in less diesel equipment usage.

With implementation of the identified measures, the project's construction cancer risk would be reduced by 88 percent to 7.62 cases per million and the $PM_{2.5}$ concentration would be reduced by 81 percent to 0.21 µg/m^3 concentration below the BAAQMD significance thresholds As a result, the project's construction risks and hazards would be reduced below the BAAQMD single-source thresholds. **(Less than Significant Impact with Mitigation Incorporated)**

Project Operational – Community Risk Impacts

Project traffic and use of generators during project operation could result in community risk impacts. No project stationary sources (i.e., generators) are proposed. Operation of the project would have long-term emissions from mobile sources (i.e., traffic). While these emissions would not be as intensive at or near the site as construction activity, they would contribute to long-term effects to sensitive receptors.

Per BAAQMD, roadways with less than 10,000 total vehicles per day would have a less than significant TAC impact. Projects with the potential to cause or contribute to increased cancer risk from traffic include those that have high numbers of diesel-powered on-road trucks or use off-road diesel equipment on-site (e.g., distribution center, a quarry, or a manufacturing facility), may potentially expose existing or future planned receptors to substantial cancer risk levels and/or health hazards. Based on the traffic analysis prepared for the project, the project would generate up to 1,522 new daily trips. The proposed project, by itself, would not generate enough trips to generate a TAC source; therefore, the project traffic emissions would be negligible and is not included in this analysis. The project would result in a less than significant operational TAC impact to adjacent sensitive receptors.

Criteria Pollutant Emissions

In a 2018 decision (Sierra Club v. County of Fresno), the state Supreme Court determined that CEQA requires that when a project's criteria air pollutant emissions would exceed applicable thresholds and contribute a cumulatively considerable contribution to a significant cumulative regional criteria pollutant impact, the potential for the project's emissions to affect human health in the air basin must be disclosed. State and federal ambient air quality standards are health-based

standards and exceedances of those standards result in continued unhealthy levels of air pollutants. As stated in the 2017 BAAQMD CEQA Air Quality Guidelines, air pollution by its nature is largely a cumulative impact. No single project is sufficient in size, by itself, to result in nonattainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulatively significant adverse air quality impacts. In developing thresholds of significance for air pollutants, BAAQMD considered the emission levels for which a project's individual emissions would be cumulatively considerable. If a project has a less than significant impact for criteria pollutants, it is assumed to have no adverse health effect.

As discussed under checklist question a) above, the proposed project would result in a less than significant project-level operational and construction criteria pollutant impact. As a result, the project would result in a less than significant health impact to sensitive receptors. **(Less than Significant Impact)**

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

The proposed project would result in a mixed-use residential and commercial development on the project site which is currently occupied by residential and commercial uses. During construction of the proposed project, operation of construction vehicles may result in temporary odors related to fuel combustion, but these would be temporary and would not result in a significant impact. The mixed-use development would not include any land uses which typically produce unpleasant odors which could impact residents around the project site. Therefore, the proposed project would have a less than significant impact from odors produced on-site. **(Less than Significant Impact)**

4.3.3 Non-CEQA Effects

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

The City's General Plan Policy MS-11.1 requires new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into their designs to avoid significant risks to health and safety. BAAQMD's recommended thresholds for health risks and hazards, shown in Table 4.3-2, are used to evaluate on-site exposure.

A health risk assessment was completed to assess the impact that existing TAC sources would have on the new proposed sensitive receptors (residents) that would result from the project.

Health risks to future residents on the project site were analyzed by adding the impacts from nearby roadways, generators, and other nearby projects. The levels of health risk for on-site residents are summarized below in Table 4.3-7.

Table 4.3-7 Community Risk Impacts on New Residents			
Source	**Cancer Risk (Per Million)**	**Annual $PM_{2.5}$ ($\mu g/m^3$)**	**Hazard Index**
West San Carlos Street, ADT 17,586	1.19	0.11	<0.01
San Jose Water Company (Facility ID #19802, Generator), MEI at 490 feet	3.52	<0.01	<0.01
Cumulative Temporary Construction Sources			
West San Carlos Mixed Use Mitigated Construction Emissions – adjacent west	3.6	0.13	0.01
329 Page Street Mitigated Construction Emissions – 280 feet east	<10.0	<0.3	<1.0
259 Meridian Avenue Mitigated Construction Emissions – 790 feet northeast	7.4	0.11	<0.01
BAAQMD Single-Source Threshold	10	0.3	1.0
Exceed Threshold?	No	No	No
Cumulative Total	25.17	0.66	1.04
BAAQMD Cumulative Source Threshold	100	0.8	10.0
Exceed Threshold?	No	No	No

Source: Illingworth & Rodkin, Inc. 1520 West San Carlos Street Mixed Use Project AQ Assessment. October 20, 2022.

The nearby sources of TACs would not result in single source or cumulative exceedances in health risk thresholds established by BAAQMD. Therefore, the sources of TACs would not result in a health risk to future site residents and would not conflict with General Plan Policy MS-11.1.

4.4 BIOLOGICAL RESOURCES

The information in this section is based in part on the analysis provided in the Arborist Report prepared by HMH in August 2021. This report is included in Appendix B of this study.

4.4.1 Environmental Setting

4.4.1.1 *Regulatory Framework*

Federal and State

Endangered Species Act

Individual plant and animal species listed as rare, threatened, or endangered under state and federal Endangered Species Acts are considered special-status species. Federal and state endangered species legislation has provided the United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) with a mechanism for conserving and protecting plant and animal species of limited distribution and/or low or declining populations. Permits may be required from both the USFWS and CDFW if activities associated with a proposed project would result in the take of a species listed as threatened or endangered. To "take" a listed species, as defined by the State of California, is "to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill" these species. Take is more broadly defined by the federal Endangered Species Act to include harm of a listed species.

In addition to species listed under state and federal Endangered Species Acts, Sections 15380(b) and (c) of the CEQA Guidelines provide that all potential rare or sensitive species, or habitats capable of supporting rare species, must be considered as part of the environmental review process. These may include plant species listed by the California Native Plant Society and CDFW-listed Species of Special Concern.

Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA) prohibits killing, capture, possession, or trade of migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. Hunting and poaching are also prohibited. The taking and killing of birds resulting from an activity is not prohibited by the MBTA when the underlying purpose of that activity is not to take birds.[13] Nesting birds are considered special-status species and are protected by the USFWS. The CDFW also protects migratory and nesting birds under California Fish and Game Code Sections 3503, 3503.5, and 3800. The CDFW defines taking as causing abandonment and/or loss of reproductive efforts through disturbance.

Sensitive Habitat Regulations

Wetland and riparian habitats are considered sensitive habitats under CEQA. They are also afforded protection under applicable federal, state, and local regulations, and are generally subject to regulation by the United States Army Corps of Engineers (USACE), Regional Water Quality Control

[13] United States Department of the Interior. "Memorandum M-37050. The Migratory Bird Treaty Act Does Not Prohibit Incidental Take." Accessed August 4, 2021. https://www.doi.gov/sites/doi.gov/files/uploads/m-37050.pdf.

Board (RWQCB), CDFW, and/or the USFWS under provisions of the federal Clean Water Act (e.g., Sections 303, 304, 404) and State of California Porter-Cologne Water Quality Control Act.

Fish and Game Code Section 1602

Streambeds and banks, as well as associated riparian habitat, are regulated by the CDFW per Section 1602 of the Fish and Game Code. Work within the bed or banks of a stream or the adjacent riparian habitat requires a Streambed Alteration Agreement from the CDFW.

Regional and Local

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (Habitat Plan) covers approximately 520,000 acres, or approximately 62 percent of Santa Clara County. It was developed and adopted through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District (Valley Water), Santa Clara Valley Transportation Authority (VTA), USFWS, and CDFW. The Habitat Plan is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in southern Santa Clara County. The Santa Clara Valley Habitat Agency is responsible for implementing the plan.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to biological resources and are applicable to the project.

General Plan Policies – Biological Resources

Policy	Description
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 to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
CD-1.25	Within new development projects, including 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 management practices. When tree preservation is not feasible include replacement or alternative mitigation measures in the project to maintain and enhance our Community Forest.
ER-2.1	Avoid implementing activities that result in loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance of activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.
ER-5.2	Require that development projects incorporate measures to avoid impacts to nesting migratory birds.
MS-21.4	Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.

MS-21.5	As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse effect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.
MS-21.6	As a condition of new development, require, where appropriate, 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, and guidelines.

Tree Removal Ordinance

The City of San José Tree Removal Controls (San José Municipal Code, Sections 13.31.010 to 13.32.100) serve to protect all trees having a trunk that measures 38 inches or more in circumference (12.1 inches in diameter) at the height of 54 inches (4.5 feet) above the natural grade of slope. The ordinance protects both native and non-native tree species. A tree removal permit is required from the City of San José for the removal of ordinance-sized trees. On private property, tree removal permits are issued by the Department of Planning, Building and Code Enforcement. Removal of or modifications to all trees on public property (e.g., street trees within a parking strip or the area between the curb and sidewalk) are handled by the City Arborist. In addition, any tree found by the City Council to have special significance can be designated as a Heritage Tree, regardless of tree size or species. It is unlawful to vandalize, mutilate, remove, or destroy such Heritage Trees. Under the City's Tree Removal Ordinance, specific criteria or findings must be made before a permit for removal of a live or dead Heritage Tree would be granted.

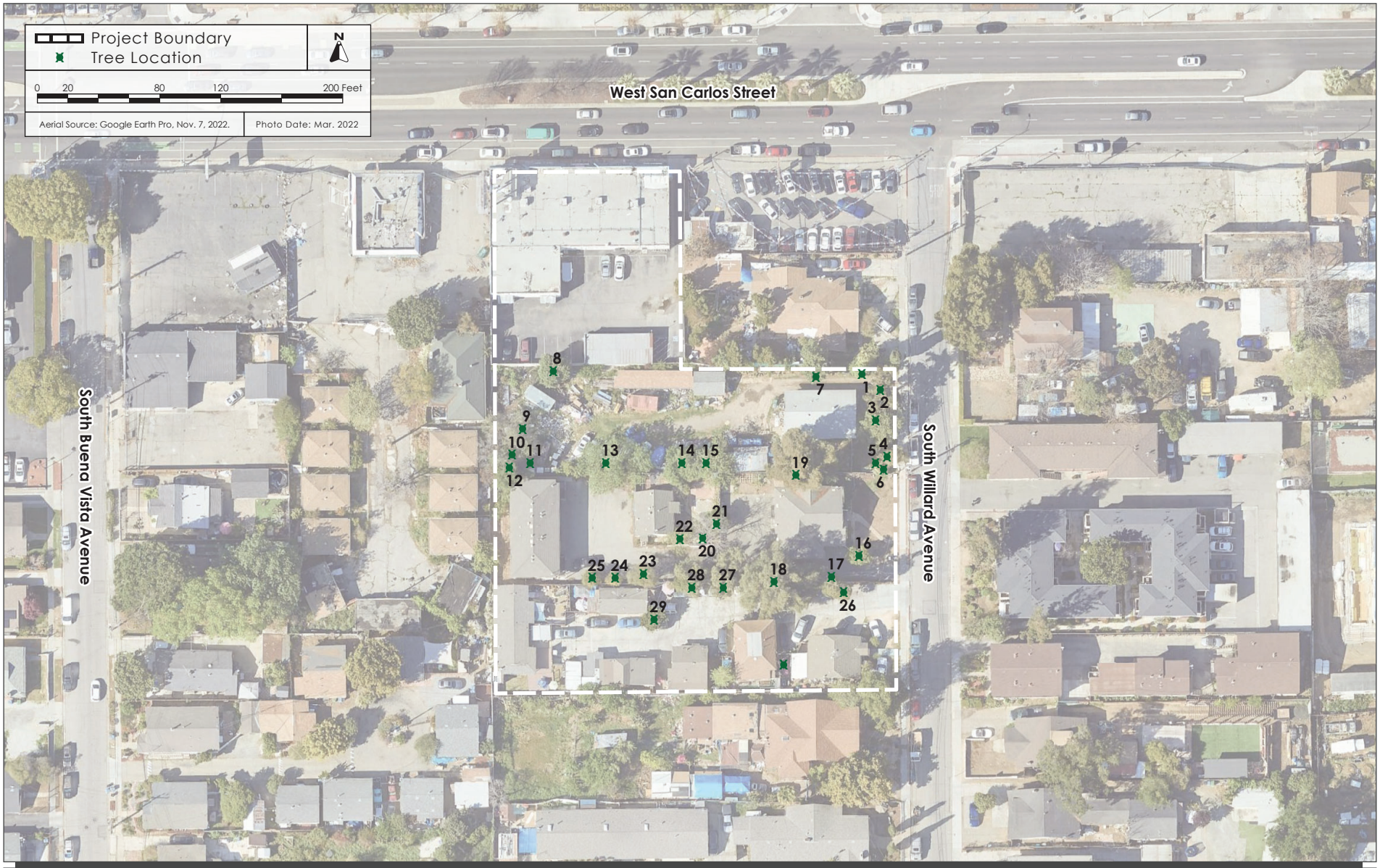
4.4.1.2 *Existing Conditions*

Biological Environment

The project site is located within an urbanized area of San José along West San Carlos Street and is approximately 0.8 mile west of Los Gatos Creek and approximately 1.25 miles west of the Guadalupe River. The project site does not contain natural habitat or sensitive species according to the Habitat Plan and is designated as Urban-Suburban land cover. Additionally, there are no wetlands or riparian habitats located on the project site.

On-Site Trees

The project site contains 29 trees in varying health conditions. These tree species are described and classified in Table 4.4-1 below. The locations of the trees on site are shown in Figure 4.4-1 below.



TREE LOCATIONS

FIGURE 4.4-1

Table 4.4-1 Tree Species On-site					
Tree No.	**Scientific Name**	**Common Name**	**DBH (Inches)**	**Circumference (Inches)**	**Ordinance Tree?**
1	*Washingtonia filifera*	California Fan Palm	19.0	60	Yes
2	*Pseudotsuga menziesii*	Douglas Fir	19.5	61	Yes
3	*Magnolia grandiflora*	Southern Magnolia	17.0	53	Yes
4	*Callistemon citrinus*	Lemon Bottlebrush	20.5	64	Yes
5	*Citrus japonica*	Kumquat	12.0	38	Yes
6	*Pittosporum undulatum*	Victorian Box	5.5	17	No
7	*Eriobotrya japonica*	Loquat	12.5	39	Yes
8	*Eriobotrya japonica*	Loquat	19.0	60	Yes
9	*Prunus persica*	Peach	55.0	173	Yes
10	*Fagus sylvatica purpurea*	Copper Beech	22.0	69	Yes
11	*Quercus agrifolia*	Coast Live Oak	15.5	49	Yes
12	*Fagus sylvatica purpurea*	Copper Beech	24.0	75	Yes
13	*Juglans hindsii*	N. California Black Walnut	16.0	50	Yes
14	*Prunus persica*	Peach	19.0	60	Yes
15	*Juglans hindsii*	N. California Black Walnut	16.0	50	Yes
16	*Citrus x aurantiifolia*	Lime	11.5	36	No
17	*Ligustrum lucidum*	Glossy Privet	14.0	44	Yes
18	*Schinus molle*	California Pepper	26.0	82	Yes
19	*Acacia melanoxylon*	Black Acacia	25.0	79	Yes
20	*Diospyros virginiana*	Persimmon	22.0	69	Yes
21	*Pittosporum undulatum*	Victorian Box	13.0	41	Yes
22	*Diospyros virginiana*	Persimmon	15.5	49	Yes
23	*Ligustrum lucidum*	Glossy Privet	22.0	69	Yes
24	*Ligustrum lucidum*	Glossy Privet	15.0	47	Yes
25	*Ligustrum lucidum*	Glossy Privet	16.5	52	Yes
26	*Thuja plicata*	Western Redcedar	19.0	60	Yes
27	*Schinus molle*	California Pepper	26.0	82	Yes
28	*Ligustrum lucidum*	Glossy Privet	24.0	75	Yes
29	*Juniperus chinensis Torulosa*	Hollywood Juniper	13.0	41	Yes

4.4.2 Impact Discussion

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

a) Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS?

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

Nesting Birds

Development of the project would result in the removal of 29 trees on the project site. Trees could provide nesting habitat for birds, including migratory birds. Nesting birds are protected under provisions of the MBTA and CDFW code. Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes abandonment and/or removal and site grading that disturbs a nesting bird on-site or immediately adjacent to the construction zone would constitute a significant impact.

Impact BIO-1: Construction activities associated with the proposed project could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment.

Mitigation Measures: The following mitigation measures would be required to reduce and/or avoid impacts to nesting birds (if present on or adjacent to the site).

MM BIO-1.1: The project applicant shall avoid construction activities during the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive).

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

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

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

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

b) Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?

The project site does not contain riparian habitat and is located approximately 0.8 mile west of the Los Gatos Creek and approximately 1.25 miles west of the Guadalupe River. Additionally, the project site is identified as urban-suburban land cover in the Habitat Plan and does not contain sensitive natural communities which would be impacted by the proposed project. Therefore, the proposed project would have a less than significant impact on riparian habitat or other sensitive communities identified in local or regional plans, policies, regulations, or by the CDFW or USFWS. **(Less than Significant Impact)**

c) Would the project have a substantial adverse effect on state or federally protected wetlands through direct removal, filling, hydrological interruption, or other means?

The project site does not contain wetland areas and is not located near wetland areas which may be impacted indirectly by the proposed project. Therefore, the proposed project would not impact state or federally protected wetlands through direct removal, filling, hydrological interruption, or other means. **(Less than Significant Impact)**

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

The project site is not an area designated as a wildlife corridor or classified as a native wildlife nursery site for a native resident or migratory fish species. Therefore, the proposed project would not result in impacts to these biological resources. **(Less than Significant Impact)**

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

Implementation of the proposed project would result in the removal of 29 on-site trees. As such, the project would be required to conform to the city's standard permit condition related to tree replacement requirements consistent with General Plan Policies MS-21.4, MS-21.5, and MS-21.6 and City of San José Tree Removal Ordinance (Municipal Code Section 13.31.010 to 13.32.100).

Standard Permit Condition:

> **Tree Replacement.** Trees removed for the project shall be replaced according to tree replacement ratios required by the City, as provided in Table 4.4-2 below, as amended.

Table 4.4-2: Tree Replacement Ratios				
Circumference of Tree to be Removed	**Type of Tree to be Removed**			**Minimum Size of Each Replacement Tree**
	Native	**Non-Native**	**Orchard**	
38 inches or more	5:1*	4:1	3:1	15-gallon
19 up to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon
*x:x = tree replacement to tree loss ratio Note: Trees greater than or equal to 38-inch circumference measured at 54 inches above natural grade shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For Multi-Family residential, Commercial and Industrial properties, a permit is required for removal of trees of any size. A 38-inch tree equals 12.1 inches in diameter. A 24-inch box tree = two 15-gallon trees Single Family and two-dwelling properties may be mitigated at a 1:1 ratio.				

Of the 29 trees to be removed, five trees would be replaced at a 5:1 ratio, 22 trees would be replaced at a 4:1 ratio, one tree would be replaced at a 2:1 ratio, and the remaining tree would be replaced at a 1:1 ratio. The total number of replacement trees required to be planted would be 117 trees of 15-gallon size (or 59, 24-inch box trees). The species of trees to be planted would be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement (PBCE).

Prior to the issuance of building permit(s), the permittee shall pay Off-Site Tree Replacement Fee(s) to the City for any additional off-site replacement trees in accordance with the City Council approved Fee Resolution in effect at the time of payment.

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 or 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, at the development permit stage.
- Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of Public Works grading permit(s), in accordance to the City Council approved Fee Resolution. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

The proposed project would plant 47, 24-inch box trees as part of the project. The 47, 24-inch box trees would be equivalent to 94 replacement trees. Therefore, the proposed project would pay off-site tree replacement fees to the City for the remaining 23 replacement trees in compliance with the Standard Permit Condition. Through compliance with the Standard Permit Condition, the proposed project would result in a less than significant impact from loss of trees. **(Less than Significant Impact)**

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

The project site is located within the SCVHP and is designated as "Urban-Suburban" land. Private development in the plan area is subject to the SCVHP if it meets the following criteria:

- The activity is subject to either ministerial or discretionary approval by the County or one of the cities;
- The activity is described in Section 2.3.2 Urban Development or in Section 2.3.7 Rural Development;
- In Figure 2-5 of the SCVHP, the activity is located in an area identified as "Private Development is Covered," or the activity is equal to or greater than two acres and;
    - The project is located in an area identified as "Rural Development Equal to or Greater than Two Acres is Covered," or "Urban Development Equal to or Greater than Two Acres is Covered" or,
    - The activity is located in an area identified as "Rural Development is not Covered" but, based on land cover verification of the parcel (inside the Urban Service Area) or development area, the project is found to impact serpentine, wetland, stream, riparian, or pond land cover types; or the project is located in occupied or occupied nesting habitat for western burrowing owl.

The proposed project would require discretionary approval by the City and is consistent with the activity described in Section 2.3.2 of the SCVHP; however, the project site is 1.62 acres in size (below the 2.0-acre threshold) and is not subject to any land cover fee. Consistent with the SCVHP, the project applicant shall implement the following Standard Permit Condition.

Standard Permit Conditions:

The project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant would be required to submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of PBCE or the Director's designee for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at www.scv-habitatplan.org.

Therefore, through compliance with Standard Permit Condition, the proposed project would result in a less than significant impact and would comply with the Habitat Plan. **(Less than Significant Impact)**

4.5 CULTURAL RESOURCES

The information in this section is based in part on the Historic Resource Assessment & Design Guidelines and Standards Compliance Review prepared by TreanorHL, on October 29, 2021. This report is included as Appendix C of this document. Additionally, an Archaeological Sensitivity Assessment was conducted by AHC in March 2023 for the project site and surrounding areas which is on file with the City of San José Department of Planning, Building and Code Enforcement and available for review with appropriate credentials.

4.5.1 Environmental Setting

4.5.1.1 *Regulatory Framework*

Federal and State

National Historic Preservation Act

Federal protection is legislated by the National Historic Preservation Act of 1966 (NHPA) and the Archaeological Resource Protection Act of 1979. These laws maintain processes for determination of the effects on historical properties eligible for listing in the National Register of Historic Places (NRHP). Section 106 of the NHPA and related regulations (36 Code of Federal Regulations [CFR] Part 800) constitute the primary federal regulatory framework guiding cultural resources investigations and require consideration of effects on properties that are listed or eligible for listing in the NRHP. Impacts to properties listed in the NRHP must be evaluated under CEQA.

The NRHP is the nation's master inventory of historic resources that are considered significant at the national, state, or local level. The minimum criteria for determining NRHP eligibility include:

- The property is at least 50 years old (properties under 50 years of age that are of exceptional importance or are contributors to a district can also be included in the NRHP);
- It retains integrity of location, design, setting, materials, workmanship, feeling, and associations; and
- It possesses at least one of the following characteristics:
    - Association with events that have made a significant contribution to the broad patterns of history;
    - Association with the lives of persons significant in the past;
    - Distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant, distinguishable entity whose components may lack individual distinction; or
    - Has yielded, or may yield, information important to prehistory or history.

California Register of Historical Resources

The California Register of Historical Resources (CRHR) is administered by the State Office of Historic Preservation and encourages protection of resources of architectural, historical, archeological, and cultural significance. The CRHR identifies historic resources for state and local

planning purposes and affords protections under CEQA. Under Public Resources Code Section 5024.1(c), a resource may be eligible for listing in the CRHR if it meets any of the NRHP criteria.[14]

Historical resources eligible for listing in the CRHR must meet the significance criteria described previously and retain enough of their historic character or appearance to be recognizable as historical resources and to convey the reasons for their significance. A resource that has lost its historic character or appearance may still have sufficient integrity for the CRHR if it maintains the potential to yield significant scientific or historical information or specific data.

The concept of integrity is essential to identifying the important physical characteristics of historical resources and, therefore, in evaluating adverse changes to them. Integrity is defined as "the authenticity of a historical resource's physical identity evidenced by the survival of characteristics that existed during the resource's period of significance." The processes of determining integrity are similar for both the CRHR and NRHP and use the same seven variables or aspects to define integrity that are used to evaluate a resource's eligibility for listing. These seven characteristics include 1) location, 2) design, 3) setting, 4) materials, 5) workmanship, 6) feeling, and 7) association.

California Native American Historical, Cultural, and Sacred Sites Act

The California Native American Historical, Cultural, and Sacred Sites Act applies to both state and private lands. The act requires that upon discovery of human remains, construction or excavation activity must cease and the county coroner be notified.

Public Resources Code Sections 5097 and 5097.98

Section 15064.5 of the CEQA Guidelines specifies procedures to be used in the event of an unexpected discovery of Native American human remains on non-federal 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 Native American Heritage Commission (NAHC) as the authority to resolve disputes regarding disposition of such remains.

Pursuant to Public Resources Code Section 5097.98, in the event of human remains discovery, no further disturbance is allowed until the county coroner has made the necessary findings regarding the origin and disposition of the remains. If the remains are of a Native American, the county coroner must notify the NAHC. The NAHC then notifies those persons most likely to be related to the Native American remains. The code section also stipulates the procedures that the descendants may follow for treating or disposing of the remains and associated grave goods.

Envision San José 2040 General Plan

Various policies in the City's 2040 General Plan have been adopted for the purpose of reducing or avoiding impacts related to cultural resources, as listed below.

[14] California Office of Historic Preservation. "CEQA Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6." Accessed August 4, 2021. http://www.ohp.parks.ca.gov/pages/1069/files/technical%20assistance%20bulletin%206%202011%20update.pdf.

General Plan Policies - Cultural Resource	
Landmarks and Districts	
Policy LU-13.2	Preserve candidate or designated landmark buildings, structures and historic objects, with first priority given to preserving and rehabilitating them for their historic use, second to preserving and rehabilitating them for a new use, or third to rehabilitation and relocation on-site. If the City concurs that no other option is feasible, candidate or designated landmark structures should be rehabilitated and relocated to a new site in an appropriate setting.
Policy LU-13.4	Require public and private development projects to conform to the adopted City Council Policy on the Preservation of Historic Landmarks.
Policy LU-13.6	Ensure modifications to candidate or designated landmark buildings or structures conform to the Secretary of the Interior's Standards for Treatment of Historic Properties and/or appropriate State of California requirements regarding historic buildings and/or structures, including the California Historical Building Code.
Policy LU-13.8	Require that new development, alterations, and rehabilitation/remodels adjacent to a designated or candidate landmark or Historic District be designed to be sensitive to its character.
Policy LU-13.11	Maintain and update an inventory of historic resources in order to promote awareness of these community resources and as a tool to further their preservation. Give priority to identifying and establishing Historic Districts.
Policy LU-13.15	Implement City, State, and Federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.
Archaeology	
Policy ER-9.2	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-10.1	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-10.3	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.

