Consulted by

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# Initial Study
# 1300 Berryessa Road Supportive Parking Project

File No.: ER23-081

Prepared for

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

November 2023

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## Appendices



All appendices are incorporated herein by reference.

# 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 1300 Berryessa Road Supportive Parking project in compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations §15000 et seq.) and the regulations and policies of the City of San José, California. The City proposes to operate a 24 hours a day, seven days a week (24/7) site for people who live in their recreational vehicles (RVs) and cars to park. The site is an approximately 6.3-acre site located at 1300 Berryessa Road. The site would operate for a period of 10 years in accordance with the guidelines in Municipal Code Chapter 20.80 Specific Use Regulations, Part 70.5 Incidental Safe Parking Use on Places of Assembly and City Parcels, Section 20.80.1675 Conduct of Use. The City would hire a contractor to operate the site on behalf of the City. 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:

Reema Mahamood
Planning, Building & Code Enforcement Department
City of San José
200 E. Santa Clara Street, T-3
San José, CA 95113
reema.mahamood@sanjoseca.gov

## 1.3 Consideration of the Initial Study and Project

Following the conclusion of the public review period, the City will consider the adoption of the Initial Study/Mitigated Negative Declaration (MND) for the project. 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 will file a Notice of Determination (NOD), which will be available for public inspection and posted within 24 hours of receipt at the County Clerk's Office for 30 days.

The filing of the NOD starts a 30-day statute of limitations on court challenges to the approval under CEQA (CEQA Guidelines Section 15075(g)).

# Section 2.0 Project Information

## 2.1 Project Title

1300 Berryessa Road Supportive Parking Project (File No.: ER23-081)

## 2.2 Lead Agency Contact

Reema Mahamood
Planning, Building & Code Enforcement Department
City of San José
200 E. Santa Clara St., T-3
San José, CA 95113

## 2.3 Project Location

The approximately 6.3-acre project site is located at 1300 Berryessa Road in northeastern San José. The Regional, Vicinity, and Aerial maps of the project site are shown in Figure 2.6-1, Figure 2.6-2, and Figure 2.6-3.

## 2.4 Assessor's Parcel Number

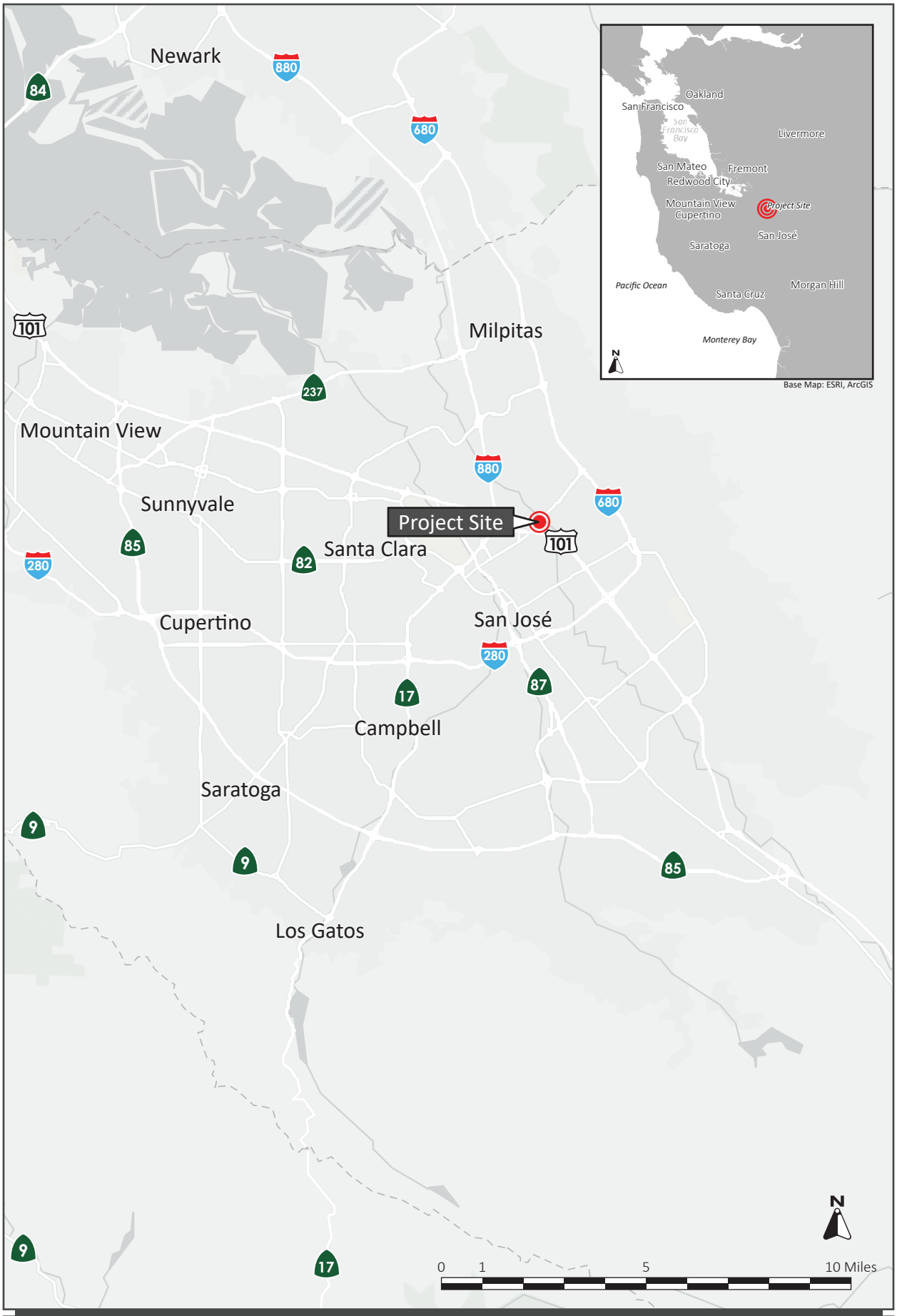
254-13-090

## 2.5 General Plan Designation and Zoning District

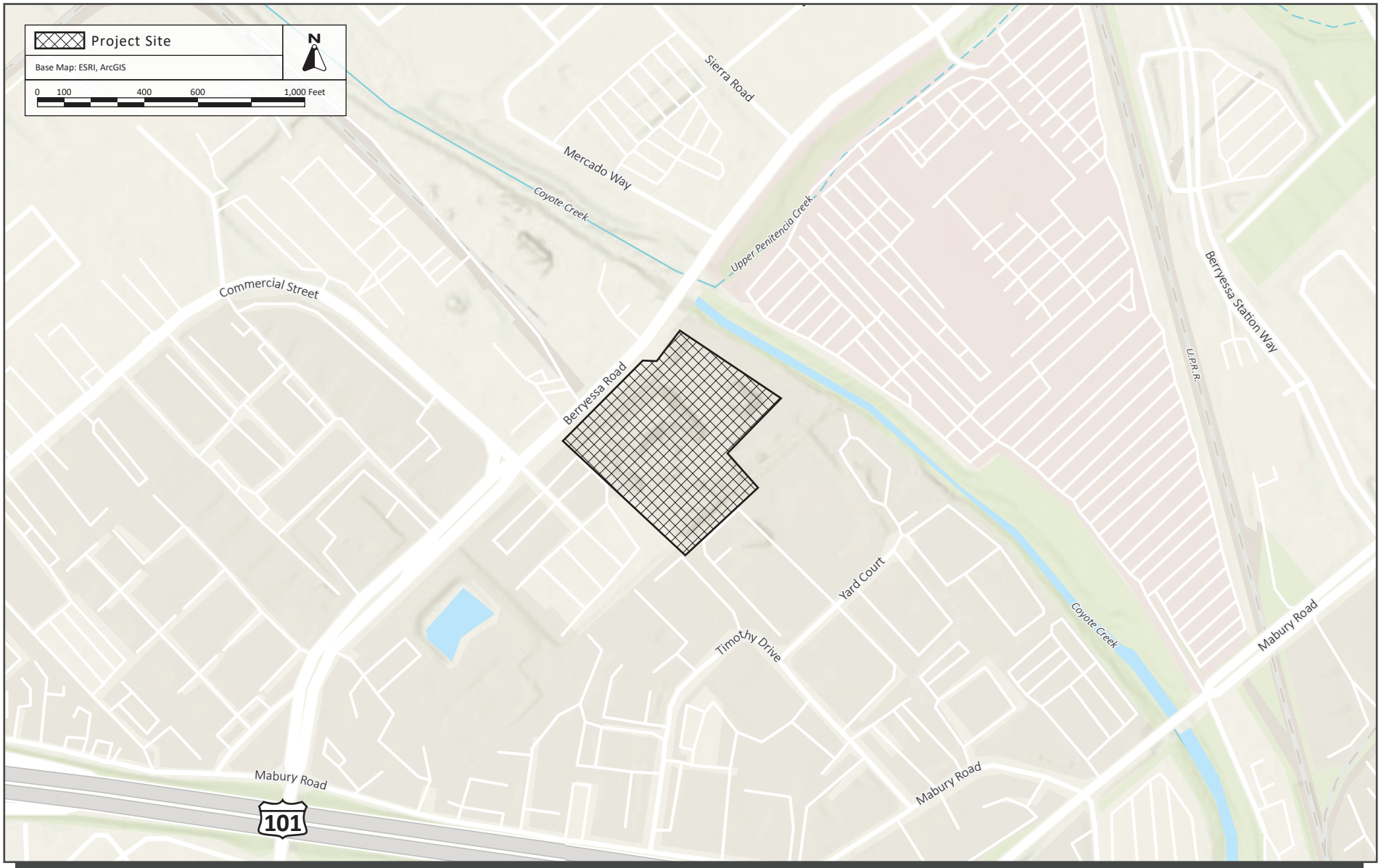
The project site has a General Plan land use designation of Heavy Industrial (HI) in the Envision San José 2040 General Plan and is in a Heavy Industrial (HI) Zoning District.

## 2.6 Habitat Plan Designation

The project site is located within an Urban Private Development Area under the Santa Clara Valley Habitat Plan. The project site's land cover type is Urban-Suburban.




REGIONAL LOCATION MAP | FIGURE 2.6-1




VICINITY MAP

FIGURE 2.6-2


AERIAL MAP OF THE PROJECT SITE AND SURROUNDING USES | FIGURE 2.6-3

# Section 3.0 Project Description

## 3.1 Background

In 2019, the City adopted amendments to Title 20 of the Municipal Code to allow incidental safe parking on assembly use sites and City-owned parcels. The City prepared an Initial Study that evaluated the environmental impacts of the amendments, and adopted a Negative Declaration titled "Incidental Safe Parking Use Municipal Code Amendments Negative Declaration". The amendments allow, "safe parking," where homeless individuals and families can sleep overnight in their personal vehicles, as an incidental permitted use to an existing assembly use or on City properties, where the safe parking is provided on existing parking areas and operating in compliance with the San José Municipal Code. The code amendments include performance standards related to noise, setbacks, lighting, hours of operation, and management of the site to ensure potential impacts to the surrounding community would be minimized.

Since adoption of the Municipal Code Amendments in 2019, the COVID pandemic occurred which resulted in an increase in the number of individuals and families experiencing homelessness. In addition, economic and geopolitical forces have resulted in high gas prices, further burdening these impacted individuals and families and in particular those who live in RVs which consume more fuel than smaller vehicles. The consequence of these events has been RVs that remain parked on City streets during the day, a growing number of neighborhood complaints, and no one place for these impacted individuals and families to be in order to receive services and assistance that could help them transition into permanent housing situations.

In 2022, to address this urgent need, the City approved a pilot program to allow 24/7 operation of a safe parking site at the Santa Teresa Station site located at 6360 Santa Teresa Boulevard.

In June 2023, in order to offer faster interim housing options to combat the ongoing homelessness crisis, the San José City Council approved a 10-year lease of the project site for people living in their RVs and cars to park their vehicles, receive supportive services, and transition into permanent housing.

## 3.2 Existing Conditions

The project site consists of one parcel (APN 254-13-090) that currently contains two temporary structures, three storage containers, and paved and gravel parking/storage areas. The site is currently fully enclosed with an earthen berm along the northern property line, a wall along the eastern property line, an earthen berm along the southern property line and a concrete block wall along the southern and western property lines. A gate secures the site at the sole entrance on Berryessa Road in the northeast corner. The earthen berm along the northern property line and a portion of the site along the eastern project boundary are planted with ornamental trees and plants.

The project site is bounded by Berryessa Road to the north, existing industrial uses to the south and west, and a paved driveway and Coyote Creek to the east. Surrounding uses include industrial uses the north, south, and west. Coyote Creek is located approximately 32 feet east of the project site. The existing San José Flea Market is located approximately 255 feet east of the site, across Coyote Creek, and existing commercial and residential uses are located within the Flea Market North development approximately 490 feet northeast of the project site, across Coyote Creek and Berryessa Road from the project site. The confluence of the Upper Penitencia and Coyote Creeks is located approximately 32 feet northeast of the project site.

# 3.3 Project Description

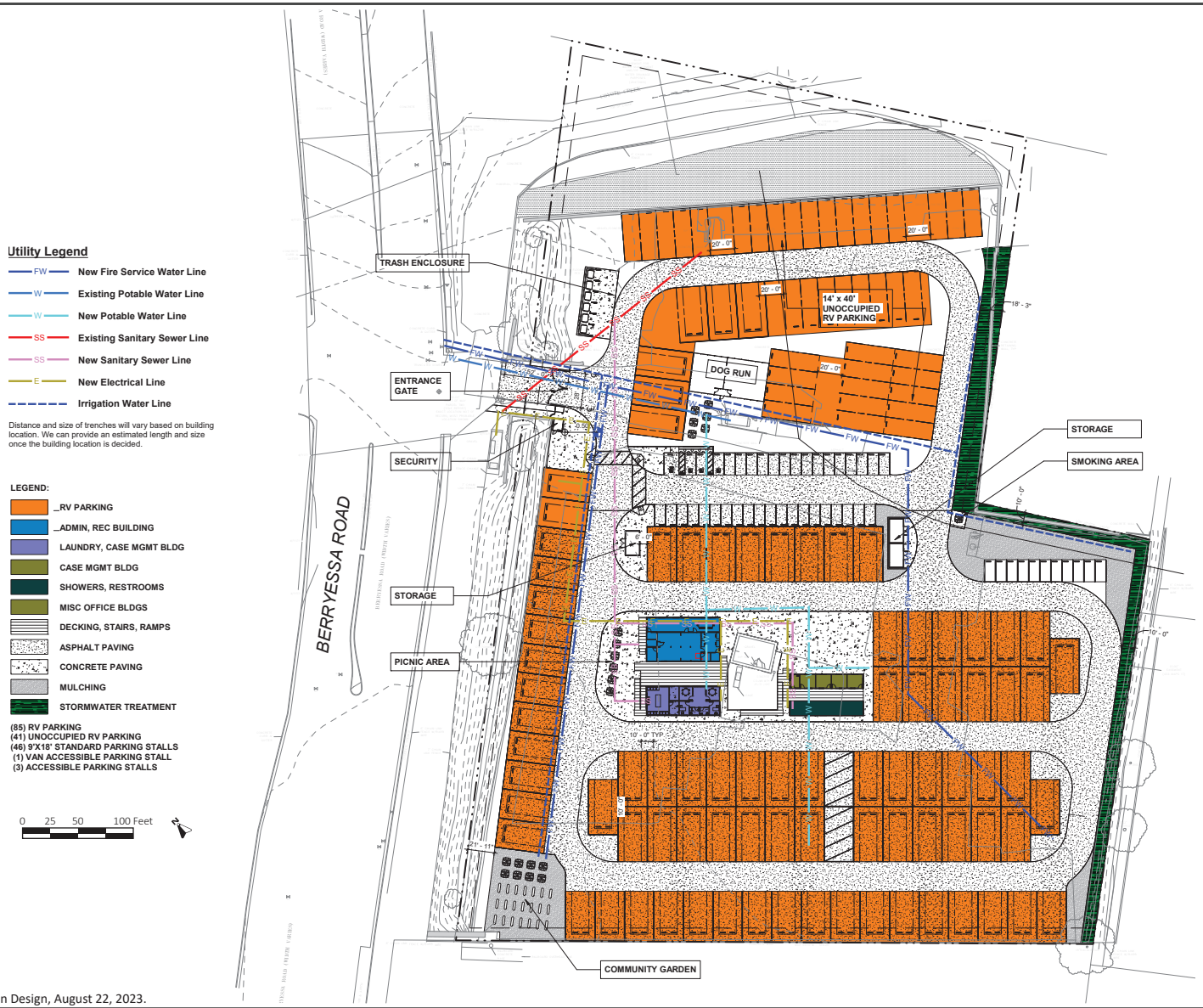
## 3.3.1 Overview

The City proposes improvements to the project site to allow for operation of a 24/7 site for people who live in their cars and RVs to park. The site would operate for a period of up to 10 years or less based on demand. The site would be operated in accordance with the guidelines in Municipal Code Section 20.80.1675, Conduct of Use. A detailed description of these improvements is included below. A conceptual site plan is shown in Figure 3.3-1.

## 3.3.2 Site Improvements

### 3.3.2.1 *Temporary Parking Areas*

As proposed, up to approximately 131,000 square feet of the existing paved and gravel parking/storage areas on-site would be demolished, graded, repaved, and striped to allow for up to 176 parking spaces (including 85 lived-in RV parking spaces, 41 unoccupied RV parking spaces, 46 standard car parking spaces, and 4 Americans with Disabilities Act (ADA) car parking spaces). In the future, the RV and car parking spaces may be used flexibly for lived-in RV parking, lived-in car parking, and/or storage (including but not limited to non-lived in RVs, cars, trucks, trailers, etc.). Pull-through spaces (ability to drive through the parking space) would be a minimum of 20 feet wide. The cars and RVs would be separated to allow reasonable space (a minimum of 10 feet between RVs to include extension of slides and awnings) to allow for privacy and movement around vehicles.




Source: ELS Architecture and Urban Design, August 22, 2023.

CONCEPTUAL SITE PLAN

FIGURE 3.3-1

#### 3.3.2.2 *Temporary Structures*

Four new temporary structures[1] and three storage units would be installed on temporary footings in the middle of the site. The four new structures would include administrative/recreation facilities, laundry room, office space for on-site case managers, and restrooms/showers for program participants. Each structure would have a maximum height of 13 to 16 feet. The three proposed storage units would each have a maximum height of 8 to 10 feet and would be used by future program participants to store personal items. Two shade structures would be installed on-site, including one in the southwest corner of the site near the proposed Community Garden and adjacent to the dog run. The shade structures would have a maximum height of 10 to 16 feet.

Up to four outdoor control areas with shade structures measuring approximately 10 feet in height would be installed on-site and used for fuel storage by program participants. The outdoor control areas would consist of overhead covered structures, open to the sides and made of non-combustible materials to provide weather-related protection. Program participants would be required to store containers of generator fuel in these designated control areas and would not be allowed to store their own fuel in or outside their RVs. It is anticipated that each of the shade structures would shelter up to four fuel-storage cabinets.

The interior project site would be surrounded by a new 10-foot-tall chain-link perimeter fence. Additionally, fencing would be added around the proposed dog run located in the eastern portion of the site near the unoccupied RV parking spaces. An existing wall along the southern property line may be demolished and a new wall constructed along the full length of the property line. The height, depth, material, and any other improvements (for example, misting systems to suppress dust from the adjacent recycling facility) associated with the wall would be determined at a later date in coordination with the adjacent Bay Area Scavenger and Recycling.

#### 3.3.2.3 *Lighting*

Approximately 40, 25-foot-tall light poles would be installed along the perimeter of the site with overhead wiring and/or solar panels for power. If needed, additional lighting poles may be added to the interior of the project site, either through installation of additional poles or mobile solar lighting fixtures. Lights would be illuminated from sunset to sunrise each day for the duration of program operations. All lighting would include shielding and be designed to direct light downward and into the project site rather than toward the riparian corridor to avoid light spillover.

#### 3.3.2.4 *Garden and Landscaping*

There are 17 existing trees on-site located on the earthen berm along the northern project boundary. With implementation of the project, all of the existing trees would be retained. New trees and/or shrubs would be planted in containers along the southeast edge of the site. In addition, large planting containers would be installed in the northwest corner of the site to create a community garden for program participants.

[1] The proposed structures are references as temporary because they would be removed at the end of the project.

#### 3.3.2.5 *Utility and Public Services Improvements*

The project would connect to the existing water, power, stormwater, and sanitary sewer lines in Berryessa Road by extending four new utility lines to the site. In addition, a minimum of three fire hydrants would be installed on-site for fire water service. Fire extinguishers would be placed in plastic and sand containers without footings every 75 feet in the RV and car parking areas throughout the site. An approximately 12,000 square foot bioretention area would be constructed along the southern property line to capture, retain, and treat stormwater on-site.

Each RV is expected to be powered by its own external generator.

#### 3.3.2.6 *Implementation*

Implementation of the project would be completed in one phase over a period of 10 to 12 months. Implementation activities would occur between 7:00 AM and 7:00 PM Monday through Friday. During project implementation, grading, excavation, paving, and trenching would occur. Excavation would be required to install footings for the proposed shade structures (maximum depth of 10 feet), light poles (maximum depth of 5 feet), entry gate posts (maximum depth of 4 feet), perimeter fencing (maximum depth of 3 feet), and dog run fencing (maximum depth of 30 inches). Additionally, excavation to a maximum depth of 4 feet would be required to install the proposed bioretention area. Trenching for utilities would extend to a depth of between 3 and 8 feet below ground surface (bgs).

Up to approximately 2,000 cubic yards of soil would be off hauled from the site with implementation of the project. No soil would be imported from elsewhere to the site.

At the end of the 10-year lease agreement for the site, or when the project is terminated, all proposed above-ground improvements would be removed from the site and the site would be returned to its current status as a vacant industrial site.[2]

### 3.3.3 Project Operations

The City would hire a contractor to operate the site on a 24/7 basis on behalf of the City and pursuant to the guidelines in Municipal Code Section 20.80.1675, Conduct of Use. All program participants would have access to anchored trailer(s) with bathroom facilities including toilets, sinks, showers; anchored trailer(s) with laundry facilities – each with utility installations to connect the trailers to water, sanitary sewer, and power; portable toilets, hand-washing stations if needed to augment the trailer facilities; two or more potable water spigots; anchored table and chair seating areas with anchored canopies for shade; secured storage cabinet(s) for fuel storage; and a garbage and recycling enclosure. The City would provide garbage and recycling collection services on-site. If needed to augment potable water spigots on-site, a temporary water tank may be

[2] Any subsequent projects on the site at the end of the 10-year lease agreement would require separate CEQA environmental review.

provided by a sanitary servicing company. As noted in Section 3.3.2 Site Improvements, an office trailer would also be provided by the City for use by the operations staff.

The site operator would provide case managers to work with the participants to provide guidance and assistance with job placement and the transition to interim or permanent housing. Case managers would typically be on-site from 9:00 AM to 5:30 PM. The exact number of case managers would depend upon the number of participants at the site. The operator would also provide additional supportive staff such as Residential Services Coordinators (RSCs). These RSCs would provide the participants with day-to-day needs such as food, toiletries, and other necessities; resolve site-related issues; and provide staff coverage during hours when the case manager is not on-site. An RSC would always be present on-site (one dayshift, one mid-shift, and one swing-shift). Based on the program staffing levels at the existing Santa Teresa Facility, it is anticipated that there would be one case manager for every 15 households (or up to 6 case managers assuming full occupancy of the 85 lived-in RV spaces) and up to 18 other staff on-site for a total of 24 employees.

All site users (including program participants and staff) would be required to comply with quiet hours between 10:00 PM and 7:00 AM daily. Program participants would be allowed to operate generators between the hours of 7:00 AM and 10:00 PM. The site operator would be responsible for ensuring that all participants follow the safety guidelines provided by the San José Fire Department (SJFD) for the use of their generators. Additionally, the site operator would be responsible for ensuring that any fuel stored on-site is managed according to SJFD's direction and kept in storage containers that are secured and controlled by the site operator. The operator would provide a smoke detector and a carbon monoxide monitor for each RV.

All vehicles entering the site would be required to have a parking permit. During the day, the case workers and RSCs would conduct hourly walks to check that all RVs have a parking permit and are property registered with the operator. There would be at least one security person on-site every day who could control ingress and egress and perform hourly walk arounds. The hourly walk arounds by staff would include visual inspections of RVs to ensure there are no leaking fluids, and monitoring for smoking violations. For example, extinguishers that are mounted on a post should be checked to ensure they have not been expelled.

It is anticipated that participants in the program would move into transitional or permanent housing within 6 to 12 months. Depending upon the individual circumstances, some participants may take longer to transition out of the program. As space allows and as participants transition out of the program, new participants would be brought into the program at the project site.

# Section 4.0 Environmental Setting, Checklist, and Impact Discussion

The discussion for each environmental subject analyzed 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). Each impact is numbered to correspond to the checklist question being answered. For example, Impact BIO-1 answers the first checklist question in the Biological Resources section. Mitigation measures are also numbered to correspond to the impact they address. For example, MM BIO-1.3 refers to the third mitigation measure for the first impact in the Biological Resources section.

Since the project's impacts are measured against the baseline, which is the existing physical conditions of the site, and the fact that this is intended to be a 10-year program, little or no physical impacts would occur to some of the resource areas typically evaluated in an Initial Study. Section 4.1 of this document is a checklist of those resource areas that would not experience any measurable impacts from the proposed project. A brief explanation for each resource area is provided. The resource areas with no measurable effect are:

- Aesthetics
- Agriculture and Forestry Resources
- Energy
- Greenhouse Gas Emissions
- Mineral Resources
- Recreation
- Wildfire

Sections 4.2 through 4.14 present the discussion of impacts related to the following environmental subjects in their respective subsections:

- Air Quality
- Biological Resources
- Cultural Resources
- Geology and Soils
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Noise
- Population and Housing
- Public Services
- Transportation
- Tribal Cultural Resources
- Utilities and Service Systems
- Mandatory Findings of Significance

# 4.1 Areas of No Measurable Impact

## 4.1.1 Aesthetics

| | | 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?[3] 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? | ☐ | ☐ | ☐ | ☒ |

### 4.1.1.1 *Impact Discussion*

Implementation of the project would include improvements to a site located within a transit priority area to allow for a site where people living in their RVs and cars can park legally.[4] Pursuant to SB 743 (Public Resources Code Section 21099[d][1]) "aesthetics and parking impacts of a residential, mixed-use residential, or employment center on an infill site within a transit priority area shall not be considered significant impacts on the environment;" therefore, the aesthetics impacts of the project would not be significant.

The project site is surrounded by industrial uses and roadways with existing lighting sources. Although the project would install new lights on-site, as discussed in Section 4.3 Biological Resources, all proposed lighting would be required to comply with the City of San José's Riparian Corridor and Bird-Safe Building Policy lighting standards to avoid light spillover onto adjacent properties. The project, therefore, would not create a new source of substantial light or glare that would adversely affect day or nighttime views in the area.

[3] Public views are those that are experienced from publicly accessible vantage points.
[4] Association of Bay Area Governments/Metropolitan Transportation Commission. "Transit Priority Areas (2021)." March 21, 2021. Accessed September 13, 2023. https://opendata.mtc.ca.gov/datasets/MTC::transit-priority-areas-2021-1/explore?location=37.367642%2C-121.878053%2C17.54

## 4.1.2 Agricultural and Forestry Resources

| | | 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? | ☐ | ☐ | ☐ | ☒ |

### 4.1.2.1 *Impact Discussion*

The project site is not zoned for agriculture, forest land, or timberland, it is not designated by the Department of Conservation as farmland of any type, nor is it subject to a Williamson Act contract.[5] Implementation of the project would not result in the loss or conversion of agricultural or forest land to non-agricultural or forest uses.

[5] California Department of Conservation. "Farmland Mapping and Monitoring Program." Accessed September 13, 2023. http://www.conservation.ca.gov/dlrp/fmmp/Pages/Index.aspx.; City of San José. "Zoning Map." Accessed September 13, 2023. https://www.arcgis.com/apps/webappviewer/index.html?id=6f379e130e9a43ab9dee28806ed2c885&extent=-13574341.156%2C4480904.8205%2C-13559818.1207%2C4490039.0454%2C102100 ; and County of Santa Clara. "Williamson Act Properties." Accessed September 13, 2023. https://sccplanning.maps.arcgis.com/apps/webappviewer/index.html?id=1f39e32b4c0644b0915354c3e59778ce

## 4.1.3 Energy

| | 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? | ☐ | ☐ | ☐ | ☒ |

### 4.1.3.1 *Impact Discussion*

The proposed project would involve improvements to the site to allow for the operation of a site for people who live in their RVs and cars to park legally. Those improvements would use energy for implementation and operation. Implementation processes are generally designed to be efficient in order to avoid excess monetary costs, thereby avoiding wasteful or inefficient use of energy. Additionally, all prefabricated buildings would be designed to comply with all applicable Title 24 and CALGreen energy efficiency measures, resulting in efficient building operations.[6] Furthermore, the project would encourage alternatives to single-vehicle occupancy trips by being located approximately 0.28 mile from the Berryessa BART Station and VTA bus routes as well as being adequately served by pedestrian and bicycle facilities. For these reasons, project operations would not use energy in a wasteful manner or otherwise conflict with a state or local plan for renewable energy.

## 4.1.4 Greenhouse Gas Emissions

| | 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? | ☐ | ☐ | ☐ | ☒ |

[6] State of California. 2022 California Green Building Standards Code, Title 24, Part 11. Accessed October 16, 2023. https://codes.iccsafe.org/content/CAGBC2022P1/chapter-5-nonresidential-mandatory-measures

#### 4.1.4.1 *Impact Discussion*

Implementation of the project on-site would result in temporary Greenhouse Gas (GHG) emissions. Neither the City of San José nor BAAQMD has an established quantitative threshold or standard for determining whether a project's temporary GHG emissions are significant. Implementation would, however, be limited with no new permanent structures. Operation of the project would generate only minimal emissions from vehicle trips and generator use. Because the proposed project would not result in new permanent development or a substantial intensification of existing uses, local plans, policies, and regulations would not apply to the proposed project. The project would have no measurable impact on GHG emissions.

## 4.1.5 Mineral Resources

| | 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 will be of value to the region and the residents of the state? | ☐ | ☐ | ☐ | ☒ |
| b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? | ☐ | ☐ | ☐ | ☒ |

#### 4.1.5.1 *Impact Discussion*

The Communications Hill area in central San José, approximately 4.9 miles southwest of the project site, is the only area within the City that is designated by the State Mining and Geology Board as containing mineral deposits of regional significance. Implementation of the project would not result in loss of availability of a known mineral resource or loss of availability of a locally important mineral resource recovery site.

## 4.1.6 Recreation

| | 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 will occur or be accelerated? | ☐ | ☐ | ☐ | ☒ |

| | 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? | ☐ | ☐ | ☐ | ☒ |

#### 4.1.6.1 *Impact Discussion*

The nearest park to the site is Watson Park, located approximately 0.41 mile southwest of the project site. The project would not increase the resident population of the City compared to existing conditions (refer to Section 4.10 Population and Housing for a detailed discussion) and would include installation of seating areas, a dog run, and community garden on-site for program participants' use. These facilities would offset demand for parks and recreational facilities associated with the project. Therefore, implementation of the proposed project would not require the construction or expansion of recreational facilities resulting in adverse physical effects on the environment.

### 4.1.7 Wildfire

| | 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? | ☐ | ☐ | ☐ | ☒ |
| 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? | ☐ | ☐ | ☐ | ☒ |

#### 4.1.7.1 *Impact Discussion*

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.

# 4.2 Air Quality

The following discussion is based, in part, on a Health Risk Assessment and Air Quality Technical Letter prepared for the proposed project by Illingworth & Rodkin, Inc. in June 2023 and October 2023, respectively. These reports are included as Appendix A to this document.

## 4.2.1 Environmental Setting

### 4.2.1.1 *Background Information*

#### Criteria Pollutants

Criteria air pollutants are pollutants that have established federal or State standards for outdoor concentrations to protect public health. Pursuant with the federal and State Clean Air Act, the United States Environmental Protection Agency (EPA) and the California Air Resources Board (CARB) have established and enforce the National Ambient Air Quality Standards (NAAQS) and California Ambient Air Quality Standards (CAAQS), respectively. The NAAQS and CAAQS address the following criteria air pollutants: ozone ($O_3$), nitrogen dioxide ($NO_2$), carbon monoxide (CO), particulate matter with a diameter of 10 microns or less ($PM_{10}$), particulate matter with a diameter of 2.5 micros or less ($PM_{2.5}$), sulfur dioxide ($SO_2$), and lead. The CAAQS also includes visibility reducing particles, sulfates, hydrogen sulfide, and vinyl chloride.

#### Toxic Air Contaminants

Toxic air contaminants (TACs) include airborne chemicals that are known to have short- and long-term adverse health effects. 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). Unlike criteria air pollutants, which have a regional impact, TACs are highly localized and regulated at the individual emissions source level.

DPM 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).[7] Chemicals in diesel exhaust, such as benzene and formaldehyde, are also TACs identified by the CARB.

An overview of the sources of criteria pollutants and TACs, as well as their associated health effects, is provided in Table 4.2-1.

[7] California Air Resources Board. "Overview: Diesel Exhaust and Health." Accessed September 14, 2023. https://ww2.arb.ca.gov/resources/overview-diesel-exhaust-and-health.

**Table 4.2-1: Sources and Health Effects of Criteria Air Pollutants and Toxic Air Contaminants**

| Pollutants | Description and Sources | Primary Effects |
|---|---|---|
| Ozone ($O_3$) | $O_3$ is a secondary criteria air pollutant that is the result of a photochemical (sunlight) reaction between reactive organic gases (ROG) and nitrogen oxides ($NO_x$). Pollutants emitted by motor vehicles, power plants, industrial boilers, refineries, and chemical plants are the common source for this reaction. High $O_3$ levels are caused by the cumulative emissions of ROG and $NO_X$. These precursor pollutants react under certain meteorological conditions to form high $O_3$ levels. Commons sources of ROG and $NO_x$ are vehicles, industrial plants, and consumer products. | • Aggravation of respiratory and cardiovascular diseases<br>• Irritation of eyes<br>• Cardiopulmonary function impairment |
| Nitrogen Dioxide ($NO_2$) | $NO_2$ is a reactive gas that combines with nitric oxide (NO) to form $NO_x$. $NO_2$ the byproduct of fuel combustion with common sources of $NO_2$ being emissions from cars, trucks, buses, power plants, and off-road equipment. Sources of $NO_2$ include motor vehicle exhaust, high temperature stationary combustion, atmospheric reactions. | • Aggravation of respiratory illness<br>• Reduced visibility |
| Carbon Monoxide (CO) | CO is a colorless, odorless, and toxic gas that is the product of incomplete combustion of carbon-containing substances (e.g., when something is burned). Common outdoor sources of CO include mobile vehicles (passenger cars and trucks) and machinery that burn fossil fuels. | • Interferes with oxygen delivery to the body's organ due to binding with the hemoglobin in the blood<br>• Fatigue, headaches, confusion, and dizziness |
| Fine Particulate Matter ($PM_{2.5}$) and Coarse Particulate Matter ($PM_{10}$) | Particulate Matter is any material that is emitted as liquid or solid particles or a gaseous material, such as dust, soot, aerosols, and fumes. $PM_{10}$ and $PM_{2.5}$ are both small enough particulates to be inhaled into the human lungs, and $PM_{2.5}$ is small enough to deposit into the lungs, which poses an increased health risk compared to $PM_{10}$. Typical sources of particular matter include stationary combustion of solid fuels, construction activities, vehicles, industrial processes, and atmospheric chemical reactions. | • Reduced lung function, especially in children<br>• Aggravation of respiratory and cardiorespiratory diseases<br>• Increased cough and chest discomfort<br>• Reduced visibility |
| Sulfur Dioxide ($SO_2$) | $SO_2$ is a pungent and colorless gaseous pollutant the is part of the sulfur oxides ($SO_x$) group and is the pollutant of greatest concern in the $SO_x$ group. $SO_x$ can react with other compounds in the atmosphere to form small particles. These particles contribute to particulate matter pollution. $SO_2$ is primarily formed from fossil fuel combustion at power plants and other industrial facilities. Sources of $SO_2$ include motor vehicles, locomotives, ships, and off-road diesel equipment that are operated with fuels that contain high levels of sulfur. Industrial processes, such as natural gas and petroleum extraction, oil refining, and metal processing. | • Aggravation of respiratory illness<br>• Respiratory irritation such as wheezing, shortness of breath and chest tightness<br>• Increased incidence of pulmonary symptoms and disease, decreased pulmonary function |
| Lead | Lead is a naturally occurring element that can be found in all parts of the environment including the air, soil, and | • Adversely affect the |

| Pollutants | Description and Sources | Primary Effects |
|---|---|---|
| | water. As an air pollutant, lead is present in small particles. The most common historic source of lead exposure was the past use of leaded gasoline in motor vehicles. The exhaust resulting from use of leaded gasoline would release lead emissions into the air. Now, major sources of lead in the air are from ore and metals processing plants and piston-engine aircraft operating on leaded aviation fuel. Other sources are waste incinerators, utilities, and lead-acid battery manufacturers. The highest air concentrations of lead are usually found near lead smelters. | nervous system, kidney function, immune system, reproductive and developmental systems and the cardiovascular system |
| Toxic Air Contaminants (TACs) | TACs include certain air pollutants known to increase the risk of cancer and/or other serious health effects that range from eye irritation, respiratory issues, and neurological damage. Sources of TAC include, but are not limited to, cars and trucks, especially diesel-fueled; industrial sources, such as chrome platers; dry cleaners and service stations; and building materials and products. | • Cancer<br>• Chronic eye, lung, or skin irritation<br>• Neurological and reproductive disorders |

### 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.

#### 4.2.1.2 *Regulatory Framework*

### Federal and State

Clean Air Act

At the federal level, the 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 6 common criteria pollutants (discussed previously): PM, $O_3$, CO, $SO_2$, $NO_2$, and lead.[8]

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

[8] $NO_x$ is the group of nitrogen compounds ($NO_2$ and nitric oxide [NO]) that typically represents $NO_2$ emissions because $NO_2$ emissions contribute the majority of $NO_x$ exhaust emissions emitted from fuel combustion.

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.

Diesel 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, this 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 federal and state air quality standards will be met. BAAQMD's most recently adopted plan is the Bay Area 2017 Clean Air Plan. The 2017 Clean Air Plan focuses on the following two related BAAQMD goals and how to achieve them:

- Protect air quality and health at the regional and local scale by attaining all state and national air quality standards and eliminating disparities among Bay Area communities in cancer health risk from TAC; and
- Protect the climate by reducing Bay Area GHG emissions 40 percent below 1990 levels by 2040 and 80 percent below 1990 levels by 2050.[9]

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. The latest CEQA Air Quality Guidelines are the 2022 CEQA Air Quality Guidelines adopted on April 20, 2023, by the Air District Board of Directors.

[9] Bay Area Air Quality Management District. *Final 2017 Clean Air Plan.* April 19, 2017. Page 12.

Community Air Risk Evaluation Program

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

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

## Local

Envision San José 2040 General Plan

Various policies in the Envision San José 2040 General Plan have been adopted for the purpose of reducing or avoiding air quality impacts, as listed below.

| Policy | Description |
|---|---|
| MS-10.1 | Assess projected air emissions from new development in conformance with the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines and relative to state and federal standards. Identify and implement feasible air emissions reduction measures. |
| MS-10.2 | Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law. |
| MS-10.5 | In order to reduce vehicle miles traveled and traffic congestion, require new development within 2,000 feet of an existing or planned transit station to encourage the use of public transit and minimize the dependence on the automobile through the application of site design guidelines and transit incentives. |
| MS-10.7 | Encourage regional and statewide air pollutant emissions reduction through energy conservation to improve air quality. |
| 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 a source of TACs to be located an adequate distance from residential areas and other sensitive receptors. |
| MS-11.5 | Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses. |
| MS-11.6 | Develop and adopt a comprehensive Community Risk Reduction Plan that includes: baseline inventory of toxic air contaminants (TACs) and particulate matter smaller than 2.5 microns ($PM_{2.5}$), emissions from all sources, emissions reduction targets, and enforceable emission |

| | |
|---|---|
| | reduction strategies and performance measures. The Community Risk Reduction Plan will include enforcement and monitoring tools to ensure regular review of progress toward the emission reduction targets, progress reporting to the public and responsible agencies, and periodic updates of the plan, as appropriate. |
| 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. |
| 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. |
| 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. |
| MS- 13.4 | Adopt and periodically update dust, particulate matter, 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. |

#### 4.2.1.3 *Existing Conditions*

The San Francisco Bay Area (Bay Area) Air Basin is designated a nonattainment area for the federal $O_3$ and $PM_{2.5}$ standards and for the State $O_3$, $PM_{10}$, and $PM_{2.5}$ standards.[10,11] The area has attained both NAAQS and CAAQS for CO, $SO_2$, and $NO_2$. As the regional air district, BAAQMD is responsible for attaining the NAAQS and CAAQS for these pollutants. As part of an effort to attain and maintain ambient air quality standards for $O_3$, $PM_{10}$, and $PM_{2.5}$, BAAQMD has established thresholds of significance for these air pollutants and their precursors that apply to both construction period and operational period impacts. Controlling the emissions of these precursor pollutants is the focus of the Bay Area's attempts to reduce $O_3$ levels. The highest $O_3$ levels in the Bay Area occur in the eastern and southern inland valleys where temperatures are higher, there is less wind circulation, and sources of the precursor pollutants (ROG and $NO_x$) are prominent. In the Bay Area, most particulate matter is generated from the following activities: combustion, factories, construction, grading, demolition, agriculture, and motor vehicles. Motor vehicles are currently responsible for about half of particulates in the Bay Area. Elevated concentrations of $PM_{10}$ and $PM_{2.5}$ are the result of both region-wide emissions and localized emissions.

The nearest sensitive receptors to the project site are the apartments located at 1501 Berryessa Road, approximately 935 feet northeast of the project site.

[10] Bay Area Air Quality Management District. "Air Quality Standards and Attainment Status." Last Updated September 14, 2023. Accessed September 14, 2023.

[11] The area has attained both State and federal ambient air quality standards for CO. The project does not include substantial new emissions of SO2 or lead. These criteria pollutants are not discussed further.

## 4.2.2 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? | ☐ | ☐ | ☒ | ☐ |
| 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? | ☐ | ☐ | ☐ | ☒ |

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

The BAAQMD CEQA Air Quality Guidelines set forth criteria for determining consistency with the 2017 CAP. In general, a project is considered consistent if, a) the plan supports the primary goals of the 2017 CAP; b) it includes relevant control measures; and c) it does not interfere with implementation of 2017 CAP control measures. The project's consistency with the Bay Area 2017 CAP is summarized below in Table 4.2-2.

**Table 4.2-2: Applicable Control Measures**

| Control Measure | Project Consistency with Measure Intent |
|---|---|
| **Stationary Source Measures** | |
| **TR9 - 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 site is located approximately 0.28 mile west of Berryessa BART Station and existing bus stops. There are sidewalks and crosswalks along the surrounding roadways to facilitate non-automotive access. The project is consistent with this measure. |
| ***Energy Measures*** | |

| Control Measure | Project Consistency with Measure Intent |
|---|---|
| **EN2 - Decrease Electricity Demand:** Work with local governments to adopt additional energy-efficiency policies and programs. Support local government energy efficiency program via best practices, model ordinances, and technical support. Work with partners to develop messaging to decrease electricity demand during peak times. | The project would be designed to comply with Title 24 and CALGreen energy efficiency measures. The project is consistent with this measure.[12] |
| ***Building Measures*** | |
| **BL1 - Green Buildings:** Collaborate with partners such as KyotoUSA to identify energy-related improvements and opportunities for on-site renewable energy systems in school districts; investigate funding strategies to implement upgrades. Identify barriers to effective local implementation of the California Green Building Standards Code (CalGreen; Title 24) statewide building energy code; develop solutions to improve implementation/enforcement. Work with ABAG's BayREN program to make additional funding available for energy-related projects in the buildings sector. Engage with additional partners to target reducing emissions from specific types of buildings. | As discussed above, the project would comply with Title 24 and CALGreen energy efficiency measures. The project is consistent with this measure.[13] |
| **BL4 - 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 replace up to approximately 131,000 square feet of existing pavement on-site. All existing trees on-site would be retained with the project and new trees and shrubs would be planted in containers along the southeastern project boundary to increase shade. Additionally, two shade structures would be added in the southwest corner of the site and near the proposed dog run. Therefore, although the project would resurface an existing surface parking area, additional shade would be added to offset the urban heat island effect. Therefore, the project is consistent with this control measure. |
| ***Natural and Working Lands Measures*** | |
| **NW2 - 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, BAAQMD's technical guidance, best management practices for local plans, and CEQA review. | The project would retain all existing trees on-site and plant new trees and shrubs in containers along the southeastern project boundary. Therefore, the project is consistent with his control measure. |

[12] State of California. 2022 California Green Building Standards Code, Title 24, Part 11 (CALGreen). Accessed October 16, 2023. https://codes.iccsafe.org/content/CAGBC2022P1/chapter-5-nonresidential-mandatory-measures

[13] Ibid.

| Control Measure | Project Consistency with Measure Intent |
|---|---|
| ***Waste Management Measures*** | |
| **WA3 - Green Waste Diversion:** Develop model policies to facilitate local adoption of ordinances and programs to reduce the amount of green waste going to landfills. | Organics waste generated by all residential uses is currently collected by the City and sorted at the GreenWaste materials recovery facility to prevent this waste from being deposited at landfills. Food scraps and compostable paper are sent to the Z-Best composing facility to become compost and are used for landscape and median projects throughout the City. Therefore, the project is consistent with this control measure. |
| **WA4 - 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 which ensures that at least 75 percent of waste generated during implementation of the project is recovered and diverted from landfills. Therefore, the project is consistent with this control measure. |
| ***Water Measures*** | |
| **WR2 - Support Water Conservation:** Develop a list of best practices that reduce water consumption and increase on-site water recycling in new and existing buildings; incorporate into local planning guidance. | The project includes water efficient landscaping and irrigation systems throughout the site. For this reason, the project would be consistent with this measure. |

The project is consistent with the applicable control measures identified above. Therefore, the proposed project would not result in a significant impact related to consistency with the Bay Area 2017 CAP.