4.5.1.2 *Existing Conditions*

Historic Context

Neighborhood Context

In the early nineteenth century, the project site was part of lands belonging to Mission Santa Clara. By 1844, after the secularization of the Mission in the previous decade, the Rancho de los Coches

was established on approximately 2,219-acres. The portion of the former Rancho de los Coches that the project site occupies was surrounded by large parcels of agricultural land for many decades. The agricultural land uses included raising stock and growing fruits, vegetables, and grains. In 1903, access to surrounding communities was provided by the establishment of the San José & Los Gatos Interurban Railroad. This rail line ran along Stevens Creek Boulevard (formerly Stevens Creek Road and present-day West San Carlos Street) and connected the Burbank neighborhood to downtown San José and neighboring Los Gatos. Soon after the establishment of the rail line, the Luther Burbank School was constructed in 1906 to accommodate the growing population in the area. Additional suburban neighborhoods were established along the rail line as there was a convenient way to get to the downtown commercial core of the City. By 1927, a section of Stevens Creek Road was renamed West San Carlos Street. By the 1930s, the automobile was growing in prominence and the railway ceased to operate. With the growing reliance on the automobile and the development of the suburbs, downtown businesses began to move out of the City center to the suburbs. One main destination of these businesses was West San Carlos Street/Stevens Creek Boulevard, as the street had become a main thoroughfare. Over time, the area (including the project site) became a commercial center on the west side of the City.

Archaeological Resources

According to the General Plan Sensitivity Maps and archaeological sensitivity assessment prepared for the project, the project site is not located within an area of high archaeological sensitivity. Based on the Archaeological Sensitivity Assessment prepared for the project, the project area has a low sensitivity for buried Native American archaeological deposits and a low sensitivity for buried historic archaeological deposits No known archaeological resources are located within or adjacent to the project site.

Historic Resources

The project site is made up a one-story commercial building, four one- or two-story residential buildings, and multiple accessory structures. None of the buildings are currently listed on the NRHP, CRHR, or the City's Historic Resources Inventory. All buildings on-site are over 50 years old and were evaluated to determine if the structures qualify as potentially historic resources per the state and City's significance criteria. A summary of each building's architectural significance is described below. Refer to Appendix C for additional details.

<u>1520 West San Carlos Street (APN 277-18-021)</u>

The one-story commercial structure located at 1520-1528 West San Carlos Street was constructed in 1948 with a rear addition constructed in 1965. The structure was designed in the Commercial Modern style of architecture and is a wood-frame structure with a stucco façade. The north façade features five storefronts. Each unit has a

central glazed door with a window above the door, flanked by fixed windows. The doors at each end, at 1520 and 1528, also have side windows. All windows are bordered by aluminum sash. The only decorative feature is a row of blue square tiles inserted below the windows. Two plywood sheds with corrugated metal roofs and simple wood doors are attached to the south wall. Flanking the western shed are aluminum sliders behind security bars.

The commercial building also has a one-story storage structure located at the rear of the store which features wood siding and a sliding door.

As stated above the design was originally influenced by the Commercial Modern architectural style. Similar to the Midcentury Modern architectural style, Commercial Modern buildings were common in the San José area from the 1930s to the mid-20th century. Character defining features of the style that apply to the subject structure include horizontal massing, flat roof, and extensive use of glass within metal frames.

The evaluation determined that the structure is not individually eligible for listing on the CRHR, or as a San José Candidate City Landmark because the building's not associated with significant events; the structures are not associated with persons of known historical significance; the 1948 building is of common construction and materials with no notable or special attributes; and the structures do not have potential to yield information important to the prehistory or history of the local area, state, or nation.

315 South Willard Avenue (APN 277-18-024)

The property at 315 South Willard Avenue includes a single-family house to the east and multiple accessory structures to the west. A gravel driveway to the north leads to the backyard. The house was originally a Craftsman although it was altered significantly in the 2010's.

The one-story wood-frame house is a stucco clad structure with a front gabled shingle clad roof. The moderately pitched roof has a wide eave overhang and is supported by simple wood brackets at the front and rear. The windows are vinyl with no trim. The front façade is punctuated by a single wood panel door to the north and two windows on the first floor, and a rectangular window on the attic level. The house includes an open porch on a concrete stoop. Two round columns and exposed rafters support the low slope roof.

The sides of the building (north and south) include rectangular windows of different sizes, almost all vinyl with screens and no trim. The north wall has an angled bay with double-hung windows while the south wall has a rectangular bay with a three-part window. The unadorned rear (west) façade features a single door offset on the south and a vinyl slider flanked by vents at the gable.

A small one-story accessory structure, possibly a former garage, is to the northwest of the house. The wood-frame utilitarian structure is rectangular in plan with a gable roof. It has vertical wood and batten cladding at the gables and horizontal wood cladding on the sides. A wood garage door with two wings is on the east wall while a multi-lite wood window is on the south wall. Multiple temporary sheds on the west side of the parcel.

The evaluation determined that the house and accessory structures are not individually eligible for listing on the CRHR, or as a San José Candidate City Landmark because the building is not associated with significant events; the structures are not associated with persons of known historical significance; the buildings are of common construction and materials with no notable or special attributes and not representative of any architectural style; and the structures do not have potential to yield information important to the prehistory or history of the local area, state, or nation.

325 South Willard Avenue (APN 277-18-025)

The parcel at 325 South Willard Avenue has three buildings: two houses and a two-story multi-family residential building to the west. A driveway runs along the south property line, leading to the rear units.

The one-story, Craftsman style, single-family house at 325 South Willard Avenue is a wood-frame building with stucco clad exterior walls and vertical wood cladding at the front gable. The asphalt shingle clad roof with triangular overhanging eaves. The front facing gables are supported by brackets and a porch is recessed beneath the gable to the north with a square column and wood railings.

The one-story, rectangular, vernacular bungalow in the middle of the parcel is a wood-frame building with stucco cladding and an asphalt shingle-clad, gabled roof.

The two-story, multi-unit, rectangular, residential building at the very west end of the parcel has a Midcentury Modern style wood-frame structure with stucco cladding and an asphalt shingle clad hipped roof. The front (east) façade has two- and three-part vinyl sliders with screens on each level. Wood panel doors provide access to the individual units.

The evaluation determined that the structures are not individually eligible for listing on the CRHR, or as San José

Candidate City Landmarks because the building's not associated with significant events; the structures are not associated with persons of known historical significance; the buildings are of common construction and materials with no notable or special attributes and not representative of any architectural style; and the structures do not have potential to yield information important to the prehistory or history of the local area, state, or nation.

329 South Willard Avenue (APN 277-18-026)

The property at 329 S. Willard Avenue features six one-story wood-frame bungalows arranged in a "J" shape around a paved driveway.

The rectangular, Craftsman inspired bungalow at 329 South Willard Street features a projecting porch on the front façade. The building has stucco clad walls and an asphalt shingle-clad gable roof with chamfers[15] at the gable ends. A concrete walkway from the sidewalk leads to the raised concrete porch at the north end of the front (east) façade which has a gable roof and two square columns.

329 South Willard – Unit A

Located to the west of 329 South Willard Avenue house, Unit A is rectangular structure with stucco clad exterior walls and the roof that is hipped with a flat top. The primary window type is wood-sash, one-over-one, double-hung with wide trim. A concrete podium with two steps is in front of the door.

329 South Willard – Unit B

Unit B is a simple, rectangular, bungalow clad in stucco with a side gable roof extending to the southwest. Similar to Unit A, a single door with a concrete podium on the north façade is beneath a simple wood awning. All doors are raised and reached by concrete steps and platforms.

[15] a transitional edge between two faces of an object

329 South Willard – Unit C

Unit C is a stucco clad building with an asphalt shingle clad hipped roof at the center flanked with shed roofs. To the west, sheds with single-clad and corrugated metal roofs are attached to the structure. Two single wood doors and two aluminum sliders punctuate the front (north) façade. Both doors are accessed by a concrete platform with three steps.

329 South Willard – Units D and E

The structure housing Units D and E has stucco cladding and an asphalt shingle clad gable roof extending over the entrances to form two porches with wood supports. Two single wood panel doors are on the front façade. The porch to the south is L-shaped, wrapping around the corner of the building.

329 South Willard – Unit F

Unit F is the smallest structure on this parcel. It has stucco clad exterior walls and an asphalt shingle clad gable roof. On the east façade, an L-shaped awning with brackets and square wood posts shelter a single wood panel door and an aluminum slider. Two more aluminum sliders are on the south façade, facing the driveway.

The evaluation determined that the structures are not individually eligible for listing on the CRHR, or as a San José Candidate City Landmarks because the building's not associated with significant events; the structures are not associated with persons of known historical significance; the buildings are of common construction and materials with no notable or special attributes and not representative of any architectural style; and the structures do not have potential to yield information important to the prehistory or history of the local area, state, or nation.

Summary Significance Evaluation

An evaluation of the properties at 1520 West San Carlos Street, 315 South Willard Avenue, 325 South Willard Avenue, and 329 South Willard Avenue do not possess sufficient historical significance for listing. In addition, the subject properties are not eligible individually as City of San José Landmarks as they do not have significance under the local criteria.

Surrounding Structures

Within 200 feet of the project site, no properties were previously identified on the San José HRI. The site survey completed by TrenorHL of the surrounding 26 properties identified two properties that are not old enough to be eligible for listing as a historic resource. The remaining 24 properties include nine structures constructed between 1950-1968 and 15 structures constructed between 1900-1932. The architectural styles of these buildings included Craftsman, Spanish Revival, Neoclassical, Midcentury Modern, Commercial Modern, and vernacular, and contemporary.

The area around the project site was developed with residential buildings in the early 20th century. The former orchards which occupied the area were subdivided for residential use. After World War II, the houses along West San Carlos Street were converted to commercial use or replaced with Mid-century modern commercial buildings, transforming the street to a commercial corridor. On the streets connecting to West San Carlos, the residential lots were filled in with apartments or accessory dwelling units to accommodate the increasing population.

Of the 24 age-eligible properties within 200 feet, there are 21 buildings from the early- to mid-20th century that maintain recognizable architectural styles and do not appear to have had significant alterations. Based on the site visit assessment, none of these structures have any individual historic architectural significance. This finding was based on the modest size and character of the buildings and observation that no other single building stands out as a unique or exceptional example of a historic architectural style.

4.5.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?	☐	☐	☒	☐
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?	☐	☐	☒	☐
c) Disturb any human remains, including those interred outside of dedicated cemeteries?	☐	☐	☒	☐

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

Impacts to On-site Structures

As stated above and based on the Historic Resources Assessment and Design Guidelines and Standards Review conducted by TreanorHL, none of the buildings on-site are eligible as historic resources for listing on the NRHP, CRHR, or in the San José HRI as a Candidate City Landmark.

Therefore, their demolition as a result of the proposed project would result in a less than significant impact to historical resources.

Impacts of Off-Site Structures

For a project to cause a substantial adverse change in the significance of the identified historic resources near the project, it must demolish or materially alter in an adverse manner those physical characteristics that convey the resources' historic significance and accounts for their identification as San José City Landmarks or Candidate City landmarks, or eligibility for listing on the CRHR or NRHP. As described in Appendix C, none of the surrounding historic resources in the surrounding area would be impacted directly or indirectly by the construction of this project.
(Less than Significant Impact)

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

Although the site is not expected to have subsurface archeological resources based on information in nearby literature searches and the Archaeological Sensitivity Assessment prepared for the project, ground disturbance resulting from implementation of the proposed project would have the potential to uncover as yet unrecorded resources. In accordance with General Plan policy ER-10.3, the proposed project would implement the following Standard Permit Condition to reduce or avoid impacts to subsurface cultural resources.

Standard Permit Condition:

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

Therefore, the proposed project would have a less than significant impact on subsurface resources.
(Less than Significant Impact)

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

Although the site is not expected to contain human remains, implementation of the proposed project would have the potential to uncover human remains during ground disturbance activities. Consistent with General Plan policy ER-10.2, the proposed project would be required to comply with the following Standard Permit Conditions.

Standard Permit Conditions:

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.

Therefore, the proposed project would have a less than significant impact human remains. **(Less than Significant Impact)**

4.6 ENERGY

4.6.1 Environmental Setting

4.6.1.1 *Regulatory Framework*

Federal and State

Energy Star and Fuel Efficiency

At the federal level, energy standards set by the EPA apply to numerous consumer products and appliances (e.g., the EnergyStar™ program). The EPA also sets fuel efficiency standards for automobiles and other modes of transportation.

Renewables Portfolio Standard Program

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. Governor Schwarzenegger issued Executive Order (EO) S-3-05, requiring statewide emissions reductions to 80 percent below 1990 levels by 2050. In 2008, EO S-14-08 was signed into law, requiring retail sellers of electricity serve 33 percent of their load with renewable energy by 2020. In October 2015, Governor Brown signed SB 350 to codify California's climate and clean energy goals. A key provision of SB 350 requires retail sellers and publicly owned utilities to procure 50 percent of their electricity from renewable sources by 2030. SB 100, passed in 2018, requires 100 percent of electricity in California to be provided by 100 percent renewable and carbon-free sources by 2045.

Executive Order B-55-18 To Achieve Carbon Neutrality

In September 2018, Governor Brown issued an executive order, EO-B-55-18 To Achieve Carbon Neutrality, setting a statewide goal "to achieve carbon neutrality as soon as possible, and no later than 2045, and achieve and maintain net negative emissions thereafter." The executive order requires CARB to "ensure future Scoping Plans identify and recommend measures to achieve the carbon neutrality goal." EO-B-55-18 supplements EO S-3-05 by requiring not only emissions reductions, but also that, by no later than 2045, the remaining emissions be offset by equivalent net removals of CO_2 from the atmosphere through sequestration.

California Building Standards Code

The Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6 of the California Code of Regulations (Title 24), was established in 1978 in response to a legislative mandate to reduce California's energy consumption. Title 24 is updated approximately every three years.[16] Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.[17]

[16] California Building Standards Commission. "California Building Standards Code." Accessed August 4, 2021. https://www.dgs.ca.gov/BSC/Codes#@ViewBag.JumpTo.
[17] California Energy Commission (CEC). "2019 Building Energy Efficiency Standards." Accessed August 4, 2021. https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2019-building-energy-efficiency.

California Green Building Standards Code

CALGreen establishes mandatory green building standards for buildings in California. CALGreen was developed to reduce GHG emissions from buildings, promote environmentally responsible and healthier places to live and work, reduce energy and water consumption, and respond to state environmental directives. CALGreen covers five categories: planning and design, energy efficiency, water efficiency and conservation, material and resource efficiency, and indoor environmental quality.

Advanced Clean Cars Program

CARB adopted the Advanced Clean Cars program in 2012 in coordination with the EPA and National Highway Traffic Safety Administration. The program combines the control of smog-causing pollutants and GHG emissions into a single coordinated set of requirements for vehicle model years 2015 through 2025. The program promotes development of environmentally superior passenger cars and other vehicles, as well as saving the consumer money through fuel savings.[18]

Regional and Local

Climate Smart San José

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

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

[18] California Air Resources Board. "The Advanced Clean Cars Program." Accessed November 29, 2021. https://www.arb.ca.gov/msprog/acc/acc.htm.

Sustainable City Strategy

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

Municipal Code

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

Reach Building Code

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

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to energy and are applicable to the project.

General Plan Policies - Energy	
Policy	**Description**
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 design and construction.
MS-2.3	Utilize solar orientation, (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
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.

General Plan Policies - Energy	
MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
MS-6.5	Reduce the amount of waste disposed in landfills through waste prevention, reuse, and recycling of materials at venues, facilities, and special events.
MS-6.8	Maximize reuse, recycling, and composting citywide.
MS-14.2	Enhance existing neighborhoods by adding a mix of uses that facilitate biking, walking, or transit ridership through improved access to shopping, employment, community services, and gathering places.
MS-14.3	Consistent with the California Public Utilities Commission's California Long Term Energy Efficiency Strategy 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.
MS-14.4	Implement the City's Green Building Policies (see Green Building Section) so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, and passive solar building design and planting of trees and other landscape materials to reduce energy consumption.
MS-17.2	Ensure that development within San José is planned and built in a manner consistent with fiscally and environmentally sustainable use of current and future water supplies by encouraging sustainable development practices, including low-impact development, water-efficient development and green building techniques. Support the location of new development within the vicinity of the recycled water system and promote expansion of the South Bay Water Recycling (SBWR) system to areas planned for new development. Residential development outside of the Urban Service Area can be approved only at minimal levels and only allowed to use non-recycled water at urban intensities. For residential development outside of the Urban Service Area, restrict water usage to well water, rainwater collection, or other similar sustainable practice. Non-residential development may use the same sources and potentially make use of recycled water, provided that its use will not result in conflicts with other 2040 General Plan policies, including geologic or habitat impacts. To maximize the efficient and environmentally beneficial use of water, outside of the Urban Service Area, limit water consumption for new development so that it does not diminish the water supply available for projected development in areas planned for urban uses within San José or other surrounding communities.
MS-18.5	Reduce citywide per capita water consumption by 25% by 2040 from a baseline established using the 2010 Urban Water Management Plans of water retailers in San José.
MS-18.6	Achieve by 2040, 50 million gallons per day of water conservation savings in San José, by reducing water use and increasing water use efficiency.
MS-19.1	Require new development to contribute to the cost-effective expansion of the recycled water system in proportion to the extent that it receives benefit from the development of a fiscally and environmentally sustainable local water supply.
MS-19-4	Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.

General Plan Policies - Energy	
IN-5.3	Use solid waste reduction techniques, including source reduction, reuse, recycling, source separation, composting, energy recovery and transformation of solid wastes to extend the life span of existing landfills and to reduce the need for future landfill facilities and to achieve the City's Zero Waste goals.
PR-6.4	Consistent with the Green Vision, complete San José's trail network and where feasible develop interconnected trails with bike lanes to facilitate bicycle commuting and recreational uses.
LU-5.4	Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections, and including secure and convenient bike storage.
TR-1.4	Through the entitlement process for new development fund needed transportation improvements for all modes, giving first consideration to improvement of bicycling, walking, and transit facilities. Encourage investments that reduce vehicle travel demand.
TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

4.6.1.2 *Existing Conditions*

Total energy usage in California was approximately 7,787 trillion British thermal units (Btu) in the year 2019, the most recent year for which this data was available.[19] Out of the 50 states, California is ranked second in total energy consumption and 46th in energy consumption per capita. The breakdown by sector was approximately 19 percent (1,456 trillion Btu) for residential uses, 19 percent (1,468 trillion Btu) for commercial uses, 23 percent (1,805 trillion Btu) for industrial uses, and 39 percent (3,058 trillion Btu) for transportation.[20] This energy is primarily supplied in the form of natural gas, petroleum, nuclear electric power, and hydroelectric power.

Electricity

Electricity in Santa Clara County in 2019 was consumed primarily by the commercial sector (74 percent), followed by the residential sector consuming 26 percent. In 2020, a total of approximately 16,435 gigawatt hours (GWh) of electricity was consumed in Santa Clara County.[21]

[19] United States Energy Information Administration. "State Profile and Energy Estimates, 2019." Accessed November 29, 2021. https://www.eia.gov/state/?sid=CA#tabs-2.
[20] United States Energy Information Administration. "State Profile and Energy Estimates, 2019." Accessed November 29, 2021. https://www.eia.gov/state/?sid=CA#tabs-2.
[21] California Energy Commission. Energy Consumption Data Management System. "Electricity Consumption by County." Accessed August 4, 2021. http://ecdms.energy.ca.gov/elecbycounty.aspx.

San José Clean Energy (SJCE) is the electricity provider for residents and businesses in the City of San José. SJCE sources the electricity and the Pacific Gas and Electric Company (PG&E) delivers it to customers over their existing utility lines. SJCE customers are automatically enrolled in the GreenSource program, which provides 80 percent GHG emission-free electricity. Customers can choose to enroll in SJCE's TotalGreen program at any time to receive 100 percent GHG emission-free electricity from entirely renewable sources.

Natural Gas

PG&E provides natural gas services within the City of San José. In 2018, approximately one percent of California's natural gas supply came from in-state production, while the remaining supply was imported from other western states and Canada.[22] In 2018, residential and commercial customers in California used 34 percent of the state's natural gas, power plants used 35 percent, the industrial sector used 21 percent, and other uses used 10 percent.[23] Transportation accounted for one percent of natural gas use in California. In 2018, Santa Clara County used approximately 3.5 percent of the state's total consumption of natural gas.[24]

Fuel for Motor Vehicles

In 2019, 15.4 billion gallons of gasoline were sold in California.[25] The average fuel economy for light-duty vehicles (autos, pickups, vans, and sport utility vehicles) in the United States has steadily increased from about 13.1 miles per gallon (mpg) in the mid-1970s to 24.9 mpg in 2019.[26] Federal fuel economy standards have changed substantially since the Energy Independence and Security Act was passed in 2007. That standard, which originally mandated a national fuel economy standard of 35 miles per gallon by the year 2020, was updated in March 2020 to require all cars and light duty trucks achieve an overall industry average fuel economy of 40.4 mpg by model year 2026. [27,28]

[22] California Gas and Electric Utilities. 2019 *California Gas Report.* Accessed November 29, 2021. https://www.socalgas.com/regulatory/documents/cgr/2019_CGR_Supplement_7-1-19.pdf.
[23] United States Energy Information Administration. "State Profile and Energy Estimates, 2019." Accessed August 4, 2021. https://www.eia.gov/state/?sid=CA#tabs-2.
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[25] California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed August 4, 2021. https://www.cdtfa.ca.gov/dataportal/dataset.htm?url=VehicleTaxableFuelDist.
[26] United States Environmental Protection Agency. "The 2020 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." January 2021. https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P1010U68.pdf
[27] United States Department of Energy. *Energy Independence & Security Act of 2007.* Accessed August 4, 2021. http://www.afdc.energy.gov/laws/eisa.
[28] Public Law 110–140—December 19, 2007. *Energy Independence & Security Act of 2007.* Accessed August 4, 2021. http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf.

4.6.2 Impact Discussion

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

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

Energy Use During Construction

Construction activities would include demolition of the existing buildings, shoring, grading, excavation, below slab utilities, foundation, and building interior/exterior. The overall construction schedule and process is already designed to be efficient in order to avoid excess monetary costs. That is, equipment and fuel would not be used wastefully on the site because of the added expense associated with renting the equipment, maintaining it, and fueling it. Therefore, the opportunities for future efficiency gains during construction are limited. The proposed project does, however, include several measures that would improve the efficiency of the construction process. Implementation of the City's Standard Permit Conditions detailed in *Section 4.3 Air Quality* of this document, would restrict equipment idling times to five minutes or less and would require the applicant to post signs on the project site reminding workers to shut off idle equipment. With implementation of the Standard Permit Conditions, energy would not be wasted or used inefficiently by construction equipment and waste from idling would be reduced. **(Less Than Significant Impact)**

Operational Energy Use

The project would result in redevelopment of a 1.62-acre site. Operation of the proposed project would consume energy (in the form of electricity) primarily for building heating and cooling, lighting, and water heating. The estimated annual energy use of the proposed project is shown in Table 4.6-1, below. Existing uses on-site were not accounted for, as that energy usage data was not available.

Table 4.6-1: Estimated Annual Energy Use of Proposed Development

Development	Electricity Use (kWh)	Natural Gas Use (kBtu)*	Gasoline[29] (gallons per year)
Mid-Rise Apartments - 256 units	1,618,865	0	**124,797**

[29] 3,132,414 daily VMT / 25.1 mpg = 124,797 gallons of gasoline.

Table 4.6-1: Estimated Annual Energy Use of Proposed Development			
Development	**Electricity Use (kWh)**	**Natural Gas Use (kBtu)***	**Gasoline[29] (gallons per year)**
Enclosed Parking with Elevator – 261 parking spaces	526880	0	
Regional Shopping Center	168,449		
Total:	**2,313,979**	**0**	

Source: Illingworth & Rodkin Inc. 1520 West San Carlos Street Mixed Use Project Air Quality Assessment. October 20, 2022.

*Natural gas would not be used on site because the San José Reach Code requires full electrification of developments

The proposed project would use approximately 2,313,979 kWh of electricity and no consumption of natural gas. Using the U.S. EPA fuel economy estimates (25.1 mpg), the project would result in the consumption of approximately 124,797 gallons of gasoline per year.

The proposed project would be required to be built in accordance with CALGreen requirements, which includes insulation and design provisions to minimize wasteful energy consumption. Additionally, the proposed project would be constructed in compliance with City of San José Council Policy 6-32, the Private Sector Green Building Policy, which requires green building features and water conservation on new developments. The project site is located approximately 1.3 mile**s** from the Diridon light rail transit (LRT) Station and Caltrain Station. Bus stops in the vicinity of the project site serve Frequent Route 23 and are located along both sides of West San Carlos Street. An eastbound bus stop is located at the southeast corner of the Willard Avenue/San Carlos Street intersection, less than 70 feet walking distance from the project site. The nearest westbound bus stop is located at the northeast corner of the Buena Vista Avenue/ San Carlos Street intersection, approximately 700 feet in walking distance from the project site. The nearest bus stops serving Rapid Route 523 are located along San Carlos Street near Meridian Avenue, approximately 0.25-mile from the project site. The nearest bus stops serving Local Route 64B are located along Race Street near San Carlos Street, approximately 0.33 mile from the project site.

The site's proximity to transit would incentivize the use of alternative methods of transportation to and from the site through implementation of a TDM Plan. Additionally, the proposed project would include 77 bicycle parking spaces and would comply with existing state energy standards. For these reasons, the project would not result in a significant environmental impact due to inefficient consumption of energy during project operation. **(Less than Significant Impact)**

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

Electricity on-site would be provided by SJCE. The project would be required to comply with the City's Green Building Ordinance and the most recent CALGreen requirements. As a result, the project would not conflict with or obstruct state or local plans for renewable energy or energy efficiency. **(Less than Significant Impact)**

4.7 GEOLOGY AND SOILS

The information in this section is based in part on the Web Soil Survey generated by the United States Department of Agriculture in October 2021. This is included in Appendix D of this document.

4.7.1 Environmental Setting

4.7.1.1 *Regulatory Framework*

State

Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Earthquake Fault Zoning Act was passed following the 1971 San Fernando earthquake. The act regulates development in California near known active faults due to hazards associated with surface fault ruptures. Alquist-Priolo maps are distributed to affected cities, counties, and state agencies for their use in planning and controlling new construction. Areas within an 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.

Seismic Hazards Mapping Act

The Seismic Hazards Mapping Act (SHMA) was passed in 1990 following the 1989 Loma Prieta earthquake. The SHMA directs the California Geological Survey (CGS) to identify and map areas prone to liquefaction, earthquake-induced landslides, and amplified ground shaking. CGS has completed seismic hazard mapping for the portions of California most susceptible to liquefaction, landslides, and ground shaking, including the central San Francisco Bay Area. The SHMA requires that agencies only approve projects in seismic hazard zones following site-specific geotechnical investigations to determine if the seismic hazard is present and identify measures to reduce earthquake-related hazards.

California Building Standards Code

The CBC prescribes standards for constructing safe buildings. The CBC contains provisions for earthquake safety based on factors including occupancy type, soil and rock profile, ground strength, and distance to seismic sources. The CBC requires that a site-specific geotechnical investigation report be prepared for most development projects to evaluate seismic and geologic conditions such as surface fault ruptures, ground shaking, liquefaction, differential settlement, lateral spreading, expansive soils, and slope stability. The CBC is updated every three years.