## Implementation Emissions

Implementation period emissions associated with the project would be generated from operation of construction equipment and vehicle trips to and from the site by construction workers and delivery drivers. The BAAQMD CEQA Guidelines includes criteria to provide lead agencies and project applicants with a conservative indication of whether a project would result in a potentially significant air quality impact. If a project proposes less development than the screening criteria, it can be conservatively assumed the project would result in a less than significant air quality impact.

The screening criteria for a residential mobile home park (the land use most similar to the proposed project), is 377 units. Additionally, in order to have a less than significant air quality impact, projects must incorporate best management practices, not include overlapping construction phases or overlapping construction and operations, extensive site preparation or material transport, or use stationary construction equipment such as diesel generators. The proposed project includes improvements to the site to allow for operation of a parking site for up to 85 lived-in RVs and 46

cars for a period of 10 years. Consistent with the following Standard Project Condition, the project would incorporate best management practices to control dust and exhaust during implementation, no phases would occur simultaneously, and implementation would be fully complete prior to operation of the project. Implementation of the project would not include use of stationary construction equipment or extensive site preparation or materials transport.

**Standard Project Condition – Construction-Related Air Quality**

The following measures shall be implemented during all phases of implementation to control dust and exhaust at the project site:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- All haul trucks transporting soil, sand, or loose material off-site shall be covered.
- All visible mud or dirt track-out adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeing or soil binders are used.
- All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.
- All trucks and equipment, including their tires, shall be washed off prior to leaving the site.
- Unpaved roads providing access to sites located 100 feet or further from a paved road shall be treated with a 6- to 12-inch layer of compacted wood chips, mulch, or gravel.
- Publicly visible signs shall be posted with the telephone number and name of the person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's General Pollution Complaints number shall also be visible to ensure compliance with applicable regulations.

The project would be below the screening criteria for implementation period emissions. With implementation of the above Standard Project Conditions, and based on the size of the project, the project would have a less than significant air quality emissions impact.

## Operational Emissions

### Generator Use

Operation of the proposed project would generate criteria pollutants from participant and staff vehicle trips to and from the site, as well as from operation of gasoline and diesel-powered generators and site lighting. Based on an analysis of generator emissions completed for the Santa Teresa Safe Parking site, it is assumed that each of the 85 lived-in RVs would use gasoline or diesel-

powered generators for up to 2 to 3 hours per day.[14] Emissions associated with operation of project generators are listed in Table 4.2-3 below.

**Table 4.2-3: Operational Emissions – Generator Use**

| Source | ROG | NOx | PM10 |
|---|---|---|---|
| Generator Operations (pounds per day) | <14 | <21 | <3 |
| *BAAQMD Threshold (pounds per day)* | *54* | *54* | *82* |
| **Exceed Threshold?** | **No** | **No** | **No** |
| Source: Illingworth & Rodkin, Inc. *1300 Berryessa Project in San José, CA – Proposal to Perform Updated Site Plan Review*. October 9, 2023. | | | |

As shown in Table 4.2-3, operation of generators would result in less than significant criteria pollutant emissions.

Mobile Emissions

Operation of the project would result in criteria pollutant emissions from RV and car trips to and from the site. However, the operation of RVs is anticipated to be limited as RVs are typically driven to the site and parked for extended periods of time. Occasionally, these vehicles are moved or driven off site for various reasons. As discussed in Section 4.9 Noise and 4.12 Transportation, it is assumed that the project would generate a total of 310 daily vehicle trips, including two vehicle trips for each lived-in RV and standard car parking space, as well as two trips for every employee. The 310 total daily vehicle trips resulting from the proposed project are not new trips, as the vehicles that would be parked on-site are already operating within San José. In addition, emissions from 310 daily traffic trips would have negligible emissions.

The project would comply with the 2017 CAP and implementation and operational period criteria pollutant emissions associated with the project would not exceed the BAAQMD significance thresholds. Therefore, the project would not conflict with or obstruct implementation of the applicable air quality plan. **(Less than Significant Impact)**

[14] Air quality analysis completed for the Santa Teresa Safe Parking site found emissions from operation of up to 45 gasoline or diesel-powered generators for up to 10 hours per day would be 21 pounds per day of NOx, 14 pounds per day of ROG, and 3 pounds per day of $PM_{10}$. Although additional generators may be used at the proposed project site due to the increased number of program participants, data from a site visit and interviews with program staff at the Santa Teresa Safe Parking site suggest that there is very little generator operation, except for powering the office all day. Therefore, it is anticipated that up to 85 generators would be used for a period of two to 3 hours per day, resulting in emissions slightly less than those previously estimated for the Santa Teresa Safe Parking site. Source: Illingworth & Rodkin, Inc. *1300 Berryessa Project in San José, CA – Proposal to Perform Updated Site Plan Review*. October 9, 2023.

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?

For the reasons discussed in checklist question a) above, the project would not 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. **(Less than Significant Impact)**

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

## Community Risk Impacts – Project Operations

As noted in Section 4.2.1.3 Existing Conditions, the nearest sensitive receptors to the project site are the apartments located at 1501 Berryessa Road, approximately 935 feet northeast of the project site. Program participants would be allowed to use diesel-powered generators at each lived-in RV parking space and the project would generate traffic consisting of mostly light-duty vehicles and RVs, which would produce TAC and criteria air pollutant emissions. As discussed under checklist question a) above, up to 85 generators would be used for a period of 2 to 3 hours per day, resulting in TAC emissions slightly less than those previously estimated for the Santa Teresa Safe Parking site.[15] Therefore, given the low emissions, and the distance between the site and nearby receptors, health risk impacts on the nearest sensitive receptors would be well below the BAAQMD thresholds of <10.0 per million for cancer risk, <0.3 µg/$m^3$ for annual $PM_{2.5}$, and 1.0 hazard index.[16]

Additionally, operation of multiple generators on-site can lead to localized health hazards such as headaches or nausea for program participants if generators are operated in poorly ventilated areas such as very close to a structure. Operation of generators that are poorly maintained may also cause localized health effects and odors to nearby occupants as some generators may have unusually high emissions and not be representative of the "typical" generator considered. To address this issue, the project operator would provide a smoke detector and a carbon monoxide monitor for each RV and have on-site staff conduct daytime hourly walks to monitor potential hazards. Generators are prohibited from operating past 10:00 PM.

## Criteria Pollutant Emissions

In a 2018 decision (*Sierra Club v. County of Fresno*), the State Supreme Court determined 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

[15] TAC emissions from the Santa Teresa Safe Parking project were estimated not to exceed BAAQMD significance thresholds of 10.0 per million for cancer risk, 0.3 µg/m3 for annual PM2.5, and 1.0 hazard index. Source: Illingworth & Rodkin, Inc. *1300 Berryessa Project in San José, CA – Proposal to Perform Updated Site Plan Review.* October 9, 2023.
[16] Ibid.

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 above, the project would not generate substantial pollutant concentrations from operation of diesel generators in proximity to existing sensitive receptors such that it would result in significant community health risk impacts. **(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?

Odors are generally considered an annoyance rather than a health hazard. Land uses that have the potential to be sources of odors that generate complaints include, but are not limited to, wastewater treatment plants, landfills, composting operations, and food manufacturing facilities. The project would convert the site to allow for legal parking for individuals living out of their RVs and cars. Implementation of the project (including operation of equipment and truck activity) and operation of diesel generators by program participants during project operations would generate localized emissions of diesel exhaust. These emissions may be noticeable from time to time by adjacent receptors; however, diesel exhaust has highly diffusive properties, and the odors would be localized and temporary. In addition, operation of the proposed project could potentially generate objectionable odors because of the use of portable toilets. The operator would be required to provide enough toilets to serve the maximum number of program participants, which may include use of portable toilets to supplement the toilets in the temporary restroom building that would be connected to the municipal sanitary sewer system. Regular servicing of portable toilets would prevent any objectionable odors from affecting neighboring uses and program participants. During operations, the proposed project would not generate objectionable odors. The project would, therefore, not create objectionable odors that would affect existing residents in the project vicinity. **(No Impact)**

### 4.2.3 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.

Pursuant to General Plan Policies MS-10.1, MS-11.1, and MS-11.2, a health risk assessment was prepared by Illingworth & Rodkin, Inc. in June 2023[17] to ensure sensitive receptors introduced onto the project site are not exposed to substantial TAC emissions. Community risk from the TAC sources upon the project site were analyzed based on a prior version of the site plan and are summarized in Table 4.2-4 below and shown in Figure 4.2-1.

**Table 4.2-4: Effects of Combined Sources on On-Site Sensitive Receptors (prior Site Design)**

| Source | Cancer Risk (per million) 6-year infant-child exposure | Cancer Risk (per million) 6-year adult exposure | Cancer Risk (per million) 2-year infant exposure | $PM_{2.5}$ Concentration ($\mu g/m_3$) | Hazard Index |
|---|---|---|---|---|---|
| Berryessa Road, ADT 24,616 | 1.42 | 0.22 | 1.09 | 0.17 | <0.01 |
| Granite Rock (Facility ID #181, Brick, Stone, and Related Construction Material Merchant Wholesalers), MEI at 210 feet | 5.19 | 0.20 | 3.98 | 0.13 | <0.01 |
| Clean Harbors San José LLC (Facility ID # 14638, Landscape Architectural Services), MEI at 660 feet | <0.01 | <0.01 | <0.01 | <0.01 | <0.01 |
| California Waste Solutions (Facility ID # 15727, Recyclable Material Merchant Wholesalers) MEI at 20 feet | <0.01 | <0.01 | <0.01 | 0.18 | <0.01 |
| Johnson Matthey Inc (Facility ID # 16022, Powder Metallurgy Part Manufacturing), MEI at over 1,000 feet | <0.01 | <0.01 | <0.01 | <0.01 | <0.01 |
| Pick N Pull Auto Dismantlers (Facility ID #24000, Motor Vehicle Parts (Used) Merchant Wholesalers), MEI at over 1,000 feet | 0.01 | 0.01 | 0.01 | <0.01 | <0.01 |
| Bay Area Scavenger & Recycling LLC (Facility ID #242498, Other Nonhazardous Waste Treatment and Disposal), MEI at 5 feet[1] | 7.62 | 3.63 | 6.65 | 0.32 | 0.14 |
| *BAAQMD Single-Source Threshold* | *10* | *10* | *10* | *0.3* | *1.0* |
| **Exceed Threshold?** | **No** | **No** | **No** | **Yes** | **No** |
| Cumulative Total | 11.8[3] | 3.79[3] | 9.86[3] | <0.65[2] | <0.02 |
| *BAAQMD Cumulative Source Threshold* | *100* | *100* | *100* | *0.8* | *10.0* |
| **Exceed Threshold?** | **No** | **No** | **No** | **No** | **No** |

[17] Illingworth & Rodkin, Inc. *1300 Berryessa Road RV Safe Parking On-Site Health Risk Assessment.* June 2023.

Notes:

[1] Cancer risk values shown include a 3.47 per million screening value not adjusted for age or exposure duration.

[2] Total value shown is value from location of maximum modeled PM concentration plus screening values.

[3] Total value shown is value from location of maximum modeled DPM concentration plus screening values not adjusted for age or exposure duration.

Source: Illingworth & Rodkin, Inc. *1300 Berryessa Road RV Safe Parking On-Site Health Risk Assessment.* June 2023.

As shown in Table 4.2-4 above, all cumulative sources of TACs would be below the single-source threshold except for $PM_{2.5}$ emissions from Bay Area Scavenger & Recycling. All cumulative sources combined would be below the cumulative source thresholds.

Since completion of this community health risk assessment, the project design was modified to include unoccupied RVs on the eastern portion of the site and lived-in RVs on the western portion of the site where $PM_{2.5}$ emissions from Bay Area Scavenger & Recycling operations would not exceed BAAQMD thresholds for occupied RVs (refer to Figure 3.3-1).

According to a review of the updated site design, completed by Illingworth & Rodkin in October 2023, all cumulative sources of TACs would be below the single- and cumulative-source thresholds at all lived-in RV spaces on-site. As a result, the project would be consistent with General Plan Policies MS-10.1, MS-11.1, and MS-11.2.


Source: Illingworth & Rodkin, Inc., June 15, 2023.

LOCATION OF PROJECT SITE AND NEARBY TAC AND $PM_{2.5}$ SOURCES | FIGURE 4.2-1

# 4.3 Biological Resources

## 4.3.1 Environmental Setting

### 4.3.1.1 *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. This includes direct and indirect acts, except for harassment and habitat modification, which are not included unless they result in direct loss of birds, nests, or eggs. 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 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.

San José 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.

Riparian Corridor and Bird-Safe Building Policy 6-34

The City of San José's Riparian Corridor and Bird-Safe Building Policy, adopted in September 2016, provides guidance consistent with the goals, policies, and actions of the Envision San José 2040 General Plan for: 1) protecting, preserving, or restoring riparian habitat; 2) limiting the creation of new impervious surface within Riparian Corridor setbacks to minimize flooding from urban runoff and control erosion; and 3) encouraging bird-safe design in baylands and riparian habitats of lower Coyote Creek, north of State Route 237. It supplements the regulations for riparian corridor protection in the Council-adopted Santa Clara Valley Habitat Plan, the Zoning Code (Title 20 of the San José Municipal Code), and other existing City policies that may provide for riparian protection

and bird-safe design. The general guidelines for setbacks and lighting apply to development projects within 300 feet of riparian corridors. Bird-safe design guidance for buildings and structures includes avoidance of large areas of reflective glass, transparent building corners, up-lighting, and spotlights.

Envision San José 2040 General Plan

Various policies in the Envision San José 2040 General Plan have been adopted for the purpose of reducing or avoiding impacts related to biological resources, as listed below.

| Policy | Description |
|---|---|
| ER-2.1 | Ensure that new public and private development adjacent to riparian corridors in San José are consistent with the provisions of the City's Riparian Corridor Policy Study and any adopted Santa Clara Valley Habitat Conservation Plan/Natural Communities Conservation Plan. |
| ER-2.2 | Ensure that the 100-foot setback from riparian habitat is the standard to be achieved in all but a limited number of instances, only where no significant environmental impacts would occur. |
| ER-2.3 | Design new development to protect adjacent riparian corridors from encroachment of lighting, exotic landscaping, noise, and toxic substances into the riparian zone. |
| ER-2.4 | When disturbances to riparian corridors cannot be avoided, implement appropriate measures to restore and/or mitigate damage and allow for fish passage during construction. |
| ER-2.5 | Restore riparian habitat through native plant restoration and removal of non-native/invasive plants along riparian corridors and adjacent areas. |
| ER-4.1 | Preserve and restore habitat areas that support special-status species. Avoid development in such habitats unless no feasible alternatives exist and mitigation is provided of equivalent value. |
| ER-4.3 | Prohibit planting of invasive non-native plant species in natural habitats that support special-status species. |
| ER-4.4 | Require that development projects incorporate mitigation measures to avoid and minimize impacts to individuals of special-status species. |
| ER-5.1 | Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment of native birds. Avoidance activities that could result in impacts to nests during the breeding season or maintenance of buffers between such active nests would avoid such impacts. |
| ER-5.2 | Require that development projects incorporate measures to avoid impacts to nesting migratory birds. |
| ER-6.3 | Employ low-glaring lighting in areas developed adjacent to natural areas, including riparian woodlands. Any high-intensity lighting used near natural areas will be placed as close to the ground as possible and directed downward or away from natural areas. |
| ER-6.5 | Prohibit use of invasive species, citywide, in required landscaping as part of the discretionary review of proposed development. |
| ER-6.7 | Include barriers to animal movement within new development and, when possible within existing development, to prevent movement of animals (e.g., pets and wildlife) between developed areas and natural habitat areas where such barriers will help to protect sensitive species. |
| MS-21.3 | Ensure that San José's Community Forest is comprised of species that have low water requirements and are well adapted to its Mediterranean climate. Select and plant diverse species to prevent monocultures that are vulnerable to pest invasions. Furthermore, consider the appropriate placement of tree species and their lifespan to ensure the perpetuation of the Community Forest. |

| | |
|---|---|
| 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-21.6 | 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 or guidelines. |
| MS-21.9 | Where urban development occurs adjacent to natural plant communities (e.g., oak woodland, riparian forest), landscape plantings shall incorporate tree species native to the area and propagated from local sources (generally from within 5-10 miles and preferably within the same watershed). |

#### 4.3.1.2 *Existing Conditions*

As shown in Figure 2.6-3, the approximately 6.3-acre project site is located approximately 32 feet[18] southwest of the confluence of Coyote Creek and Upper Penitencia Creeks. The site currently has paved and gravel surface parking/storage areas on a portion of the site and two temporary structures. There are no sensitive natural communities on the project site. The project site is bounded by Berryessa Road to the north, landscaping, a paved driveway providing access to the adjacent Bay Area Scavengers and Recycling facility from Berryessa Road, and Coyote Creek to the east, and existing industrial uses to the west and south. The project site is level, with an elevation of approximately 74 to 77 feet above mean sea level (AMSL). The banks of Coyote Creek are relatively steep and the elevation drops to approximately 65 feet AMSL at the creek beds.[19] Coyote Creek is a naturally occurring stream that drains into the San Francisco Bay. The riparian habitat of the creek in the vicinity of the project site is of moderate to low quality due to debris, disturbance, litter associated with the urban setting, and the predominance of non-native trees and understory species.

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

Special Status Plant Species

According to a biological resources survey completed for the nearby Flea Market Southside Rezoning development project, 75 plant species were identified as having potential for occurrence within the project vicinity based on a review of the California Natural Diversity Database (CNDDB) and California Native Plant Society (CNPS) records. Analysis of the documented habitat requirements and occurrence records associated with these species, however, indicates that none of these species would have a reasonable potential to occur on the project site for at least one of the following reasons: 1) lack of suitable habitat types; 2) absence of special microhabitat or soil requirements, such as serpentine soils; 3) the elevation range of the species is outside the range on the site; 4) the site is too disturbed and urbanized to be expected to support the species, and/or 5)

[18] As measured from the property line to the nearest edge of riparian vegetation.
[19] City of San José. *San José Flea Market PD Rezoning Draft Environmental Impact Report.* October 2020. Page 70.

the species is presumed extirpated from the project vicinity. In addition, the Habitat Plan does not indicate that any covered plant species potentially occur on the project site and does not require special-status plant surveys for the site. Therefore, no special status plant species are expected to occur on the project site, and no focused rare plant surveys were required.

Special-Status Wildlife Species

The Biological Resources Report prepared for the Flea Market Southside Rezoning project identified several special-status wildlife species as potentially occurring in the project. Central Valley fall-run Chinook salmon, Central California roach, Sacramento hitch, Pacific lamprey, and western pond turtle, which are California species of special concern, were identified as having potential to occur in the project vicinity within Coyote and Penitencia Creeks and their respective riparian corridors. The reaches of Coyote Creek and Upper Penitencia Creek within the Flea Market Southside project site, approximately 32 feet from the project site, were identified as critical habitat for the Central California Coast steelhead, a federally threatened species and California species of special concern.[20]

Central Valley fall-run Chinook salmon are known to spawn in lower parts of the Coyote Creek watershed during fall when streamflow is at its lowest. In addition, Pacific lamprey occur in the reaches of Coyote Creek and Upper Penitencia Creek in the project vicinity during migration, and both the Central California roach and Sacramento hitch could be present in these stream reaches year-round.[21]

Coyote Creek and Upper Penitencia Creek have also been mapped by the Santa Clara Valley Habitat Agency as primary habitat for the western pond turtle, and individual turtles have been found approximately 1 mile east of the site and in Coyote Creek within 5 miles upstream and downstream of the project site.[22]

[20] City of San José. *San José Flea Market PD Rezoning Draft Environmental Impact Report.* October 2020. Page 74-77.
[21] Ibid.
[22] Ibid.

## 4.3.2 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, 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?

As discussed in Section 4.3.1.2 Existing Conditions, the project site does not contain suitable habitat for special status plant or animal species. However, reaches of the Coyote Creek and Upper Penitencia Creek in the project vicinity have been designated as critical habitat for the Central California Coast steelhead, a federally threatened species and California species of special concern and Central Valley fall-run Chinook salmon, Pacific lamprey, Central California roach, and Sacramento hitch could be present within these creeks. Coyote Creek and Upper Penitencia Creek

have also been mapped by the Habitat Plan as primary habitat for the western pond turtle, and individual turtles have been found approximately 1 mile east of the site and in Coyote Creek within 5 miles upstream and downstream of the project site. [23]

Special Status Fish

Increased lighting levels in the vicinity of Coyote Creek and Upper Penitencia Creek could increase the risk of predation on these special status fish, and/or result in changes in fish behavior. However, as noted in Section 3.3.2 Site Improvements, the project would minimize light spillover into the Coyote Creek and Upper Penitencia Creek riparian corridors by orienting lights so that they are placed on the perimeter of the site and directed inwards (rather than directing any lighting toward the riparian corridors adjacent to the site) and downward toward the ground, and shielding lights from behind consistent with the City's Riparian Corridor Policy. Thus, changes in lighting as a result of the proposed project would not result in a significant impact on special status fish, or their habitat.

Western Pond Turtles

No implementation activities are proposed within the Coyote Creek or Upper Penitencia Creek riparian corridors. As noted above, Western pond turtles are unlikely to nest on the project site due to the mostly paved and highly disturbed nature of the site. Therefore, the project would not result in direct impacts to western pond turtles. However, project implementation and operations could affect water quality within Coyote Creek and Upper Penitencia Creek which would impact western pond turtles. As discussed in Section 4.7 Hydrology and Water Quality, the project would be required to adhere to the NPDES requirements, the City's urban runoff policies, and the City's Grading Ordinance which ensure that project implementation and operation of the site would not impact water quality within the Coyote and Upper Penitencia Creeks.

For the reasons discussed above, the project would result in less than significant impacts to 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. **(Less than Significant Impact)**

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?

As discussed in Section 4.3.1.2 Existing Conditions, there are no sensitive natural communities on the project site. The project site does not include land designated as riparian habitat. The nearest riparian habitat to the project site is the riparian corridor of Coyote Creek, approximately 32 feet[24] east of the project site.

[23] City of San José. *San José Flea Market PD Rezoning Draft Environmental Impact Report.* October 2020. Page 74-77.