California Division of Occupational Safety and Health Regulations

Excavation, shoring, and trenching activities during construction are subject to occupational safety standards for stabilization by the California Department of Industrial Relations, Division of Occupational Safety and Health (Cal/OSHA) under Title 8 of the California Code of Regulations and Excavation Rules. These regulations minimize the potential for instability and collapse that could injure construction workers on the site.

Public Resources Code Section 5097.5

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

City of San José

City of San José Policies

Title 24 of the San José Municipal Code includes the California Building, Plumbing, Mechanical, Electrical, Existing Building, and Historical Building Codes. Requirements for building safety and earthquake hazard reduction are also addressed in Chapter 17.40 (Dangerous Buildings) and Chapter 17.10 (Geologic Hazards Regulations) of the Municipal Code. Requirements for grading, excavation, and erosion control are included in Chapter 17.04 (Building Code, Part 6 Excavation and Grading). In accordance with the Municipal Code, the Director of Public Works must issue a Certificate of Geologic Hazard Clearance prior to the issuance of grading and building permits within defined geologic hazard zones, including State Seismic Hazard Zones for Liquefaction.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to geologic and seismic hazards and are applicable to the project.

General Plan Policies - Geology, Soils, and Seismic Hazards	
Policy	**Description**
ES-4.9	Permit development only in those areas where potential danger to the health, safety, and welfare of persons in that area can be mitigated to an acceptable level.
ES-4.10	Update, as necessary, the San José Building Code, Fire Prevention Code and Municipal Code to address geologic, fire, flooding and other hazards, and to respond to changes in applicable State Codes.
EC-3.1	Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.
EC-3.2	Within seismic hazard zones identified under the Alquist-Priolo Fault Zoning Act, California Seismic Hazards Mapping Act and/or by the City of San José, complete geotechnical and geological investigations and approve development proposals only when the severity of seismic hazards have been evaluated and appropriate mitigation measures are provided as reviewed and approved by the City of San José Geologist. State guidelines for evaluating and mitigating seismic hazards and the City-adopted California Building Code will be followed.

General Plan Policies - Geology, Soils, and Seismic Hazards	
EC-3.3	The City of San José Building Official shall require conformance with state law regarding seismically vulnerable unreinforced masonry structures within the City.
EC-3.4	The City of San José will maintain up-to-date seismic hazard maps with assistance from the California Geological Survey (or other state agencies) under the Alquist-Priolo Earthquake Fault Zoning Act and the California Seismic Hazards Mapping Act.
EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.
EC-4.2	Approve development in areas subject to soils and geologic hazards, including un-engineered 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.
EC-4.4	Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
EC-4.5	Ensure that any development activity that requires grading does not impact adjacent properties, local creeks and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have soil disturbance of one acre or more, are adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 15 and April 15.
EC-4.7	Consistent with the San José Geologic Hazard Ordinance, prepare geotechnical and geological investigation reports for projects in areas of known concern to address the implications of irrigated landscaping to slope stability and to determine if hazards can be adequately mitigated.

4.7.1.2 *Existing Conditions*

Regional Geology

The project site is located in the Santa Clara Valley, a relatively flat alluvial basin bounded by the Diablo Mountain Range to the east and the Santa Cruz Mountains to the west.

On-Site Geologic Conditions

Topography and Soils

The project site is underlain by the Urbanland-Newpark complex, zero to two percent slopes. The soil type is characterized by moderate expansion potential and is moderately well drained.[30] The site is relatively flat.

Groundwater

Based on the Phase I Environmental Site Assessment (ESA)[31] (Appendix F) prepared for the project site, groundwater within the vicinity of the project site has been estimated at a depth of approximately 20 feet below the ground surface (bgs). Groundwater in the project area flows in a northeasterly direction. Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall and underground drainage patterns, and other factors.

Seismicity and Seismic-Related Hazards

The San Francisco Bay Area is one of the most seismically active regions in the U.S. 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 trend in a northwesterly direction. Faults in the region are capable of generating earthquakes of magnitude 6.7 or higher, and strong to very strong ground shaking is expected to occur at the project site during a major earthquake.

The project area is not located within the Alquist-Priolo Earthquake Fault Zone[32] and no active faults have been mapped on-site; therefore, the risk of fault rupture is low. Active faults near the project site are shown in Table 4.7-1.

Table 4.7-1: Active Faults Near the Project Site

Fault	Distance from Site
Hayward	7 miles east
Calaveras	10 miles east
Monte Vista - Shannon	6 miles southwest
San Andreas	10 miles southwest

Liquefaction

Liquefaction occurs when water-saturated soils lose structural integrity due to seismic activity. Soils that are most susceptible to liquefaction are loose to moderately dense, saturated granular soils with poor drainage. The project area is not located within a potential liquefaction zone.[33]

[30] USDA. Web Soil Survey. Accessed October 2021. https://websoilsurvey.sc.egov.usda.gov/App/HomePage.htm.
[31] AEI Consultants, Inc. *Phase I Environmental Site Assessment Report*. August 2, 2021.
[32] California Department of Conservation Website. "CGS Information Warehouse: Regulatory Maps." Accessed July 21, 2021. http://maps.conservation.ca.gov/cgs/informationwarehouse/index.html?map=regulatorymaps.
[33] Ibid.

Lateral Spreading

Lateral spreading is a type of ground failure related to liquefaction. It consists of the horizontal displacement of flat-lying alluvial material toward an open area, such as a steep bank of a stream channel. Areas of San José most prone to lateral spreading include lands adjacent to Guadalupe River and Los Gatos Creek. Los Gatos is located approximately 0.8 miles east of the project site and Guadalupe River is approximately 1.5 miles east of the project site. At these distances, the potential for lateral spreading on-site is low.

Landslides

Landslides occur when the stability of a slope changes from a stable to an unstable condition. The site is not located within a Santa Clara County Landslide Hazard Zone.[34] The project area is relatively flat; therefore, the probability of landslides occurring at the site during a seismic event is low.

4.7.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:				
– Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault (refer to Division of Mines and Geology Special Publication 42)?	☐	☐	☐	☒
– Strong seismic ground shaking?	☐	☐	☒	☐
– Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐
– Landslides?	☐	☐	☐	☒
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	☐	☐	☒	☐
d) Be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property?	☐	☐	☒	☐

[34] County of Santa Clara. Geologic Hazards Zones, Map 20, 2012. Accessed July 21, 2021. https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO_GeohazardATLAS.pdf.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☒	☐
f) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?	☐	☐	☒	☐

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

The project site is located within the seismically active San Francisco Bay Area which has a 72 percent probability of experiencing at least one magnitude 6.7 earthquake by 2045.[35] As mentioned in *Section 4.7.1.2*, no active faults have been mapped on-site and, as a result, the risk of fault rupture is low. The project site and surrounding area are relatively flat and have a low potential for lateral spreading during seismic events. Additionally, the project site is located within an area of moderate expansion potential.

The project site would be subject to strong seismic ground shaking and seismic-related ground failure, in the event of a large earthquake. Consistent with the City's General Plan and Municipal Code, to avoid and/or minimize potential damage from seismic shaking, the proposed project would be built using standard engineering and seismic safety design techniques. Consistent with these requirements, the following Standard Permit Condition shall be implemented to ensure the proposed development is designed to address seismic hazards.

Standard Permit Condition:

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

[35] U.S. Geological Survey. "UCERF3: A New Earthquake Forecast for California's Complex Fault System. Fact Sheet 2015-3009." Accessed June 8, 2020. http://pubs.usgs.gov/fs/2015/3009/pdf/fs2015-3009.pdf.

With implementation of the above Standard Permit Condition, the proposed project would not expose people or structures to substantial adverse effects due to ground shaking; nor would the project exacerbate existing geological hazards on the project site such that it would impact (or worsen) off-site geological and soil conditions. **(Less than Significant Impact)**

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

Ground disturbance during construction of the project would expose soils, increasing the potential for wind and/or water erosion at the site.

The City's NPDES Municipal Permit, urban runoff policies, and the Municipal Code are the primary means of enforcing erosion control measures through the grading and building permit process. The General Plan EIR concluded that with the regulatory programs currently in place, the possible impacts of accelerated erosion during construction would be less than significant[36]. The City shall require all phases of the project to comply with all applicable City regulatory programs pertaining to construction related erosion, including the following Standard Permit Conditions:

Standard Permit Conditions:

- All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
- Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
- Ditches shall be installed to divert runoff around excavations and graded areas if necessary.

In addition to the Standard Permit Conditions, the project would be required to prepare a Storm Water Pollution Prevention Plan (SWPPP) under the National Pollution Discharge Elimination System (NPDES) General Construction Permit and the City's Municipal Code (refer to Section 3.10, Hydrology and Water Quality). Implementation of the Standard Permit Conditions and preparation of the SWPPP would reduce potential soil erosion impacts to a less than significant level. **(Less than Significant Impact)**

c) 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?

Geologic Hazards

Based on the California Department of Conservation Regulatory Map, the project site is not located within a liquefication zone[37] and the potential for lateral spreading to occur on-site is low due to the location of the site relative to local waterways. Since the soils on-site have moderate expansion potential, the proposed project would be required to use standard engineering and seismic safety design techniques during project construction. Additionally, the project would be constructed in

[36] City of San José. *Draft Program Environmental Impact Report for the Envision San José 2040 General Plan.* SCH# 2009072096. Page 515.
[37] California Department of Conservation Website. "CGS Information Warehouse: Regulatory Maps." Accessed July 21, 2021. http://maps.conservation.ca.gov/cgs/informationwarehouse/index.html?map=regulatorymaps.

conformance with a site-specific geotechnical investigation (refer to Standard Permit Condition above). The site is not located on soil that is or would become unstable and result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.

Standard Permit Condition:

- The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.

Groundwater

Groundwater on-site is estimated at a depth of approximately 20 feet bgs and the project site would be excavated to a depth of approximately 10 feet for the below-grade parking garage. Since excavation activities on-site would not likely encounter groundwater, the proposed project would not require dewatering during construction (refer to *Section 4.9 Hazards and Hazardous Materials* and *Section 4.10 Hydrology and Water Quality* of this document). If groundwater is encountered during excavation the project would implement the following Standard Permit Condition to reduce and/or avoid impacts related to groundwater.

Standard Permit Condition:

- If dewatering is needed, the design-level geotechnical investigations to be prepared for individual future development projects shall evaluate the underlying sediments and determine the potential for settlements to occur. If it is determined that unacceptable settlements may occur, then alternative groundwater control systems shall be required.

Because the proposed project would comply with the Standard Permit Condition, the soils on-site would not become unstable as a result of the project. **(Less than Significant Impact)**

d) Would the project be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property?

The project would be required to prepare a design-level geotechnical investigation and implement the recommendations in the investigation to avoid or minimize potential damage from seismic shaking. Although the soils on-site have moderate expansion potential, the project would implement the previously identified Standard Permit Condition and would not result in substantial direct or indirect risks to life or property. **(Less than Significant Impact)**

e) 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?

The project site is located within an urbanized area of San José where sewers are available to dispose of wastewater from the project site. Therefore, the site would not need to support septic tanks or alternative wastewater disposal systems. **(Less than Significant Impact)**

f) Would the project directly or indirectly destroy a unique paleontological resource or site or unique geological feature?

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. Most of the City is situated on alluvial fan deposits of Holocene age that have a low potential to contain significant nonrenewable paleontological resources; however, older Pleistocene sediments present at or near the ground surface at some locations have high potential to contain these resources. These older sediments, often found at depths greater than 10 feet bgs, have yielded the fossil remains of plants and extinct terrestrial Pleistocene vertebrates.

The site would be excavated to a depth of approximately 10 feet for the below-grade parking garage which could potentially disturb unknown paleontological resources during excavation, grading and construction activities.

The General Plan EIR recognized that while development allowed under the General Plan could directly impact paleontological resources, implementation of General Plan policies and existing regulations and programs would reduce potential impacts to a less than significant level. As such, the following standard permit condition would be applied to the proposed project to reduce and avoid impacts to unidentified paleontological resources.

Standard Permit Condition:

> 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.

With implementation of the identified Standard Permit Condition, the proposed project would have a less than significant paleontological resources impact. **(Less than Significant Impact)**

4.8 GREENHOUSE GAS EMISSIONS

This section references the GHGRS checklist which was prepared for the proposed project. This is included in Appendix E of this document.

4.8.1 Environmental Setting

4.8.1.1 *Background Information*

Gases that trap heat in the atmosphere, GHGs, regulate the earth's temperature. This phenomenon, known as the greenhouse effect, is responsible for maintaining a habitable climate. In GHG emission inventories, the weight of each gas is multiplied by its global warming potential (GWP) and is measured in units of CO_2 equivalents (CO_2e). The most common GHGs are carbon dioxide (CO_2) and water vapor but there are also several others, most importantly methane (CH_4), nitrous oxide (N_2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF_6). These are released into the earth's atmosphere through a variety of natural processes and human activities. Sources of GHGs are generally as follows:

- CO_2 and N_2O are byproducts of fossil fuel combustion.
- N_2O is associated with agricultural operations such as fertilization of crops.
- CH_4 is commonly created by off-gassing from agricultural practices (e.g., keeping livestock) and landfill operations.
- Chlorofluorocarbons (CFCs) were widely used as refrigerants, propellants, and cleaning solvents, but their production has been stopped by international treaty.
- HFCs are now used as a substitute for CFCs in refrigeration and cooling.
- PFCs and SF_6 emissions are commonly created by industries such as aluminum production and semiconductor manufacturing.

An expanding body of scientific research supports the theory that global climate change is currently causing changes in weather patterns, average sea level, ocean acidification, chemical reaction rates, and precipitation rates, and that it will increasingly do so in the future. The climate and several naturally occurring resources within California are adversely affected by the global warming trend. Increased precipitation and sea level rise will increase coastal flooding, saltwater intrusion, and degradation of wetlands. Mass migration and/or loss of plant and animal species could also occur. Potential effects of global climate change that could adversely affect human health include more extreme heat waves and heat-related stress; an increase in climate-sensitive diseases; more frequent and intense natural disasters such as flooding, hurricanes and drought; and increased levels of air pollution.

4.8.1.2 *Regulatory Framework*

State

Assembly Bill 32

Under the California Global Warming Solutions Act, also known as AB 32, CARB established a statewide GHG emissions cap for 2020, adopted mandatory reporting rules for significant sources of

GHGs, and adopted a comprehensive plan, known as the Climate Change Scoping Plan, identifying how emission reductions would be achieved from significant GHG sources.

In 2016, SB 32 was signed into law, amending the California Global Warming Solution Act. SB 32, and accompanying Executive Order B-30-15, require CARB to ensure that statewide GHG emissions are reduced to 40 percent below the 1990 level by 2030. CARB updated its Climate Change Scoping Plan in December of 2017 to express the 2030 statewide target in terms of million metric tons of CO_2E ($MMTCO_2e$). Based on the emissions reductions directed by SB 32, the annual 2030 statewide target emissions level for California is 260 $MMTCO_2e$.

Senate Bill 375

SB 375, known as the Sustainable Communities Strategy and Climate Protection Act, was signed into law in September 2008. SB 375 builds upon AB 32 by requiring CARB to develop regional GHG reduction targets for automobile and light truck sectors for 2020 and 2035. The per-capita GHG emissions reduction targets for passenger vehicles in the San Francisco Bay Area include a seven percent reduction by 2020 and a 15 percent reduction by 2035.

Consistent with the requirements of SB 375, the Metropolitan Transportation Commission (MTC) partnered with the Association of Bay Area Governments (ABAG), BAAQMD, and the Bay Conservation and Development Commission to prepare the region's Sustainable Communities Strategy (SCS) as part of the Regional Transportation Plan process. The SCS is referred to as Plan Bay Area 2040. Plan Bay Area 2040 establishes a course for reducing per-capita GHG emissions through the promotion of compact, high-density, mixed-use neighborhoods near transit, particularly within identified Priority Development Areas (PDAs).

Regional

2017 Clean Air Plan

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

CEQA Air Quality Guidelines

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

City of San José

Climate Smart San José

Climate Smart San José is a plan to reduce air pollution, save water, and create a stronger and healthier community. The City approved goals and milestones in February 2018 to ensure the City can substantially reduce GHG emissions through reaching the following goals and milestones:

- All new residential buildings will be Zero Net Carbon Emissions (ZNE) by 2020 and all new commercial buildings will be ZNE by 2030 (Note that ZNE buildings would be all electric with a carbon-free electricity source).
- SJCE will provide 100-percent carbon-free base power by 2021.
- One gigawatt of solar power will be installed in San José by 2040.
- 61 percent of passenger vehicles will be powered by electricity by 2030.

Reach Building Code

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

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)

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 the implementation of these standards. This policy requires that applicable projects achieve minimum green building performance levels using the Council adopted standards. Future development under the proposed Downtown Strategy 2040 would be subject to this policy.

Greenhouse Gas Reduction Strategy

The Greenhouse Gas Reduction Strategy (GHGRS) is intended to meet the mandates outlined in the CEQA Air Quality Guidelines, as well as the BAAQMD requirements for Qualified GHG Reduction Strategies. The City's 2030 Greenhouse Gas Reduction Strategy (2030 GHGRS) is a comprehensive update to the City's original GHGRS and reflects the plans, policies, and codes as approved by the City Council. The strategy builds on the City's Envision San José 2040 General Plan and Climate Smart San José; these plans expanded the City's Green Vision to advance urban sustainability. Leveraging these existing plans and supporting policy and program frameworks, the 2030 GHGRS provides a set of strategies and additional actions for achieving the 2030 target.

The primary test for consistency with the City's GHGRS is conformance with the General Plan Land Use/Transportation Diagram and supporting policies. CEQA clearance for development proposals are required to address the consistency of individual projects with the goals and policies in the General Plan designed to reduce GHG emissions. Compliance with the mandatory measures and voluntary measures (if required by the City) would ensure an individual project's consistency with the GHG Reduction Strategy. Projects that are consistent with the GHGRS would have a less than significant impact related to GHG emissions through 2030.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to greenhouse gas emissions and are applicable to the project. In addition, goals and policies throughout the 2040 General Plan encourage a reduction in vehicle miles traveled through land use, pedestrian, bicycle, and access to transit improvements, parking strategies that reduce automobile travel through parking supply and pricing management, and requirements for Transportation Demand Management programs for large employers. Additional policies have been adopted to reduce energy use (and thus emissions from fuel use). Refer to *Sections 4.3 Air Quality*, *Sections 4.6 Energy*, and *4.17 Transportation* of this document for these policies.

General Plan Policies - GHG Emissions	
Policy	**Description**
MS-1.1	Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City's Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction.
MS-1.4	Foster awareness of San José's business and residential communities of the economic and environmental benefits of green building practices. Encourage design and construction of environmentally responsible commercial and residential buildings that are also operated and maintained to reduce waste, conserve water, and meet other environmental objectives.
MS-2.3	Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
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

General Plan Policies - GHG Emissions	
	urban forest. Connect businesses and residents with cool roof rebate programs through City outreach efforts.
MS-2.11	Require new development to incorporate green building policies, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize effectiveness of passive solar design.).
MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
MS-5.6	Enhance the construction and demolition debris recycling program to increase diversion from the building sector.
MS-14.4	Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.
MS-21.1	Manage the Community Forest to achieve San José's environmental goals for water and energy conservation, wildlife habitat preservation, stormwater retention, heat reduction in urban areas, energy conservation, and the removal of carbon dioxide from the atmosphere.
TR-1.16	Develop a strategy to construct a network of public and private alternative fuel vehicle charging/fueling stations city wide. Revise parking standards to require the installation of electric charging infrastructure at new large employment sites and large, multiple family residential developments.

4.8.1.3 *Existing Conditions*

Unlike emissions of criteria and toxic air pollutants, which have regional and local impacts, emissions of GHGs have a broader, global impact. Global warming is a process whereby GHGs accumulating in the upper atmosphere contribute to an increase in the temperature of the earth and changes in weather patterns.

The project site is developed with a commercial building and 11 single-family residences. Most of the GHG emissions associated with the existing uses on-site result from the production of electricity and burning of natural gas to power household appliances and lighting, and the emissions from vehicles traveling to and from the site.

4.8.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Generate greenhouse gas (GHG) emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☒	☐
b) Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs?	☐	☐	☒	☐

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

Construction Emissions

Construction activities on-site would result in temporary GHG emissions. Construction-related GHG emissions vary depending on the level of activity, length of the construction period, specific construction operations, types of equipment, and number of personnel. The proposed project includes several measures that would improve the efficiency of the construction process such as restricting equipment idle times to five minutes or less and requiring the applicant to post signs on-site reminding workers to shut off idle equipment (refer to Standard Permit Conditions identified in Section 4.3, Air Quality). Additionally, the project would be required to divert 75 percent of nonhazardous construction and demolition debris (refer to San José Municipal Code Section 9.10.2480). In accordance with the GHGRS, the project is proposing to exceed the 75 percent diversion requirement during construction. Neither the City of San José nor BAAQMD has established a quantitative threshold or standard for determining whether a project's construction related GHG emissions are significant. Project construction would occur over period of approximately 16 months (350 construction workdays) and would not result in a permanent increase in emissions. The proposed project would not interfere with the implementation of SB 32.

Operational Emissions

Per CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the Lead Agency and must be based to the extent possible on scientific and factual data. Since the project is consistent with the General Plan land use designation for the site and planned growth from build out of the Envision 2040 General Plan, the project would comply with the GHGRS and would result in a less than significant GHG emissions impact.

The proposed project would result in a temporary increase in GHG emissions during construction. During operation of the proposed project, the project would comply with the 2030 GHGRS (refer to discussion under checklist question b); therefore, the project would result in a less than significant GHG emissions impact. **(Less than Significant Impact)**

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

2030 Greenhouse Gas Reduction Strategy

As mentioned previously, projects that are consistent with the GHGRS would have a less than significant impact related to GHG emissions through 2030. The proposed project's consistency with the City's 2030 GHGRS is summarized below.

The GHGRS includes seven strategies for emissions reductions. These include, use of San José Clean Energy, achieving zero net carbon for residential construction, renewable energy development, retrofits of existing buildings to remove natural gas demands, achieving a zero-waste goal, modernization of Caltrain, and water conservation. The proposed project would enroll in San José Clean Energy at the Greensource level, which represents the largest reduction in GHG emissions identified in the reduction strategy.

The proposed project is within the development capacity approved by the Envision 2040 General Plan FEIR, as it proposes a use consistent with the Urban Village General Plan land use designation and zoning district. The proposed project is consistent with the Land Use/Transportation Diagram designation of the site. The proposed project also incorporates all applicable mandatory measures of the GHGRS (refer to Appendix E), including installing solar panels, enrolling in San José Clean Energy at the Greensource level, exceeding the City's construction & demolition waste diversion requirement, implementing a Transportation Demand Management program, and installing high-efficiency appliances/fixtures and water-sensitive landscaping. For these reasons, the project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs.

Condition of Approval

In accordance with the project description, the following condition of approval would be applied to the project to ensure continued compliance with the GHGRS:

Proof of Enrollment in SJCE. Prior to issuance of a Certificate of Occupancy for the site, the occupant shall provide proof of enrollment in San Jose Community Energy (SJCE) in SJCE's GreenSource program in compliance with the approved California Environmental Quality Act (CEQA) document for the project site. As of March 2022, SJCE's GreenSource program, which is the default when signing up for electricity service, provides approximately 60 percent renewable energy, and SJCE's TotalGreen program provides 100 percent renewable energy. The occupant shall be required to provide proof of enrollment in the program at the level assumed in the analysis for the approved CEQA compliance document to the Director if the Department of Planning Building and Code Enforcement (PBCE), or Director's designee, prior to the issuance of the Certificate of Occupancy.

Climate Smart San José

Climate Smart San José, adopted by the City, is a community-wide initiative intended to create a more sustainable, connected, and economically inclusive City. Climate Smart San José is aligned with General Plan growth patterns and General Plan policies which prioritize automobile-alternative transportation modes, encourage denser development, and ensure energy-efficient features are included in new buildings. As discussed in Section 4.6 Energy, the project would be designed and constructed in compliance with the City of San José Council Policy 6-32 and the City's Green Building Ordinance. In addition, Action MS-2.11 of the General Plan requires new development to incorporate energy conservation and efficiency through site design, architectural design, and construction techniques. The proposed project is in a Planned Growth Area of the City which is well-served by transit. For these reasons, the project is consistent with the City's climate action goals as set forth in Climate Smart San José. **(Less than Significant Impact)**

4.9 HAZARDS AND HAZARDOUS MATERIALS

The information in this section is based in part on the Phase I Environmental Site Assessment prepared for the project by AEI Consultants on August 2, 2021. This report is included in Appendix F of this document.

4.9.1 Environmental Setting

4.9.1.1 *Regulatory Framework*

Overview

The storage, use, generation, transport, and disposal of hazardous materials and waste are highly regulated under federal and state laws. Federal regulations and policies related to development include the Comprehensive Environmental Response, Compensation, and Liability Act, commonly known as Superfund, and the Resource Conservation and Recovery Act. In California, the EPA has granted most enforcement authority over federal hazardous materials regulations to the California Environmental Protection Agency (CalEPA). In turn, local agencies have been granted responsibility for implementation and enforcement of many hazardous materials regulations under the Certified Unified Program Agency (CUPA) program.

Worker health and safety and public safety are key issues when dealing with hazardous materials. Proper handling and disposal of hazardous material is vital if it is disturbed during project construction. Cal/OSHA enforces state worker health and safety regulations related to construction activities. Regulations include exposure limits, requirements for protective clothing, and training requirements to prevent exposure to hazardous materials. Cal/OSHA also enforces occupational health and safety regulations specific to lead and asbestos investigations and abatement.

Federal and State

Federal Aviation Regulations Part 77

Federal Aviation Regulations, Part 77 Objects Affecting Navigable Airspace (FAR Part 77) sets forth standards and review requirements for protecting the airspace for safe aircraft operation, particularly by restricting the height of potential structures and minimizing other potential hazards (such as reflective surfaces, flashing lights, and electronic interference) to aircraft in flight. These regulations require that the Federal Aviation Administration (FAA) be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport's runways, or which would otherwise stand at least 200 feet in height above the ground.

Government Code Section 65962.5

Section 65962.5 of the Government Code requires CalEPA to develop and update a list of hazardous waste and substances sites, known as the Cortese List. The Cortese List is used by state and 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) and State Water Resources Control Board (SWRCB).[38]

California Accidental Release Prevention Program

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

Asbestos-Containing Materials

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. Common examples of non-friable ACMs are asphalt roofing shingles, vinyl floor tiles, and transite siding made with cement. The EPA phased out use of friable asbestos products between 1973 and 1978. National Emission Standards for Hazardous Air Pollutants guidelines require that potentially friable ACMs be removed prior to building demolition or remodeling that may disturb the ACMs.

CCR Title 8, Section 1532.1

The United States Consumer Product Safety Commission banned the use of lead-based paint (LBP) in 1978. Removal of older structures with lead-based paint is subject to requirements outlined by Cal/OSHA Lead in Construction Standard, CCR Title 8, Section 1532.1 during demolition activities. Requirements include employee training, employee air monitoring, and dust control. If LBP is peeling, flaking, or blistered, it is required to be removed prior to demolition.

City of San José

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to hazards and hazardous materials and are applicable to the project.