[24] As measured from the property line to the nearest edge of riparian vegetation.

City policies and regulations, including the General Plan, the Zoning Code, and the City Council-adopted Habitat Plan include measures to limit development adjacent to, and to protect sensitive riparian resources. The City's Riparian Corridor Policy applies to projects within 300 feet of a riparian corridor's top of bank or edge of riparian vegetation, whichever is greater. Per the City's Riparian Corridor Protection and Bird-Safe Design Council Policy (City Council Policy 6-34) all new buildings in urban areas and parking facilities should be situated at least 100 feet from the riparian corridor. Similarly, the City Council-adopted Habitat Plan identifies a minimum 100-foot setback for covered activities adjacent to Coyote Creek.[25]

As shown in Figure 2.6-3, the project site currently has paved and gravel surface areas on a portion of the site and two temporary structures. The project site is fully enclosed with concrete walls and earthen berms. The existing structures are located approximately 258 to 475 feet west of the nearest edge of riparian vegetation along Coyote Creek. The project would occur as close as 70 feet of the nearest edge of riparian vegetation. In addition, four new temporary buildings would be transported to and installed on temporary movable foundations on-site, approximately 440 feet west of the nearest edge or riparian vegetation along Coyote Creek. All proposed parking areas would be located within areas that are currently paved/gravel and have been used for parking and storage activities as recently as November 2021. The parking spaces located nearest to the creek would be designated for vehicle storage only and would not be occupied, thereby reducing the level of activity, noise, and light levels within the site nearest to the riparian corridor.

In addition, as discussed under checklist question a above, the project would include installation of up to 40 new lights along the perimeter and throughout the project site. Lights would be illuminated from sunset to sunrise every day. This would increase lighting levels on-site compared to existing conditions. However, all proposed lighting on-site would be oriented downward, toward the center of the site, and include shielding material to minimize light spillover into the riparian corridor, consistent with the City's Riparian Corridor Policy.

For the reasons discussed above, the project would not result in a substantial adverse effect on any riparian habitat or other sensitive natural community. **(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 currently has existing paved and gravel surface parking/storage areas on a portion of the site, two small temporary structures. The nearest wetlands are Coyote Creek and Upper Penitencia Creek, approximately 32 feet east of the project site. The project would involve improvements to the site to allow for the up to 10-year operation of legal parking for individuals living out of their RVs and cars. No implementation or operations activities would occur within or adjacent to wetland areas. For this reason, implementation of the project would not result in a substantial adverse effect on State or federally protected wetlands. **(Less than Significant Impact)**

[25] Santa Clara Valley Habitat Agency. Santa Clara County Habitat Plan. August 2012. Figure 6-2.

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 located approximately 32 feet west of Coyote Creek. There is currently no direct access from the site to the creek. The site itself does not support a watercourse or provide habitat that facilitates the movement of any native resident or migratory fish or wildlife species. In addition, the site is surrounded by urban development that further discourages wildlife movement. Therefore, the site has limited potential to serve as a migratory corridor for wildlife and the project would not result in an impact to native resident or migratory species.

As discussed in Section 3.3 Project Description, the project would include installation of 4 new temporary structures on-site. Due to the low height of these structures (up to 10 feet in height), minimal windows, and distance from the Coyote Creek riparian corridor (approximately 450 feet), the potential for avian collision with the structures would be low and any deaths resulting from collision with the proposed temporary structures would represent a very small portion of the regional populations and would not represent a substantial portion of any species. For these reasons, the project would not substantially interfere with movement of native species due to avian collision with new structures.**(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?

As discussed above, there are 17 existing trees on the project site. With implementation of the project, all existing trees would be retained, and new trees and shrubs would be planted in containers along the southeastern project boundary. Because no tree removal is proposed, the project would not be subject to the City's Tree Removal Control policies (Municipal Code Section 13.31.010 to 13.32.100) and the project would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. **(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 Habitat Plan study area and is designated as Urban-Suburban land. The project site is not identified as important habitat for endangered and threatened species. Therefore, the project would not result in direct impacts to the Habitat Plan's covered species and would not be required to pay any land cover fees.

Nitrogen deposition is known to have damaging effects on many of the serpentine plants in the

Habitat Plan area, as well as the host plants that support the federally endangered Bay checkerspot butterfly. Mitigation for the impact of nitrogen deposition upon serpentine habitat and the Bay checkerspot butterfly can be correlated to the amount of new vehicle trips that a project is expected to generate. Fees collected under the Habitat Plan for new vehicle trips can be used to purchase conservation land for the Bay checkerspot butterfly. The Habitat Plan requires nitrogen deposition fees for all study area projects that generate new vehicle trips in order to address cumulative nitrogen deposition impacts. As discussed in Section 4.9 Noise, the project site is currently vacant and does not generate any vehicle trips under existing conditions. Implementation of the project would generate new vehicle trips to/from the project site from program participants and staff traveling to and from the site each day. But participant vehicle trips already exist within the City boundaries. Therefore, the project would not be subject to Habitat Plan nitrogen deposition fees. **(No Impact)**

# 4.4 Cultural Resources

## 4.4.1 Environmental Setting

### 4.4.1.1 *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.

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.[26]

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.

[26] California Office of Historic Preservation. "CEQA Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6." Accessed October 16, 2023. https://ohp.parks.ca.gov/?page_id=21721.

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.

## Local

San José Historic Preservation Ordinance

The City of San José Historic Preservation Ordinance (Chapter 13.48 of the Municipal Code) is designed to identify, protect, and encourage the preservation of significant resources and foster civic pride in the City's cultural resources. The Historic Preservation Ordinance requires the City to establish a Historic Landmarks Commission, maintain a Historic Resources Inventory (HRI), preserve historic properties using a Landmark Designation process, require Historic Preservation Permits for alterations of properties designated as a Landmark or within a City historic district, and provide financial incentives through a Mills Act Historical Property Contract.

City Council's Development Policy on the Preservation of Historic Landmarks

The City Council's Development Policy on the Preservation of Historic Landmarks (as amended May 23, 2006) calls for preservation of candidate or designated landmark structures, sites, or districts wherever possible. The City also has various historic design guidelines that suggest various methods for the restoration or rehabilitation of older/historic structures and establish a general framework for the evaluation of applications involving historic preservation issues. The City offers a number of historic preservation incentives, including use of the State Historic Building Code, Mills Act/Historical Property Contracts, and various land use and zoning incentives.

Envision San José 2040 General Plan

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

| Policy | Description |
|---|---|
| LU-13.4 | Require public and private development projects to conform to the adopted City Council Policy on the Preservation of Historic Landmarks. |
| LU-13.15 | Implement City, State, and federal historic preservation laws, regulations and codes to ensure the adequate protection of historic resources. |
| LU-14.1 | Preserve the integrity and enhance the fabric of areas or neighborhoods with a cohesive historic character as a means to maintain a connection between the various structures in the area. |
| LU-14.4 | Discourage demolition of any building or structure listed on or eligible for the Historic Resources Inventory as a Structure of Merit by pursuing the alternatives of rehabilitation, re-use on the subject site, and/or relocation of the resource. |
| ER-10.1 | For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design. |
| ER-10.2 | Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon 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. |
| 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. |

#### 4.4.1.2 *Existing Conditions*

##### Historic Resources

The project site was used as a cattle farm and slaughterhouse from the early 1900s until 1981 when it was converted to a self-storage facility. In 2000, the property was sold to the current property owner and used for storage and sorting of construction and demolition debris for recycling. In 2002 all of the former structures were removed, and the two current temporary structures were installed. The existing structures are not listed on the federal, State, or local register of historic resources, and are not age-eligible for listing on such registers.[27] The nearest historic resource to the project site is a single-family house located at 12320 Mabury Road, approximately 3,291 feet

[27] National Parks Service. "National Register Database and Research". Accessed September 25, 2023. https://www.nps.gov/subjects/nationalregister/database-research.htm#table. California Office of Historic Preservation. "California Historic Resources". Accessed September 25, 2023. https://ohp.parks.ca.gov/ListedResources/?view=county&criteria=43. City of San José. "Historic Resources Inventory". Accessed September 25, 2023. https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/historic-resources/historic-resources-inventory.

(0.6 mile) southeast of the project site.[28]

### Archaeological Resources

Native Americans have 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 3,000 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.[29]

Due to the location of the project site approximately 32 feet east of Coyote Creek, the project site has high potential for as yet unrecorded archaeological resources.

## 4.4.2 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 as pursuant to CEQA Guidelines Section 15064.5? | ☐ | ☒ | ☐ | ☐ |
| c) Disturb any human remains, including those interred outside of dedicated cemeteries? | ☐ | ☐ | ☒ | ☐ |

[28] City of San José. "Historic Resources Inventory". Accessed September 25, 2023. https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/historic-resources/historic-resources-inventory.
[29] City of San José. *Draft Program Environmental Impact Report for the Envision San José 2040 General Plan*. June 2011.

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

As discussed above, there are no historic structures located on or adjacent to the project site. The project would remove the two existing temporary structures on-site and install 4 new temporary structures and improvements to allow for the operation of legal parking facility for individuals living out of their RVs and cars. Therefore, implementation of the proposed project would not result in a significant impact to historic resources. **(No Impact)**

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

As noted above, the project site is located within an archaeologically sensitive area. Therefore, it is possible that subsurface cultural resources could be encountered during project grading, excavation, and utility trenching.

**Impact CUL-1:** Ground disturbing activities associated with project implementation may result in impacts to unrecorded subsurface tribal cultural resources.

**Mitigation Measure:** Implementation of the mitigation measures below would reduce potential impacts to previously undiscovered tribal cultural resources to a less than significant level.

**MM CUL-1.1:** Prior to the start of any demolition or grading activities, the Project Proponent shall submit evidence to the Director of Planning, Building and Code Enforcement or the Director's designee that an Archaeological Monitoring Contractor Awareness Training was held prior to ground disturbance. The training shall be facilitated by the project archaeologist in coordination with a Native American representative from a California Native American tribe who has consulted on the project, is registered with the Native American Heritage Commission (NAHC) for the City of San José, and who is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3.

**MM CUL-1.2:** Prior to initiation of any ground disturbing activities, the Project Proponent shall engage a qualified archaeological monitor and a Native American tribal monitor who is registered with the NAHC for the City of San José and who is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 2108.0.3 and that has consulted on the project. The archaeological and tribal monitors shall be present at the project site during all grading and ground disturbing activities.

In addition to the project specific mitigation measures described above, consistent with City policies, the proposed project would be required to implement the Standard Project Conditions

listed below to further minimize impacts to undiscovered subsurface cultural resources.

**Standard Project Condition:** Implementing the following conditions would reduce impacts of the project on subsurface cultural resources:

- **Subsurface Cultural Resources**. If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of PBCE or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist in consultation with a consulting Native American Tribe(s) registered with the Native American Heritage Commission for the City of San José 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 Supervising Environmental Planner and Historic Preservation Officer of the Department of PBCE and the Northwest Information Center (if applicable). Project personnel should not collect or move any cultural materials.

With implementation of Mitigation Measures CUL-1.1 and CUL-1.2, and the Standard Project Conditions detailed above, the proposed project would have a less than significant impact to as yet unrecorded archaeological resources. **(Less than Significant Impact with Mitigation Incorporated)**

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

As noted above, the site is located within a sensitive area for Native American archaeological resources. Because the project area is within an archaeologically sensitive area for prehistoric occupation near waterways, it is possible that Native American human remains could be located in the area. Trenching for utilities and excavation for fence and light footings could uncover as yet unrecorded burials.

**Standard Project Conditions:** Consistent with General Plan Policy ER-10.2, the project would be required to comply with the following conditions to ensure human remains would not be disturbed.

- **Human Remains.** If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The City shall immediately

notify the Director of PBCE or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner shall make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner shall contact the NAHC within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD shall inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or 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 the mediation by the NAHC fails to provide measures acceptable to the landowner.

With implementation of the above Standard Project Condition, the proposed project would have a less than significant impact to as yet unrecorded human remains. **(Less than Significant Impact)**

# 4.5 Geology and Soils

## 4.5.1 Environmental Setting

### 4.5.1.1 *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 materials 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.

## Local

Envision San José 2040 General Plan

Various policies in the Envision San José 2040 General Plan have been adopted for the purpose of reducing or avoiding impacts related to geological resources, as listed below.

| Policy | Description |
|---|---|
| EC-3.1 | Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces. |
| EC-4.1 | Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended |
| EC-4.2 | Development in areas subject to soils and geologic hazards, including 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 adjacent 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 a soil disturbance of one acre or more, adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any new grading occurring between October 15 and April 15. |
| EC-4.11 | Require the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards and require review and implementation of mitigation measures as part of the project approval process. |
| EC-4.12 | Require review and approval of grading plans and erosion control plans (if applicable) prior to issuance of grading permits by the Director of Public Works. |

City of San José Policies

Title 24 of the San José Municipal Code includes the most recent 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.

#### 4.5.1.2 *Existing Conditions*

##### Regional Geology

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

##### On-site Geologic Conditions

Topography and Soils

The topography of the site is relatively flat with the site being approximately 74 to 77 feet AMSL. The majority of the project site (99.7 percent) is underlain by soils classified as Urban land – Caninecreek-Elder complex with the remaining (0.3 percent) of soil classified as Urban land-Still complex, 0 to 2 percent slopes. Urban land-Caninecreek-Elder soils are found in flood plains and alluvial plains and consist of slightly decomposed plant material and fine sandy loam. Urban land-Still complex soils are also typical of flood plains and alluvial plains and consist of sandy loam, very fine sandy loam, silt loam and loam.[30] In addition, the geological unit/deposit type of the underlaying soil is designated Stream terrace (Qht).

Groundwater

Groundwater in the project area is present between approximately 5 to 15 feet bgs.[31] The project site is not located within a designated groundwater recharge area for the groundwater basin.[32]

Seismic 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

[30] United States Department of Agriculture. "Websoil Survey." Accessed October 16, 2023. https://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx
[31] City of San José. *San José Flea Market PD Rezoning Draft Environmental Impact Report.* October 2020.
[32] Santa Clara Valley Water District. *2021 Groundwater Management Plan.* November 2021. Figure 4-2.

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 and no active faults have been mapped on-site; therefore, the risk of rupture is low.[33] Active faults near the project site are shown in Table 4.5-1 and as described in Appendix E.

**Table 4.5-1: Active Faults Near the Project Site**

| Fault | Distance from Site |
|---|---|
| San Andreas Fault Zone | 18 miles southwest |
| Hayward Fault Zone | 2.0 miles northeast |
| Calaveras Fault | 4.0 miles northeast |

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 site is located within a State-designated liquefaction hazard zone.[34]

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 the steep banks of Guadalupe River and Coyote Creek.[35] The project site is located approximately 32 feet west of a segment of Coyote Creek with steeply sloping banks where there is potential for lateral spreading.

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.[36] The project area is relatively flat; therefore, the probability of landslides occurring at the site during a seismic event is low.

[33] Department of Conservation. "Earthquake Zones of Required Investigation." Accessed September 13, 2023. https://maps.conservation.ca.gov/cgs/EQZApp/app/
[34] Ibid.
[35] City of San José. *Envision San José 2040 General Plan Draft Program Environmental Impact Report.* Adopted November 1, 2011. As amended on December 14, 2021. P. 504.
[36] County of Santa Clara. "Santa Clara County Geologic Hazards Zones Map". October 25, 2012. Accessed October 16, 2023. https://stgenpln.blob.core.windows.net/document/GEO_GeohazardATLAS.pdf

## 4.5.2 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 will 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? | ☐ | ☐ | ☒ | ☐ |
| 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?

## Fault Rupture

Project site is not located within an Alquist Priolo fault zone.[37] No known surface expression of active faults are known to cross the site.[38] Fault rupture through the site, therefore, is not likely.

## Seismic Ground Shaking

The project site would be subject to strong seismic ground shaking and seismic-related ground failure, including liquefaction 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 condition shall be implemented to ensure the proposed project is designed to address seismic hazards.

**Standard Project 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 structures shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.

With implementation of the above Standard Project 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-site such that it would impact (or worsen) offsite geological and soil conditions.

## Liquefaction

The project site would be subject to strong seismic ground shaking and seismic-related ground

[37] Department of Conservation. "Earthquake Zones of Required Investigation." Accessed September 13, 2023. https://maps.conservation.ca.gov/cgs/EQZApp/app/
[38] Ibid.

failure, including liquefaction 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, all proposed improvements would be built using standard engineering and seismic safety design techniques. Implementation of the Standard Project Condition above would ensure less than significant effects related to liquefaction hazards.

### Landslides

As described in Section 4.5.1.2 Existing Conditions, the project site is not located in a landslide hazard zone. Therefore, the project would not result in impacts related to landslide hazards.

As discussed above, although the project site is located in a seismically active region, and within a liquefaction hazard zone, implementation of the Standard Project Conditions requiring compliance with standard engineering and seismic safety design techniques would ensure project impacts related to seismic hazards are less than significant. **(Less than Significant Impact)**

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

Implementation of the project would involve ground disturbing activities such as grading and trenching for utility connections. These activities would increase the potential for erosion from wind or stormwater runoff. As discussed in Section 4.7 Hydrology and Water Quality, the project would not include implementation activities within or adjacent to Coyote Creek and the project would be required to adhere to the National Pollutant Discharge Elimination System (NPDES) requirements, urban runoff policies, and the City's Grading Ordinance which ensure that erosion control measures are implemented during implementation. Additionally, the project would be required to implement the following Standard Project Conditions:

**Standard Project 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.

Because the project would comply with the State, federal, and local regulations and adhere to the Standard Project Conditions above, implementation of the proposed project would not result in substantial soil erosion or the loss of topsoil. **(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?

The project site is located on relatively flat terrain on the floor of the Santa Clara Valley. There are no unique geologic features on or adjacent to the project site.

Lateral spreading occurs when a liquefied layer of soil is in relatively close proximity to an open free slope such as the bank of a creek. The project site is level and is not located in a landslide hazard zone. [39] However, the project site is located within a liquefaction hazard zone and contains expansive soils.

As noted in Section 3.3.2 Site Improvements, the project would install four temporary structures on temporary foundations on-site. No permanent structures are proposed, therefore, the proposed project would not result in significant impacts related to being located on a geologic unit or soil that is unstable, nor would the project become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse. **(Less than Significant Impact)**

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?

Expansive soils can affect buildings and structures due to fluctuations in volume when saturated. Soils in the project area are considered expansive as defined in Section 1803.5.3 of the California Building Code.[40] However, as noted in Section 3.3.2 Site Improvements, the project would install four temporary structures on temporary foundations on-site to support the proposed project. No permanent structures with foundations that would be affected by expansive soils are proposed; therefore, the proposed project would not create substantial direct or indirect risks to life or property due to the expansive soils underlying the site. **(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?

As noted in Section 3.3.2.5 Utility Connections, the project would connect to the existing sanitary sewer line in Berryessa Road for municipal sanitary sewer service. No septic system or alternative wastewater disposal systems are proposed. Therefore, the project would not result in impacts related to soils incapable of supporting such a system. **(No Impact)**

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

Most of the City of San José is situated on alluvial fan deposits of Holocene age that have a low

[40] City of San José. *San José Flea Market PD Rezoning Draft Environmental Impact Report.* October 2020.

potential to contain significant nonrenewable paleontological resources. However, older Pleistocene sediments present at depths greater than 10 feet bgs have yielded the fossil remains of plants and extinct terrestrial Pleistocene vertebrates. As noted in Section 3.3.2 Site Improvements, implementation of the project would include excavation to a maximum depth of 10 feet bgs for the proposed shade structure footings, 5 feet for light poles, 4 feet for entry gate posts, 3 feet for perimeter fence footings, 30 inches for dog run fencing, and 3 feet for planting of trees. Additionally, excavation to a maximum depth of 4 feet would be required to install the proposed bioretention area. Trenching for utilities would extend to a depth of between 3 and 8 feet bgs. At these depths, the proposed project could disturb undiscovered paleontological resources, if present on-site. Consistent with General Plan Policy ER-10.3, the City shall implement the following Standard Project Condition to reduce or avoid impacts to paleontological resources to a less than significant level.

**Standard Project Condition:**

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

Implementation of the Standard Project Condition discussed above would reduce impacts to paleontological resources to a less than significant level. **(No Impact)**

# 4.6 Hazards and Hazardous Materials

The following discussion is based, in part, on a Phase I Environmental Site Assessment (ESA) prepared by CODA in October 2021 and on a Phase II Subsurface Investigation (Phase II) prepared by Kleinfelder in August 2023. These reports are included as Appendix B to this document.

## 4.6.1 Environmental Setting

### 4.6.1.1 *Regulatory Framework*

#### Overview

The storage, use, generation, transport, and disposal of hazardous materials and waste are highly regulated under federal and state laws. 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

<u>Federal Aviation Regulations Part 77</u>

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.

<u>Comprehensive Environmental Response, Compensation, and Liability Act</u>

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, was enacted by Congress on December 11, 1980. This law created a tax on the chemical and petroleum industries and provided broad federal authority to respond directly to

releases or threatened releases of hazardous substances that may endanger public health or the environment. Over 5 years, $1.6 billion was collected and the tax went to a trust fund for cleaning up abandoned or uncontrolled hazardous waste sites. CERCLA accomplished the following objectives:

- Established prohibitions and requirements concerning closed and abandoned hazardous waste sites;
- Provided for liability of persons responsible for releases of hazardous waste at these sites; and
- Established a trust fund to provide for cleanup when no responsible party could be identified.

The law authorizes two kinds of response actions:

- Short-term removals, where actions may be taken to address releases or threatened releases requiring prompt response; and
- Long-term remedial response actions that permanently and significantly reduce the dangers associated with releases or threats of releases of hazardous substances that are serious, but not immediately life-threatening. These actions can be completed only at sites listed on the EPA's National Priorities List.

CERCLA also enabled the revision of the National Contingency Plan (NCP). The NCP provided the guidelines and procedures needed to respond to releases and threatened releases of hazardous substances, pollutants, or contaminants. The NCP also established the National Priorities List. CERCLA was amended by the Superfund Amendments and Reauthorization Act on October 17, 1986.[41]

Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act (RCRA), enacted in 1976, is the principal federal law in the United States governing the disposal of solid waste and hazardous waste. RCRA gives the EPA the authority to control hazardous waste from the "cradle to the grave." This includes the generation, transportation, treatment, storage, and disposal of hazardous waste. RCRA also sets forth a framework for the management of non-hazardous solid wastes.

The Federal Hazardous and Solid Waste Amendments are the 1984 amendments to RCRA that focused on waste minimization, phasing out land disposal of hazardous waste, and corrective action for releases. Some of the other mandates of this law include increased enforcement authority for the EPA, more stringent hazardous waste management standards, and a comprehensive

[41] United States Environmental Protection Agency. "Superfund: CERCLA Overview." Accessed October 13, 2023. https://www.epa.gov/superfund/superfund-cercla-overview.

underground storage tank program.[42]

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).[43]

Toxic Substances Control Act

The Toxic Substances Control Act (TSCA) of 1976 provides the EPA with authority to require reporting, record-keeping and testing requirements, and restrictions relating to chemical substances and/or mixtures. Certain substances are generally excluded from TSCA, including, among others, food, drugs, cosmetics, and pesticides. The TSCA addresses the production, importation, use, and disposal of specific chemicals including polychlorinated biphenyls (PCBs), asbestos, radon, and lead-based paint.

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 began phasing out use of friable asbestos products in 1973 and issued a ban in 1978 on manufacture, import, processing, and distribution of some asbestos-containing products and new

[42] United States Environmental Protection Agency. "Summary of the Resource Conservation and Recovery Act." Accessed October 13, 2023. https://www.epa.gov/laws-regulations/summary-resource-conservation-and-recovery-act.
[43] California Environmental Protection Agency. "Cortese List Data Resources." Accessed October 13, 2023. https://calepa.ca.gov/sitecleanup/corteselist/.

uses of asbestos products.[44] The EPA is currently considering a proposed ban on on-going use of asbestos.[45] National Emission Standards for Hazardous Air Pollutants (NESHAP) 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 in 1978. Removal of older structures with lead-based paint is subject to requirements outlined by the 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 lead-based paint is peeling, flaking, or blistered, it is required to be removed prior to demolition.

## Regional and Local

Envision San José 2040 General Plan

Various policies in the Envision San José 2040 General Plan have been adopted for the purpose of reducing or avoiding impacts related to hazards and hazardous materials, as listed below.

| Policy | Description |
|---|---|
| EC-6.6 | Address through environmental review for all proposals for new residential, park and recreation, school, day care, hospital, church or other uses that would place a sensitive population in close proximity to site on which hazardous materials are or are likely to be located, the likelihood of an accidental release, the risks posed to human health and or sensitive populations, and mitigation measures, if needed to protect human health. |
| EC-7.1 | For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment. |
| EC-7.2 | Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, State and federal laws, regulations, guidelines and standards. |
| EC-7.4 | On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-paint and asbestos containing materials, shall be implemented in accordance with State and federal laws and regulations. |

[44] United States Environmental Protection Agency. "EPA Actions to Protect the Public from Exposure to Asbestos." Accessed October 16, 2023. https://www.epa.gov/asbestos/epa-actions-protect-public-exposure-asbestos

[45] Ibid.

| | |
|---|---|
| EC-7.5 | On development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and State requirements. |
| EC-7.8 | Where an environmental review process identifies the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce impacts to human health and safety and to the environment are required of or incorporated into the projects. This applies to hazardous materials found in the soil, groundwater, soil vapor, or in existing structures. |
| EC-7.9 | Ensure coordination with the County of Santa Clara Department of Environmental Health, Regional Water Quality Control Board, Department of Toxic Substances Control or other applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists. |
| EC-7.11 | Require sampling for residual agricultural chemicals, based on the history of land use, on sites to be used for any new development or redevelopment to account for worker and community safety during construction. Mitigation to meet appropriate end use such as residential or commercial/industrial shall be provided. |
| 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 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 proposes of Article 3.5 of Chapter 4 of the State Aeronautics Act, Public Utilities Code Section 21670 et seq. |
| CD-5.8 | Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety. |

#### 4.6.1.2 *Existing Conditions*

##### Site History and Current Uses

The project site was used as a cattle farm in the early 1900s and later included a slaughterhouse. By 1981, the cattle farm/slaughterhouse operations terminated, and the property was converted to a self-storage facility with some of the original buildings remaining and several other storage buildings added. The site also previously contained three diesel underground storage tanks (USTs) that were removed along with the surrounding soil. Soil and groundwater sampling were also completed, and on August 19, 1991, and September 4, 1991, the Santa Clara Valley Water District and RWQCB, respectively, issued case closure letters for the former USTs. In 2000, the property was sold to the current property owner and in 2002 all of the former structures were removed, and the two current temporary structures were installed. The site was used as a concrete recycling facility until November 2021 when it was vacated. The project site is currently unoccupied.[46]

[46] Brenner, Alex, Terreno Realty Corporation, personal communication via email with Yen Bui, City of San José, September 26, 2023.

## On-site Contaminants

Although conditions related to the UST have been remediated and a case closure status was issued for the site in 1991, a Phase II subsurface investigation was completed in August 2023 to determine if past industrial uses of the site have impacted shallow soils and whether ground disturbing activities associated with the proposed project would expose workers, nearby receptors, and the environment to hazardous materials.

Soil samples were taken and tested for metals, total petroleum hydrocarbons (TPH), polychlorinated biphynels (PCBs), volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), and asbestos. Analytical results revealed arsenic and cobalt above their respective residential environmental screening limits (ESLs) and arsenic, cobalt, and nickel above their respective construction worker ESLs. However, arsenic and cobalt levels exceeding the residential ESLs were found to be within the naturally occurring background levels for San José.

## Surrounding Uses and Contaminant Sources

The surrounding properties were used for agricultural purposes from the early 1900s until the 1950s when commercial/light industrial uses were developed. No surrounding land uses prior or current were identified as impacting the project site.

## Airports

The Norman Y. Mineta San José International Airport is located approximately 1.9 miles northwest of the project site. As previously mentioned, FAR Part 77 requires that the FAA be notified of certain proposed 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 ground. The project site is located within an area subject to Airspace Safety Review for structures exceeding certain height limits pursuant to CFR Title 14 FAR Part 77.[47] The project site is located within the 165-173 feet AMSL imaginary surface elevation screening contour and has a ground elevation of approximately 74 to 77 feet AMSL. Structures exceeding 91-96 feet above ground level in height require FAA review and approval.

[47] City of San José. Not*ice Requiring Criteria for Filing FAA Form 7460-1, San José International Airport*. July 21, 2020.

## 4.6.2 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, will 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?

Implementation of the project would involve the use of materials that are generally regarded as hazardous, such as gasoline, hydraulic fuels, paint, or other similar materials. Operation of the proposed project would include the use and storage of cleaning supplies and maintenance chemicals in small quantities by future program participants and staff, as well as fuel for individual generators. As noted in Section 3.3.3 Project Operations, up to four outdoor control areas would be designated for storage of fuel. Program participants would be required to store their own fuel within these designated areas and would not be allowed to store fuel in or outside their RV's or

cars. The project would comply with applicable federal, State, and local handling, storage, and disposal requirements, which would avoid significant hazards to the public or the environment created by the routine transport, use, or disposal of these substances. The project, therefore, would not result in a significant hazard to the public or the environment through routine transport, use or disposal of hazardous materials. **(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?

As described in Section 4.6.1.2 Existing Conditions above, on-site soils contain arsenic and cobalt above their respective residential ESLs, but within background levels for San José. Additionally, arsenic, cobalt, and nickel levels were detected above their respective construction worker ESLs. Therefore, ground-disturbing activities associated with implementation of the proposed project could result in exposure of construction workers to contaminants in the soil.

**Impact HAZ-1:** Activities associated with implementation of the project could expose construction workers to arsenic, cobalt, and nickel contaminated soils.

**Mitigation Measures:** The following mitigation measures would be implemented to reduce the risk of exposure to arsenic, cobalt and nickel to less than significant levels.

**MM HAZ-1.1:** Prior to the start of any demolition or grading activities, the Project Proponent shall retain a qualified environmental consultant to prepare a Site Management Plan (SMP) that identifies remedial measures and/or soil management practices to ensure construction worker safety during project implementation. The plan shall be provided to the Director of Planning, Building and Code Enforcement or the Director's designee, and the City's Environmental Compliance Officer in the City of San José Environmental Services Department.

With implementation of Mitigation Measure MM HAZ-1.1, on-site soil contamination would be handled and disposed of in a safe manner. Therefore, the proposed project would not result in a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. **(Less than Significant Impact 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 nearest school to the project site is Empire Gardens Elementary School, located at 1060 East Empire Street, approximately 0.7 mile southwest of the project site. There are no proposed schools in the project vicinity. Therefore, the proposed project would not emit hazardous or acutely

hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. **(No 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?

The project site is not listed on any hazardous materials databases compiled pursuant to Government Code Section 65962.5. Therefore, the project would not create a significant hazard to the public or the environment. **(No 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 nearest airport to the project site is the Norman Y. Mineta San José International Airport, approximately 0.9 mile northwest of the project site. The project site is not located within an airport noise contour or an airport safety zone as shown in Figures 5 and 7 of the Comprehensive Land Use Plan for the Norman Y. Mineta San José International Airport, respectively.[48] However, as noted in Section 4.6.1.2 Existing Conditions above, the project site is located within an area subject to Airspace Safety Review for structures exceeding certain height limits pursuant to CFR Title 14 FAR Part 77.[49] The project site is located within the 165-173 feet AMSL imaginary surface elevation screening contour and has a ground elevation of approximately 74 to 77 feet AMSL. Structures exceeding 91-96 feet above ground level height require FAA airspace review. As noted in Section 3.3.2 Site Improvements, the tallest structures proposed would be the temporary structures which would range from 13 to 16 feet and the shade structures which would range from 10 to 16 feet in height. The light poles would have a height of 25 feet. Therefore, the project would not be subject to the FAA Part 77 Airspace Safety Review process. For these reasons, the project would not result in aircraft safety hazards and would not result in a substantial 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 City of San José adopted the Emergency Operations Plan in February 2019 to prepare the City to respond to emergencies in an efficient and effective manner.[50] The project would not interfere with the Emergency Operations Plan since the proposed temporary structures would be located on

[48] Santa Clara County Airport Land Use Commission. *Comprehensive Land Use Plan Norman Y. Mineta San José International Airport.* Amended November 16, 2016. Figures 5 and 7.
[49] City of San José. Not*ice Requiring Criteria for Filing FAA Form 7460-1, San José International Airport.* July 21, 2020.
[50] City of San José. *Emergency Operations Plan.* Adopted February 2019.

an infill site that would not result in closure, rerouting, or substantial alterations of streets or property access points during or after project implementation. All implementation and staging activities would occur solely on the project site. Therefore, implementation of the project would not physically interfere with an adopted emergency response or evacuation plan. **(No 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 not located in a State Responsibility Area or Very High Fire Hazard Severity Zone for wildfires. The project site is within an urban, developed area of the City that is not subject to wildland fires. Therefore, the project would not expose people or structures to a significant risk involving wildland fires. **(No Impact)**

# 4.7 Hydrology and Water Quality

## 4.7.1 Environmental Setting

### 4.7.1.1 *Regulatory Framework*

**Federal and State**

The federal Clean Water Act and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality in California. Regulations set forth by the EPA and the State Water Resources Control Board (SWRCB) have been developed to fulfill the requirements of this legislation. EPA regulations include the 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 RWQCBs. The project site is within the jurisdiction of the San Francisco Bay RWQCB.

Under Section 303(d) of the federal Clean Water Act, the SWRCB and RWQCBs are required to identify impaired surface water bodies that do not meet water quality standards and develop total maximum daily loads (TMDLs) for contaminants of concern. The list of the State's identified impaired surface water bodies, known as the "303(d) list" can be found on the on the SWRCB's website.[51] Coyote Creek, the nearest waterbody to the project site is included on the 303(d) list for Diazinon, trash, and alkalinity.

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) must be filed with the RWQCB by the project sponsor, and a Storm Water Pollution Prevention Plan (SWPPP) must be prepared by a qualified professional prior to commencement of construction and filed with the RWQCB by the project sponsor. The Construction General Permit includes requirements for training, inspections, record keeping, and, for projects of certain risk

[51] California State Water Resources Control Board. "2020-2022 California Integrated Report (Clean Water Act Section 303(d) List and 305(b) Report)." May 11, 2022. Accessed October 16, 2023. https://www.waterboards.ca.gov/water_issues/programs/water_quality_assessment/2020_2022_integrated_report.html.

levels, monitoring. The general purpose of the requirements is to minimize the discharge of pollutants and to protect beneficial uses and receiving waters from the adverse effects of construction-related storm water discharges.

**Regional and Local**

San Francisco Bay Basin Plan

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

Municipal Regional Permit Provision C.3

The San Francisco Bay RWQCB re-issued the Municipal Regional Stormwater NPDES Permit (MRP) in May 2022 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.[52] Under Provision C.3 of the MRP, new and redevelopment projects that create or replace 5,000 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.

In addition to water quality controls, the MRP requires new development and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation, or other impacts to local rivers, streams, and creeks. Projects may be deemed exempt from these requirements if: (1) the post-project impervious surface area is less than, or the same as, the pre-project impervious surface area; (2) the project is located in a catchment that drains to a hardened (e.g., continuously lined with concrete) engineered channel or channels or enclosed pipes, which extend continuously to the Bay, Delta, or flowcontrolled reservoir, or, in a catchment that drains to channels that are tidally influenced; or (3) the project is located in a catchment or subwatershed that is highly developed (i.e., that is 70

[52] California Regional Water Quality Control Board San Francisco Region. Municipal Regional Stormwater NPDES Permit, Order No. R2-2022-0018, NPDES Permit No. CAS612008. May 11, 2022.

percent or more impervious).[53]The project site is located within a watershed with greater than or equal to 65 percent impervious surfaces.

Water Resources Protection Ordinance and District Well Ordinance

Valley Water operates as the flood control agency for Santa Clara County. Valley Water also provides stream stewardship and is the wholesale water supplier throughout the county, which includes the groundwater recharge program. Well construction and deconstruction permits, including borings 45 feet or deeper, are required under Valley Water's Well Ordinance 90-1. Under Valley Water's Water Resources Protection Ordinance, projects within Valley Water property or easements are required to obtain encroachment permits.

2021 Groundwater Management Plan

The 2021 Groundwater Management Plan (GWMP) describes Valley Water's comprehensive groundwater management framework, including existing and potential actions to achieve basin sustainability goals and ensure continued sustainable groundwater management. The GWMP covers the Santa Clara and Llagas subbasins, which are located entirely in Santa Clara County. Valley Water manages a diverse water supply portfolio, with sources including groundwater, local surface water, imported water, and recycled water. About half of the county's water supply comes from local sources and the other half comes from imported sources. Imported water includes the District's State Water Project and Central Valley contract supplies and supplies delivered by the San Francisco Public Utilities Commission (SFPUC) to cities in northern Santa Clara County. Local sources include natural groundwater recharge and surface water supplies. A small portion of the county's water supply is recycled water.

Local groundwater resources make up the foundation of the county's water supply, but they need to be augmented by the District's comprehensive water supply management activities to reliably meet the county's needs. These include the managed recharge of imported and local surface water and in-lieu groundwater recharge through the provision of treated surface water and raw water, acquisition of supplemental water supplies, and water conservation and recycling.[54]

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 5,000 square feet or more of impervious surfaces.

[53] The Hydromodification Applicability Maps developed the permittees under Order No. R2-2009-0074 were prepared using this standard, adjusted to 65 percent imperviousness to account for the presence of vegetation on the photographic references used to determine imperviousness. Thus, the maps for Order No. R2-2009-0074 are accepted as meeting the 70 percent requirement.

[54] Valley Water. *2021 Groundwater Management Plan, Santa Clara and Llagas Subbasins*.November 2021.

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, 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.

Construction Dewatering Waste Discharge Requirements

Each of the RWQCBs regulate construction dewatering discharges to storm drains or surface waters within its Region under the NPDES program and Waste Discharge Requirements.

Envision San José 2040 General Plan

Various policies in the Envision San José 2040 General Plan have been adopted for the purpose of reducing or avoiding impacts related to hazards and hazardous materials, as listed below.

| Policy | Description |
|---|---|
| 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-8.5 | Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff on-site. |
| ER-10.5 | Protect groundwater recharge areas, particularly creeks and riparian corridors. |
| EC-4.1 | Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and stormwater controls. |
| EC-5.1 | The City shall require evaluation of flood hazards prior to approval of development projects within a Federal Emergency Management Agency (FEMA) designated flood plain. 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 flood 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. |
| 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. |

| | |
|---|---|
| EC-7.10 | Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff. |

### 4.7.1.2 *Existing Conditions*

#### Storm Drainage and Water Quality

The water quality of streams, creeks, ponds, and other surface water bodies can be greatly affected by pollution carried in contaminated surface runoff. Pollutants from unidentified sources, known as nonpoint source pollutants, are washed from streets, construction sites, parking lots, and other exposed surfaces into storm drains. Stormwater from urban uses contains metals, pesticides, herbicides, and other contaminants, including oil, grease, asbestos, lead, and animal wastes.

The project site is located within the Coyote Creek watershed.[55] Runoff from the project site and the surrounding area enters the City's storm drainage system, which outfalls to Coyote Creek and/or Upper Penitencia Creek (a tributary of Coyote Creek), located approximately 32 feet northeast of the nearest project site boundary. Stormwater from the site does not currently flow directly to Coyote Creek but enters the storm drain system and discharges via an outfall to the creek. The creek flows north carrying runoff from the storm drains into the San Francisco Bay. Stormwater runoff often contains contaminants such as oil and grease, plant and animal debris (e.g., leaves, dust, and animal feces), pesticides, litter, and heavy metals.

The project site is currently comprised of approximately 89 percent (275,467 square feet) impervious surfaces and 11 percent pervious surfaces (33,809 square feet).

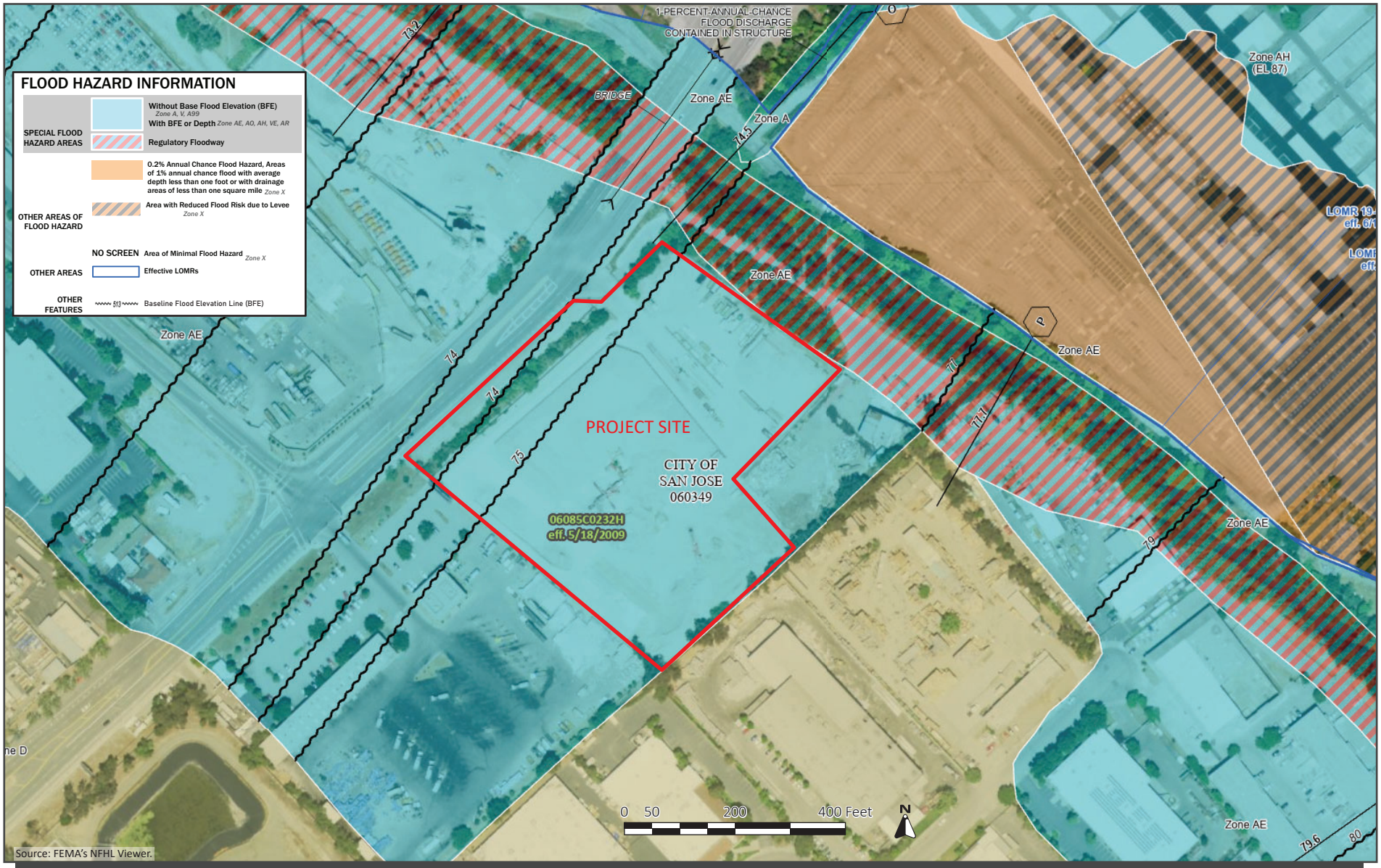
#### Flooding

Based on the FEMA Flood Insurance Rate Map (Map 06085C0232H), the majority of the project site is located within Flood Zone AE with a small portion of the site along the eastern project boundary located within the regulatory flood way of Coyote Creek and a small portion of the site along the northern project boundary designated Zone A (refer to Figure 4.7-1). Flood Zone AE indicates the base floodplain where base flood elevations are provided. Zone A indicates areas with a one-percent annual chance of flooding and a 26-percent chance of flooding over the life of a 30-year mortgage. Because detailed analyses are not performed for such areas; no depths or base flood elevations are shown within these zones.[56]

The base flood elevation for the majority of the site is 77 feet, while the base flood elevations for a portion of the site along the northern project boundary ranges from 74 to 75 feet AMSL.

[55] City of San José. "Watersheds Map." Accessed September 18, 2023. https://www.sanjoseca.gov/home/showpublisheddocument/1240/636618313753300000

[56] FEMA. "Glossary." Last updated 2023. https://www.fema.gov/about/glossary




FLOOD ZONES IN THE PROJECT VICINITY | FIGURE 4.7-1

### 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. A tsunami or tidal wave is a series of water waves caused by displacing a large volume body of water, such as an ocean or a large lake. The project site is not located near a body of water with potential for seiche or tsunami hazards. The project site is flat and there are no mountains in proximity that would affect the site in the event of a mudflow.

### Groundwater

Groundwater in the project area is present between approximately 5 to 15 feet bgs.[57] The project site is not located within a designated groundwater recharge area for the groundwater basin.[58]

### Hydromodification

Based on the Santa Clara Valley Urban Runoff Prevention Program watershed map for the City of San José, the project site is exempt from the NPDES hydromodification requirements because it is located in a subwatershed greater than or equal to 65 percent impervious.[59]

## 4.7.2 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: | ☐ | ☐ | ☒ | ☐ |
| – result in substantial erosion or siltation on- or off-site; | ☐ | ☐ | ☒ | ☐ |

[57] City of San José. *San José Flea Market PD Rezoning Draft Environmental Impact Report.* October 2020.
[58] Santa Clara Valley Water District. *2021 Groundwater Management Plan.* November 2021. Figure 4-2.
[59] Santa Clara Valley Urban Runoff Pollution Prevention Program. "Hydromodification Management Applicability Maps." Accessed September 18, 2023. https://scvurppp.org/swrp/docs-maps/

| | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact |
|---|---|---|---|---|
| Would the project: | | | | |
| – 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?