General Plan Policies - Hazards and Hazardous Materials	
Hazardous Materials	
EC-6.1	Require all users and producers of hazardous materials and wastes to clearly identify and inventory the hazardous materials that they store, use or transport in conformance with local, state and federal laws, regulations and guidelines.
EC-6.2	Require proper storage and use of hazardous materials and wastes to prevent leakage, potential explosions, fires, or the escape of harmful gases, and to prevent individually

[38] CalEPA. "Cortese List Data Resources." Accessed April 11, 2022. https://calepa.ca.gov/sitecleanup/corteselist.

General Plan Policies - Hazards and Hazardous Materials	
	innocuous materials from combining to form hazardous substances, especially at the time of disposal by businesses and residences. Requires proper disposal of hazardous materials and wastes at licensed facilities.
EC-6.4	Require all proposals for new or expanded facilities that handle hazardous materials that could impact sensitive uses off-site to include adequate mitigation to reduce identified hazardous materials impacts to less than significant levels.
EC-6.5	The City shall designate transportation routes to and from hazardous waste facilities as part of the permitting process in order to minimize adverse impacts on surrounding land uses and to minimize travel distances along residential and other non-industrial frontages.
EC-6.6	Address through environmental review all proposals for new residential, park and recreation, school, day care, hospital, church or other uses that would place a sensitive population in close proximity to sites on which hazardous materials are or are likely to be located, the likelihood of an accidental release, the risks posed to human health and for sensitive populations, and mitigation measures, if needed, to protect human health.
EC-6.7	Do not approve land uses and development that use hazardous materials that could impact existing residences, schools, day care facilities, community or recreation centers, senior residences, or other sensitive receptors if accidentally released without the incorporation of adequate mitigation or separation buffers between uses.
Environmental Contamination	
EC-7.1	For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.
EC-7.2	Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.
EC-7.3	Where a property is located in proximity to known groundwater contamination with volatile organic compounds or within 1,000 feet of an active or inactive landfill, evaluate and mitigate the potential for indoor air intrusion of hazardous compounds to the satisfaction of the City's Environmental Compliance Officer and appropriate regional, state and federal agencies prior to approval of a development or redevelopment project.
EC-7.4	On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-paint and asbestos-containing materials, shall be implemented in accordance with state and federal laws and regulations.
EC-7.5	On development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and state requirements.

General Plan Policies - Hazards and Hazardous Materials	
Safe Airport	
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.
Community Health, Safety, and Wellness	
CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.

4.9.1.2 *Existing Conditions*

Historic Uses of Project Site

A land use history of the site was compiled based on a review of aerial photographs, historic City directories, Sanborn fire insurance maps, and agency records as part of the Phase I prepared by AEI Consultants for the proposed project. The land use for the project site prior to 1948 was not able to be determined accurately, however, the site was assumed to have been occupied by residential buildings and outbuildings before 1948 based on the 1915 Sanborn Fire Insurance Maps. By 1948, the site was developed with residential style buildings which were replaced in 1954 with the existing commercial building, paved parking lot, and residential buildings. No significant changes were made on-site since then.

Existing Uses of Project Site

The project site is currently developed with commercial and residential land uses along with a parking lot for the commercial area.

On-site Sources of Contamination

Based on a review of regulatory databases, the project site was not identified as a location which has had spills or leaks of any kind. Based on a site visit completed by AEI Consultants on July 23, 2021, two PG&E transformers were present on-site. Transformers built prior to 1977 contained PCBs which are hazardous if uncontained, however, the transformers on-site were installed after 1977. No evidence of spills, stains, or leaks on and/or around the transformers were identified; therefore, AEI concluded that the transformers do not represent a significant environmental concern.

Lead and Asbestos Contamination

In buildings constructed after 1978, it is unlikely that LBP is present; however, some paints utilized after 1978 will be LBP under OSHA. Structures built prior to 1978 and especially prior to the 1960s are expected to contain LBP. Commercial use of asbestos containing materials (ACM) began in the early 1900s and peaked in the period between 1940 and into the 1970s. Due to the age of the buildings on-site, it is reasonable to assume that LBP and ACMs are present on-site.

Groundwater

Groundwater on the project site is estimated to be approximately 20 feet bgs and has been found to generally flow northeast.

Historic Uses of Surrounding Area

Based on the study of historic aerials and Sanborn Fire Insurance Maps for the areas surrounding the project site, the area was primarily occupied by vacant land and residential buildings starting in 1915. By 1948 some commercial buildings began to be constructed east of the site, and by 1954 commercial uses started to occupy some areas to the north of the site. In 1980, the area to the west of the site was occupied by residential and commercial buildings. Further commercial development of the area to the north was completed in 2005 and by 2014 the area was occupied by an apartment complex and commercial buildings.

Off-site Sources of Contamination

The general land uses around the project site include residential and commercial uses. To the north the site, across West San Carlos Street, are an apartment complex and commercial uses. On the eastern boundary of the project site there is an automotive sales lot, and across South Willard Avenue an automotive repair lot and residential uses. On the south side of the project site, the area is exclusively occupied by residential land uses. West of the project site there is a mix of commercial and residential uses including an automotive sales lot.

The site visit executed for the proposed project observed a drain associated with a sump/clarifier at the vehicle washing area associated with the automotive sales lot and associated vehicle washing area at 1500 West San Carlos.[39] Since the drain and associated sump/clarifier have been used since 1948, the Phase I ESA concluded that hazardous materials could have been used on-site and this could release oil, grease, or improperly disposed substances associated with the vehicle washing/detailing area may have resulted in groundwater and/or soil contamination.

The Phase 1 did not identify any of the off-site hazards as recognized environmental conditions because the flow of groundwater would result in the regulatory condition being cross or down gradient from the project site. This would result in the contaminants at these sites being pushed away from the project site. For more information about these regulated sites, refer to Appendix F for more information.

Airport and Wildfire Hazards

The project site is located in a fully urbanized area in the Center of San José. The project site is not located within a High Fire Severity Zone (see Section 4.20 for more information). Additionally, the project site is located outside of the Airport Influence Area and would not be at risk of airport related hazards.[40]

[39] This site was included in the Phase 1 as on the project site, however this site is adjacent to the project site and would not be redeveloped.
[40] CAL FIRE. FRAP Fire Hazard Severity Zone Viewer. Accessed January 12, 2022. https://egis.fire.ca.gov/FHSZ/.

4.9.2 Impact Discussion

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

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

Construction Impacts

Construction activities would require the use of some petroleum products and volatile organic compounds during the period of construction which would have the potential of creating hazards if spilled. Construction processes would follow standard safety and cleaning procedures and any waste would be required to dispose of any chemicals consistent with any applicable regulatory requirements. Therefore, the proposed project would not result in the transport, use, or disposal of hazardous materials during construction.

Operational Impacts

The proposed project would construct a mixed-use building. Operation of the proposed project would not result in the storage or transport of hazardous materials to or from the project site. The building would contain small amounts of cleaning supplies; however, these uses are common and would not result in significant hazards to the public or environment and would result in a less than significant impact. **(Less than Significant Impact)**

b) 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?

Hazards During Construction

During the site reconnaissance, AEI Consultants observed a drain and associated sump/clarifier at the automotive sales lot directly adjacent to the site at 1500 West San Carlos Street. No signs of contamination were noted during the site visit conducted by AEI and the automotive sales site did not have any reported spills or cleanups conducted on the site. Further, the flow of groundwater under the site was determined to be in a northeastern direction which would result in any contaminants present flowing away from the project site. Although, the risk of contamination is unknown the sump/clarifier could present a risk to construction workers on-site. Therefore, the proposed project would result in a potential significant impact.

IMPACT HAZ-1 The off-site sump/clarifier may have released hazardous wastes (oil, grease, disposed substances related to vehicle washing and detailing) that entered the ground through drains on-site, and these would represent a risk of hazards above worker screening levels during construction through accidental encountering of materials.

Mitigation Measure

MM-HAZ-1 Prior to the issuance of any demolition or grading permits, the project applicant shall retain a qualified environmental professional to conduct a Phase II soil, soil vapor and/or groundwater investigation to determine if the soil, soil vapor, and groundwater from former uses of the site have resulted in contamination concentrations above established Regional Water Quality Control Board (RWQCB) Environmental Screening Levels (ESLs). If the Phase II results indicate soil, soil vapor and/or groundwater contamination above ESLs, the project applicant shall enter into a regulatory oversight agreement with the Santa Clara County Department of Environment Health (SCCDEH), RWQCB, or Department of Toxic Substances Control (DTSC). The project applicant shall meet with the regulatory oversight agency and perform additional soil, soil gas and/or groundwater sampling and testing, as required, to adequately define the known and suspected contamination. A Site Management Plan (SMP), Corrective Action Plan (CAP), Remedial Action Plan (RAP), or other equivalent plan shall be prepared and submitted to the regulatory oversight agency for their approval. The plan shall include a

Health & Safety Plan (HASP) and shall establish remedial measures and/or soil management practices to ensure construction worker safety and the health of future workers and visitors. The plan and evidence of regulatory oversight shall be provided to the Director of Planning, Building and Code Enforcement or Director's Designee and the Environmental Compliance Officer in the City of San José's Environmental Services Department for review.

With the inclusion of MM-HAZ-1, the proposed project would reduce risks to construction workers to a less than significant level.

Asbestos-Containing Materials and Lead-Based Paint

The project proposes the demolition of buildings constructed prior to the 1970s. Since all buildings on-site were constructed prior to 1978, the buildings are likely to contain ACMs and LBP. Therefore, the project would be required to implement the following Standard Permit Conditions below.

Standard Permit Conditions:

- 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 ACSMs and/or LBP.
- During demolition activities, all building materials containing LBP shall be removed in accordance with Cal/OSHA Lead in Title 8, California Code of Regulations (CCR), Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing LBP or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.
- All potentially friable ACMs shall be removed in accordance with NESHAP guidelines prior to demolition or renovation activities that may disturb ACMs. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.
- 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 BAAQMD regulations. Removal of materials containing more than one-percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.

Through the incorporation of these Standard Permit Conditions, the risk associated with the disturbance of ACMs and LBP on-site during construction would be reduced to a less than significant level.

Polychlorinated Biphenyls

Two sources of PCBs are located near the project site. These consist of a pole-mounted PG&E transformer and one subsurface PG&E transformer. Both of these sources of PCBs are considered to

be in good condition and were installed after 1977, when PCBs were no longer used in these transformers; therefore, these transformers would represent a less than significant risk of hazardous materials release as a result of accidental conditions.

With the required clean up and management of LBP, absence of PCB containing transformers, and the implementation of MM-HAZ-1 requiring a Phase II Site Assessment and appropriate cleanup action, the proposed project would result in less than significant impacts from reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. **(Less than Significant Impact with Mitigation Incorporated)**

c) 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?

The project site is not located within a quarter mile of any existing or proposed schools. The nearest school sight is Abraham Lincoln High School, approximately 0.4 miles to the northwest. Additionally, the project site would utilize only basic cleaning and maintenance supplies, similar to the previous operations on-site, which are not considered hazardous to off-site receptors. Therefore, the project would not expose nearby schools to hazardous materials handled on the project site. **(Less than Significant Impact)**

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

As stated above, the project site is not on any list of hazardous materials sites pursuant to Government Code Section 65962.5. Therefore, the project would have a less than significant hazard impact to the public and/or environment. **(Less than Significant Impact)**

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

The proposed project is located approximately 1.9 miles southwest of the Norman Y. Mineta San José International Airport. The project site is not located within the Airport Safety Zones, Noise Contours, or Airport Influence Area as defined by the Comprehensive Land Use Plan (CLUP) for the Norman Y. Mineta San José International Airport, and therefore CLUP policies do not apply[41] For the project site, any structure exceeding approximately 40 feet in height above ground level (AGL) would require submittal to the FAA for airspace safety review. As the maximum proposed height of the building exceeds 40 feet AGL, the applicant shall obtain a "Determination of No Hazard" for each of the proposed rooftop corners and any additional higher points from the FAA. Compliance with conditions set by the FAA in its determinations will ensure that the proposed project would not

[41] Santa Clara County. Norman Y. Mineta San José International Airport Comprehensive Land Use Plan. May 25, 2011

result in a safety hazard or excessive noise for people residing or working in the project area. **(Less than Significant Impact)**

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

The proposed project is consistent with the General Plan land use of the project site and would not alter evacuation routes. In addition, the project would be constructed in accordance with current building and fire codes and would be required to be maintained in accordance with applicable City policies identified in the General Plan FEIR to avoid unsafe building conditions. Therefore, the proposed project would be consistent with existing emergency response plans and emergency evacuation plans and would have a less than significant impact. **(Less than Significant Impact)**

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

The project site is located within the urbanized area of the City of San José and is not within an area identified as a High Fire Severity Zone by CAL FIRE.[42] Therefore, the proposed project would not expose people or structures to significant loss, injury, or death involving wildfires. **(Less than Significant Impact)**

[42] CAL FIRE. FRAP Fire Hazard Severity Zone Viewer. Accessed January 12, 2022. https://egis.fire.ca.gov/FHSZ/.

4.10 HYDROLOGY AND WATER QUALITY

4.10.1 Environmental Setting

4.10.1.1 *Regulatory Framework*

Overview

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

Federal and State

National Flood Insurance Program

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

Statewide Construction General Permit

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

Regional

San Francisco Bay Basin Plan

The San Francisco Bay RWQCB regulates water quality in accordance with the Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan). The Basin Plan lists the beneficial uses that the San Francisco Bay RWQCB has identified for local aquifers, streams, marshes, rivers, and the San Francisco Bay, as well as the water quality objectives and criteria that must be met to protect these uses. The San Francisco Bay RWQCB implements the Basin Plan by issuing and enforcing waste discharge requirements, including permits for nonpoint sources such as the urban runoff

discharged by a City's stormwater drainage system. The Basin Plan also describes watershed management programs and water quality attainment strategies.

Municipal Regional Permit Provision C.3.

The San Francisco Bay RWQCB re-issued the Municipal Regional Stormwater NPDES Permit (MRP) in 2015 to regulate stormwater discharges from municipalities and local agencies (co-permittees) in Alameda, Contra Costa, San Mateo, and Santa Clara Counties, and the cities of Fairfield, Suisun City, and Vallejo.[43] Under Provision C.3 of the MRP, new and redevelopment projects that create or replace 10,000 square feet or more of impervious surface area are required to implement site design, source control, and Low Impact Development (LID)-based stormwater treatment controls to treat post-construction stormwater runoff. LID-based treatment controls are intended to maintain or restore the site's natural hydrologic functions, maximizing opportunities for infiltration and evapotranspiration, and using stormwater as a resource (e.g. rainwater harvesting for non-potable uses). The MRP also requires that stormwater treatment measures are properly installed, operated, and maintained.

Water Resources Protection Ordinance and District Well Ordinance

The Santa Clara Valley Water District (Valley Water) operates as the flood control agency for Santa Clara County. Their stewardship also includes creek restoration, pollution prevention efforts, and groundwater recharge. Permits for well construction and destruction work, most exploratory boring for groundwater exploration, and projects within Valley Water property or easements are required under Valley Water's Water Resources Protection Ordinance and District Well Ordinance.

City of San José

Post-Construction Urban Runoff Management (City Council Policy No. 6-29)

The City of San José's Policy No. 6-29 implements the stormwater treatment requirements of Provision C.3 of the MRP. City Council Policy No. 6-29 requires new development and redevelopment projects to implement post-construction Best Management Practices (BMPs) and Treatment Control Measures (TCMs). This policy also established specific design standards for post-construction TCMs for projects that create or replace 10,000 square feet or more of impervious surfaces.

Post-Construction Hydromodification Management (City Council Policy No. 8-14)

The City of San José's Policy No.8-14 implements the hydromodification management requirements of Provision C.3 of the MRP. Policy No. 8-14 requires new development and redevelopment projects that create or replace one acre or more of impervious surface area, and are located within a subwatershed that is less than 65 percent impervious, to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt generation, or other impacts to local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP). Projects that do not meet the minimum size threshold,

[43] MRP Number CAS612008

drain into tidally influenced areas or directly into the Bay, or are infill projects in subwatersheds or catchment areas that are greater than or equal to 65 percent impervious would not be subject to the HMP requirement.

Floodplain Ordinance – Municipal Code 17.08

City of San José Municipal Code 17.08 covers the requirements for building in various types of flood zones. This includes requirements for elevation, fill, flood passage, flood-proofing, maximum flow velocities, and utility placement for development within a floodplain, based on land use type.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to hydrology and water quality and are applicable to the project.

General Plan Policies – Hydrology and Water Quality	
Policy	**Description**
EC-5.1	The City shall require evaluation of flood hazards prior to approval of development projects within a Federal Emergency Management Agency (FEMA) designated floodplain. Review new development and substantial improvements to existing structures to ensure it is designed to provide protection from flooding with a one percent annual chance of occurrence, commonly referred to as the "100-year" flood or whatever designated benchmark FEMA may adopt in the future. New development should also provide protection for less frequent flood events when required by the State.
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.
ER-8.1	Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
ER-8.3	Ensure that private development in San José includes adequate measures to treat stormwater runoff.
ER-8.4	Assess the potential for surface water and groundwater contamination and require appropriate preventative measures when new development is proposed in areas where storm runoff will be directed into creeks upstream from groundwater recharge facilities.
ER-8.5	Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite.
MS-3.5	Minimize area dedicated to surface parking to reduce rainwater that comes into contact with pollutants.
IN-1.1	Provide and maintain adequate water, wastewater, and stormwater services to areas in and currently receiving these services from the City.
IN-3.4	Maintain and implement the City's Sanitary Sewer Level of Service Policy and Sewer Capacity Impact Analysis (SCIA) Guidelines to: • Prevent sanitary sewer overflows (SSOs) due to inadequate capacity so as to ensure that the City complies with all applicable requirements of the Federal Clean Water Act

General Plan Policies – Hydrology and Water Quality	
	and State Water Board's General Waste Discharge Requirements for Sanitary Sewer Systems and National Pollutant Discharge Elimination System permit. SSOs may pollute surface or ground waters, threaten public health, adversely affect aquatic life, and impair the recreational use and aesthetic enjoyment of surface waters. • Maintain reasonable excess capacity in order to protect sewers from increased rate of hydrogen sulfide corrosion and minimize odor and potential maintenance problems. • Ensure adequate funding and timely completion of the most critically needed sewer capacity projects. • Promote clear guidance, consistency and predictability to developers regarding the necessary sewer improvements to support development within the City.
IN-3.7	Design new projects to minimize potential damage due to storm waters and flooding to the site and other properties.
IN-3.9	Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards.

4.10.1.2 *Existing Conditions*

Water Quality

Stormwater runoff from the project site and surrounding area is collected by storm drains and discharged into the Guadalupe River. Based on data from the EPA[44], the Guadalupe River is currently listed on the California 303(d)[45] list for mercury and trash.

Flooding

According to the FEMA Flood Insurance Rate Maps (FIRM),[46] the project site is located in Flood Zone D. Zone D is an area of undetermined but possible flood hazard that is outside the 100-year flood plain. There are no City floodplain requirements for Zone D.

Dam Failure

The project site, is not located within the Anderson Dam or Lexington dam failure inundation hazard zones.[47,48]

[44] U.S. EPA. "California 303(d) Listed Waters." Accessed July 21, 2021. https://iaspub.epa.gov/tmdl_waters10/attains_waterbody.control?p_list_id=CAR2054005019980928160437&p_state=CA&p_cycle=2012.
[45] The Clean Water Act, section 303, establishes water quality standards and TMDL programs. The 303(d) list is a list of impaired water bodies
[46] Federal Emergency Management Agency. "FEMA Flood Map Service Center." Accessed July 21, 2021. https://msc.fema.gov/portal/search?AddressQuery.
[47] Santa Clara Valley Water District. "Anderson Dam Flood Inundation Maps." Accessed July 21, 2021. https://www.valleywater.org/sites/default/files/Anderson%20Dam%20Inundation%20Maps%202016.pdf.
[48] Santa Clara Valley Water District. "Lexington Dam Flood Inundation Maps." Accessed July 21, 2021. https://www.valleywater.org/sites/default/files/Lexington%20Dam%20Inundation%20Map%202016.pdf.

Seiches, Tsunamis, and Mudflows

A seiche is the oscillation of water in an enclosed body of water such as a lake or the San Francisco Bay. There are no landlocked bodies of water near the project site that would affect the site in the event of a seiche.

A tsunami is a sea wave generated by an earthquake, landslide, or other large displacement of water in the ocean. There are no bodies of water near the project site that would affect the site in the event of a tsunami.[49]

A mudflow is the rapid movement of a large mass of mud formed from loose soil and water. The project site and surrounding area are relatively flat. The project site is not susceptible to mudflows.

Groundwater

Groundwater beneath the site is estimated to be 20 feet bgs flowing to the northeast. Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall, and underground drainage patterns.

Hydromodification

Based on the General Plan, the project site is located within a sub-watershed that is greater than 65 percent impervious.[50]

4.10.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	☐	☐	☒	☐
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	☐	☐	☒	☐
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:	☐	☐	☒	☐

[49] Association of Bay Area Governments. "Tsunami Maps and Information." Accessed July 21, 2021. http://resilience.abag.ca.gov/tsunamis/.
[50] City of San José. San José Public GIS Viewer. Accessed January 5, 2022. https://csj.maps.arcgis.com/apps/webappviewer/index.html?id=3c5516412b594e79bd25c49f10fc672f

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
– result in substantial erosion or siltation on- or off-site;	☐	☐	☒	☐
– substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;	☐	☐	☒	☐
– 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	☐	☐	☒	☐
– impede or redirect flood flows?	☐	☐	☒	☐
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	☐	☐	☒	☐
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	☐	☐	☒	☐

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

Construction Impacts

Implementation of the proposed project would involve excavation and grading activities on-site. Ground-disturbing activities would temporarily increase the amount of debris on-site and grading activities could increase erosion and sedimentation that could be carried by runoff into the San Francisco Bay. The project site is approximately 1.62 acres in size and would disturb more than one acre of soil; therefore, the project would be required to obtain an NPDES General Permit for Construction Activities. All development projects in the City are, however, required to comply with the City of San José's Grading Ordinance whether or not the project is required to obtain an NDPES General Construction Permit. Prior to the issuance of a permit for grading activity occurring during the rainy season (October 1st to April 30th), the applicant shall submit an Erosion Control Plan to the Director of Public Works for review and approval. The Erosion Control Plan shall detail BMPs that would be implemented to prevent the discharge of stormwater pollutants.

Pursuant to City requirements, the following Standard Permit Conditions have been included in the project to reduce potential construction-related water quality impacts.

Standard Permit Conditions:

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.

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

With implementation of the identified Standard Permit Conditions, construction of the proposed project would have a less than significant impact on water quality.

Post-Construction Impacts

Under existing conditions, the project site is currently 66 percent (approximately 46,662 square feet) covered with impervious surface area. Upon completion of the proposed project, the site would be covered with approximately 90 percent (63,517 square feet) of impervious surfaces, a net increase of 24 percent. Construction of the project would also result in the replacement of more than 10,000 square feet of impervious surface area; therefore, the project would be required to comply with the City of San José's Post-Construction Urban Runoff Policy 6-29 and the MRP.

The MRP requires all post-construction stormwater runoff to be treated by numerically sized LID treatment controls, such as biotreatment facilities, unless the project is granted Special Project LID Reduction Credits, which would allow the project to implement non-LID measures for all or a portion of the site depending on the project characteristics. To treat stormwater runoff, the project proposes a media filter, four flow-through planters with concrete lining and underdrains, and two unlined bioretention areas with underdrains. Prior to issuing any LID Reduction Credits, the City must first establish a narrative discussion submitted by the applicant that describes how and why the implementation of 100 percent LID stormwater treatment measures are not feasible, in accordance with the MRP. If it is not feasible for the project to implement 100 percent LID measures, the project shall submit an explanation to the City for confirmation.

The General Plan FEIR concluded that with the regulatory programs currently in place, stormwater runoff from new development would have a less than significant impact on stormwater quality. With inclusion of LID stormwater treatment and compliance with the City's regulatory policies pertaining

to stormwater runoff, operation of the proposed project would have a less than significant water quality impact. **(Less than Significant Impact)**

b) 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?

The project site is not located within a designated groundwater recharge zone.[51] Since the proposed project would only excavate to 10 feet bgs, the project would not require dewatering during construction. For these reasons, the project would not interfere with groundwater recharge or cause a reduction in the overall groundwater supply. **(Less than Significant Impact)**

c) 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 a manner which would result in substantial erosion or siltation on- or off-site; substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site; 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 impede or redirect flood flows?

Drainage Pattern Impacts

Per the General Plan FEIR, existing surfaces within the planned development area are largely impervious, making future development unlikely to alter existing drainage patterns such that substantial flooding or erosion would occur in the receiving water bodies. The proposed project would not substantially alter the existing drainage pattern of the site or area through the alteration of any waterway. Therefore, the project would not substantially increase erosion or increase the rate or amount of stormwater runoff.

Storm Drainage Impacts

The existing and proposed square footages of pervious and impervious surfaces are shown on Table 4.10-1 below.

Table 4.10-1 Pervious and Impervious Surfaces On-Site

Site Surface	Existing/ Pre-Construction (sq ft)	%	Project/Post-Construction (sq ft)	%	Difference (sq ft)	%
Impervious Site	46,662	66	63,517	90	+16,855	+24
Public Streets	2,477	4	2,477	4	0	0
Pervious Areas	21,517	30	4,662	6	-16,855	-24
Total	70,656	100	70,656	100		

[51] Valley Water. Annual Groundwater Report 2019. Page 27. July 2020. https://www.valleywater.org/sites/default/files/2020-09/2019_Annual_Groundwater_Report_Web_Version.pdf.

As mentioned previously, the project site is currently 66 percent (approximately 46,662 square feet) covered with impervious surfaces. Under existing conditions, the storm drainage lines have sufficient capacity to serve the site. The impervious surfaces on-site would increase by approximately 16,855 square feet under project conditions which would result in an increase in stormwater runoff. The project would comply with the City's Post-Construction Urban Runoff Policy 6-29 and the RWQCB MRP, to minimize and treat stormwater runoff to reduce the rate of stormwater runoff while removing pollutants.

The General Plan FEIR concluded that implementation of General Plan policies and existing regulations would substantially reduce drainage impacts. In accordance with General Plan policies, future development within the General Plan area would be required to be designed and constructed to meet the City's 10-year storm event design standard. As a result, the proposed project would not substantially alter the existing drainage pattern of the site or area. **(Less than Significant Impact)**

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

Due to the location of the project site, the project would not be subject to inundation by seiche or tsunami. In addition, the project area is flat and there are no mountains in proximity. As a result, development of the project site would not cause mudflows that would impact adjacent properties.