## Implementation Impacts

Implementation activities (e.g., grading, excavation, and trenching) on the project site may result in temporary impacts to surface water quality. When disturbance of underlying soils occurs, the surface runoff that flows across the site may contain sediments that are discharged into the storm drainage system. Implementation of the project would disturb most of the 6.3-acre project site. Since the project would disturb more than one acre of soil, the project would be required to comply with the NPDES General Permit for Construction Activities. Because the project would include replacement of more than 10,000 square feet of impervious surfaces, the project would also be subject to the requirements of the RWQCB MRP. Furthermore, all projects in San José are required to comply with the City's Grading Ordinance. The City of San José Grading Ordinance requires the use of erosion and sediment controls to protect water quality while improvements are being implemented on site. Prior to the start of ground disturbing activities occurring during the rainy season (October 1st to April 30th), the City would be required to prepare an Erosion Control Plan that details the BMPs that would be implemented to prevent the discharge of stormwater pollutants.

Pursuant to NPDES General Construction Permit and City requirements, the following Standard Project Condition would be required during implementation of the project to reduce potential water quality impacts from ground disturbing activities.

**Standard Project Condition:**

Consistent with the General Plan, measures shall be implemented to prevent stormwater pollution and minimize potential sedimentation during construction including, but not limited to, the following:

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- Stockpiles of soil or other materials that can be blown away by the wind shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be required to cover all trucks or 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 knock mud from truck tires prior to entering City streets. A tire wash system shall be installed if requested by the City.
- The City 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 the implementation of the above Standard Project Conditions, project implementation would not result in significant water quality impacts from ground disturbing activities.

## Operational Impacts

The project would replace more than 5,000 square feet of existing impervious surface area; therefore, it is considered a regulated project under Provision C.3 of the MRP. Additionally, all projects within the City are required to comply with the City's Post-Construction Urban Runoff Policy 6-29. As such, numerically sized bioretention basins would be provided to meet the on-site runoff treatment requirements. Stormwater would be retained to reduce the amount and rate of stormwater runoff prior to discharge into the City storm drain in Berryessa Road. Stormwater from the site would not be discharged directly to Coyote Creek. For these reasons, the proposed project would not result in significant impacts.

As discussed above, implementation and operation of the proposed project could result in impacts to water quality in the project area, however compliance with existing regulations and Standard Project Conditions would ensure that the project related water quality impacts are less than significant. **(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 located in a developed urban area and is not within a designated groundwater recharge zone for the groundwater basin.[60] As discussed in Section 4.7.1.2 Existing Conditions, groundwater in the project area ranges from 5 feet to 15 feet bgs. Implementation of the project would include excavation to a maximum depth of 10 feet bgs for the proposed shade structure footings, 5 feet for light poles, 4 feet for entry gate posts, 3 feet for perimeter fence footings, 30 inches for dog run fencing, and 3 feet for planting of trees. Additionally, excavation to a maximum depth of 4 feet would be required to install the proposed bioretention area. Trenching for utilities would extend to a depth of between 3 and 8 feet bgs. Therefore, dewatering may be required temporarily during implementation until footings and utilities are installed. The proposed project does not include installation of new groundwater wells, such that operation of the project would deplete groundwater supplies. For these reasons, implementation of the proposed project would not substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project would impede implementation of a sustainable groundwater management plan. **(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?

The project site does not contain any waterways. The nearest waterway to the project site is Coyote Creek, approximately 32 feet northeast of the project site. The project does not include any work within Coyote Creek. Therefore, the proposed project would not alter the course of a stream or river. As discussed under checklist question a above, implementation on-site will comply with the NPDES General Permit for Construction Activities, MRP, and the City's Standard Project Conditions to ensure implementation activities do not result in increased soil erosion and siltation. Furthermore, the project would not increase impervious surfaces on-site above existing conditions, and direct stormwater to new bioretention facilities along the southern project boundary where it would be retained and treated prior to entering the municipal storm drainage system. For these reasons, the project would not substantially alter the existing drainage pattern of the site or area or substantially increase the rate or amount of surface runoff on-site, 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, siltation, or flooding on- or off-site. **(Less than Significant**

[60] Santa Clara Valley Water District. 2021 Groundwater Management Plan. November 2021. Figure 4-2.

**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 a seiche or tsunami.

As noted in Section 4.7.1.2 Existing Conditions, the project site is located within two special hazard flood zones (Flood Zone AE and Zone A).[61] Furthermore, as discussed in Section 4.6 Hazards and Hazardous Materials, on-site soils are impacted by arsenic, cobalt, and nickel and the project would involve storage of fuel for generators on-site during operation. Therefore, implementation of the project could result in the release of pollutants during inundation by flood waters. However, compliance with applicable federal, State, and local handling, storage, and disposal requirements would avoid significant hazards to the public or the environment created by the routine transport, use, or disposal of these substances. The project, therefore, would not result in significant impacts related to the release of pollutants due to project 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?

As discussed in checklist questions a) and b), the proposed project would implement Standard Project Conditions and would be required to comply with the Post-Construction Urban Runoff Policy 6-29 and Provision C.3 of the RWQCB MRP requirements.

The project would not impact groundwater recharge, consistent with the SCVWD's 2021 Groundwater Management Plan. Therefore, the project would not conflict with implementation of a water quality or groundwater management plan. **(Less than Significant Impact)**

[61] FEMA. "Glossary." Last updated 2023. https://www.fema.gov/about/glossary

# 4.8 Land Use and Planning

## 4.8.1 Environmental Setting

### 4.8.1.1 *Regulatory Framework*

Local

Envision San José 2040 General Plan

Various policies in the Envision San José 2040 General Plan have been adopted for the purpose of reducing or avoiding impacts related to land use, as listed below.

| Policy | Description |
|---|---|
| CD-4.9 | For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street). |
| IP-1.8 | 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 that require special consideration due to those constraints. |
| IP-1.9 | 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. |
| LU-9.5 | Require that new residential development be designed to protect residents from potential conflicts with adjacent land uses. |
| TR-14.3 | For development in the Airport Influence Area overlays, ensure that land use 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. |

Zoning Ordinance

The Zoning Ordinance serves as an implementing tool for the General Plan by establishing detailed, parcel-specific development regulations and standards. The Zoning Ordinance divides the City of San José into zoning districts to guide future land uses.

### 4.8.1.2 *Existing Conditions*

Project Site

The site is designated as Heavy Industrial in the General Plan and is in a Heavy Industrial Zoning

District.[62] The Heavy Industrial General Plan land use designation and Zoning District allows for industrial users with nuisance or hazardous characteristics which for reasons of health, safety, environmental effects, or welfare are best segregated from other uses. The Heavy Industrial designation is applied only to areas where heavy industrial uses presently predominate. Because of the limited supply of land available for heavy industrial uses, the Land Use Policies in the Envision General Plan restrict land use changes in areas reserved exclusively for industrial uses.[63] [64]

## 4.8.2 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?

The project site has a Heavy Industrial General Plan land use designation and is zoned Heavy Industrial.[65] The site is currently separated from the surrounding land uses by a wall along the eastern property line, an earthen berm along the southern property line, and a concrete block wall along the southern and western property lines, and roadways. Implementation of the project would include improvements to an existing fully enclosed site to allow for parking for RVs and cars. All above-grade improvements would be temporary, removable, and made within the site and would, therefore, not result in the division of an established community. **(No Impact)**

[62] City of San José. "General Plan Map." Accessed September 14, 2023. https://csj.maps.arcgis.com/apps/instant/lookup/index.html?appid=ef685f767b484eb6bcfc70f8fb651ef6 and City of San José. "Zoning Map." Accessed September 14, 2023. https://www.arcgis.com/apps/webappviewer/index.html?id=6f379e130e9a43ab9dee28806ed2c885&extent=-13574341.156%2C4480904.8205%2C-13559818.1207%2C4490039.0454%2C102100

[63] City of San José. *Envision San José 2040 General Plan*. Adopted November 1, 2011. Amended May 12, 2023.

[64] City of San José. Municipal Code Section 20.50.010, Industrial zoning districts. September 28, 2023.

[65] City of San José. "General Plan Map." Accessed September 14, 2023. https://csj.maps.arcgis.com/apps/instant/lookup/index.html?appid=ef685f767b484eb6bcfc70f8fb651ef6 and City of San José. "Zoning Map." Accessed September 14, 2023. https://www.arcgis.com/apps/webappviewer/index.html?id=6f379e130e9a43ab9dee28806ed2c885&extent=-13574341.156%2C4480904.8205%2C-13559818.1207%2C4490039.0454%2C102100

a) 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?

General Plan Policies IE-1.1 and IE-1.12 call for the retention of employment uses and provision of buffer areas between uses when developing housing near to active industrial areas. Additionally, the Employment Lands Preservation Framework calls for the preservation of existing industrial lands and discouraging conversion of these lands to residential uses. As noted in Section 3.3 Project Description, the proposed temporary parking use is intended to address the current housing and homelessness crisis and would not involve development of any permanent structures or housing units on-site and would not preclude use of the site for industrial job land in the future. Operation of the site would be in conformance with the guidelines in Municipal Code Section 20.80.1675. Furthermore, as discussed throughout this Initial Study, the project would implement Mitigation Measures and Standard Project Conditions that require compliance with applicable plans, policies, and regulations to reduce the environmental effects of the project to a less than significant level. For these reasons, the project would not result in a significant impact due to conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. **(Less than Significant Impact)**

# 4.9 Noise

## 4.9.1 Environmental Setting

### 4.9.1.0 *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 equivalent continuous sound level ($L_{eq}$), DNL, or CNEL.[66] 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.

[66] $L_{eq}$ 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 5 dB applied to noise occurring between 7:00 PM and 10:00 PM. Where traffic noise predominates, the CNEL and DNL are typically within 2 dBA of the peak-hour $L_{eq}$.

### 4.9.1.1 *Regulatory Framework*

## Federal

Federal Transit Administration Vibration Limits

The Federal Transit Administration (FTA) has developed vibration impact assessment criteria for evaluating vibration impacts associated with transit projects. The FTA has proposed vibration impact criteria based on maximum overall levels for a single event. The impact criteria for groundborne vibration are shown in Table 4.9-1 below. These criteria can be applied to development projects in jurisdictions that lack vibration impact standards.

**Table 4.9-1: Groundborne Vibration Impact Criteria**

| Land Use Category | Groundborne Vibration Impact Levels (VdB inch/sec) | | |
|---|---|---|---|
| | Frequent Event | Occasional Events | Infrequent Events |
| **Category 1:** Buildings where vibration would interfere with interior operations | 65 | 65 | 65 |
| **Category 2:** Residences and buildings where people normally sleep | 72 | 75 | 80 |
| **Category 3:** Institutional land uses with primarily daytime use | 75 | 78 | 83 |

Source: Federal Transit Administration. *Transit Noise and Vibration Assessment Manual.* September 2018.

## State and Local

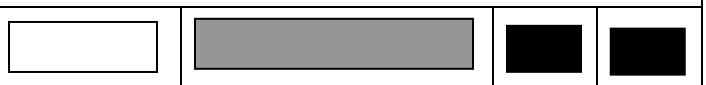
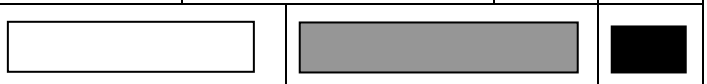
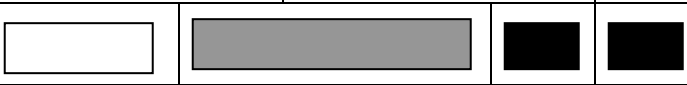
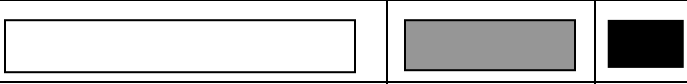
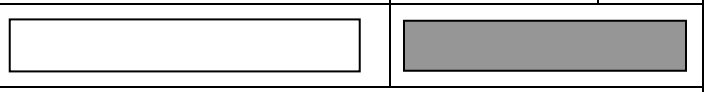
California Green Building Standards Code

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.

Envision San José 2040 General Plan

The 2040 General Plan includes the following noise policies applicable to the proposed project. The City's noise and land use compatibility guidelines are shown in Table 4.9-2, below. The City's 2040 General Plan establishes an acceptable exterior noise level of 60 dBA DNL or less for residential and most institutional land uses, including schools. Outdoor sports and recreation areas and playgrounds are considered acceptable in noise environments of 65 dBA DNL or less.

**Table 4.9-2: General Plan Land Use Compatibility Guidelines**

| Land Use Category | Exterior DNL Value in Decibels<br>55 60 65 70 75 80 |
|---|---|
| Residential, Hotels and Motels, Hospitals and Residential Care[1] |  |
| Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds |  |
| Schools, Libraries, Museums, Meeting Halls, and Churches |  |
| Office Buildings, Business Commercial, and Professional Offices |  |
| Sports Arena, Outdoor Spectator Sports |  |
| Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters |  |
| Notes: [1]Noise mitigation to reduce interior noise levels pursuant to Policy EC-1.1 is required. | |
|  | **Normally Acceptable:**<br>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:**<br>Specified land use may be permitted only after detailed analysis of the noise reduction requirements and noise mitigation features included in the design. |
|  | **Unacceptable:**<br>New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies. |

| Policies | Description |
|---|---|
| EC-1.1 | Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, State and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include:<br>Interior Noise Levels<br>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.<br>Exterior Noise Levels<br>The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses [refer to Table EC-1 in the General Plan or Table 4.13-1 in this IS]. The acceptable exterior noise level objective is established for the City, except in the environs of the San José International Airport and the Downtown, as described below: |

| | |
|---|---|
| | For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. Some common use areas that meet the 60 dBA DNL exterior standard will be available to all residents. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. On sites subject to aircraft overflights or adjacent to elevated roadways, use noise attenuation techniques to achieve the 60 dBA DNL standard for noise from sources other than aircraft and elevated roadway segments. |
| EC-1.2 | Minimize the noise impacts of new development on land uses sensitive to increased noise levels [Land Use Categories 1, 2, 3 and 6 in Table EC-1 in the General Plan] 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:<br>Cause the DNL at noise sensitive receptors to increase by 5 dBA DNL or more where the noise levels would remain "Normally Acceptable"; or<br>Cause the DNL at noise sensitive receptors to increase by 3 dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level. |
| 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:<br>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.<br>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. |
| EC-2.3 | Require new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, including ruins and ancient monuments or building that are documented to be structurally weakened, a continuous vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A continuous vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Equipment or activities typical of generating continuous vibration include but are not limited to: excavation equipment; static compaction equipment; vibratory pile drivers; pile-extraction equipment; and vibratory compaction equipment. Avoid use of impact pile drivers within 125 feet of any buildings, and within 300 feet of historical buildings, or buildings in poor condition. On a project-specific basis, this distance of 300 feet may be reduced where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction. Transient vibration impacts may exceed a vibration limit of 0.08 in/sec PPV only when and where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction. |

#### 4.9.1.2 *Existing Conditions*

The project site is located on Berryessa Road in northeast San José and is surrounded by industrial uses to the north, west, and south and by the San José Flea Market to the east, across Coyote Creek

from the project site. The nearest noise sensitive receptors to the project site are the residences located at 1501 Berryessa Road, approximately 935 feet from the center of the project site (1,275 feet from the nearest points of the property lines).

To establish the environmental baseline for the project, noise data contained in the City of San José General Plan were reviewed along with noise data from the nearby San José Flea Market Planned Development Rezoning (File Number: PDC 17-051) that was subject to noise monitoring. A review of these data indicates that the noise environment in the project vicinity is primarily the result of vehicular traffic along Berryessa Road. The General Plan noise contour information shows that noise levels at boundaries of the project site nearest to Berryessa Road range from approximately 65 to 70 dBA DNL. Noise levels along Berryessa Road are not projected to measurably increase by 2035.[67]

Noise data quantified by Illingworth & Rodkin, Inc. for the nearby San José Flea Market development in 2019 indicates that ambient noise levels ranged from 61 dBA DNL at LT-5, which is representative of the noise environment at the project site nearest to Coyote Creek, to 69 dBA Leq at ST-2, which is representative of the noise environment at the nearest residences on Berryessa Road (see Figure 4.9-1). [68]

[67] City of San José. *Draft Program Environmental Impact Report for the Envision San José 2040 General Plan*. June 2011. Appendix C.
[68] City of San José. *San José Flea Market PD Rezoning, Draft Environmental Impact Report*. October 2020. Page 191.


LOCATION OF NOISE MEASUREMENTS | FIGURE 4.9-1

## 4.9.2 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?

### Implementation Noise

Policy EC-1.7 of the City's General Plan requires the use of best available noise suppression devices and techniques and to limit construction hours near residential uses per the Municipal Code, which are between 7:00 AM and 7:00 PM on weekdays when construction occurs within 500 feet of a residential land use. Further, the City considers a significant construction noise impact to occur if a project is located within 500 feet of a residential use or 200 feet of a commercial or office use and would involve substantial noise-generating activities continuing for a period of more than 12 months.

As noted in Section 3.3.2.6 Implementation, project implementation would occur from 7:00 AM to 7:00 PM Monday through Friday for a period of 10 to 12 months. The proposed project would be located approximately 935 feet southwest of the nearest residential use, as measured from the nearest points on the property lines. The nearest commercial use to the project site is the San José Flea Market, located approximately 210 feet east of the project site. Therefore, implementation activities associated with the proposed project would not result in a significant temporary increase in noise levels for nearby sensitive receptors and impacts would be less than significant.

## Operational Noise Impacts

### Traffic Noise

Based on the General Plan Safety and Noise Policy 7.2, a significant impact would occur if the permanent noise level increase due to project-generated traffic was 3 dBA CNEL and exceeded the "normally acceptable" level of 60 dBA or if the noise level increase from the project was 5 dBA CNEL or greater and remained within the "normally acceptable" range.

As noted in Section 4.9.1.2 Existing Conditions above, noise levels at the project site range from 61 to 70 dBA. Thus, if project-generated traffic noise would increase by 5 decibels or more (equal to a doubling of traffic on local roadways), impacts would be significant. Berryessa Road at the intersection of Commercial Street has an average daily traffic volume of 13,329 trips under existing conditions.[69] As noted in Section 3.3 Project Description, the project would include 176 parking spaces (including 85 lived-in RV parking spaces, 41 unoccupied RV parking spaces, 46 standard car parking spaces, and 4 ADA car parking spaces) and approximately 24 staff members on-site. Assuming two vehicle trips for each lived-in RV and standard car parking space as well as two trips for every employee, the project would generate approximately 310 vehicle trips per day. This is 0.23 percent of the total existing daily traffic volume on Berryessa Road and would not result in a doubling of traffic on roadway segments in the project vicinity.[70] The project alone, therefore, would not result in a significant, permanent noise increase.

### Generator Noise

As discussed in Section 3.3.3 Project Operations, Program participants would be allowed to use generators at their RVs between the hours of 7:00 AM and 10:00 PM. Generator noise varies based on the make, model, fuel type, and age of the generator. However, generators typically produce noise levels of ranging from 58 to 69 dBA at a distance of 23 feet when they are mounted in an RV compartment and can generate noise levels up to 80 dBA if mounted on an open steel frame.[71]

As discussed in Section 4.9.1.2 Existing Conditions above, existing ambient noise levels at the project site range from 65 to 70 dBA. In accordance with the General Plan Policy EC-1.3, noise levels from mechanical equipment would be limited to 55 dBA DNL at the property line of noise-sensitive land uses. Due to the distance between the project site and the nearest noise-sensitive receptors (residences at 1501 Berryessa Road), approximately 935 feet northeast of the project site, and because noise levels decrease at a rate of 6 dBA every time the distance from the source is doubled, generator noise associated with the proposed project would not exceed the City's threshold of 55 dBA at the nearest residential uses.

[69] City of San José. Traffic Volume Counts in San Jose, CA Map. Webmap. September 19, 2023. https://www.arcgis.com/home/item.html?id=723f618a25944d2b91bb382b61a84d2c
[70] Ibid.
[71] Norwall Power Systems. "Generator Noise Levels – How Loud Are They?" Accessed September 19, 2023. https://blog.norwall.com/generator-information/generator-noise-levels-how-loud-are-they-2/#:~:text=Regular

Noise Levels Expected from Parking Use

Noise associated with the proposed temporary parking use would be similar to typical parking lot sounds and would include vehicle circulation, engine starts, door slams, and human voices. Sounds due to car horns or alarms may also occur on an infrequent basis. The instantaneous noise (i.e., Lmax) of a passing car at 15 miles per hour (mph) typically ranges from 52 dBA to 62 dBA at 50 feet. The noise generated during an engine start is similar. Door slams create lower noise levels. The hourly average noise level resulting from all of these noise-generating activities in a busy parking lot, without taking into account shielding from sound walls or earthen berms, could range from 47 dBA to 57 dBA Leq at a distance of 50 feet from the parking area.[72]

Due to the distance between the project site and the nearest noise-sensitive use (residences at 1501 Berryessa Road), approximately 935 feet northeast of the project site, implementation of the proposed temporary parking use would not result in a significant increase in ambient noise levels or cause an exceedance of City standards in the project vicinity.

As noted in Section 3.0 Project Description, at the end of the 10-year lease agreement when the proposed project is terminated, all above-ground improvements would be removed from the site and the property would be returned to its existing state as an unoccupied industrial site. Therefore, the proposed project would not result in any permanent increases in noise levels.

For the reasons discussed above, the project would not result in the 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 General Plan or noise ordinance, or other applicable standards. **(Less than Significant Impact)**

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

Implementation of the proposed project may generate perceptible vibration when heavy equipment or impact tools (e.g., jackhammers, hoe rams) are used in the vicinity of nearby sensitive land uses. As discussed in Section 3.3 Project Description, implementation activities would include grading, excavation for footings, bioretention facilities, and landscaping, and trenching for utility lines. Impact pile driving (which generates substantial vibration) is not proposed.

According to General Plan Policy EC-2.3, a continuous vibration limit of 0.2 in/sec PPV is used to minimize damage to buildings of conventional construction and a continuous vibration limit of 0.08 in/sec PPV is used to minimize the potential for cosmetic damage to historical structures. The vibration limits contained in this policy are conservative and designed to provide the ultimate level of protection for existing buildings in San José.

[72] City of San José. *Addendum to the Incidental Safe Parking Use Municipal Code Amendments Negative Declaration, Safe Parking Operation at the Santa Teresa Station Site*. September 12, 2022.