As mentioned in Section 4.10.1.2, the project site is in Flood Zone D. Zone D is an area of undetermined but possible flood hazard that is outside the 100-year floodplain. There are no floodplain requirements for Zone D. The project site is also not located within the Lexington and Anderson Dam failure inundation zones. Therefore, the likelihood of flooding from dam failure is low and the project would not release pollutants due to dam inundation. **(Less than Significant Impact)**

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

The proposed project would comply with the City of San José's Post-Construction Urban Runoff Policy 6-29 and the MRP; therefore, implementation of the project would not significantly impact water quality. The project site is not located within a groundwater recharge area and would not interfere with groundwater recharge. For these reasons, the project would not conflict with implementation of a water quality or groundwater management plan. **(Less than Significant Impact)**

4.11 LAND USE AND PLANNING

4.11.1 Environmental Setting

4.11.1.1 *Regulatory Framework*

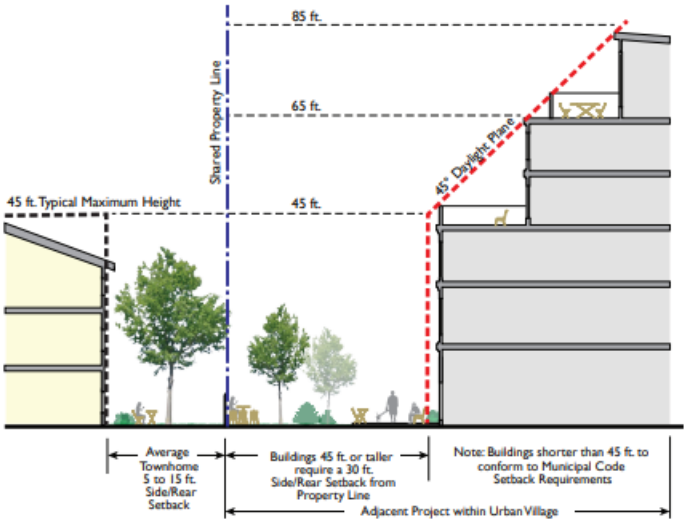
West San Carlos Urban Village Plan

The project site is located within the adopted West San Carlos Urban Village Plan. The West San Carlos Urban Village contains an overall vision of "West San Carlos Street as a mixed-use, walkable, and transit-oriented place with viable commercial business, livable neighborhoods, and attractive parks and open spaces."

Under the West San Carlos Urban Village Plan, the project site is designated as Urban Village within the Mixed-Use Residential Character Area. The Urban Village designation supports a wide variety of commercial, residential, institutional, or other land uses with an emphasis on establishing attractive urban form and pedestrian orientation in keeping with the Urban Village concept. The Urban Village land use designation has different use and intensity parameters in the Mixed-Use Residential Character Areas. The Urban Village designation in the Mixed-Use Residential Character Area is a commercial designation which supports residential development only on parcels meeting a minimum size of 0.5 acres. Residential development along West San Carlos Street or Meridian Avenue should include pedestrian oriented, ground-floor commercial uses that front the street. This designation also supports a broad range of commercial development including retail and office.

The proposed project would be subject to the land use policies of the West San Carlos Urban Village Plan, including the following:

West San Carlos Urban Village Land Use Policies	
Policy	**Description**
LU-1.1	Encourage new commercial development to be built at Floor Area Ratios of 0.3 or greater.
LU-2.1	Encourage mixed-use residential projects to be built at densities of 55 dwelling units to the acre or greater provided that the proposed site design is compatible with the surrounding neighborhood.
LU-2.2	Ensure that residential development along West San Carlos Street and Meridian Avenue that is developed under the Urban Village Land Use Designation and located within the Mixed-Use Residential Character Area has ground-floor commercial and/or active uses fronting those streets.
LU-2.3	Prohibit surface parking lots in front of buildings.
LU-2.5	Where an existing commercial use redevelops within the Mixed-Use Commercial Character Area, the existing commercial square footage must be replaced with an equivalent commercial square footage in the new development, at a minimum.
LU-2.8	Consider existing motor vehicle uses (such as auto repair, automobile sales, and rental lots, auto parts sales, and car washes) as interim uses, but encourage properties that contain these uses to be redeveloped with pedestrian- and transit-supportive uses.

LU-3.1	Strongly encourage mixed uses and intensities that support High-Intensity Urban Transit ridership.
P-1.8	Ensure that new development provides convenient, walkable pedestrian connects through the site and to existing and planned open spaces.
P-2.5	Employ green buffers/paseos when larger new development abuts existing neighborhoods or is located in such a way that allows for the continuation of a green paseo.
UD-5.1	Integrate new development appropriately into the existing residential neighborhoods by providing transitions, and by developing at a compatible scale.
UD-5.2	Provide proper height transitions between new, higher-density commercial and mixed-use development and adjacent single-family homes by using building setback, upper-story setback, and landscaping to soften the transitions near property
UD-5.4	For new development taller than 45 feet, provide a minimum 30-foot side and/or rear setback along the shared property lines with adjacent Mixed-Use Neighborhood designated properties (both inside and outside the Urban Village boundary). Starting at a height of 45 feet, buildings and structures are encouraged to not intercept the 45-degree daylight plane (see Figure 5.3 of the West San Carlos Urban Village Plan). Buildings shorter than 45 feet shall conform to the San José Municipal Code setback requirements and shall not be subject to the daylight plane. **Figure 5.3: Transitional Height Diagram applies to properties inside and outside the Urban Village boundary with a Mixed-Use Neighborhood General Plan designation** 
UD-5.6	Provide a minimum five-foot landscape buffer planted with evergreen trees between new development and existing Residential Neighborhood designated properties.
UD-6.1	Encourage the use of underground vehicle parking where feasible.

City of San José

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to land use and are applicable to the project.

General Plan Policies – Land Use	
Policy	**Description**
CD-1.12	Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
CD-1.15	Consider the relationship between street design, use of the public right-of-way, and the form and uses of adjoining development. Address this relationship in the Urban Village Planning process, development of new zoning ordinances, and the review of new development proposals in order to promote a well-designed, active, and complete visual street environment.
CD-2.3	Enhance pedestrian activity by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Main Streets, and other locations where appropriate. 1. Include attractive and interesting pedestrian-oriented streetscape features such as street furniture, pedestrian scale lighting, pedestrian oriented way-finding signage, clocks, fountains, landscaping, and street trees that provide shade, with improvements to sidewalks and other pedestrian ways. 2. Strongly discourage drive-up services and other commercial uses oriented to occupants of vehicles in pedestrian-oriented areas. Uses that serve the vehicle, such as car washes and service stations, may be considered appropriate in these areas when they do not disrupt pedestrian flow, are not concentrated in one area, do not break up the building mass of the streetscape, are consistent with other policies in this Plan, and are compatible with the planned uses of the area. 3. Provide pedestrian connections as outlined in the Community Design Connections Goal and Policies. 4. Locate retail and other active uses at the street level. 5. Create easily identifiable and accessible building entrances located on street frontages or paseos. 6. Accommodate the physical needs of elderly populations and persons with disabilities. 7. Integrate existing or proposed transit stops into project designs.
CD-4.5	For new development in transition areas between identified growth areas and non-growth areas, use a combination of building setbacks, building step-backs, materials, building orientation, landscaping, and other design techniques to provide a consistent streetscape that buffers lower-intensity areas from higher-intensity areas and that reduces potential shade, shadow, massing, viewshed, or other land use compatibility concerns.

CD-4.9	For development subject to design review, the design of new or remodeled structures will be consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).
CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.
CD-5.9	To promote safety and to minimize noise and vibration impacts in residential and working environments, design development that is proposed adjacent to railroad lines to provide the maximum separation feasible between the rail line and dwelling units, yards, or common open space areas, offices and other job locations, facilities for the storage of toxic or explosive materials and the like. To the extent possible, devote areas of development closest to an adjacent railroad line to use as parking lots, public streets, peripheral landscaping, the storage of non-hazardous materials and so forth. In industrial facilities, where the primary function is the production, processing or storage of hazardous materials, for new development follow the setback guidelines and other protective measures called for in the City's Industrial Design Guidelines when such facilities are to be located adjacent to or near a main railroad line.
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.
TR-14.3	For development in the Airport Influence Area overlays, ensure that land uses and development are consistent with the height, safety and noise policies identified in the Santa Clara County Airport Land Use Commission (ALUC) comprehensive land use plans for Mineta San José International and Reid-Hillview airports, or find, by a two-thirds vote of the governing body, that the proposed action is consistent with the purposes of Article 3.5 of Chapter 4 of the State Aeronautics Act, Public Utilities Code Section 21670 et seq.
TR-14.4	Require avigation and "no build" easement dedications, setting forth maximum elevation limits as well as for acceptable of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.
IP-1.5	Maintain a Zoning Ordinance and Subdivision Ordinance that aligns with and supports the Land Use/Transportation Diagram and the 2040 General Plan goals and policies. Develop new Zoning Districts which enumerate uses and establish development standards including heights to achieve vital mixed-use complete communities and facilitate their implementation.
IP-1.6	Ensure that proposals to rezone and prezone properties conform to the Land Use/Transportation Diagram and advance 2040 General Plan Vision, goals and policies and benefit community welfare.
IP-1.7	Use standard Zoning Districts to promote consistent development patterns when implementing new land use entitlements. Limit use of the Planned Development Zoning process to unique types of development or land uses which cannot be implemented through standard Zoning Districts, or to sites with unusual physical characteristics which require special consideration due to those constraints.

IP-1.8	Consider and address potential land use compatibility issues, the form of surrounding development, and the availability and timing of infrastructure to support the proposed land use when reviewing rezoning or prezoning proposals.

4.11.1.2 *Existing Conditions*

The project site is in UV Urban Village Zoning District and is under the General Plan designation of Urban Village – Density: 55 to 250 Dwelling Units per Acre. The project site is located within the West San Carlos Urban Village The site is currently used for a commercial building and 11 residential structures.

The Urban Village – Density: 55 to 250 Dwelling Units per Acre (DU/AC) General Plan designation supports residential development only on parcels meeting a minimum size of 0.5 acres. Residential development along West San Carlos Street or Meridian Avenue is encouraged to include pedestrian-oriented, ground- floor commercial uses that front onto the street. This designation also supports a broad range of commercial development including retail and office. Residential densities lower than 55 DU/AC are acceptable for mixed-use projects that include small amounts of residential in combination with significant amounts of non-residential square footage.

Surrounding land uses include a mix of commercial and residential land uses on all sides of the site.

4.11.2 Impact Discussion

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

a) Would the project physically divide an established community?

Changes in land use are not adverse environmental impacts in and of themselves, however, they may create conditions that adversely affect existing uses in the immediate vicinity. As proposed, the project would construct an eight-story mixed-use building consisting of 256 residential units (217 market rate units, 39 affordable units) and approximately 15,202 square feet of commercial space which is consistent with the existing land uses in the area and the General Plan land use designation, Urban Village land use designation, and Zoning designation of the site. The project would not result in the construction of any features that would physically divide the community (e.g., roadway, railway, or highway). The General Plan FEIR concluded that future development under the General Plan would not substantially change allowed land uses in the City and would generally continue and reinforce the patterns of land use currently in place. The proposed project would be consistent with

the existing uses in the project area and, would not physically divide an established community. **(Less than Significant Impact)**

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

As described within the individual sections of this document implementation of the identified mitigation measures, the City's Standard Permit Conditions, and the required General Plan FEIR and regulatory requirements, the project would not cause a significant environmental impact due to a conflict with plans, policies or regulation adopted for the purpose of avoiding or mitigating an environmental effect. In addition, the project would be reviewed for compliance with applicable land use plans and policies. Based on the above, the impact is less than significant. **(Less than Significant Impact)**

4.12 MINERAL RESOURCES

4.12.1 Environmental Setting

4.12.1.1 *Regulatory Framework*

State

Surface Mining and Reclamation Act

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

Pursuant to the mandate of the SMARA, the SMGB has designated the Communications Hill Area (Sector EE), bounded generally by the Southern Pacific Railroad, Curtner Avenue, SR 87, and Hillsdale Avenue as containing mineral deposits that are of regional significance as a source of construction aggregate materials. Neither the State Geologist nor the SMGB have classified any other areas in San José as containing mineral deposits of statewide significance or requiring further evaluation.

4.12.1.2 *Existing Conditions*

According to the General Plan, the only location in the City of San José with mineral deposits of regional significance is the area of Communications Hill. Communications Hill is located 3.3 miles to the southeast of the project site.

4.12.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	☐	☐	☐	☒

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

The project site does not contain mineral resources. The proposed project would not result in an impact on known mineral resources of regional or state value. **(No Impact)**

b) 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?

The project site does not contain mineral resources. The proposed project would not result in an impact on known mineral resources of local value. **(No Impact)**

4.13 NOISE

The information in this section is based on part on the 1520 West San Carlos Mixed-Use Project Noise and Vibration Assessment, prepared by Illingworth and Rodkin Inc., dated October 24,2022. This report is included as Appendix G of this document.

4.13.1 Environmental Setting

4.13.1.1 *Background Information*

Noise

Factors that influence sound as it is perceived by the human ear, include the actual level of sound, period of exposure, frequencies involved, and fluctuation in the noise level during exposure. Noise is measured on a decibel scale, which serves as an index of loudness. The zero on the decibel scale is based on the lowest sound level that the healthy, unimpaired human ear can detect. Each 10 decibel increase in sound level is perceived as approximately a doubling of loudness. Because the human ear cannot hear all pitches or frequencies, sound levels are frequently adjusted or weighted to correspond to human hearing. This adjusted unit is known as the A-weighted decibel, or dBA.

Since excessive noise levels can adversely affect human activities and human health, federal, state, and local governmental agencies have set forth criteria or planning goals to minimize or avoid these effects. Noise guidelines are generally expressed using one of several noise averaging methods, including L_{eq}, DNL, or CNEL.[52] These descriptors are used to measure a location's overall noise exposure, given that there are times when noise levels are higher (e.g., when a jet is taking off from an airport or when a leaf blower is operating) and times when noise levels are lower (e.g., during lulls in traffic flows on freeways or in the middle of the night). L_{max} is the maximum A-weighted noise level during a measurement period.

Vibration

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

[52] L_{eq} is a measurement of average energy level intensity of noise over a given period of time. Day-Night Level (DNL) is a 24-hour average of noise levels, with a 10 dB penalty applied to noise occurring between 10:00 PM and 7:00 AM. Community Noise Equivalent Level (CNEL) includes an additional five dB applied to noise occurring between 7:00 PM and 10:00 PM. Where traffic noise predominates, the CNEL and DNL are typically within two dBA of the peak-hour L_{eq}.

4.13.1.2 *Regulatory Framework*

State and Local

California Building Standards Code

The CBC establishes uniform minimum noise insulation performance standards to protect persons within new buildings housing people, including hotels, motels, dormitories, apartments, and dwellings other than single-family residences. Title 24 mandates that interior noise levels attributable to exterior sources not exceed 45 L_{dn}/CNEL in any habitable room. Exterior windows must have a minimum Sound Transmission Class (STC) of 40 or Outdoor-Indoor Transmission Class (OITC) of 30 when the property falls within the 65 dBA DNL noise contour for a freeway or expressway, railroad, or industrial source.

For commercial uses, CalGreen (Section 5.507.4.1 and 5.507.4.2) requires that wall and roof-ceiling assemblies exposed to the adjacent roadways have a composite STC rating of at least 50 or a composite OITC rating of no less than 40, with exterior windows of a minimum STC of 40 or OITC of 30 when the commercial property falls within the 65 dBA L_{dn} or greater noise contour for a freeway or expressway, railroad, or industrial or stationary noise source. The state requires interior noise levels to be maintained at 50 dBA $L_{eq(1\text{-}hr)}$ or less during hours of operation at a proposed commercial use.

California Building Cal Green Code

The State of California established exterior sound transmission control standards for new non-residential buildings as set forth in the 2019 California Green Building Standards Code (Section 5.507.4.1 and 5.507.4.2). Section 5.507.4.1 states that wall and roof-ceiling assemblies exposed to the noise source making up the building envelope shall meet a composite STC rating of at least 50 or a composite OITC rating of no less than 40, with exterior windows of a minimum STC of 40 or OITC of 30 when the building falls within the 65 dBA L_{dn} noise contour of a freeway or expressway, railroad, industrial source or fixed-guideway noise source, as determined by the local general plan noise element.

Section 5.507.4.2 states that for buildings located, as defined by Section 5.507.4.1, wall and roof-ceiling assemblies exposed to the noise source making up the building envelope shall be constructed to provide an interior noise environment attributable to exterior sources that does not exceed an hourly equivalent noise level ($L_{eq\ (1\text{-}hr)}$) of 50 dBA in occupied areas during any hour of operation.

Local

Envision San José 2040 General Plan

The 2040 General Plan includes noise compatibility guidelines for various land uses. For reference, these guidelines are provided in Table 4.13-1 below.

Table 4.13-1: General Plan Land Use Compatibility Guidelines (GP Table EC-1)						
Land Use Category	**Exterior DNL Value in Decibels**					
	55	**60**	**65**	**70**	**75**	**80**
1. Residential, Hotels and Motels, Hospitals and Residential Care						
2. Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds						
3. Schools, Libraries, Museums, Meeting Halls, and Churches						
4. Office Buildings, Business Commercial, and Professional Offices						
5. Sports Arena, Outdoor Spectator Sports						
6. Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters						

Normally Acceptable:
Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements.

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

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

In addition, various policies in the City's 2040 General Plan have been adopted for the purpose of reducing or avoiding impacts related to noise, as listed in the table below.

General Plan Policies – Noise and Vibration	
Policy EC-1.1	Interior Noise Levels • The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected Envision General Plan traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan. Exterior Noise Levels • The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (Table EC-1). The acceptable exterior noise level objective is established for the City, except in the environs of the Norman Y. Mineta San José International Airport, the Downtown Core

General Plan Policies – Noise and Vibration	
	Area, and along major roadways. For the remaining areas of the City, the following standards apply: – For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. There will be common use areas available to all residents that meet the 60 dBA exterior standard. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. – For single-family residential uses, use a standard of 60 dBA DNL for exterior noise in private usable outdoor activity areas, such as back yards.
Policy EC-1.2	Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Categories 1, 2, 3 and 6) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would: • Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain "Normally Acceptable"; or • Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.
Policy EC-1.3	New nonresidential land uses will mitigate noise generation to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.
Policy EC-1.6	Regulate the effects of operational noise from existing and new industrial and commercial development on adjacent uses through noise standards in the City's Municipal Code.
Policy EC-1.7	Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would: • Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months. For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.
Policy EC-1.9	Noise studies are required for land use proposals where known or suspected loud intermittent noise sources occur which may impact adjacent existing or planned land uses. For new residential development affected by noise from heavy rail, light rail, BART or other single-event noise sources, mitigation will be implemented so that recurring maximum instantaneous noise levels do not exceed 50 dBA Lmax in bedrooms and 55 dBA Lmax in other rooms.
Policy EC-2.1	Near light and heavy rail lines or other sources of ground-borne vibration, minimize vibration impacts on people, residences, and businesses through the use of setbacks and/or structural design features that reduce vibration to levels at or below the

General Plan Policies – Noise and Vibration	
	guidelines of the Federal Transit Administration. Require new development within 100 feet of rail lines to demonstrate prior to project approval that vibration experienced by residents and vibration sensitive uses would not exceed these guidelines.
Policy EC-1.11	Continue to require safe and compatible land uses within the Norman Y. Mineta International Airport noise zone (defined by the 65 CNEL contour as set forth in State law) and encourage aircraft operating procedures that minimize noise.
Policy EC-2.3	Require new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, including ruins and ancient monuments or buildings that are documented to be structurally weakened, a continuous vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A continuous vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Avoid use of impact pile drivers within 125 feet of any buildings, and within 300 feet of a historical building, or building in poor condition. On a project-specific basis, this distance of 300 feet may be reduced where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction.

4.13.1.3 *Existing Conditions*

The project site is located at 1520 West San Carlos Street in San José, California. The site is currently developed with a commercial building, 10 single-family houses, and a multi-family residence. Adjoining the site to the east and to the west are commercial and residential uses, with additional residential uses to the south. Opposite West San Carlos Street to the north are residential and commercial uses. Opposite Willard Avenue to the east are residential uses.

The existing noise environment at the site results primarily from local vehicular traffic along West San Carlos Street. Distant traffic noise from SR 87, I-280, and I-880 and aircraft noise associated with Mineta San José International Airport also contribute to the noise environment.

Noise monitoring was conducted for the site between Wednesday, October 27, 2021, and Friday, October 29, 2021. And determined a maximum noise level of approximately 80 dBA and an average noise level ranging from 51 to 72 dBA. This measurement was based off two long term measurement areas and two short term measurement areas located approximately 40 feet to 165 feet from the center of San Carlos roadway. The average noise level at the two long term measurement sites were 72 dBA and 59 dBA, and the short-term measurement sites recorded average noise levels of 66 dBA and 51 dBA.

4.13.2 Impact Discussion

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

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

Construction Noise

Noise impacts during construction of the proposed project would result from the operation of construction equipment during demolition, site preparation, grading, trenching, building construction, architectural coating, and paving needed to build the site improvements. Noise impacts from the different construction phases vary depending on the equipment required for the task and distance from noise sensitive uses near the project site.

Policy EC-1.7 of the City's General Plan requires that all construction operations within the City use best available noise suppression devices and techniques and limit construction hours near residential uses per the Municipal Code allowable hours, which are between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday when construction occurs within 500 feet of a residential land use. Additionally, any construction occurring within 500 feet of residential uses or 200 feet of commercial or office uses for more than 12 months would result in a significant construction noise impact. Noise thresholds for construction activities are not established by this policy so the analysis assumes exterior threshold of 80 dBA shall be applied at residential land uses and 90 dBA would be applied at commercial and industrial land uses, per Federal Transit Administration (FTA) noise limits.

To analyze construction noise impacts at the nearest sensitive receptors, the worst-case hourly average noise level, was used to predict noise levels. Pile driving is not proposed by the project and was not considered in the analysis. These noise levels are displayed in Table 4.13-2 below.

Table 4.13-2 Estimated Construction Noise Levels at Nearby Land Uses

Phase of Construction	Calculated Hourly Average Noise Levels, Leq (dBA)				
	West Future Mixed-Use Building (100ft)	South Residential (100ft)	Northeast Residential & Commercial (65ft)	East Residential & Commercial (195ft)	North Residential (260ft)
Demolition	78 dBA	78 dBA	82 dBA	72 dBA	70 dBA
Site Preparation	76 dBA	76 dBA	80 dBA	70 dBA	68 dBA
Grading/Excavation	78 dBA	78 dBA	81 dBA	72 dBA	69 dBA
Trenching/Foundations	76 dBA	76 dBA	79 dBA	70 dBA	67 dBA
Building – Exterior	76 dBA	76 dBA	80 dBA	70 dBA	68 dBA
Building – Interior/ Architectural Coating	68 dBA	68 dBA	71 dBA	62 dBA	59 dBA
Paving	77 dBA	77 dBA	81 dBA	71 dBA	69 dBA

Source: Illingworth and Rodkin Inc., 1520 West San Carlos Mixed-Use Project Noise and Vibration Assessment. October 24, 2022.

As shown in Table 4.13-1 construction noise levels would range from 59 to 82 dBA when focused near the center of the project site. These construction noise levels would potentially exceed the exterior threshold of 80 dBA Leq at residential land uses adjoining the northeast corner of the project site. Additionally, specific construction activities would exceed these thresholds when work is conducted near the edges of the site. Since project construction would last 16 months, a period of more than one year, within 500 feet of existing residential uses and within 200 feet of existing commercial uses, the impact would be considered significant. The project would be required to implement the following Standard Permit Conditions and Mitigation Measure to reduce impacts of construction noise to less than significant.

IMPACT NOI-1 Construction noise would exceed ambient levels (above 80 dBA) over a one year period within 500 feet of residential uses or 200 feet of commercial or office uses, which exceeds the City thresholds defined in General Plan Policy EC-1.7.

Mitigation Measure

MM-NOI-1.1 Prior to the issuance of any grading or demolition permits, whichever occurs first, the project applicant shall submit and implement a construction noise logistics plan consistent with General Plan Policy EC-1.7, that specifies the hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator contact. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. The noise logistics plan shall be submitted to the Director of Planning, Building and

Code Enforcement or Director's designee prior to the issuance of any grading or demolition permits for review and approval, whichever occurs first.

Standard Permit Condition

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 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.

With the implementation of Municipal Code requirements, standard permit condition, and the Mitigation Measure included above, the construction noise impact would be reduced to a less than significant level compliant with Policy EC-1.7 of the General Plan.

Operational Noise

The Noise and Vibration Assessment prepared for the proposed project determined that, according to Policy EC-1.2 of the City's General Plan, because the existing noise levels at sensitive receptors exceeds 60 dBA, an increase in ambient noise level of three dBA or more would result in a significant noise impact. Additionally, under the City's Noise Element, noise levels from commercial building equipment shall not exceed a noise level of 55 dBA DNL at the property line of noise-sensitive land uses. While the proposed project does include a residential component, commercial use of the building could have noise emitting equipment.

In addition to the requirements above, the Municipal Code requires mechanical equipment noise to be maintained below 55 dBA at adjacent residential properties.

Operational noise of the proposed project would result primarily from project occupants, HVAC equipment, on-site deliveries, and traffic noise from new project trips.

Project Traffic

Project traffic was analyzed based on the trip generation estimate from the transportation analysis provided for the proposed project. Based on the additional trips contributed to the street network around the site a one dBA change was calculated for Buena Vista Avenue and Muller Place, but no other street segment would experience a measurable increase in noise.

Truck Loading

The site plan shows a ground-level loading zone along the eastern side of the building. All existing receptors to the west, to the south, to the northeast, and to the north would be well shielded from truck loading activities; however, the commercial and residential receptors to the east would be exposed to truck delivery noise at the loading dock. The surrounding receptors would be partially shielded from truck delivery noise by the loading dock on three sides, with limited exposure at the entrance to the loading area, assuming the door to be open. The building loading area would provide a minimum of five dBA reduction for the surrounding area, assuming the door to the loading zone is open. Additionally, it is assumed that all deliveries and on-site maintenance activities would occur between 7:00 a.m. and 10:00 p.m.

For commercial uses of this size and residential uses, medium-sized trucks or vendor trucks would be expected at the project site. Medium sized trucks used for incoming deliveries typically generate maximum instantaneous noise levels of 60 to 65 dBA maximum at a distance of 50 feet. The noise level of backup alarms can vary, but the expected maximum noise levels are typically between 65 to 75 dBA at a distance of 50 feet. Assuming a maximum of one 15-minute delivery in any given hour, hourly average noise levels due to truck maneuvering would be approximately 59 dBA at 50 feet.

The nearest receptors to the east would be 65 feet from the center of the loading zone. Assuming a reduction of five dBA from the walls of the delivery bay, the east residential and commercial uses would be exposed to hourly average noise levels of 52 dBA during truck deliveries, and assuming up to two deliveries in a single day during daytime hours only, the average noise level would be 41 dBA.

Truck deliveries occurring at the proposed project site would not generate noise levels exceeding the City's thresholds at the nearby noise-sensitive land uses. For all existing receptors, the noise level increase due to truck delivery noise would not be measurable or detectable.

Mechanical Equipment

Mechanical equipment for the proposed project would include ground floor utility closets, solar panels, and air conditioning (HVAC) equipment on the roof. The utility closets on the ground floor would block most noise due to sound attenuation from the walls of the closets. Solar panels do not generate measurable noise and would not contribute to ambient noise impacts. HVAC equipment under worst case conditions could result in eight air processing units operating simultaneously, which is estimated to result in noise levels of 88 dBA at a three-foot distance. Table 4.13-3 below summarizes the noise increase estimated for the surrounding uses as a result of rooftop equipment.