A review of the City of San José Historical Resources Inventory identified a residence at 12320 Mabury Road, approximately 3,291 feet (0.6 mile) southeast of the project site, as the only historic resource in the site vicinity.[73] The nearest structure of conventional construction is located at 11740 Berryessa Road, approximately 85 feet south of the project site at the Bay Area Scavengers and Recycling facility.

**Table 4.9-3: Vibration Levels by Equipment Type**

| Equipment | | PPV at 25 ft. (in/sec) | PPV at 50 ft. (in/sec) | PPV at 100 ft. (in/sec) |
|---|---|---|---|---|
| Clam shovel drop | | 0.202 | 0.094 | 0.044 |
| Hydromill (slurry wall) | in soil | 0.008 | 0.004 | 0.002 |
| | in rock | 0.017 | 0.008 | 0.004 |
| Vibratory Roller | | 0.210 | 0.098 | 0.046 |
| Hoe Ram | | 0.089 | 0.042 | 0.019 |
| Large bulldozer | | 0.089 | 0.042 | 0.019 |
| Caisson drilling | | 0.089 | 0.042 | 0.019 |
| Loaded trucks | | 0.076 | 0.035 | 0.017 |
| Jackhammer | | 0.035 | 0.016 | 0.008 |
| Small bulldozer | | 0.003 | 0.001 | 0.001 |

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

As shown in Table 4.9-3, vibration levels from equipment would not exceed the City's 0.2 in/sec PPV threshold for buildings of conventional construction at the nearest structure. Additionally, these vibration levels would not exceed the City's threshold 0.08 in/sec PPV threshold for historic buildings (the nearest historic property is located 3,291 feet from the project site). For these reasons, the project would not result in generation of excessive ground borne vibration. **(Less than Significant Impact)**

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

The nearest airport to the site Norman Y. Mineta San José International Airport, approximately 1.9 miles northwest of the site. The project would be located outside the noise contour levels of 65 dBA

[73] City of San José. Historic Resources Inventory Webmap. Accessed September 19, 2023. https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/historic-resources/historic-resources-inventory

CNEL for the Norman Y. Mineta San José International Airport.[74] As a result, the project would not expose people residing or working in the project area to excessive noise levels. **(No Impact)**

## 4.9.3 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 because General Plan Policy EC-1.1 addresses existing noise conditions affecting a proposed project.

### Residential Outdoor Use Areas

The proposed project would be located in an urban area where ambient noise levels are approximately 61-70 dBA. Therefore, proposed exterior use areas would exceed the City's threshold of 60 dBA for "normally acceptable" noise levels for residential uses. The proposed project would involve improvements to the site to allow operation of a legal parking site for individuals living out of their RVs and cars. As noted in Section 3.2 Existing Conditions, the project site is surrounded by existing industrial uses to the north, south, and west which contribute to the ambient noise levels on-site. Additionally, an existing earthen berm on the northern property line, a wall along the eastern property line, an earthen berm along the southern property line, and a concrete block wall along the southern and western property lines, which provide some noise attenuation.

While ambient noise levels on the project site are within the "conditionally acceptable" range, this is not a standard residential development. As proposed, this is a 10-year project that would provide currently unhoused persons with no designated outdoor use areas a location to live and recreate for a limited period of time until permanent housing can be obtained. Because this is not a permanent residential project, there are no additional structures or design elements that could reduce outdoor noise levels to "normally acceptable". The "conditionally acceptable" noise levels on the project site would not result in the project being inconsistent with the General Plan or Municipal Code.

### Residential Interior Use Areas

Noise levels would be 61-70 dBA at the lived-in RV sites. Due to the materials used in RV construction, these vehicles do not provide noise attenuation to the same degree as standard building construction. Therefore, interior noise levels would be less but similar to exterior levels and would exceed the City's threshold of 45 dBA dNL for interior residential use areas. The proposed project would involve improvements to the site to allow operation of a legal parking site for individuals living out of their RVs and cars. As noted in Section 3.3.3 Project Operations, the proposed project would operate on-site for a period of up to 10 years with program participants transitioning into other housing options within 6 to 12 months. Therefore, no permanent residential units are proposed and the "conditionally acceptable" noise levels on the project site would not

[74] County of Santa Clara. *Comprehensive Land Use Plan, Norman Y. Mineta San José International Airport, 2022 Aircraft Noise Contours, Figure 5*. May 25, 2011. Amended November 16, 2016.

cause the project to be inconsistent with the General Plan or Municipal Code.

# 4.10 Population and Housing

## 4.10.1 Environmental Setting

### 4.10.1.1 *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.[75] The City of San José Housing Element and related land use policies were last updated in January 2015.

#### Regional and Local

Plan Bay Area 2050

Plan Bay Area 2050 is a long-range plan for the nine-county San Francisco Bay Area that provides strategies that increase the availability of affordable housing, support a more equitable and efficient economy, improve the transportation network, and enhance the region's environmental resilience. Plan Bay Area 2050 promotes the development of a variety of housing types and densities within identified Priority Development Areas (PDAs). PDAs are areas generally near existing job centers or frequent transit that are locally identified for housing and job growth.[76]

ABAG allocates regional housing needs to each city and county within the San Francisco Bay Area, based on Statewide goals. These allocations are designed to lay the foundation for Plan Bay Area 2050's long-term envisioned growth pattern for the region. ABAG also develops a series of forecasts and models to project the growth of population, housing units, and jobs in the Bay Area. ABAG, MTC, and local jurisdiction planning staff created the Forecasting and Modeling Report, which is a technical overview of the growth forecasts and land use models upon which Plan Bay Area 2050 is based.

[75] California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements" Accessed September 20, 2023. https://www.hcd.ca.gov/planning-and-community-development/regional-housing-needs-allocation

[76] Association of Bay Area Governments and Metropolitan Transportation Commission. *Plan Bay Area 2050*. October 21, 2021. Page 20.

### 4.10.1.2 *Existing Conditions*

The population of San José was estimated to be approximately 959,256 in January 2023 with an average of 2.86 persons per household.[77][78] This includes approximately 6,266 unhoused people.[79] Of these 6,266 individuals experiencing homelessness in the City, 30 percent are sheltered and the remaining 70 percent are unsheltered.[80] The City currently has approximately 345,798 housing units[81] and by 2040, the City's population is projected to reach 1,337,145 and 448,310 households.[82]

The project site currently contains two small temporary structures and surface parking/storage areas. There are no residential uses on the project site. As noted in Section 4.6 Hazards and Hazardous Materials, the project site has been vacant since November 2021.

## 4.10.2 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? | ☐ | ☐ | ☐ | ☒ |

[77] People experiencing homelessness were accounted for under the total group quarters population in the 2010 and 2020 censuses which are the basis for Department of Finance population projections. Sources: Department of Finance. Population Projections Methodology (2019 baseline – Interim Update). July 2023. And United States Census Bureau. "Census Bureau Releases Report on 2010 Census Emergency and Transitional Shelter Population." Released September 27, 2012. https://www.census.gov/newsroom/releases/archives/2010_census/cb12-183.html#:~:text=People%20in%20emergency%20and%20transitional,and%20targeted%20nonsheltered%20outdoor%20locations.

[78] State of California, Department of Finance. *E-5 Population and Housing Estimates for Cities and Counties, and the State, 2020-2022.* Sacramento, California, May 2022.

[79] City of San Jose. "2023 Homeless Census – Executive Summary." Accessed October 13, 2023.

[80] Ibid.

[81] State of California, Department of Finance. *E-5 Population and Housing Estimates for Cities and Counties, and the State, 2020-2022.* Sacramento, California, May 2022.

[82] ABAG. *Projections 2040: Forecasts for Population, Household, and Employment for the Nine County San Francisco Bay Area Region*. 2017.

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 proposed project is a temporary transitional housing program. The objective of the proposed project is to provide a place for people who are living out of their cars and RVs to park and receive services while they transition into permanent housing. No new housing units or permanent infrastructure is proposed as part of the project. The project would not induce unplanned population growth either directly or indirectly. **(Less than Significant Impact)**

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

The project site contains two small temporary structures and surface parking/storage areas. No housing units are currently on the project site. Implementation of the project would not result in the displacement of people or existing housing or necessitate the construction of housing elsewhere. **(No Impact)**

# 4.11 Public Services

## 4.11.1 Environmental Setting

### 4.11.1.1 *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.

Envision San José 2040 General Plan

Various policies in the Envision San José 2040 General Plan have been adopted for the purpose of

reducing or avoiding impacts related to cultural resources, as listed below.

| Policy | Description |
|---|---|
| FS-5.7 | Encourage school districts and residential developers to engage in early discussions regarding the nature and scope of proposed projects and possible fiscal impacts and mitigation measures early in the project planning stage, preferably immediately preceding or following land acquisition. |
| ES-2.2 | Construct and maintain architecturally attractive, durable, resource-efficient, and environmentally healthful library facilities to minimize operating costs, foster learning, and express in built form the significant civic functions and spaces that libraries provide for the San José community. Library design should anticipate and build in flexibility to accommodate evolving community needs and evolving methods for providing the community with access to information sources. Provide at least 0.59 square feet of space per capita in library facilities. |
| ES-3.1 | Provide rapid and timely Level of Service response time to all emergencies:<br>For police protection, use a response time goal 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.<br>For fire protection, use as a goal a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.<br>Enhance service delivery through the adoption and effective use of innovation, emerging techniques, technologies and operating models.<br>Measure service delivery to identify the degree to which services are meeting the needs of San José's community.<br>Ensure that development of police and fire services facilities and delivery of services keeps pace with development and growth in the city. |
| ES-3.9 | Implement urban design techniques that promote public and property safety in new development through safe, durable construction and include all fire suppression infrastructure and equipment needed for their projects. |
| 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. |
| 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. |
| PR2.4 | To ensure that residents of new project and existing residents in the area benefit from new amenities, spent Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/tot lots, basketball courts, etc.) within a ¾ mile radius of the project site that generates the funds. |

#### 4.11.1.2 *Existing Conditions*

##### Fire Protection Services

Fire protection services for the project site are provided by the SJFD. Fire stations are located throughout the City to provide adequate response times to calls for services. The SJFD responds to all fires, hazardous materials spills, and medical emergencies in the City. Emergency response is

provided by 33 fire stations, 32 engine companies, 9 truck companies, and 3 swat units.[83] The nearest fire station to the project site is Station No. 34 located at 1634 Las Plumas Avenue, approximately 0.75 mile southeast of the project site. The General Plan identifies a service goal of 8 minutes and a total travel time of 4 minutes or less for 80 percent of emergency incidents for fire protection.

## Police Protection Services

Police protection services for the project site are provided by the San José Police Department (SJPD) which is headquartered at 201 West Mission Street, approximately 1.4 miles southwest of the project site. SJPD is divided into 4 geographic divisions: Central, Western, Foothill, and Southern. The project site is served by the SJPD Central Division.[84] The Central Division includes 4 patrol districts totaling approximately 39 square miles.[85] The General Plan identifies a service goal of 6 minutes or less for 60 percent of all Priority 1 (emergency) calls and 11 minutes or less for 60 percent of all Priority 2 (nonemergency) calls.

## Schools

The project site is located in the Orchard School District and the East Side Union High School District. The Orchard School District is a pre-kindergarten through 8th grade school district that provides services to northeast San José.[86] The district includes 1 school, Orchard School, located at 921 Fox Lane. East Side Union High School District primarily serves students from 9th through 12th grade and includes 17 high schools and 2 adult education facilities.[87]

## Parks

The City of San José currently operates 210 parks, 47 community centers, and over 63 miles of trail. Of the 210 parks, 200 are neighborhood parks and 10 are regional parks. Some of the community amenities overseen by the Department of Parks, Recreation, and Neighborhood Services include bike parks, community gardens, park playgrounds, tennis courts, and swimming pools.[88] Watson Park, located at Jackson Avenue and 22nd Street, approximately 0.41 mile southwest of the project site, is the nearest park to the project site.

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[83] City of San José. "About SJFD". Accessed September 20, 2023. https://www.sanjoseca.gov/your-government/departments-offices/fire-department/about-sjfd#:~:text=The%20San%20Jos%C3%A9%20Fire%20Department,areas%20of%20Santa%20Clara%20County.
[84] San José Police Department. "Bureau of Field Operations." Accessed September 20, 2023. https://www.sjpd.org/about-us/organization/bureau-of-field-operations
[85] San José Police Department. "Central Division." Accessed September 20, 2023. https://www.sjpd.org/about-us/organization/bureau-of-field-operations/central-division
[86] Orchard School District. "Orchard School." Accessed September 20, 2023. https://www.orchardsd.org/School/index.html
[87] East Side Union High School District. "Schools." Accessed September 20, 2023. https://www.esuhsd.org/Schools/index.html
[88] City of San José. "Parks and Playgrounds." Accessed September 20, 2023. https://csj.maps.arcgis.com/apps/webappviewer/index.html?id=c1b5d9cee2b94fd88f829397623128d0

### Libraries

The City of San José is served by the San José Public Library System. The San José Public Library System has a total of 25 facilities that serve a population of nearly one million persons.[89] The main library is the Dr. Martin Luther King Jr. Library in downtown San José and there are 24 branch libraries.[90] The nearest public library is the educational Branch Library located at 491 Empire Street, approximately 1.2 miles southeast of the project site.

## 4.11.2 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, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services: | | | | |
| 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 discussed in Section 4.10 Population and Housing, the project would include temporary use of the site as legal parking site for individuals living out of their RVs and cars. No permanent housing is proposed, and the project would serve individuals experiencing homelessness in the City. Therefore, the project would not result in a net increase in the resident population within the city beyond what was previously assumed in the General Plan and analyzed in the General Plan EIR. The existing demand for fire protection services would be adequate to serve the project. For this reason, the proposed project would not result in a substantial adverse physical impact associated

[89] San José Public Library. "Facts and Awards." Accessed September 20, 2023. https://www.sjpl.org/facts
[90] San José Public Library. "Locations." Accessed September 20, 2023. https://www.sjpl.org/locations-menu

with the provision of new or physically altered fire protection 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?

As discussed in Section 4.10 Population and Housing, the project would include temporary use of the site as legal parking for individuals living out of their RVs and cars. No permanent housing is proposed, and the project would serve individuals experiencing homelessness in the City. Therefore, the project would not increase population within the City beyond what was previously assumed in the General Plan and analyzed in the General Plan EIR.

Furthermore, the project would be implemented in accordance with current building codes, operated in accordance with Municipal Code Section 20.80.1675, Conduct of Use, and be maintained in accordance with applicable City policies, such as General Plan Policy ES-3.9, to promote public and property safety. The existing demand for police protection services would be adequate to serve the project. For these reasons, the proposed project would not result in a substantial adverse environmental effect associated with the provision of new or physically altered police protection 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?

It is anticipated that up to approximately 21 RVs would contain school aged children.[91] As discussed under checklist questions a) and b) above, the project would include temporary use of the site as legal parking for individuals living out of their RVs and cars. No permanent housing is proposed, and the project would serve individuals experiencing homelessness in the City. As noted in Section 3.3.3 Project Operations, program participants typically remain at the site for approximately 6 to 12 months before transitioning to other housing options. Due to the short period of time that program participants would occupy the site, and the fact that their children may already be enrolled in schools, the project would generate only a minimal number of new students in the Orchard or East

[91] The project site would be considered a low barrier parking site, meaning that no one who wishes to park on-site would be turned away so long as space is available. Some families with school-aged children may choose to park on-site; however, it is anticipated that most families with children would choose to park at a parking site with stricter controls. Therefore, this analysis conservatively assumes 25 percent of the 85 lived-in RVs may have children.

Side schools if parents chose to move their children to the nearby schools. For these reasons, the project would not result in a substantial adverse physical impact associated with the provision of new or physically altered school facilities. **(No 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 nearest park to the site is Watson Park, located approximately 0.41 mile southwest of the project site. The project would provide legal parking and supportive services to individuals living out of their RVs and cars within the City on a temporary basis, while these individuals transition into permanent housing. The project would operate for a period of up to 10 years. The project would include installation of seating areas, a dog run, and community garden on-site for program participants' use which would offset demand for parks and recreational facilities associated with the project. Therefore, implementation of the proposed project would not result in substantial adverse physical impacts associated with the provision of or need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts in order to maintain acceptable service ratios. **(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?

As discussed in Section 4.10 Population and Housing, the project would include temporary use of the site as legal parking for individuals living out of their vehicles. No permanent housing is proposed, and the project would serve individuals experiencing homelessness in the City. Therefore, the project would not increase the resident population within the City and the proposed project would not require new or expanded library facilities beyond what is already planned in the City to meet service goals. **(Less than Significant Impact)**

# 4.12 Transportation

## 4.12.1 Environmental Setting

### 4.12.1.1 *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 2050 in October 2021, which includes a Regional Transportation Plan to guide regional transportation investment for revenues from federal, State, regional and local sources through 2050.

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 the 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, a 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. 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

Various policies in the Envision San José 2040 General Plan have been adopted for the purpose of reducing or avoiding impacts related to transportation, as listed below.

| Policy | Description |
|---|---|
| TR-1.1 | Accommodate and encourage use of non-automobile transportation modes to achieve San José mobility goals and reduce vehicle trip generation VMT. |
| TR-1.2 | Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects. |
| TR-1.6 | 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-8.4 | Enhance pedestrian activities by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Main Streets, and other locations where appropriate.<br>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.<br>Create easily identifiable and accessible building entrances located on street frontages or paseos. |

| | |
|---|---|
| | Accommodate the physical needs of elderly populations and persons with disabilities.<br>Integrate existing or proposed transit stops into project designs. |
| CD-3.3 | Within new development, create a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets. |

Better Bike Plan 2025

The Better Bike Plan 2025 also known as the Bicycle Master Plan, defines the City's vision to make bicycling safe and convenient for all ages and abilities in all parts of the city. The plan recommends policies, projects, and programs to realize this vision and create a San José community where bicycling is convenient, safe, and commonplace. The Better Bike Plan 2025 focuses on three goals: 1) to increase safety for all people biking in San José and align with Vision Zero San José; 2) to increase the number of trips made by bike in San José; and 3) to apply the plan in a way that serves historically underserved communities. The plan was approved by Council in October 2020.

#### 4.12.1.2 *Existing Conditions*

Roadway access to the project area is described below.

**US-101** is an eight-lane freeway (six mixed-flow and two high-occupancy vehicle lanes) in the vicinity of the project area. US 101 provides connections to Interstate (I-)880, I-680/280, State Route (SR) 237, and SR 87. Access to the project area is provided via an interchange at Oakland Road.

**I-880** is an eight-lane freeway (six mixed-flow and two high-occupancy vehicle lanes) in the vicinity of the project area. It extends along the eastern side of San Francisco Bay from San José to Oakland. South of its interchange with I-280 in west San José, I-880 becomes SR 17 and extends southward to Santa Cruz. Access to and from the project site from I-880 is provided via its interchanges with US 101 and Old Bayshore Highway/Gish Road.

**I-680** is an eight-lane freeway in the vicinity of the site. It extends north to Sacramento and south to an interchange with US-101 in San José, at which point it makes a transition into I-280 to San Francisco. North of SR 237, I-680 has toll express lanes in the southbound direction. Express toll lanes in the northbound direction are currently under construction. Access to and from I-680 to the site is provided via its interchange with Berryessa Road.

**Berryessa Road** is a divided six-lane east-west roadway in the vicinity of the project site, from Commercial Street to the I-680 interchange. Berryessa Road is a four-lane roadway from Commercial Street west to Mabury Road, where it transitions into Hedding Street. In the project vicinity, Berryessa Road has

**Hedding Street** is generally a two-lane east-west roadway that runs west from Mabury Road to Winchester Boulevard, where it transitions to Pruneridge Avenue. North of Mabury Road, Hedding Street transitions to Berryessa Road.

**Commercial Street** is a 3-lane (2 westbound travel lanes and one eastbound travel lane) east/west roadway that runs between Berryessa Road and 13th Street, approximately 750 feet west of Oakland Road, where it transitions to Old Bayshore Highway.

**Oakland Road** is north-south roadway consisting of four lanes between Hedding Street and Commercial Street and six lanes north of Commercial Street until Montague Expressway, where it transitions to Main Street.

## Pedestrian Facilities

Pedestrian facilities near the project site consist of sidewalks along the streets. Sidewalks are found along both sides of all streets near the project site, except for a portion of Commercial Street north of the intersection with Berryessa Road.

Existing sidewalks along Berryessa Road provide a pedestrian connection between the project site and pedestrian destinations in the project vicinity. A missing segment of sidewalk is located along the north side of Commercial Street extending 600 feet west of its intersection with Berryessa Road. A sidewalk is provided along only the east side of King Road between Commodore Drive and Salamoni Court. Sidewalks are not provided along the south side of Mabury Road between Oakland Road and 800 feet west of Taylor Street since the roadway fronts US-101 with no adjacent uses.

## Bicycle Facilities

Bicycle facilities are divided into 3 classes. Class I bikeways are bike paths that are physically separated from motor vehicles and offer two-way bicycle travel. The Penitencia 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 the Berryessa BART Station and extends east of I-680 to Alum Rock Park. 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:

- Berryessa Road between Mabury Road and Piedmont Road
- Lundy Avenue north of Berryessa Road to Trade Zone Boulevard
- Sierra Road between Pietro Drive/Briarberry Court and Mossland Drive
- King Road south of Salamoni Court/Penitencia Creek Trail
- Mabury Road from 21st Street to White Road
- Commercial Street north of Berryessa Road to Zanker Road

Within the Berryessa BART Station, a bike-only path is provided along the east side of Berryessa BART Way between Berryessa Road and Mabury Road. An additional bike path starts approximately 280 feet south of the BART Way/Berryessa Road intersection and provides direct access to the east frontage of the project site. A third bike path located between the BART tracks and station parking garage provides access between Mabury Road and the station entrance. Bike lockers and bike racks are provided at the BART station. Although most of the residential streets near the project site do

not have striped bike lanes and are not designated as bike routes, due to their low traffic volumes many of them are conducive to bicycle usage.

## Transit Services

### VTA Bus Service

The project site is primarily served by 4 VTA bus routes (61, 70, 77, and 500). These bus lines are described in Table 4.12-1, including their terminus points, closest scheduled stop, and commute hour headways. The nearest existing bus stops to the project site are located at the Berryessa BART Station.

**Table 4.12-1: Bus Routes Serving Project Area**

| Transit Service | Route Description | Nearest Stop | Headway |
|---|---|---|---|
| Frequent Route 61 | Sierra Road and Piedmont Road to Good Samaritan Hospital | Berryessa Transit Center | 30 minutes |
| Frequent Route 70 | Milpitas BART to Eastridge Mall via Jackson Street | Berryessa Transit Center | 15 minutes |
| Frequent Route 77 | Milpitas BART to Eastridge Mall via King Road | Berryessa Transit Center | 26 minutes |
| Frequent Rapid Route 500 | Berryessa BART to San José Diridon Station | Berryessa Transit Station | 15 minutes |

### VTA Light Rail Transit Service

The VTA currently operates the 42.2-mile VTA light rail line system extending from south San José through downtown to the northern areas of San José, Santa Clara, Milpitas, Mountain View, and Sunnyvale. The Alum Rock-Santa Teresa light rail transit (LRT) line (Route 901) runs within the median of Capitol Avenue from Alum Rock Avenue to Montague Expressway. The Penitencia Creek LRT Station is located approximately two miles east of the project site and is served by the Alum Rock-Santa Teresa LRT line.