Table 4.13-3 Estimated Operational Noise Levels for the Rooftop Equipment

Receptor	Distance from Rooftop Equipment	Hourly Leq, dBA	DNL, dBA	Noise Level Increase, dBA DNL
West Future Mixed-Use	30 feet	Up to 68	74	N/A
South Residential	60 feet	Up to 42	48	0
Northeast Residential & Commercial	50 feet	Up to 43	50	0
East Residential & Commercial	65 feet	Up to 41	47	0
North Residential	155 feet	Up to 44	50	0

Source: Illingworth and Rodkin Inc., 1520 West San Carlos Mixed-Use Project Noise and Vibration Assessment. October 24, 2022.

Based on the noise levels of mechanical equipment noise levels are not expected to exceed the City's General Plan and Municipal Code threshold of 55 dBA DNL at the existing land uses to the south, to the east, and to the west. However, there is a potential for the rooftop equipment to result in impacts to future residents at an expected adjacent project to the west at 1530 West San Carlos.

Combined sources

Based on all the combined sources of operational noise, the proposed project would result in an increase in ambient noise of one dBA or less at all existing noise-sensitive receptors in the project vicinity. Therefore, the proposed project would not result in a substantial increase over ambient noise levels in the project vicinity. However, operational noise levels due to mechanical equipment located on the rooftop of the proposed building could exceed 55 dBA DNL at the adjacent future mixed-use building west of the site.

The operational Heating, Ventilation, and Air Conditioning (HVAC) noise on the rooftop of the building would exceed the 55 dBA noise level at the adjacent future residence on the west side of the project site.

Condition of Approval

> The final design plans shall be reviewed by a qualified acoustical consultant to address any potential conflicts with the General Plan or Municipal Code. The City's standard permit condition shall be implemented as condition of approval for the proposed project. The standard permit condition states the following:
>
> A detailed acoustical study shall be prepared during final building design to evaluate the potential noise generated by building mechanical equipment and demonstrate the necessary noise control to meet the City's 55 dBA DNL goal. Noise control features such as sound attenuators, baffles, and barriers shall be identified and evaluated to demonstrate that mechanical equipment noise would not exceed 55 dBA DNL at noise-sensitive locations around the project site. The noise control features identified by the study shall be incorporated into the project prior to issuance of a building permit.

With the inclusion of the Condition of Approval, the proposed project would not result in exceedance of operational noise criteria by complying with the attenuation and noise reducing measures determined by the acoustical professional. Therefore, the proposed project would have a less than significant impact from operational noise with mitigation incorporated. **(Less than Significant Impact with Mitigation Incorporated)**

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

Construction Vibration

The construction of the project may generate perceptible vibration when heavy equipment or impact tools (e.g., jackhammers, hoe rams) are used. Construction activities would include demolition, site preparation work, foundation work, and new building framing and finishing. Pile driving equipment, which can cause excessive vibration, is not proposed for the project. Policy EC-2.3 of the City of San José General Plan states that 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.

Vibration levels would vary depending on soil conditions, construction methods, and equipment used. Since historical buildings near the project site are located 300 feet or more from the project site, vibration levels of 0.08 in/sec PPV or more at historical structures in the project vicinity are not expected.[53] Historical buildings are not discussed further in this section. Vibration levels based on vibration degradation over distance from the source are summarized below in Table 4.13-4.

[53] An approved project for the 1530 West San Carlos Avenue site identified historic resources adjacent to the project site, however, the approval of this project included the demolition of these structures, and they would not be considered structures that could be impacted by vibrations created by the proposed project.

Table 4.13-4 Vibration Source Levels for Construction Equipment					
Equipment	**PPV (in/sec)**				
	West Future Mixed-Use Building (within 10ft)	**South Residential Building (within 10ft)**	**Northeast Residential Building (within 10ft)**	**East Residential & Commercial Building (45ft)**	**North Residential Building (115ft)**
Clam shovel drop	**0.553**	**0.553**	**0.553**	0.106	0.038
Hydromill (In soil)	0.022	0.022	0.022	0.004	0.001
Hydromill (In rock)	0.047	0.047	0.047	0.009	0.003
Vibratory Roller	**0.575**	**0.575**	**0.575**	0.110	0.039
Hoe Ram	**0.244**	**0.244**	**0.244**	0.047	0.017
Large bulldozer	**0.244**	**0.244**	**0.244**	0.047	0.017
Caisson drilling	**0.244**	**0.244**	**0.244**	0.047	0.017
Loaded trucks	**0.208**	**0.208**	**0.208**	0.040	0.014
Jackhammer	0.096	0.096	0.096	0.018	0.007
Small bulldozer	0.008	0.008	0.008	0.002	0.001
Source: Illingworth and Rodkin Inc., 1520 West San Carlos Mixed-Use Project Noise and Vibration Assessment. October 24, 2022.					

Project construction activities would generate vibration levels up to 0.6 in/sec PPV at the nearest future and existing buildings adjoining the project site to the west, to the south, and to the northeast. Based on the Noise and Vibration Assessment, vibration levels produced by the proposed project would result in a less than eight percent chance of cosmetic damage at buildings within 10 feet of the project site. No minor or major damage would be expected at the buildings immediately adjoining the project site. Neither cosmetic, minor, or major damage would occur at historical or conventional buildings located 60 feet or more from the project site.

However, based on the expected vibrations caused by construction equipment for the proposed project, construction activities would generate vibration levels exceeding the 0.2 in/sec PPV threshold at nonhistorical properties adjoining the project site.

IMPACT NOI-2 The proposed project would result in vibratory impacts levels up to 0.6 in/sec PPV during construction in exceedance of the General Plan Policy EC-2.3 threshold of 0.2 in/sec PPV at structures with normal conventional construction located within 10 feet of the proposed project.

Mitigation Measure

MM-NOI-2.1 Prior to the issuance of any building permits, the project applicant shall prepare and submit a construction noise logistics plan to the Director of Planning, Building and Code Enforcement or Director's designee. The plan shall include vibration reduction measures to be implemented during all phases of construction when activities occur within 30 feet of the adjoining residential and mixed-use buildings. The following measures shall be included in the plan:

- A list of all heavy construction equipment to be used for this project known to produce high vibration levels (e.g., tracked vehicles, vibratory compaction, jackhammers, hoe rams, clam shovel drop, and vibratory roller, etc.) shall be submitted to the City by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort for reducing vibration levels below the thresholds.
- Place operating equipment on the construction site as far as possible from vibration-sensitive receptors.
- Use smaller equipment to minimize vibration levels to below 0.2 in/sec PPV shall be used at the property lines. For example, a smaller vibratory roller, such as the Caterpillar model CP433E vibratory compactor, could be used when compacting materials within 30 feet of the adjacent buildings.
- Avoid using vibratory rollers and clam shovel drops near sensitive areas.
- Select demolition methods not involving impact tools.
- Modify/design or identify alternative construction methods to reduce vibration levels below the limits.
- Avoid dropping heavy equipment and use alternative methods for breaking up existing pavement, such as a pavement grinder, instead of dropping heavy objects, within 30 feet of the adjacent buildings.
- Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.

With the inclusion of the mitigation measure above, construction vibration would be reduced at structures within 10 feet of the proposed project through the use of smaller equipment and avoidance of high vibration equipment near property boundaries. Therefore, the proposed project would have a less than significant impact resulting from construction vibration with mitigation incorporated. **(Less than Significant Impact with Mitigation Incorporated)**

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

Norman Y. Mineta San José International Airport is a public-use airport located about 1.9 miles northeast of the project site. According to the City's Airport Master Plan Environmental Impact Report, the project site lies outside the 60 dBA noise contour line. According to Policy EC-1.11 of the City's General Plan, the required safe and compatible threshold for exterior noise levels would be at or below 65 dBA for aircrafts. Therefore, the proposed project would be compatible with the City's exterior noise standards for aircraft noise.

The future interior noise levels resulting from aircraft would below 45 dBA DNL. Therefore, future interior noise at the proposed project would be compatible with aircraft noise. This would be a less than significant impact. **(Less than Significant Impact)**

4.13.3 Non-CEQA Effects

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

Future Exterior Noise Environment

The site plan shows a paseo at the rear of the building on the ground level, a courtyard on the fourth level, a rooftop patio on the sixth level, and a roof deck on the eighth level. Each of these outdoor areas would be associated with the residential component of the proposed project and subject to the City's 60 dBA exterior noise threshold.

The paseo located to the rear of the proposed project would be completely shielded from West San Carlos Street. The center of the paseo would be set back approximately 150 feet from Willard Avenue. At this distance, future exterior noise levels would be below 60 dBA.

The fourth-floor courtyard within the center of the building. The center of the courtyard would be set back from West San Carlos Street approximately 200 feet. The western side of the building would provide partial shielding for the courtyard and in combination with the elevation of the courtyard and the setback from the roadway, future exterior noise levels due vehicular traffic noise would be below 60 dBA.

The sixth-floor rooftop patio would be located at the rear of the building. The building would adequately shield this roof deck and future exterior noise levels would be below 60 dBA.

The roof deck located on the eighth floor would be located along the eastern façade and would be shielded by the building to the north, to the west, and to the south of the roof deck. The center of the roof deck is set back approximately 155 feet from the centerline of West San Carlos Street. The building and the elevation of the roof deck would provide partial shielding for the outdoor use area. Future exterior noise levels would be below 60 dBA.

The future noise levels at the centers of the outdoor use areas associated with the residential component of the proposed project would meet the City's normally acceptable threshold of 60 dBA. Therefore, the proposed project would be compatible with the future noise environment at the project site.

Future Interior Noise Environment

Residential Uses

Residential units are located on floors two through eight of the proposed building. Units located along the northern façade nearest West San Carlos Street would be set back from the centerline of the

roadway approximately 65 feet. At this distance, the units facing West San Carlos Street would be exposed to future exterior noise levels up to 71 dBA. Assuming windows to be partially open, future interior noise levels in these units would be up to 56 dBA.

Residential units located along the eastern and western façades would be set back from the centerline of San Carlos Street by approximately 65 to 285 feet. At these distances, the residential units along the eastern and western façades would be exposed to future exterior noise levels ranging from 60 to 71 dBA. Assuming windows to be partially open, future interior noise levels in these units would range from 45 to 56 dBA.

Units along the southern façade would be well shielded from traffic noise along West San Carlos Street. These units would be exposed to future exterior noise levels at or below 60 dBA. Assuming windows to be partially open, future interior noise levels in these units would at or below 45 dBA.

To meet the interior noise requirements of 45 dBA set forth by the City of San José , implementation of noise insulation features would be required.

Conditions of Approval

The following noise insulation features shall be incorporated into the proposed project to reduce interior noise levels to 45 dBA DNL or less at residential interiors:

- Provide a suitable form of forced-air mechanical ventilation, as determined by the local building official, for all residential units on the project site, so that windows can be kept closed at the occupant's discretion to control interior noise and achieve the interior noise standards.
- Preliminary calculations indicate that residential units along the northern building façade, as well as along the eastern and western façades within 130 feet of the centerline of West San Carlos Street, would require windows and doors with a minimum rating of 35 STC with adequate forced-air mechanical ventilation to meet the interior noise threshold of 45 dBA DNL.
- For residential units along the eastern and western building façades located between 130 and 200 feet of the centerline of West San Carlos Street, windows and doors with a minimum rating of 31 STC with adequate forced-air mechanical ventilation would be required to meet the interior noise threshold of 45 dBA.
- All other units would meet the 45 dBA threshold with standard construction materials with the incorporation of adequate forced-air mechanical ventilation.

The implementation of these noise insulation features would reduce interior noise levels to 45 dBA DNL or less at residential uses.

Standard Permit Condition:

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.

Commercial Land Uses

Ground-level commercial retail is proposed as part of the project on the first and second floors along the northern building façade. The setback from the centerline of West San Carlos Street would be approximately 65 feet. Daytime hourly average noise levels along the northern façade of the first two floors would range from 65 to 76 dBA Leq at the exterior building façade, with day-night average noise level of 71 dBA.

Standard construction materials for commercial uses would provide about 25 dBA of noise reduction in interior spaces. The inclusion of forced-air mechanical ventilation systems is normally required to because commercial buildings do not feature operable windows and would provide an additional five dBA reduction. The design measures in combination with forced-air mechanical ventilation would satisfy the daytime threshold of 50 dBA.

4.14 POPULATION AND HOUSING

4.14.1 Environmental Setting

4.14.1.1 *Regulatory Framework*

State

Housing-Element Law

State requirements mandating that housing be included as an element of each jurisdiction's general plan is known as housing-element law. The Regional Housing Need Allocation (RHNA) is the state-mandated process to identify the total number of housing units (by affordability level) that each jurisdiction must accommodate in its housing element. California housing-element law requires cities to: 1) zone adequate lands to accommodate its RHNA; 2) produce an inventory of sites that can accommodate its share of the RHNA; 3) identify governmental and non-governmental constraints to residential development; 4) develop strategies and a work plan to mitigate or eliminate those constraints; and 5) adopt a housing element and update it on a regular basis.[54] The City of San José Housing Element and related land use policies were last updated in January 2015.

Regional and Local

Plan Bay Area 2040

Plan Bay Area 2040 is a long-range transportation, land-use, and housing plan intended support a growing economy, provide more housing and transportation choices, and reduce transportation-related pollution and GHG emissions in the Bay Area. Plan Bay Area 2040 promotes compact, mixed-use residential and commercial neighborhoods near transit, particularly within identified Priority Development Areas (PDAs).[55]

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

4.14.1.2 *Existing Conditions*

The population of San José was estimated to be approximately 1,049,187 in January 2020 with an average of 3.19 persons per household.[56] The projections produced by ABAG predict the City population to increase to 1,357,845 by 2040.[57] The City currently has approximately 335,887 housing

[54] California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements" Accessed November 11, 2021. http://hcd.ca.gov/community-development/housing-element/index.shtml.
[55] Association of Bay Area Governments and Metropolitan Transportation Commission. "Project Mapper." http://projectmapper.planbayarea.org/. Accessed November 11, 2021.
[56] State of California, Department of Finance, E-5 Population and Housing Estimates for Cities, Counties and the State — January 1, 2011-2020. Sacramento, California, May 2019.
[57] ABAG, Projections 2040: Forecasts for Population, Household, and Employment for the Nine County San Francisco Bay Area Region. 2017.

units. The project site is currently occupied by 11 residential buildings and contributes approximately 35 people to the population of the City.

4.14.2 Impact Discussion

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

a) 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)?

The project site is located in the West San Carlos Urban Village and is designated Urban Village in the Mixed-Use Residential Character Area. This land use entails a density of 55 to 250 dwelling units per acre. The proposed project would result in a density of 158 dwelling units per acre on a 1.62-acre site. Therefore, the proposed project would be consistent with the General Plan designated land use for the site and would not result in a significant increase in population beyond that expected in the General Plan. Additionally, the proposed project would include some retail uses, however this would not substantially increase the number of jobs provided by the project site and would not result in indirect population growth. **(Less than Significant Impact)**

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

The proposed project would result in the demolition of 11 residential buildings and the construction of 256 new dwelling units (a net increase of 245 units) on the project site. The project would not result in a reduction in the total number of housing units on-site or within the City, nor would it necessitate the construction of housing elsewhere.

The existing residents would be displaced as a result of the project. As the existing residences buildings were constructed prior to 1979, the property owner would be required to comply with all applicable requirements of the City's Ellis Act Ordinance, including, but not limited to, tenant noticing requirements and relocation benefits. It should be noted that if a project's social and economic effects do not result in physical changes, the effects are not environmental impacts under CEQA. Because there is no physical change to the environment that would result from the

displacement of residents in the existing apartments, no further discussion is required. **(Less than Significant Impact)**

4.15 PUBLIC SERVICES

4.15.1 Environmental Setting

4.15.1.1 *Regulatory Framework*

State

Government Code Section 66477

The Quimby Act (included within Government Code Section 66477) requires local governments to set aside parkland and open space for recreational purposes. It provides provisions for the dedication of parkland and/or payment of fees in lieu of parkland dedication to help mitigate the impacts from new residential developments. The Quimby Act authorizes local governments to establish ordinances requiring developers of new residential subdivisions to dedicate parks, pay a fee in lieu of parkland dedication, or perform a combination of the two.

Government Code Section 65995 through 65998

California Government Code Section 65996 specifies that an acceptable method of offsetting a project's effect on the adequacy of school facilities is the payment of a school impact fee prior to the issuance of a building permit. Government Code Sections 65995 through 65998 set forth provisions for the payment of school impact fees by new development by "mitigating impacts on school facilities that occur (as a result of the planning, use, or development of real property" (Section 65996[a]). The legislation states that the payment of school impact fees "are hereby deemed to provide full and complete school facilities mitigation" under CEQA (Section 65996[b]).

Developers are required to pay a school impact fee to the school district to offset the increased demands on school facilities caused by the proposed residential development project. The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code.

Regional and Local

Countywide Trails Master Plan

The Santa Clara County Trails Master Plan Update is a regional trails plan approved by the Santa Clara County Board of Supervisors. It provides a framework for implementing the County's vision of providing a contiguous trail network that connects cities to one another, cities to the county's regional open space resources, County parks to other County parks, and the northern and southern urbanized regions of the County. The plan identifies regional trail routes, sub-regional trail routes, connector trail routes, and historic trails.

City of San José

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to public facilities and services and are applicable to the project.

General Plan Policies – Public Services	
ES-3.1	Provide rapid and timely Level of Service response time to all emergencies: 1. For police protection, achieve a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls. 2. For fire protection, achieve a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents. 3. Enhance service delivery through the adoption and effective use of innovative, emerging techniques, technologies and operating models. 4. Measure service delivery to identify the degree to which services are meeting the needs of San José's community. – 5. Ensure that development of police and fire service facilities and delivery of services keeps pace with development and growth in the city.
ES-3.8	• Use the Land Use/Transportation Diagram to promote a mix of land uses that increase visibility, activity and access throughout the day and to separate land uses that foster unsafe conditions.
ES-3.9	Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly-visible and accessible spaces.
ES-3.10	Incorporate universal design measures in new construction, and retrofit existing development to include design measures and equipment that support public safety for people with diverse abilities and needs. Work in partnership with appropriate agencies to incorporate technology in public and private development to increase public and personal safety.
ES-3.11	Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.
ES-3.14	Encourage property maintenance and pursue appropriate code enforcement to reduce blight, crime, fire hazards or other unsafe conditions associated with under-maintained and under-utilized properties.

4.15.1.2 *Existing Conditions*

Fire Service

Fire protection services for the project site are provided by the City of San José Fire Department (SJFD). The SJFD consists of 34 stations distributed throughout the City. The nearest fire station to the project site is Station 4, located at 710 Leigh Avenue, which is approximately 0.6 miles southwest of the project site.

For fire protection services, the General Plan identifies a total response time goal of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.[58]

Police Service

Police protection services are provided by the City of San José Police Department (SJPD). The police headquarters is located at 201 West Mission Street, approximately 1.9 miles northeast of the project site.

[58] City of San José. General Plan 2040. November 2011.

For police protection services, the General Plan identifies a service goal of six 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.

Schools

The project site is located within the San José Unified School District (SJUSD). The nearest public schools to the project site are Trace Elementary, located at 651 Dana Avenue (approximately 0.6 mile northwest of the site), Hoover Middle School, located at 1635 Park Avenue (approximately 0.6 mile northwest of the site), and Lincoln High School, located at 555 Dana Avenue (approximately 0.5 mile northwest of the site).

Parks and Recreation Facilities

The City's Department of Parks, Recreation, and Neighborhood Services owns and maintains approximately 3,536 acres of parkland, including neighborhood parks, community parks, and regional parks.[59] The City's Department of Parks, Recreation, and Neighborhood Services owns and maintains 199 neighborhood parks, 41 community/neighborhood centers, 10 regional parks, and over 61 miles of urban trails. The nearest parks to the project site are Meridian Paseo (located 600 feet southeast of the project site) O'Connor Park (located approximately 0.3 miles southeast of the project site). The nearest community center is Gardner Community Center, located approximately 1.2 miles east of the project site at 520 West Virginia Street. The project site does not currently contain public recreational facilities.

Library Facilities

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.) and 25 branch libraries. The nearest library is Dr. Martin Luther King Jr., approximately 0.65 miles southwest of the project site.

[59] City of San José. Annual Report on City Services 2019-20. December 2020.

4.15.2 Impact Discussion

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

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

As proposed, the project would result in the construction of an eight-story building with 256 residential units, which could increase calls for fire protection service on-site. New buildings, including the proposed project, are required to be constructed in accordance with current fire and building codes. According to the Envision 2040 General Plan FEIR, development allowed under the General Plan would not require the construction of new fire stations, other than those currently planned. The project is part of the planned growth in the General Plan and would not result in a substantial adverse physical impact associated with the need for additional fire protection services or facilities. **(Less than Significant Impact)**

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

Full build out of the Envision 2040 General Plan would increase the demand for police protection services. The project, by itself, would not require additional police services or facilities since it would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies to avoid unsafe building conditions and promote public safety. The project would be consistent with full build out of the General Plan and

would not prevent the SJPD from meeting their service goals or require the construction of new or expanded police facilities. **(Less than Significant Impact)**

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

Based on the SJUSD student generation rates, multi-family residential development generates approximately 0.133 elementary students, 0.071 middle school students, and 0.062 high school students per unit.[60] The construction of 256 units on-site would result in approximately 34 elementary students, 18 middle school students, and 15 high school students. The net increase in students would be 33 elementary, 17 middle school, and 14, high school students. The project is part of the planned growth in the City and would not increase students in the SJUSD beyond what was anticipated in the General Plan.

State law (Government Code Section 65996) specifies an acceptable method of offsetting a project's effect under CEQA on the adequacy of school facilities as the payment of a school impact fee prior to issuance of a building permit. The affected school district(s) are responsible for implementing the specific methods for mitigating school effects under the Government Code, including setting the school impact fee amount consistent with State law. The school impact fees and the school districts' methods of implementing measures specified by Government Code Section 65996 would partially offset project-related increases in student enrollment. The project would be required to pay school impact fees pursuant to Government Code section 65996 which would reduce impacts to public school facilities.

With payment of the school impact fees, the proposed project would have a less than significant impact on school services and would not, by itself, require new school facilities to be constructed. **(Less than Significant Impact)**

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

The City of San José has adopted the Parkland Dedication Ordinance (PDO) and Park Impact Ordinance (PIO), which requires new housing projects to provide 3.0 acres of neighborhood/community serving parkland per 1,000 population, provide recreational facilities on-site, and/or pay an in-lieu fee. The proposed project would increase the City population by 799 new residents.[61] The project proposes fitness space, three courtyards, and a roof deck and lounge area. In addition to the private recreational facilities proposed on-site, the project would be required pay the

[60] City of San José. Downtown Strategy 2040 Integrated Final EIR. December 2018.
[61] 3.12 persons per household x 256 residential units = 799 persons

applicable PDO and Park Impact Ordinance (PIO) fees. The project's PDO/PIO fees would be used for neighborhood serving elements (such as playgrounds/tot-lots and basketball courts) within 0.75 miles of the project site, and/or community serving elements (such as soccer fields and community gardens) within a three-mile radius of the project site, consistent with General Plan Policies PR-2.4 and PR-2.5.

Since the proposed project would be required to comply with payment of the PDO/PIO fees, implementation of the project would not result in significant impacts to park and recreational facilities in San José. **(Less than Significant Impact)**

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

The City of San José has been expanding and constructing new library facilities over the last decade to meet the needs of current residents. The General Plan policies maintain the City's current service goal of providing at least 0.59 square feet of library space per capita. Development and redevelopment allowed under the General Plan would increase the City's residential population to approximately 1,313,811. The City's existing and planned facilities would provide approximately 0.68 square feet of library space for the anticipated population under the proposed General Plan by 2035.

The General Plan FEIR concluded that development and redevelopment allowed under the proposed General Plan would be adequately served by existing and planned library facilities. The proposed increase in residents at the project site were analyzed as part of the planned residential growth in the City. Therefore, implementation of the project would not result in significant impacts to library facilities in San José. **(Less than Significant Impact)**

4.16 RECREATION

4.16.1 Environmental Setting

4.16.1.1 *Regulatory Framework*

State

Government Code Section 66477

The Quimby Act (included within Government Code Section 66477) requires local governments to set aside parkland and open space for recreational purposes. It provides provisions for the dedication of parkland and/or payment of fees in lieu of parkland dedication to help mitigate the impacts from new residential developments. The Quimby Act authorizes local governments to establish ordinances requiring developers of new residential subdivisions to dedicate parks, pay a fee in lieu of parkland dedication, or perform a combination of the two.

City of San José

Activate San José Strategic Plan (2020-2040)

ActivateSJ is a people-focused, service-driven plan adopted by the City of San José in 2020. The plan focuses on guiding principles of stewardship, nature, equality and access, identity, and public life. The five guiding principles speak directly to what San José residents value and expect from a parks and recreation department in the 10th largest city in the nation. They are strategic priorities that will carry San José into the future, help us identify opportunities and guide decisions, which may include the development of regional capital-centric Greenprints.

The plan is a 20-year strategic plan for the City of San José's Department of Parks, Recreation and Neighborhood Services which will ensure that neighborhood parks continue to be destinations for residents, that regional parks showcase the best of San José, that community centers continue to serve as points of connection, and that the Parks and Recreation Department continues to enhance the quality of life in our diverse neighborhoods.

Parkland Dedication Ordinance and the Park Impact Ordinance

The City of San José has adopted the Parkland Dedication Ordinance (PDO, Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO, Municipal Code Chapter 14.25) requiring new residential development to either dedicate sufficient land to serve new residents or pay fees to offset the increased costs of providing new park facilities for new development. Under the PDO and PIO, a project can satisfy half of its total parkland obligation by providing private recreational facilities on-site. For projects over 50 units, it is the City's decision as to whether the project will dedicate land for a new public park site or accept a fee in-lieu of land dedication. Deed-restricted affordable housing projects that meet the City's affordability criteria are subject to the PDO and PIO and receive a 50 percent credit toward the parkland obligation. The acreage of parkland required is based on the minimum acreage dedication formula outlined in the PDO.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to recreation and are applicable to the project.

General Plan Policies – Recreation	
PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
PR-1.2	Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies
PR-1.3	Provide 500 square feet per 1,000 population of community center space.
PR-2.6	Locate all new residential developments over 200 units in size within 1/3 of a mile walking distance of an existing or new park, trail, open space or recreational school grounds open to the public after normal school hours or include one or more of these elements in its project design.
PR-3.2	Provide access to an existing or future neighborhood park, a community park, recreational school grounds, a regional park, open space lands, and/or a major City trail within a 1/3-mile radius of all San José residents by either acquiring lands within 1/3 mile or providing safe connections to existing recreation facilities outside of the 1/3-mile radius. This is consistent with the United Nation's Urban Environmental Accords, as adopted by the City for recreation open space.

4.16.1.2 *Existing Conditions*

The City's Department of Parks, Recreation, and Neighborhood Services owns and maintains approximately 3,536 acres of parkland, including neighborhood parks, community parks, and regional parks.[62] The City's Department of Parks, Recreation, and Neighborhood Services owns and maintains 199 neighborhood parks, 41 community/neighborhood centers, 10 regional parks, and over 61 miles of urban trails. The nearest parks to the project site are Meridian Paseo (located 600 feet southeast of the project site) O'Connor Park (located approximately 0.3 miles southeast of the project site). The nearest community center is Gardner Community Center, located approximately 1.2 miles east of the project site at 520 West Virginia Street. The project site does not currently contain public recreational facilities.

4.16.2 **Impact Discussion**

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☒	☐

[62] City of San José. Fast Facts 2020-2021. January 13, 2022.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☒	☐

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

The proposed project would add approximately 799 people to the project site which would increase the use of parks and community centers in the surrounding area. The project proposes indoor and outdoor recreational facilities on-site (passive and active) which may include lounge areas, a gym space, common open space, and a paseo at the back of the project. These facilities would help offset the use of existing recreational facilities in the area by future residents of the site.

The project would be required to pay the applicable PDO/PIO fees. The project's PDO/PIO fees would be used for neighborhood serving elements (such as playgrounds/tot lots and basketball courts) within 0.75 miles of the project site, and/or community serving elements (such as soccer fields and community gardens) within a three-mile radius of the project site, consistent with General Plan Policies PR-2.4 and PR-2.5. Since the proposed project would be required to comply with payment of the PDO/PIO fees, the project would not result in a substantial physical deterioration of recreational facilities in the area. **(Less than Significant Impact)**

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

The project does not include the expansion or construction of additional recreational facilities. In addition, due to the proposed facilities on-site and the payment of PDO fees, the project would not require the construction or expansion of recreational facilities for the City to meet its service goals. As a result, implementation of the project would not result in an adverse physical effect on the environment. **(Less than Significant Impact)**

4.17 TRANSPORTATION

This section is based in part on the Transportation Assessment prepared by Hexagon Transportation Consultants on August 2, 2022. This report is included as Appendix H of this document.

4.17.1 Environmental Setting

4.17.1.1 *Regulatory Framework*

State

Regional Transportation Plan

MTC is the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area, including Santa Clara County. MTC is charged with regularly updating the Regional Transportation Plan, a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle, and pedestrian facilities in the region. MTC and ABAG adopted Plan Bay Area 2040 in July 2017, which includes a Regional Transportation Plan to guide regional transportation investment for revenues from federal, state, regional and local sources through 2040.

Senate Bill 743

SB 743 establishes criteria for determining the significance of transportation impacts using a vehicle miles traveled (VMT) metric intended to promote the reduction of GHG emissions, the development of multimodal transportation networks, and a diversity of land uses. Specifically, SB 743 requires analysis of VMT in determining the significance of transportation impacts. Local jurisdictions were required by Governor's Office of Planning and Research (OPR) to implement a VMT policy by July 1, 2020.

SB 743 did not authorize OPR to set specific VMT impact thresholds, but it did direct OPR to develop guidelines for jurisdictions to utilize. CEQA Guidelines Section 15064.3(b)(1) describes factors that might indicate whether a development project's VMT may be significant. Notably, projects located within 0.50 mile of transit should be considered to have a less than significant transportation impact based on OPR guidance.

Regional and Local

Congestion Management Program

VTA oversees the Congestion Management Program (CMP), which is aimed at reducing regional traffic congestion. The relevant state legislation requires that urbanized counties in California prepare a CMP in order to obtain each county's share of gas tax revenues. State legislation requires that each CMP define traffic LOS standards, transit service standards, a trip reduction and transportation demand management plan, a land use impact analysis program, and a capital improvement element. VTA has review responsibility for proposed development projects that are expected to affect CMP-designated intersections.

Transportation Analysis Policy (City Council Policy 5-1)

As established in City Council Policy 5-1, Transportation Analysis Policy, the City of San José uses VMT as the metric to assess transportation impacts from new development. According to the policy, an employment (e.g., office or research and development) or residential project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average regional 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. Screening criteria have been established to determine which projects require a detailed VMT analysis. If a project meets the relevant screening criteria, it is considered to a have a less than significant VMT impact.

If a project's VMT does not meet the established thresholds, mitigation measures would be required, where feasible. The policy also requires preparation of a Local Transportation Analysis to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, site access and circulation, and neighborhood transportation issues such as pedestrian and bicycle access and recommend transportation improvements. The VMT policy does not negate Area Development policies and Transportation Development policies approved prior to adoption of Policy 5-1; however, it does negate the City's Protected Intersection policy as defined in Policy 5-3.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to transportation and are applicable to the project.

<table>
<tr><th colspan="2">General Plan Policies - Transportation</th></tr>
<tr><th>Policy</th><th>Description</th></tr>
<tr><td>TR-1.1</td><td>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).</td></tr>
<tr><td>TR-1.2</td><td>Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.</td></tr>
<tr><td>TR-1.3</td><td>Increase substantially the proportion of commute travel using modes other than the single-occupant vehicle. The 2040 commute mode split targets for San José residents and workers are present in the following table:
<table>
<tr><td colspan="3">Commute Mode Split Targets for 2040</td></tr>
<tr><td rowspan="2">Mode</td><td colspan="2">Commute Mode Split Targets for 2040</td></tr>
<tr><td>2008</td><td>2040 Goal</td></tr>
<tr><td>Drive alone</td><td>77.8%</td><td>No more than 40%</td></tr>
<tr><td>Carpool</td><td>9.2%</td><td>At least 10%</td></tr>
<tr><td>Transit</td><td>4.1%</td><td>At least 20%</td></tr>
</table>
</td></tr>
</table>

	Bicycle	1.2%	At least 15%
	Walk	1.8%	At least 15%
	Other means (including work at home)	5.8	See Note 1
	Source: 2008 data from American Community Survey (2008) Note1: Working at home is not included in the transportation model, so the 2040 Goal shows percentages for only those modes currently included in the model.		
TR-1.4	Through the entitlement process for new development, fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.		
TR-1.6	Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.		
TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.		
TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute towards transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.		
TR-5.3	Develop 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.		
TR-8.4	Discourage, as part of the entitlement process, the provision of parking spaces significantly above the number of spaces required by code for a given use.		
TR-8.6	Allow reduced parking requirements for mixed-use developments and for developments providing shared parking or a comprehensive TDM program, or developments located near major transit hubs or within Villages and Corridors and other growth areas.		
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.		
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: o Include attractive and interesting pedestrian-oriented streetscape features such as street furniture, pedestrian scale lighting, pedestrian oriented way-finding signage, clocks, fountains, landscaping, and street trees that provide shade, with improvements to sidewalks and other pedestrian ways.		

	○ Strongly discourage drive-up services and other commercial uses oriented to occupants of vehicles in pedestrian-oriented areas. Uses that serve the vehicle, such as car washes and service stations, may be considered appropriate in these areas when they do not disrupt pedestrian flow, are not concentrated in one area, do not break up the building mass of the streetscape, are consistent with other policies in this Plan, and are compatible with the planned uses of the area. ○ Provide pedestrian connections as outlined in the Urban Design Connections Goal and Policies. ○ Local retail and other active uses at the street level. ○ Create easily identifiable and accessible building entrances located on street frontages or paseos. ○ Accommodate the physical needs of elderly populations and persons with disabilities. Integrate existing or proposed transit stops into project designs.
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.

4.17.1.2 *Existing Conditions*

Existing Roadway Network

Regional access to the project site is provided via Interstate 880 (I-880) and I-280. These facilities are described below.

I-880 is a six-lane freeway in the vicinity of the site. It extends north to Oakland and south to I-280 in San José at which point it makes a transition into State Route 17 (SR-17) to Santa Cruz. Access to the site is provided via its interchanges with Stevens Creek Boulevard and I-280.

I-280 is an eight-lane freeway in the vicinity of the site. It extends northwest to San Francisco and east to King Road in San Jose, at which point it makes a transition into I-680 to Oakland. North of I-880, I-280 has high occupancy vehicle (HOV) lanes in both directions. Access to and from northbound I-280 to the site is provided via ramps at Parkmoor Avenue. Access to and from southbound I-280 to the site is provided via ramps at Moorpark Avenue. Alternative access to I-280 is provided via an interchange at Meridian Avenue.

Local access to the site is provided by West San Carlos Street/Stevens Creek Boulevard, Leigh Avenue/Shasta Avenue, Buena Vista Avenue, Willard Avenue, Muller Place, Meridian Avenue, Race Street, Douglas Street, and Scott Street. These roadways are described below.

West San Carlos Street is a divided four-lane east-west major arterial roadway in the vicinity of the project site. It is a designated Grand Boulevard per the Envision San José 2040 General Plan. It extends from Downtown San Jose westward to I-880, at which point it makes a transition into Stevens Creek Boulevard to Cupertino. In the project vicinity, San Carlos Street has bike lanes on

both sides of the street. San Carlos Street runs along the north project frontage. Access to the project site is provided via Willard Avenue.

Leigh Avenue is a two-lane north-south minor arterial roadway that extends southward from San Carlos Street to Blossom Hill Road. It is a designated On-Street Primary Bicycle Facility per the Envision San José 2040 General Plan. North of San Carlos Street, Leigh Avenue transitions to Shasta Avenue. In the project vicinity, Leigh Avenue has no bike lanes. Access to the project site from Leigh Avenue is provided via San Carlos Street and Willard Avenue.

Buena Vista Avenue is a two-lane north-south residential roadway that extends between Martin Avenue and Scott Street. Access to the project site from Buena Vista Avenue is provided via San Carlos Street, Scott Street, and Willard Avenue.

South Willard Avenue is a two-lane north-south residential roadway that extends between San Carlos Street and Chiechi Avenue. Willard Avenue runs along the east project frontage and would provide direct access to the project site via one driveway.

Muller Place is a two-lane residential roadway that extends north from San Carlos Street. The unsignalized intersection of Muller Place with San Carlos Street provides an opportunity for U-turns from the eastbound direction onto the westbound direction of San Carlos Street.

Meridian Avenue is generally a four-lane north-south minor arterial roadway that runs northward from Camden Avenue to Park Avenue. It is a designated Grand Boulevard per the Envision San José 2040 General Plan. The roadway narrows to two lanes between San Carlos Street and Park Avenue. Access to the project site from Meridian Avenue is provided via San Carlos Street, Scott Street, and Willard Avenue.

Race Street is a north-south roadway that runs northward from Fruitdale Avenue to The Alameda. It is a designated On-Street Primary Bicycle Facility per the Envision San José 2040 General Plan. It is a four-lane road between Saddle Rack Street and the I-280 off-ramp and a two-lane road north of Saddle Rack Street and south of the I-280 off-ramp. Bike lanes are provided along both sides of Race Street, between The Alameda and Park Avenue and between San Carlos Street and Parkmoor Avenue. Access to the project site from Race Street is provided via San Carlos Street and Willard Avenue.

Douglas Street is a two-lane east-west residential roadway that extends between Meridian Avenue and Willard Avenue. Access to the project site from Douglas Street is provided via Willard Avenue.

Scott Street is a two-lane east-west residential roadway that extends between Parkmoor Avenue and Willard Avenue. Access to the project site from Scott Street is provided via Willard Avenue.

Existing Pedestrian Facilities

Pedestrian facilities near the project site consist mostly of sidewalks along the streets near the project site. Sidewalks are found along both sides of all streets near the project site including San Carlos Street and Willard Avenue. Other pedestrian facilities in the project area include crosswalks and pedestrian push buttons at all signalized study intersections.

At the intersection of Buena Vista Avenue and San Carlos Street, marked crosswalks are located along the west, north, and south legs of the intersection. At the intersection of Meridian Avenue and San Carlos Street, crosswalks are located along all approaches. ADA-compliant curb ramps are located along most intersections within the project vicinity, with the exception of the ramp at the northeast corner of the project site (southwest corner of the South Willard Avenue and San Carlos Street intersection).

Existing Bicycle Facilities

There are several bicycle facilities in the vicinity of the project site. Bicycle facilities are divided into the following three classes of relative significance:

Class I Bikeway (Bike Path). Class I bikeways are bike paths that are physically separated from motor vehicles and offer two-way bicycle travel on a separate path. The Los Gatos Creek Trail is located in the project area and is a continuous multi-purpose pathway for pedestrians and bicycles that is separated from motor vehicles. It begins at Vasona Lake County Park in the south and continues to Dupont Street in the north, all alongside Los Gatos Creek. Access to the Los Gatos Creek Trail system is located on Dupont Street, south of San Carlos Avenue, approximately 0.8 miles east of the project site.

Class II Bikeway (Bike Lane). Class II bikeways are striped bike lanes on roadways that are marked by signage and pavement markings. Within the vicinity of the project site, striped bike lanes are present on the following roadway segments.

- San Carlos Street, between Leigh Avenue and Lincoln Avenue
- Park Avenue, along the entire length of the street
- Race Street, between The Alameda and Park Avenue; and between San Carlos Street and Parkmoor Avenue
- Lincoln Avenue, between San Carlos Street and Minnesota Avenue

Class III Bikeway (Bike Route). Class III bikeways are bike routes and only have signs to help guide bicyclists on recommended routes to certain locations. Near the project site, the following roadway segments are designated as bike routes.

- Dana Avenue, between San Carlos Street and Hedding Street
- Douglas Street, between Meridian Avenue and Willard Avenue
- Willard Avenue, between Douglas Street and Scott Street
- Scott Street, between Willard Avenue and Bascom Avenue
- Lincoln Avenue, between Park Avenue and San Carlos Street
- Auzerais Avenue, all segments east of Race Street without striped bike lanes

Existing Transit Environment

The Diridon Transit Center is located approximately 1.3 miles northeast of the project site, along Cahill Street. The Diridon Transit Center provides connections between local and regional bus

routes, light rail lines, and commuter rail lines. Direct access to the Diridon Transit Center is provided via Local Route 64B.

Bus Service

The project site is primarily served by three VTA bus routes (Local Route 64B, Frequent Route 23 and Rapid Route 523). These bus lines are listed in Table 4.17-1, including their terminus points and commute hour headways.

Table 4.17-1 Existing Transit Services

Bus Route	Route Description	Nearest Stop	Headway[1]
Frequent Route 23	DeAnza College to Alum Rock Transit Center via Stevens Creek	San Carlos/Willard	10 min
Local Route 64B	McKee & White to Almaden Expressway & Camden	Race/San Carlos	30 - 40 min
Rapid Route 523	Berryessa BART to Lockheed Martin via De Anza College	San Carlos/Meridian	30 min

[1] Approximate headways during peak periods

Bus stops in the vicinity of the project site serve Frequent Route 23 and are located along both sides of San Carlos Street. An eastbound bus stop is located at the southeast corner of the Willard Avenue/San Carlos Street intersection, less than 70 feet walking distance from the project site. The nearest westbound bus stop is located at the northeast corner of the Buena Vista Avenue/ San Carlos Street intersection, approximately 700 feet in walking distance from the project site.

The nearest bus stops serving Rapid Route 523 are located along San Carlos Street near Meridian Avenue, approximately 0.25 miles from the project site. The nearest bus stops serving Local Route 64B are located along Race Street near San Carlos Street, approximately 0.33 miles from the project site.

Light Rail Service and Other Rail Service

The VTA currently operates the 42.2-mile VTA light rail line system extending from south San Jose through downtown to the northern areas of San Jose, Santa Clara, Milpitas, Mountain View and Sunnyvale. The nearest LRT station is located at the Diridon Transit Center. LRT service at the Diridon Transit Center is provided by the Green LRT line (Winchester – Old Ironsides). The Green LRT line provides service from the Winchester station in Campbell, through downtown San Jose. A transfer point to the Blue LRT line (Santa Teresa – Baypointe) is provided at all downtown stations, starting at the Convention Center LRT Station. From downtown San Jose, the Green LRT line runs to north San Jose where it curves west and operates along the Tasman Corridor to Old Ironsides station, where a connection is provided to the Orange LRT line (Mountain View – Alum Rock).

Other rail line service is provided from Diridon Transit Center including Caltrain commuter rail service, Altamont corridor Express Service, and Amtrak Capitol Corridor.

4.17.2 Impact Discussion

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

a) Would the project conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities?

Pedestrian Facilities

The project proposes to widen the existing eight-foot sidewalk along the north project frontage along West San Carlos by 12 feet to a total width of 20 feet. The proposed sidewalk width would meet the minimum width required by the West San Carlos Urban Village Plan (Policy CS-4.4) for West San Carlos Street. The sidewalk along the Willard Avenue project frontage is proposed to be 15 feet wide and would meet the minimum width required per Policy CS-4.5 for all other streets within the urban village. Additionally, the proposed project would provide a contribution towards the installation of the east leg crosswalk at the West San Carlos and Buena Vista Avenue Intersection. This improvement includes a raised crosswalk and bulb outs along Willard Avenue at the proposed Paseo entrance. Therefore, the proposed project would not conflict with the existing pedestrian facilities plans and would have a less than significant impact.

Bicycle Facilities

The bikeways within the vicinity of the project site would remain unchanged under project conditions. The project would be directly served by a bike lane along its north project frontage on San Carlos Street, that runs between Leigh Avenue and Lincoln Avenue. A bike route also is located along Willard Avenue, south of the project site between Douglas Street and Scott Street.

The City's General Plan identifies a bicycle trip target of 15 percent or more by the year 2040. This would equate to approximately 10 and 16 new bicycle trips generated by the project during the AM and PM peak hours, respectively. The proposed project includes bicycle parking on-site and would contribute to bicycle connectivity to meet this goal through the inclusion of a paseo at the rear of the site that would connect to existing bicycle infrastructure.

The San Jose Better Bike Plan 2025 also indicates that a variety of bicycle facilities are planned in the area near the project site. The proposed project would provide a contribution towards planned Class IV protected bike lanes along West San Carlos Street. The project would not preclude implementation of any planned bicycle facilities in the project area.

Transit Services

The project site is adequately served by the existing VTA transit services. The project site is primarily served by three VTA bus routes (Local Route 64B, Frequent Route 23 and Rapid Route 523). Bus stops in the vicinity of the project site serve Frequent Route 23 and are located along both sides of San Carlos Street. An eastbound bus stop is located at the southeast corner of the Willard Avenue/San Carlos Street intersection, less than 70 feet walking distance from the project site. The nearest westbound bus stop is located at the northeast corner of the Buena Vista Avenue/San Carlos Street intersection, approximately 700 feet walking distance from the project site.

The new riders resulting from the proposed project would be accommodated by the current available capacity of the bus service in the study area and improvement of the existing transit service would not be necessary with the project. Therefore, the proposed project would have a less than significant impact on transit services. **(Less than Significant Impact)**

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

The project site is located within a planned Growth Area (West San Carlos Urban Village) with low vehicle miles traveled (VMT) per capita as identified by the City of San José. Along the north project frontage, there is a high-quality transit corridor with VTA bus service headways of less than 15 minutes during peak commute periods. Per the City of San José VMT screening criteria, retail projects of 100,000 square feet or less are considered local-serving and do not require a detailed CEQA transportation analysis. The proposed 15,203 square feet of proposed retail space will be less than the local-serving threshold. Additionally, based on the Local Transportation Assessment (LTA) prepared by Hexagon Transportation Consultants, the proposed project would result in a per capita VMT of 7.09 which is below the established threshold of 10.12 VMT per capita (based on a threshold of 15 percent below the citywide average of 11.91).

Therefore, both the residential and commercial land use components of the project would result in a less than significant VMT impact, and the proposed project would not conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b). **(Less than Significant Impact)**

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

The on-site circulation of the proposed project would be designed compliant with the ordinances and policies that govern the pedestrians and vehicles access and movement on site. Therefore, the

proposed project would not substantially increase hazards due to a geometric design feature or incompatible use. **(Less than Significant Impact)**

d) Would the project result in inadequate emergency access?

The proposed project would provide adequate access to the site for emergency vehicles, and the design of all access driveways are required to conform to City of San José design standards and guidelines. The design of the site must include adequate turn radii, driveway width, and drive aisle width. Through adherence to City design standards and guidelines, emergency circulation within the project site would be adequate and the project would result in a less than significant impact on emergency access. **(Less than Significant Impact)**

4.17.3 Non-CEQA Effects

While the evaluation of project CEQA impacts on the transportation system is focused on vehicle miles traveled (VMT), in accordance with the City of San José Transportation Policy (Council Policy 5-1), the following discussion is included for informational purposes because City Council Policy 5-1 requires preparation of an LTA to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, site access and circulation, and neighborhood transportation issues such as pedestrian and bicycle access, and recommend needed transportation improvements.

Trip Generation

After applying the ITE trip rates and appropriate trip reductions, it is estimated that the project would generate an additional 1,522 daily vehicle trips, with 85 trips (26 inbound and 59 outbound) occurring during the AM peak hour and 131 trips (75 inbound and 56 outbound) occurring during the PM peak hour. The trip generation for the project is further explained in table 4.17-2 below.

Table 4.17-2 Trip Generation based on Land Uses

Land Use	Size	Daily Trips	AM Peak Hour		PM Peak Hour	
			In	Out	In	Out
Multifamily Housing (Mid-Rise)	256 DU	1,393	24	68	69	44
Residential - Retail Internal Reduction		-86	-1	-1	-5	-4
Location Based Reduction		-170	-3	-9	-8	-5
VMT Reduction		-39	-1	-2	-2	-1
Residential Sub-Total		**1,098**	**19**	**56**	**54**	**34**
Shopping Center	15,203 sf	574	9	5	28	30
Residential - Retail Internal Reduction		-86	-1	-1	-4	-5
Location Based Reduction		-63	-1	-1	-3	-3
Retail Sub-Total		**424**	**7**	**3**	**21**	**22**
Baseline Vehicle Trips (Before Reductions)		1,967	33	73	97	74
Gross Project Trips After Reductions		1,522	26	59	75	56

Source: Hexagon Transportation Consultants. 1520 W. San Carlos Street Mixed-Use Development Transportation Analysis. August 2, 2022.

Future Intersection Operation Conditions

The operations analysis shows that all of the signalized study intersections are projected to operate at acceptable levels of service, based on the City of San José intersection operations standard of LOS D, under background conditions and background plus project conditions during both the AM and PM peak hours. The City of San José Walking Audit Report also identified Willard Avenue, Douglas Street, and Page Street as cut through routes for traffic flows in the area. To prevent issues from speeding the proposed project would implement the following Condition of Approval.

Condition of Approval

The proposed project will provide for the installation of two radar speed signs along Willard Avenue to help offset traffic calming concerns. The City will coordinate with the applicant for the location and timing of installation for these signs.

Signal Warrant Analysis

A peak-hour traffic signal warrant check was conducted for the four unsignalized study intersections. The results indicate that projected traffic volumes at the study intersections will not meet the signal warrant checks under peak hour conditions with the project. Therefore, the intersections will continue to operate adequately with stop signs and traffic signals are not required.

Vehicular Parking

Based on the City's parking requirements the project, as currently proposed, would be required to provide a total of 425 parking spaces before any reductions. The project is proposing to provide a total of 261 parking spaces, which represents a 38.5 percent reduction in on-site parking spaces from the required 425 parking spaces. However, the project site is within the West San Carlos Urban Village and the project proposes to provide bicycle parking that would exceed the City's bicycle parking requirements.

Therefore, the vehicle parking requirement would be reduced by 20 percent to 337 vehicle parking spaces. The project would require an additional 18.5 percent reduction in on-site parking spaces. Therefore, the project will need to submit and have approved a TDM plan for a total parking reduction of 38.5 percent.

Table 4.17-3 Vehicle Parking Requirement

Proposed Use	Size	Land Use	Parking Ratio	Required Parking	Urban Village Required Parking
Market Rate					
Studio/1-Bedroom	145 DU	Multiple dwelling residential	1.25/ DU	181	144
2-Bedroom	72 DU	Multiple dwelling residential	1.70/ DU	122	97
Sub-Total	217 DU			303	241
Affordable					

Studio/1-Bedroom	27 DU	Multiple dwelling residential	1.00/ DU	27	21
2- / 3-Bedroom	12 DU	Multiple dwelling residential	1.50/ DU	18	14
Sub-Total	39 DU			45	35
Total Residential	256 DU			348	276
Total Retail	15,145 SF	Retail sales, goods and merchandise	1.00/ 200 SF	77	61
Total Required				425	337

Source: Hexagon Transportation Consultants. 1520 W. San Carlos Street Mixed-Use Development Transportation Analysis. August 2, 2022.

Site Access Safety

Vehicular access to the on-site parking garage would be provided via a full access driveway along the east project frontage on Willard Avenue, approximately 155 feet south of the Willard Avenue and San Carlos Street intersection. According to the City of San Jose Department of Transportation (DOT) Geometric Design Guidelines, the minimum width for a driveway serving a multi-family development is 20 feet wide. The proposed driveway is shown to be approximately 26 feet wide and therefore meets City standards. The project also proposes to provide a loading area directly adjacent to the garage entrance with a 16-foot-wide driveway.

Sight Distance

Adequate sight distance would be required at the project driveway along Willard Avenue. To ensure that exiting vehicles can see pedestrians on the sidewalk and other vehicles traveling on Willard Avenue the view from the driveway should be free and clear of any obstructions. Any landscaping and signage should be located in such a way to ensure an unobstructed view for drivers exiting the site.

Adequate sight distance would be provided at the project driveway in accordance with the American Association of State Highway Transportation Officials (AASHTO) standards. Sight distance should be measured approximately 10 feet back from the traveled roadway. Providing the appropriate sight distance reduces the likelihood of a collision at a driveway or intersection and provides drivers with the ability to exit a driveway and locate sufficient gaps in traffic.

The minimum acceptable sight distance is often considered the AASHTO stopping sight distance. Sight distance requirements vary depending on the roadway speeds. Willard Avenue does not have posted speed limits. It is assumed that the speed limits along Willard Avenue is 25 mph. The AASHTO stopping sight distance is 200 feet (based on a design speed of 30 mph). Thus, a driver must be able to see 200 feet in both directions to locate a sufficient gap to turn out of the driveway. The site plan shows new street trees added along the project frontage on Willard Avenue. The trees should be maintained so that the vision of drivers existing the project driveway is not obstructed. Additionally, since on-street parking is permitted along the west side of Willard Avenue, red curb equal to a car length would be painted on both sides of the driveway to ensure exiting vehicles have proper sight distance of oncoming traffic.

4.18 TRIBAL CULTURAL RESOURCES

4.18.1 Environmental Setting

4.18.1.1 *Regulatory Framework*

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 tribal cultural resource, consultation is required until the parties agree to measures to mitigate or avoid a significant effect on a tribal cultural resource 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.

4.18.1.2 *Existing Conditions*

Native Americans occupied Santa Clara Valley and the greater Bay Area for more than 5,000 years. The exact time period of the Ohlone (originally referred to as Costanoan) migration into the Bay Area is debated by scholars. Dates of the migration range between 3000 B.C. and 500 A.D. Regardless of the actual time frame of their initial occupation of the Bay Area and, in particular, Santa Clara Valley, it is known that the Ohlone had a well-established population of approximately 7,000 to 11,000 people with a territory that ranged from the San Francisco Peninsula and the East Bay, south through the Santa Clara Valley and down to Monterey and San Juan Bautista.

The Ohlone people were hunter/gatherers focused on hunting, fishing, and collecting seasonal plant and animal resources, including tidal and marine resources from San Francisco Bay. The customary way of living, or lifeway, of the Costanoan/Ohlone people disappeared by about 1810 due to disruption by introduced diseases, a declining birth rate, and the impact of the California mission system established by the Spanish in the area beginning in 1777.

Artifacts pertaining to the Ohlone occupation of San José have been found throughout the downtown area, particularly near the Guadalupe River, located approximately 0.8 miles east of the project site.

4.18.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?	☐	☒	☐	☐
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 American tribe.	☐	☐	☒	☐

a) Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is 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?

The project site is not known to contain any tribal cultural resources, however, there is the possibility that tribal cultural resources could be uncovered during project construction, which would include excavation and grading. The City provided AB52 notifications of the proposed project to Tamien Nation and the Indian Band of Costanoan Ohlone People on January 12, 2023. The City met with Chairwoman Geary of Tamien Nation on January 19, 2023 as part of a routine check-in and Chairwoman Geary confirmed interest in consultation and requested a site-specific Literature Review with Sacred Lands File Search be prepared. Tamien Nation also noted that while the site's sensitivity does not appear to be high, cultural sensitivity training would help reduce any potential impacts to unanticipated subsurface tribal cultural resources. Consultant and Tribal Monitor Sayers-Rood with the Indian Band of Costanoan Ohlone people requested consultation, and the City met with her on February 2, 2023. Ms. Sayers-Rood also requested the site-specific Literature Review with Sacred Lands File Search, identified the Indian Band of Costanoan Ohlone People would respect and support requests and determinations made by Tamien Nation, and stated above and beyond environmental impacts the tribe's support and interest for the commemoration or display of the site's cultural past within the design of the project. The City provided the Archaeological Sensitivity Assessment to the tribes on April 3, 2023.

In response, the City shared the commemoration/display request with the applicant to consider into their design. Additionally, although there are no existing conditions or immediate evidence that would suggest the presence of subsurface historic or prehistoric resources, resources may be encountered on-site due to known prehistoric and historic occupation of San José. Excavation and grading activities on the site could damage as yet unrecorded subsurface resources.

Impact TCR-1: Excavation and grading activities on the site could disturb and damage unrecorded subsurface resources.

Mitigation Measure

The following mitigation measures would reduce and/or avoid impacts to unrecorded subsurface resources to a less than significant level.

MM TCR-1.1: A qualified Native American representative, registered with the Native American Heritage Commission for the City of San José and that is traditionally and culturally affiliated with the geographic area, will provide cultural sensitivity training to all construction personnel prior to the initial ground-breaking activities.

Documentation verifying that Cultural Awareness Training has been conducted shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee.

Additionally, as described in Section 4.5 Cultural Resources, the project would be required to implement standard permit conditions to avoid potential impacts to unknown subsurface cultural resources. These conditions would be applicable to tribal cultural resources and would function to avoid impacts to such resources if they are discovered on-site. Therefore, the proposed project would not cause a substantial adverse change in the significance of a tribal cultural resource that is listed on local or state registers. **(Less than Significant Impact with Mitigation)**

b) Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is 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?

As discussed above under checklist question a), there are no known tribal cultural resources on the project site, but implementation of the project could disturb unknown subsurface resources. These resources may not be eligible for listing in the CRHR, but the City or its consultant could nonetheless determine resources uncovered during construction to be significant. The proposed project would be required to implement standard permit conditions which address any accidental disturbance of cultural resources and set forth the appropriate procedure to be followed in the event of discovery and Mitigation Measure TCR-1.1. Implementation of these conditions would ensure the project does not cause a substantial adverse change in the significance of a tribal cultural resource that is determined to be significant by the City. Therefore, the impact would be less than significant. **(Less than Significant Impact)**

4.19 UTILITIES AND SERVICE SYSTEMS

4.19.1 Environmental Setting

4.19.1.1 *Regulatory Framework*

State

State Water Code

Pursuant to the State Water Code, water suppliers providing water for municipal purposes to more than 3,000 customers or supplying more than 3,000 acre-feet (approximately 980 million gallons) of water annually must prepare and adopt an urban water management plan (UWMP) and update it every five years. As part of a UWMP, water agencies are required to evaluate and describe their water resource supplies and projected needs over a 20-year planning horizon, water conservation, water service reliability, water recycling, opportunities for water transfers, and contingency plans for drought events. The City of San José adopted its most recent UWMP in June 2021.

Assembly Bill 939

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 at least 50 percent of solid waste generated (from 1990 levels), beginning January 1, 2000. Projects that would have an adverse effect on waste diversion goals are required to include waste diversion mitigation measures.

Assembly Bill 341

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

Assembly Bill 1826

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

Senate Bill 1383

SB 1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025. The bill grants CalRecycle the regulatory authority required to achieve the organic waste disposal reduction targets and establishes an additional target that 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, California adopted the California Green Building Standards Code (CALGreen), establishing mandatory green building standards for all buildings in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resources efficiency, and indoor environmental quality. These standards include the following mandatory set of measures, as well as more rigorous voluntary guidelines, for new construction projects to achieve specific green building performance levels:

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

Local

Envision San José 2040 General Plan

The Envision San José 2040 General contains the following policies which are specific to utilities and service systems and applicable to the proposed project:

General Plan Policies - Utilities and Service Systems	
Policy	**Description**
IN-3.3	Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.
IN-3.5	Require development which will have the potential to reduce downstream LOS to lower than "D", or development which would be served by downstream lines already operating at a LOS lower than "D", to provide mitigation measures to improve the LOS to "D" or better, either acting independently or jointly with other developments in the same area or in coordination with the City's Sanitary Sewer Capital Improvement Program.
IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.
MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.

MS-3.2	Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply as building codes permit.
MS-3.3	Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.
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.
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.

In addition to the above-listed San José General Plan policies, new development in San José is also required to comply with programs that mandate the use of water-conserving features and appliances and the Santa Clara County Integrated Watershed Management (IWM) Program, which minimizes solid waste.

Construction and Demolition Diversion Deposit Program

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

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

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

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

San José Zero Waste Strategic Plan/Climate Smart San José

Climate Smart San José provides a comprehensive approach to achieving sustainability through new technology and innovation. The Zero Waste Strategic Plan outlines policies to help the City of San José foster a healthier community and achieve its Climate Smart San Jose goals, including 75 percent waste diversion by 2013 and zero waste by 2022. The Climate Smart San Jose also includes

ambitious goals for economic growth, environmental sustainability, and enhanced quality of life for San José residents and businesses.

San José Sewer System Management Plan

The purpose of the Sewer System Management Plan (SSMP) is to provide guidance to the City in the operation, maintenance, and rehabilitation of the sewer assets of the City of San José. The SSMP includes construction standards and specifications for the installation and repair of the collection system and its associated infrastructure.

Private Sector Green Building Policy

The City of San José's Green Building Policy for new private sector construction encourages building owners, architects, developers, and contractors to incorporate meaningful sustainable building goals early in the design process. This policy establishes baseline green building standards for private sector 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.

4.19.1.2 *Existing Conditions*

Water Service and Supply

Water service to the project site is provided by the San José Water Company (SJWC). The service area of SJWC is 139 square miles, including most of the cities of San José and Cupertino, 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 water and local surface water. Approximately 55 percent of SJWC's water supply is purchased from the SCVWD, 37 percent is pumped from local groundwater aquifers, and eight percent comes from local surface water sources. According to the SJWC's UWMP, total water demand within its service area is expected to increase to 47,144 million gallons in 2020 and 49,561 million gallons in 2025. Forecasted increases in water demand are based on the Association of Bay Area Governments (ABAG) population projections for the City of San José.

The project site is currently developed, and the existing commercial and residential properties connect to these water lines on both South Willard Avenue and West San Carlos Street. The existing land uses on the project site include one commercial building, 11 residential buildings, and multiple accessory buildings. These uses have a water demand of approximately 1,124 gallons of water per year.[63]

[63] Harvie, Nicole. City of San José. "Fwd: Online Form Submittal: Contact Environmental Services" E-mail to David J. Powers and Associates, Inc. February 26, 2018.
Residential (single family) = 9 units x 250 gallons per unit per day = 2,250 gallons per year
Commercial = 7926 square feet of retail x 0.073 gallons per sq. foot per day = 578 gallons per year
High Density Residential = 4 units x 136 gallons per unit per day x = 544 gallons per year

Wastewater/Sanitary Sewer System

Wastewater from the project area is treated at the San José/Santa Clara Regional Wastewater Facility (the Facility), formerly known as the San José/Santa Clara Water Pollution Control Plant (WPCP), in Alviso.[64] The Facility is the largest tertiary treatment plan in the western United States with a capacity to treat 167 million gallons per day (mgd) of sewage during dry weather flow.

The Facility treats an average of 110 million gallons of wastewater per day and serves 1.4 million residents. The resulting fresh water is discharged from the Facility into the San Francisco Bay or delivered to the South Bay Water Recycling Project for distribution.

The City of San José generates approximately 69.8 mgd of dry weather sewage flow. The City's share of the Facility treatment capacity is 108.6 mgd, which leaves the City with approximately 38.8 mgd of excess treatment capacity.[65]

Sanitary sewer lines in the project area are inspected and maintained by the City of San José Department of Transportation, and rehabilitated and replaced by the Department of Public Works. There is an existing six-inch sewar main in South Willard Avenue and a five-inch and 12-inch sanitary sewer main in West San Carlos Street, respectively, that currently serve the project site. Based on the uses described above, the project site generates approximately 1,011 gallons per day of wastewater, assuming wastewater is equal to 90 percent of the total potable water use.

Storm Drainage

The 1.62-acre project site is developed and consists of one commercial building, 11 residential structures, and paved driveways and parking lots. Runoff from the site flows through the City-maintained storm drainage system, which is comprised of a network of inlets, manholes, pipes, outfalls, channels, and pump stations. There is an existing 21-inch storm and 27-inch drain main on the South Willard Avenue and West San Carlos Street that currently serves the project site.

Solid Waste

The City of San José currently generates approximately 1.7 million tons of solid waste annually.[66] Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California Integrated Waste Management Board in 1996 and was reviewed in 2004, 2007, and 2011. Each jurisdiction in the County has a landfill diversion requirement of 50 percent per year. According to the IWMP, the County has adequate disposal capacity beyond 2030.[67] Solid waste generated within the County is landfilled at Guadalupe Mines, Kirby Canyon, Newby Island, Zanker Road Materials Processing Facility, and Zanker Road landfills.

The City of San José has an existing contract with Newby Island Sanitary Landfill (NISL). The NISL has a planned closure of 2039. The City has an annual disposal allocation for 395,000 tons per year.

[64] San José-Santa Clara Regional Wastewater Facility, 2017. http://www.sanjoseca.gov/index.aspx?NID=1663. Accessed August 5, 2020.
[65] City of San José. Envision San José 2040 General Plan Integrated Final Program EIR. November 2011. Page 648.
[66] City of San José. 2040 General Plan FEIR. September 2011.
[67] Santa Clara County. Five-Year CIWMP/RAIWMP Review Report. November 2019.

As of May 2018, NISL had approximately 16.9 million cubic yards of capacity remaining.[68] The existing uses on-site generate approximately 13 tons of waste per year.[69]

4.19.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) 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?	☐	☐	☒	☐
b) Have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☒	☐
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☒	☐
d) Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	☐	☐	☒	☐
e) Be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste?	☐	☐	☒	☐

[68] Kelapanda, Achaya. Environmental Manager, Newby Island Sanitary Landfill. Personal communications. May 17, 2018.

[69] CalEEMod. Appendix D Waste Rates. September 2016.
Single family Residential - 0.42 tons per unit per year x 9 units = 3.78
Low Rise Multifamily Residential - 0.46 tons per unit per year x 4 units = 1.84
Strip Mall - 1.05 tons per 1000 square feet per year x 7,926 square feet = 8.29

a) 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?

Water Facilities

The potable and irrigation water demands of the project would be met by existing service providers (SJWC), as is discussed under checklist question b), below. Existing water lines in the adjacent streets would serve the proposed project. The project would not require the construction or expansion of water delivery systems or the expansion of the boundaries of the SJWC service area. The project would comply with all applicable Public Works requirements to ensure water mains would have the capacity for water and fire flows required by the proposed project. Therefore, the project would not result in significant environmental effects related to the relocation or construction of new or expanded water facilities.

Sanitary Sewer and Wastewater Treatment

The proposed project would connect to the City's existing sanitary sewer system and sanitary sewer lines in adjacent streets would be used to serve the project. The project would comply with all applicable Public Works requirements to ensure sanitary sewer mains would have capacity for sanitary sewer service and wastewater as required by the proposed project. The 2040 General Plan FEIR concluded that implementation of General Plan policies requiring future development to provide adequate sewer system capacity would reduce project-level impacts to a less than significant level.

The proposed project would dispose of wastewater at the RWF, a wastewater treatment facility which has adequate capacity to accommodate the increased demand created by the project. No relocation or construction of new or expanded treatment facilities would be required to serve the proposed project. The proposed project does not include the construction of any additional sewer mains or sewer lines, aside from lateral connections to existing mains. Installation of sanitary sewer laterals for the new building would occur during grading of the site and would result in minimal impacts.

Storm Drainage

Future redevelopment of the site would comply with the MRP which requires regulated projects to include Low Impact Development (LID) practices, such as pollutant source control measures and storm water treatment features, known as BMPs as discussed earlier in Section 4.10 Hydrology and Water Quality. Further, compliance with the City of San José Policy Post-Construction Urban Runoff Management [6-29], would remove pollutants and reduce the rate and volume of runoff from the project site to levels that are at or below existing conditions. Development of the project site would improve the water quality of runoff from the site and would not exceed the capacity of the existing storm drainage system serving the project site. Installation of storm sewer laterals for the site areas would occur during grading of the site and would result in minimal impacts. For these reasons, no new storm water treatment or disposal facilities would need to be constructed to accommodate the proposed project.

Electric Power, Natural Gas, and Telecommunications

The project would utilize existing connections for electrical, natural gas, and telecommunication systems. Although the project would increase the demand on existing facilities in the City, relocation of existing or construction of new electrical, natural gas, or telecommunication facilities would not be needed to serve the proposed project. As a result, the proposed project would have a less than significant impact on these facilities.

The proposed project would comply with all applicable Public Works requirements and would utilize existing water infrastructure, dispose of wastewater at the RWF, convey stormwater via the City's existing drainage system, and connect to existing utility lines in the vicinity of the site for electricity, natural gas, and telecommunication services. Therefore, the proposed project would result in a less than significant impact on these facilities. **(Less than Significant Impact)**

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

SJWC provides water to the project area. Their most recent UWMP (adopted in July 2016 by City Council) determined that with utilization of conservation measures and recycled water, water supplies would be adequate to supply customers in its service area upon the City's projected General Plan build out demand.

Using the CalEEMod water use rates, the proposed project would have a gross water demand of approximately 79,481 gallons of water use per day. New water lines from the site would connect to water services located in West San Carlos Street.

The proposed project's water demand is consistent with the assumptions for the project area in the 2040 General Plan, the proposed project would include implementation of water conservation/efficiency measures would minimize long-term potable water demand generated by future users. Additionally, the project shall comply with CalGreen and the City's Private Sector Green Building Policy, including water conservation measures such as planting drought tolerant landscaping.

Implementation of water conservation/efficiency measures would minimize the long-term potable water demand generated by development under 2040 General Plan. The 2040 General Plan FEIR determined that new or expanded entitlements for water supplies would not be required to serve planned development. Therefore, because the project is consistent with the General Plan designation for the site, the proposed project would result in less than significant impact on water resources. **(Less than Significant Impact)**

c) Would the project result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

Assuming the proposed project generates wastewater equivalent to approximately 90 percent of the total water demand, the total wastewater generated would be 71,532 gpd. The proposed project would connect to existing six-inch sanitary sewer lines in Willard Avenue. The General Plan FEIR concluded that with the implementation of existing regulations and General Plan policies, existing wastewater treatment facilities would have capacity to meet future wastewater treatment demands. The City currently has approximately 38.8 million gallons per day (mgd) of excess wastewater treatment capacity. Based on a sanitary sewer hydraulic analysis prepared for the General Plan FEIR, full build out under the General Plan would increase average dry weather flows by approximately 30.8 mgd. The proposed project is consistent with the development assumptions in the General Plan 2040. Development allowed under the General Plan would not exceed the City's allocated capacity at the City's wastewater treatment facility; therefore, implementation of the proposed project would have a less than significant impact on wastewater treatment capacity. **(Less than Significant Impact)**

d) 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?

The project proposes a 256-unit mixed-use building with approximately 15,202 square feet of commercial space on an approximately 1.62-acre site, Using the CalEEMod solid waste disposal rates for a "Mid Rise Apartments" and "Regional Shopping Center" land use, the proposed project would generate approximately 732 pounds of solid waste per day. According to the IWMP, the County has adequate disposal capacity beyond 2030.[70] The proposed project would be required to conform to City plans and policies to reduce solid waste generation and increase waste diversion, such as the Zero Waste Strategic Plan and General Plan Policies IN-1.5, IN-5.3, and IP-3.8. The proposed project would be required to meet the City's diversion goals. It is estimated that the City of San José currently achieves a solid waste diversion rate of 64 percent.[71] The proposed project would increase the solid waste generated at the site when compared to existing conditions; however, this increase would not exceed the capacity of existing landfills or solid waste disposal infrastructure, nor would it impair the attainment of solid waste reduction goals. **(Less than Significant Impact)**

e) Would the project be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste?

The proposed project would generate approximately 732 pounds of solid waste per day. The project would comply with the City's commercial recycling program to divert waste from landfills in accordance with state law. In accordance with the current CALGreen Code, development under the General Plan FEIR is required to provide on-site recycling facilities, develop a construction waste management plan, salvage at least 65 percent of nonhazardous construction/ demolition debris (by

[70] Santa Clara County. Five-Year CIWMP/RAIWMP Review Report. November 2019
[71] Ibid.

weight), and implement other waste reduction measures. The City of San José has a more stringent requirement of 75 percent that must be met by the project. The proposed project would comply with federal, state, and local management and reduction statutes and regulations related to solid waste. **(Less than Significant Impact)**

4.20 WILDFIRE

4.20.1 Environmental Setting

4.20.1.1 *Regulatory Framework*

State

Fire Hazard Severity Zones

CAL FIRE is required by law to map areas of significant fire hazards based on fuels, terrain, weather, and other relevant factors. Referred to as Fire Hazard Severity Zones (FHSZs), these maps influence how people construct buildings and protect property to reduce risk associated with wildland fires. FHSZs are divided into areas where the state has financial responsibility for wildland fire protection, known as state responsibility areas (SRAs), and areas where local governments have financial responsibility for wildland fire protection, known as local responsibility areas (LRAs). Homeowners living in an SRA are responsible for ensuring that their property is in compliance with California's building and fire codes. Only lands zoned for very high fire hazard are identified within LRAs.

California Fire Code Chapter 47

Chapter 47 of the California Fire Code sets requirements for wildland-urban interface fire areas that increase the ability of buildings to resist the intrusion of flame or burning embers being projected by a vegetation fire, in addition to systematically reducing conflagration losses through the use of performance and prescriptive requirements.

California Public Resources Code Section 4442 through 4431

The California Public Resources Code includes fire safety regulations that restrict the use of equipment that may produce a spark, flame, or fire; require the use of spark arrestors on construction equipment that uses an internal combustion engine; specify requirements for the safe use of gasoline-powered tools on forest-covered land, brush-covered land, or grass-covered land; and specify fire suppression equipment that must be provided onsite for various types of work in fire-prone areas. These regulations include the following:

- Earthmoving and portable equipment with internal combustion engines would be equipped with a spark arrestor to reduce the potential for igniting a wildland fire (Public Resources Code Section 4442);
- Appropriate fire suppression equipment would be maintained during the highest fire danger period, from April 1 to December 1 (Public Resources Code Section4428);
- On days when a burning permit is required, flammable materials would be removed to a distance of 10 feet from any equipment that could produce a spark, fire, or flame, and the construction contractor would maintain appropriate fire suppression equipment (Public Resources Code Section 4427); and
- On days when a burning permit is required, portable tools powered by gasoline-fueled internal combustion engines would not be used within 25 feet of any flammable materials (Public Resources Code Section 4431).

California Code of Regulations Title 14

The California Board of Forestry and Fire Protection has adopted regulations, known as SRA Fire Safe Regulations, which apply basic wildland fire protection standards for building, construction, and development occurring in a SRA. The future design and construction of structures, subdivisions and developments in SRAs are required to provide for the basic emergency access and perimeter wildfire protection measures discussed in Title 14.

Fire Management Plans

CAL FIRE has developed an individual Unit Fire Management Plan for each of its 21 units and six contract counties. CAL FIRE has developed a strategic fire management plan for the Santa Clara County Unit, which covers the project area and addresses citizen and firefighter safety, watersheds and water, timber, wildlife and habitat (including rare and endangered species), unique areas (scenic, cultural, and historic), recreation, range, structures, and air quality. The plan includes stakeholder contributions and priorities and identifies strategic areas for pre-fire planning and fuel treatment as defined by the people who live and work with the local fire issues.

Local

San José Fire Department Wildland-Urban Interface Fire Conformance Policy

Buildings proposed to be built within the SJFD WUI shall comply with all WUI materials and construction methods per CBC Chapter 7A and CRC Section R337.[72] The applicant shall, prior to construction, provide sufficient detail to demonstrate that the building proposed to be built complies with this policy. Building Permit Plans are also to be approved by the SJFD.

4.20.1.2 *Existing Conditions*

The project site is not located in a high fire severity zone and is in a fully urbanized area of the City of San José.

4.20.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, Would the project:				
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒

[72] San José Fire Department. *Wildland-Urban Interface (WUI) Fire Conformance Policy.* January 1, 2017. https://www.sanjoseca.gov/Home/ShowDocument?id=9345

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

The project site is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones; therefore, the project would not result in wildfire impacts. **(No Impact)**

4.21 MANDATORY FINDINGS OF SIGNIFICANCE

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
a)	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?	☐	☐	☒	☐
b)	Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	☐	☐	☒	☐
c)	Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☒	☐

a) 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?

The proposed project would develop an existing occupied site and, as stated in the sections above, the project would not result in impacts on the habitats of protected fish or wildlife species. Additionally, the project would not affect species in a manner that would drop their populations below self-sustaining levels. The project site is located in a fully urbanized area and would not affect native plant and animal communities to the extent that these communities would be eliminated. The proposed project is not located in an area that provides habitat to endangered species and would not have impacts on these species. The proposed project would implement mitigation to reduce impacts on bird species located in trees on and near the project site.

In Section 4.5 of this document, the project was analyzed for impacts on historic and prehistoric resources. This analysis found that the proposed project would not impact the integrity of historic resources because there are no historic resources near the project site. Additionally, any subsurface

resources found during construction would be protected and preserved through the inclusion of standard permit conditions in Section 4.5. **(Less than Significant Impact)**

b) Does the project have impacts that are individually limited, but cumulatively considerable?

Under Section 15065(a)(3) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has potential environmental effects "that are individually limited, but cumulatively considerable." As defined in Section 15065(a)(3) of the CEQA Guidelines, cumulatively considerable means "that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects."

The analysis found that the proposed project would have no impact on agricultural and forestry resources, mineral resources, and wildfires. The analysis also determined that the project would have a less than significant impact on aesthetics, cultural resources, energy, geology and soils, GHGs, hazards and hazardous materials, hydrology and water quality, land use, population and housing, public services, recreation, transportation, tribal cultural resources, and utilities. Because the project would have no significant project level impact on these resources, the project would not have a cumulative impact to these resources.

Additionally, the proposed project could impact nesting birds, similar to other nearby projects in the City of San José. Mitigation measures were included to reduce nest disturbance to less than significant. As a result, the project would not have a cumulatively considerable impact on biological resources. The project also has impacts resulting from construction vibration which would be mitigated through construction protection measures to a less than significant impact. The vibratory impacts would also be localized to the site and would not contribute to a cumulatively considerable impact.

The proposed project would contribute to emissions of particulate matter during construction which has the potential to affect health of surrounding residents. The cumulative impacts of project construction on air quality were analyzed by looking at all sources of TACs within 1,000 feet. These include streets with over 10,000 daily average trips, nearby generators, and other project construction emissions.

The analysis for the proposed project included traffic on West San Carlos, a generator located 535 feet from the site, and three development projects located within 1,000 feet. The sources and their respective emissions are summarized below in Table 4.21-1. This assumes a worst-case air quality scenario where all projects are constructed simultaneously, and emissions are mitigated for projects where hazards were identified. Additionally, for projects where data was not available, emissions were assumed to be at the BAAQMD threshold since the specific impacts were unknown and minimum mitigation is expected for all new construction.

Table 4.21-1 Community Risk Impacts on New Residents			
Source	**Cancer Risk (Per Million)**	**Annual $PM_{2.5}$ ($\mu g/m^3$)**	**Hazard Index**
Project Impacts			
Project Construction Mitigated	7.62 (infant)	0.21	0.01
BAAQMD Single Source Threshold	10	0.3	1.0
Exceed Threshold? Mitigated	No	No	No
Cumulative Impacts			
West San Carlos Street, ADT 17,586	0.82	0.07	<0.01
San Jose Water Company (Facility ID #19802, Generator), MEI at 490 feet	2.51	<0.01	<0.01
Cumulative Temporary Construction Sources			
West San Carlos Mixed Use Mitigated Construction Emissions – adjacent west	3.6	0.13	0.01
329 Page Street Mitigated Construction Emissions – 280 feet east	<10.0	<0.3	<1.0
259 Meridian Avenue Mitigated Construction Emissions – 790 feet northeast	7.4	0.11	<0.01
Combined Sources Mitigated	<31.95	<0.83	1.05
BAAQMD Cumulative Source Threshold	100	0.8	10.0
Exceed Threshold?	No	Yes*	No

Source: Illingworth & Rodkin, Inc. 1520 West San Carlos Street Mixed Use Project AQ Assessment. October 20, 2022.
* Assumes all construction simultaneous and worst-case emissions for 329 Page Street

The proposed project would implement Standard Permit Conditions to reduce particulate matter and mitigation to reduce diesel emissions, resulting in a less than significant impact. While the proposed project would contribute to a cumulative exceedance in construction emissions, this scenario assumed a worst-case emission for the nearby cumulative project located at 329 Page Street Project and assumed simultaneous construction of all three projects. Because the project would mitigate its contribution to a less than significant level, the proposed project would not have a cumulatively considerable contribution to air quality impacts in the surrounding area. **(Less than Significant Impact)**

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

Consistent with Section 15065(a)(4) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has the potential to cause substantial adverse effects on human beings, either directly or indirectly. Under this standard, a change to the physical environment that might otherwise be minor must be treated as significant if people would be significantly affected. This factor relates to adverse changes to the environment of human beings generally, and not to effects on particular individuals. While changes to the environment that could indirectly affect human beings would be represented by all of the designated CEQA issue areas, those that could directly affect human beings include air quality, hazardous materials, and noise. Implementation of applicable regulations and policies, standard permit conditions, and mitigation measures would reduce the impacts to a less than significant level.

No other direct or indirect adverse effects on human beings have been identified. **(Less than Significant Impact)**

SECTION 5.0 REFERENCES

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SECTION 6.0 LEAD AGENCY AND CONSULTANTS

6.1 LEAD AGENCY

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