### BART Transit Service

The Berryessa/North San José BART Station, which opened in June 2020, is served by the Richmond-Berryessa/North San José line (Orange line) and the Berryessa/North San José – Daly City line (Green line).

## 4.12.2 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 land 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?

The project would not make any changes to the existing pedestrian, bicycle, or transit facilities in the project area. The proposed project would result in improvements to the fully enclosed project site and would not conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities. **(No Impact)**

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

The proposed parking use would be temporary, operating for up to a maximum of 10 years on the project site. As a temporary use, the project is not subject to a VMT evaluation under the City's Transportation Analysis Policy 5-1. **(No 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)?

Vehicular access to the project site is currently and would continue to be provided via one full-access gated driveway along the northern project boundary at Berryessa Road. According to the City of San José Department of Transportation Geometric Design Guidelines, the minimum width for a driveway serving a multi-family development is 20 feet. The project plans show a full-access driveway measuring 28 feet. Therefore, the driveway would meet the City's requirements for residential developments and the project would have adequate site access. **(Less than Significant**

**Impact)**

d) Would the project result in inadequate emergency access?

Emergency vehicle access to the project site would be provided via the Berryessa Road driveway and travel lanes around and through the proposed parking areas within the site. The driveway and travel lanes throughout the site are designed to accommodate large RVs and are therefore large enough to accommodate emergency vehicles. The site layout has been designed in coordination with the SJFD to ensure adequate access within the project site. For these reasons, the project would not result in inadequate emergency access and would comply with City guidelines for emergency access. **(Less than Significant Impact)**

# 4.13 Tribal Cultural Resources

## 4.13.1 Environmental Setting

### 4.13.1.1 *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.

Envision San José 2040 General Plan

Various policies in the Envision San José 2040 General Plan have been adopted for the purpose of reducing or avoiding impacts related to tribal cultural resources, as listed below.

| Policy | Description |
|---|---|
| ER-10.1 | For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design. |
| ER-10.2 | Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon 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. |

| | |
|---|---|
| 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. |

#### 4.13.1.2 *Existing Conditions*

The City routinely notifies all tribes who are traditionally and culturally affiliated with the geographic area of the City based on the latest list from the NAHC when project documents are available for public review.

## 4.13.2 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 © of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivisi©(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(k)?

The project site is located in an archaeologically sensitive area. Even though the site is disturbed, excavation for the proposed structures would extend up to 10 feet bgs and could uncover unknown tribal cultural resources during project implementation.

Assembly Bill (AB) 52 requires lead agencies to complete formal consultations with California Native American tribes during the CEQA process to identify tribal cultural resources that may be significantly impacted by a project. Where a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. This consultation requirement applies only if the tribes have sent written requests for notification of projects to the Lead Agency. In 2017, the City had sent a letter to tribal representatives in the area to welcome participation in the AB 52 consultation process for all ongoing, proposed, or future projects within the City's Sphere of Influence or specific areas of the City.

On June 17, 2021, Chairwoman Geary of the Tamien Nation verbally requested AB 52 notification of projects in accordance with Public Resources Code Section 21080.3.1 subd (b), for all proposed projects that require a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report. Accordingly, information on the project was shared with Tamien Nation's Chairwoman Geary during a meeting on August 17, 2023. She concurred that the site is located in an area that may have tribal cultural resources and agreed with mitigation measures CUL-1 and CUL-2 identified in Section 4.4 Cultural Resources above.

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 subdiv©on (c) of Public Resources Code Section 5024.1?

No known tribal cultural resources are present at the site. There would be no impact.

# 4.14 Utilities and Service Systems

## 4.14.1 Environmental Setting

### 4.14.1.1 *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 5 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 San José Water Company adopted its most recent UWMP in June 2020.

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 beginning January 1, 2000.

Assembly Bill 341

AB 341 sets forth the requirements of the Statewide mandatory commercial recycling program. Businesses that generate 4 or more cubic yards of garbage per week and multi-family dwellings with 5 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 610

SB 610 amended State law, effective January 1, 2002, to improve the link between information on water supply availability and certain land use decisions made by cities and counties. SB 610 requires preparation of a WSA containing detailed information regarding water availability to be provided to the decision-makers prior to approval of specified large development projects that also require a General Plan Amendment. This WSA must be included in the administrative record that serves as

the evidentiary basis for an approval action by the city or county on such projects. Under SB 610, WSAs must be furnished to local governments for inclusion in any environmental documentation for certain projects subject to CEQA. Pursuant to the California Water Code (Section 10912[a]), projects that require a WSA include any of the following:

- A proposed residential development of more than 500 dwelling units;
- A proposed shopping center or business establishment employing more than 1,000 persons or having more than 500,000 square feet of floor space;
- A proposed commercial office building employing more than 1,000 persons or having more than 250,000 square feet of floor space;
- A proposed hotel or motel, or both, having more than 500 rooms;
- A proposed industrial, manufacturing, or processing plant, or industrial park planned to house more than 1,000 persons, occupying more than 40 acres of land, or having more than 650,000 square feet of floor area;
- A mixed-use project that includes one or more of the projects identified in this list; or
- A project that would demand an amount of water equivalent to, or greater than, the amount of water required by a 500 dwelling unit project.

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. CalRecycle released an analysis titled "Analysis of the Progress Toward the SB 1383 Organic Wase Reduction Goals" in August of 2020, which recommended maintaining the disposal reduction targets set forth in SB 1383.[92]

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

In January 2023, the State of California adopted the most recent version of the California Green Building Standards Code ("CALGreen"), establishing mandatory green building standards for all new and qualifying buildings in California. The code covers 5 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;

[92] CalRecycle. Analysis of the Progress Toward the SB 1383 Organic Wase Reduction Goals. August 18, 2020. https://www2.calrecycle.ca.gov/Publications/Details/1693#:~:text=Analysis%20of%20the%20Progress%20Toward,(DRRR%2D2020%2D1693)&text=SB%201383%20establishes%20targets%20to,75%20percent%20reduction%20by%202025.

- Reducing wastewater by 20 percent;
- Recycling and/or salvaging 50 percent of nonhazardous construction and demolition ("C&D") debris, or meeting the local construction and demolition waste management ordinance, whichever is more stringent (see San José-specific CALGreen building code requirements in the local regulatory framework section below); and
- Providing readily accessible areas for recycling by occupants.

**Local**

Envision San José 2040 General Plan

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

| 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.

San José Zero Waste Strategic Plan/Climate Smart San José

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

San José Sewer System Management Plan

The purpose of the Sewer System Management Plan is to provide guidance to the City in the operation, maintenance, and rehabilitation of the sewer assets of the City of San José. The Sewer System Management Plan 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.

Construction and Demolition Diversion Deposit Program

The Construction and Demolition Diversion Deposit Program 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).

### 4.14.1.2 *Existing Conditions*

The project site and surrounding area is a developed urban environment and is currently served by existing utility and service systems.

#### Water

Water service to the project site is provided by San José Water Company (SJWC).[93] The service area for SJWC spans 145 square miles, including most of the cities of San José and Cupertino, the entire cities of Campbell, Monte Sereno, Saratoga, the Town of Los Gatos, and parts of unincorporated Santa Clara County. Potable water provided to the service area is sourced from groundwater, imported treated water, local surface water, and recycled water. Approximately 50 percent of SJW's water supply is purchased from Valley Water.

SJWC adopted an UWMP in June 2021 to assess water supply and demand requirements within the service area. The UWMP accounted for existing and planned growth analyzed in the General Plan FEIR and found sufficient water supplies would be available during normal, single-dry, and multiple-dry years within its service area without conservation measures.[94]

An existing 17-inch water main is located in Berryessa Road. A recycled water supply connection is located less than 1-mile west of the project site in Berryessa Road, approximately 400 feet east of US 101.

The project site is currently unoccupied; therefore, there is no water demand.

#### Wastewater

Wastewater from the City is treated at the San José/Santa Clara Regional Wastewater Facility (Facility) which is administered and operated by the City of San José Department of Environmental Services. The Facility provides primary, secondary, and tertiary treatment of wastewater and has the capacity to treat 167 million gpd of wastewater. The Facility treats an average of 110 million gpd of wastewater and serves 1.4 million residents and 17,000 businesses in 8 cities and 4

[93] City of San José. "Utility Services Lookup." Accessed September 21, 2023. https://www.sanjoseca.gov/your-government/departments-offices/environmental-services/recycling-garbage/residents/utility-services-lookup

[94] The San José Water Company has a service goal of developing water supplies to meet 100 percent of annual water demand during normal non-drought years and at least 80 percent of annual water demand in drought years. Therefore, there may be a call for up to 20 percent mandatory conservation during multi-year drought. Source: San José Water Company. *2020 Urban Water Management Plan*. June 2021. Pages 7-11 through 7-15.

sanitation districts.[95] The Facility is currently operating under a 120 million gpd dry weather effluent flow constraint and in 2021 the average dry weather effluent flow was 66 million gpd.[96]

The Facility has an excess treatment capacity of 38.8 million gpd.[97] This requirement is based upon the SWRCB and the RWQCB concerns over the effects of additional freshwater discharges on the saltwater marsh habitat and pollutant loading to the Bay from the Facility. Approximately 10 percent of the plant's effluent is recycled for non-potable uses. The remainder is discharged into the San Francisco Bay after treatment. For the purposes of this Initial Study, wastewater flow rates are assumed to be 95 percent of the total site water use due to the limited landscaping.

There is an existing 21-inch sewer main that flows west beneath Berryessa Road. The project site is currently unoccupied; therefore, no wastewater is currently generated on-site.

## Stormwater Drainage

The project site is located in a developed area served by the existing municipal storm drainage system. The project site currently contains two small temporary structures and paved parking storage areas. Approximately 275,467 square feet of the project site is covered by impervious surfaces (i.e., 89 percent of the total site area) and 33,809 square feet of the project site is covered by pervious surfaces (i.e., 11 percent of the total site area). Storm drainage lines in the project area are owned and maintained by the City of San José.

Runoff from the project site and the surrounding area enters the City's storm drainage system, which outfalls to Coyote Creek or Upper Penitencia Creek (a tributary of Coyote Creek), located approximately 32 feet east of the nearest project site boundary. The creek flows north carrying runoff from the storm drains into the San Francisco Bay.

## Solid Waste

Santa Clara County's IWMP was approved by the California Integrated Waste Management Board in 1996 and reviewed in 2004, 2007, 2011, and 2016. 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.[98] Solid waste generated within the County is transported to Guadalupe Mines, Kirby Canyon, Newby Island, and Zanker Road landfills.

The project site is currently vacant; therefore, no solid waste is currently generated on-site.

[95] San José-Santa Clara Regional Wastewater Facility. 2021 Annual Self-Monitoring Report. Accessed September 21, 2023. https://www.sanjoseca.gov/home/showpublisheddocument/83092/637825263792500000
[96] Ibid.
[97] City of San Jos. *Envision San José 2040 General Plan Draft Program Environmental Impact Report.* Adopted November 1, 2011. As amended on December 14, 2021. Page 631.
[98] Santa Clara County. *Five-Year CIWMP/RAIWP Review Report.* June 2016.

## 4.14.2 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, and local management and reduction statutes and regulations related to solid waste? | ☐ | ☐ | ☒ | ☐ |

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

The proposed project would generate a water demand of approximately 11,004 gpd.[99] As discussed

[99] Implementation of the project would allow for 126 RV spaces and 46 standard car parking spaces. Assuming 85 RVs and 46 cars would be occupied by two people per vehicle, the proposed project would support approximately 262 people. Each vehicle may include individuals, couples, or small families, however, the actual mix is currently unknown. Thus, for the purposes of this analysis, it is estimated that there would be two individuals per vehicle. Based on the San José Water Company multi-family residential water demand rate for new construction of 42 gallons per capita per day, the project would result in a water demand of 11,004 gallons per day. This represents a conservative water demand estimate because the proposed project is not a conventional multi-family

in Section 3.3 Project Description above, the proposed project would connect to the existing water supply main in Berryessa Road via a new lateral. As discussed under checklist question b. below, the project would incrementally increase water demand in the City but would not require additional water supplies other than what is currently estimated in the most recently adopted UWMP. No relocation or construction of new facilities is required by the proposed project. Lateral connections to the existing water line in Berryessa Road would occur during grading of the site and would not result in significant environmental effects. **(Less than Significant Impact)**

### Wastewater

The project would generate 10,454 gpd of wastewater.[100] The project has been reviewed by the City of San José Public Works department and it was determined that sanitary sewer lines in the project area would have adequate capacity for sewer services required by the proposed project. The Facility currently has approximately 38.8 million gpd of excess wastewater treatment capacity. According to the General Plan EIR, full build out under the General Plan would increase average dry weather flows by approximately 30.8 million gpd. Wastewater from the proposed project would be treated at the Facility which has adequate capacity to accommodate the increased demand created by the project. As a result, relocation or construction of new or expanded water facilities would not be needed. **(Less than Significant Impact)**

### Stormwater Drainage

The project would involve improvements to the site to allow a 10-year operation of parking for individuals living out of their RVs and cars. The project would replace approximately 131,000 square feet of existing paved and gravel surface parking with new asphalt surfaces and would not alter any existing pervious surfaces on-site. Thus, the project would not result in a change in the impervious surface area on-site. Additionally, a bioretention facility, consistent with the MRP, would be installed along the southern property boundary to capture and treat stormwater on-site before connecting to the municipal storm drain. The addition of the bioretention facility would reduce the volume of runoff entering the storm drain by allowing for percolation of the stormwater into the ground. The bioretention facility would also remove pollutants from the water prior to the runoff entering the storm drainage system. For these reasons implementation of the project 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. **(Less than Significant Impact)**

### Electric Power, Natural Gas, and Telecommunication Facilities

The project would utilize existing utility connections to connect to the City's electric and telecommunications systems. Although the project would increase the demand for existing facilities throughout the City, the relocation or construction of new facilities would not be needed to serve

development. People who live in RVs and cars have low water use because of their circumstances compared to use by people who live in conventional multi-family developments. Source: San José Water Company. *2020 Urban Water Management Plan*. June 2021. Pages 4-4 and 4-5.

[100] Assumes wastewater generation is 95 percent of total water demand

the proposed project. As a result, the proposed project would have 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?

As discussed above, SJWC adopted an UWMP in June 2021 to assess the water supply and demand requirements within its service area. The UWMP accounted for existing and planned growth analyzed in the General Plan FEIR and found sufficient water supplies would be available during normal, single-dry, and multiple-dry years within its service area without conservation measures.[101]

The project site has an existing land use designation of Heavy Industrial (HI) in the General Plan. Therefore, the water demand attributed to the site in the General Plan FEIR and UWMP assumed heavy industrial uses. If the site were to be reoccupied and used for heavy industrial purposes, water demand would be approximately 253 gpd.[102] Implementation of the project would result in water demand of 11,004 gpd,[103] a 10,751 gpd (3.9 million gallon per year) increase in water demand compared what was assumed in the UWMP. The UWMP found sufficient water supplies would be available during normal, single-dry, and multiple-dry years. Furthermore, in accordance with Section 10632(a) of the California Water Code, the UWMP included a water shortage contingency plan that includes measures such as annual water supply and demand assessment and conservation measures to address supply deficiencies, should that occur.

Although the proposed project would result in increased water use compared to what was assumed in the UWMP, this increase would be incremental relative to SJWC's supplies (0.00008 percent of available supplies).[104] Furthermore, the proposed project would include water efficient landscaping and irrigation systems and the proposed temporary structures would meet CALGreen requirements

[101] The San José Water Company has a service goal of developing water supplies to meet 100 percent of annual water demand during normal non-drought years and at least 80 percent of annual water demand in drought years. Therefore, there may be a call for up to 20 percent mandatory conservation during multi-year drought. Source: San José Water Company. *2020 Urban Water Management Plan*. June 2021. Pages 7-11 through 7-15.

[102] Existing structures total approximately 400 square feet. General Heavy Industry indoor water use rate is 231,250 gallons per 1,000 square feet. (231,250 x 0.4 = 92,500 gallons per year /365 = 253 gallons per day) Source: California Air Pollution Control Officers Association. *California Emissions Estimator Model, Appendix G, Default Tables, Table G-31 Annual Indoor Nonresidential Water Consumption by Land Use Type.* April 2022.

[103] Implementation of the project would allow for 126 RV spaces and 46 standard car parking spaces. Assuming 85 RVs and 46 cars would be occupied by two people per vehicle, the proposed project would support approximately 262 people. Each vehicle may include individuals, couples, or small families, however, the actual mix is currently unknown. Thus, for the purposes of this analysis, it is estimated that there would be two individuals per vehicle. Based on the San José Water Company multi-family residential water demand rate for new construction of 42 gallons per capita per day, the project would result in a water demand of 11,004 gallons per day. This represents a conservative water demand estimate because the proposed project is not a conventional multi-family development. People who live in RVs and cars have low water use because of their circumstances compared to use by people who live in conventional multi-family developments. Source: San José Water Company. *2020 Urban Water Management Plan*. June 2021. Pages 4-4 and 4-5.

[104] San José Water Company. *2020 Urban Water Management Plan*. June 2021. Pages 7-11.

for water efficiency and conservation measures such as installing low flow toilets and faucets.[105] For these reasons, additional supplies would not be needed to meet demand from the proposed project and sufficient water supplies would be available to serve the proposed project and reasonably foreseeable future development during normal and dry years. **(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?

Sanitary sewer lines serving the site are owned and maintained by the City of San José. The project would include connections to the existing 21-inch sanitary sewer main in Berryessa Road.

The project would result in wastewater generation of approximately 10,454 gpd,[106] a 10,214 gpd (3,728,110 gallons per year) increase in wastewater generation compared to the wastewater generation of the site if it were to operate as a Heavy Industrial use.[107] As noted in Section 4.14.1.2 Existing Conditions, the Facility has an excess treatment capacity of 38.8 million gpd. Thus, increased wastewater generation resulting from the proposed project would represent less than one percent of the available wastewater treatment capacity, and the project would be adequately served by the existing facility. Therefore, the project would not have a significant impact related to the provision of wastewater treatment service for the project site. **(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?

Solid waste would be generated during project implementation and operations. Implementation of the project would involve the generation of debris from removal of hardscaped surfaces, trees, and other landscaping. The proposed project would be required to comply with the City's C&D Diversion Program, which ensures that at least 75 percent of the waste is diverted from landfills. Material that cannot be recycled or reused would be transported to the Guadalupe Landfill, located in the City, or to other appropriate regional landfills.

During operation, the project is estimated to generate approximately 124,100 tons of solid waste

[105] State of California. 2022 California Green Building Standards Code, Title 24, Part 11 (CALGreen). Accessed October 16, 2023. https://codes.iccsafe.org/content/CAGBC2022P1/chapter-5-nonresidential-mandatory-measures

[106] Assuming wastewater generation is 95 percent of water demand.

[107] Water demand for 400 square feet of Heavy Industrial use structures is 253 gpd. 253 gpd x 0.9 = 227.7 gpd of wastewater. Proposed wastewater generation 249 gpd – Heavy Industrial wastewater generation 227.7 gpd = 21.3 gpd. Source: California Air Pollution Control Officers Association. *California Emissions Estimator Model, Appendix G, Default Tables, Table G-31 Annual Indoor Nonresidential Water Consumption by Land Use Type.* April 2022.

per year.[108] The project would comply with policies in the Zero Waste Strategic Plan/Climate Smart San José which includes measures to reduce solid waste generation from projects. According to the IWMP, the County has adequate disposal capacity. The total permitted landfill capacity of the 5 operating landfills in the City is approximately 5.3 million tons per year. Therefore, the project would not generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure. **(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 additional solid waste compared to existing conditions on-site. The project would be required to conform to City plans and policies to reduce solid waste generation, including the City's Construction and Demolition Diversion Program, Zero Waste Strategic Plan/Climate Smart San José, and 75 percent diversion goal. By complying with the standards set forth by City policies and plans, the proposed project would not prevent solid waste reduction goals from being reached or interfere with the provision of solid waste services. **(Less than Significant Impact)**

[108] RVs are not a typical land use category for solid waste generation. Therefore, the most similar use, multi-family residential rate of four pounds per day was conservatively assumed. This is a conservative analysis because residents of RVs are not likely to generate as much waste as a typical multi-family household. Source: CalRecycle. "Residential Sector Generation Rates: Multi-family." Accessed September 25, 2023.

# 4.15 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?

As discussed in the individual resource sections of this Initial Study, the proposed project would not degrade the quality of the environment with implementation of identified standard project conditions and mitigation measures. The project would implement MM CUL-1.1 and MM CUL-1.2 to reduce potential impacts to buried archaeological resources to a less than significant level (see Section 4.4 Cultural Resources). **(Less than Significant Impact with Mitigation Incorporated)**

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." In addition, under Section 15152(f) of the CEQA Guidelines, where a lead agency has determined that a cumulative effect has been adequately addressed in a prior EIR, the effect is not treated as significant for purposes of later environmental review and need not be discussed in detail.

The proposed project would result in temporary cultural resources/tribal cultural resources and hazardous materials impacts during implementation. With implementation of the identified mitigation measures, Standard Project Conditions, and consistency with adopted City policies, the impacts from implementation of the project would be mitigated to a less than significant level. As the identified impacts are temporary and would be mitigated, the project would not have cumulatively considerable impacts related to cultural resources/tribal cultural resources and hazardous materials in the project area.

The project would have no measurable impact on aesthetics, agricultural and forestry resources, energy, GHG emissions, mineral resources, recreation, and wildlife. The project would have a less than significant impact on air quality, biological resources, geology and soils, hydrology and water quality, land use, population and housing, public services, noise, transportation, tribal cultural resources and utilities, and would not contribute to cumulative impacts to these resources given the limited scope of the project. The project would not impact agricultural and forest resources or mineral resources. Therefore, the project would not contribute to a significant cumulative impact on these resources. **(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 TACs and noise. However, implementation of Mitigation Measures, Standard Project Conditions, and City policies would reduce these impacts to a less than significant level. No other direct or indirect adverse effects on human beings have been identified. **(Less than Significant Impact with Mitigation Incorporated)**

# Section 5.0 References

The analysis in this Initial Study is based on the professional judgement and expertise of the environmental specialists preparing this document, based upon review of the site, surrounding conditions, site plans, and the following references:


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# Section 6.0 Lead Agency and Consultants

## 6.1 Lead Agency

**City of San José**

Planning, Building & Code Enforcement

David Keyon, Principal Planner

Reema Mahamood, Planner III

Public Works Department

Sal Kumar, Division Manager

Christopher Mastrodicasa, Construction Manager

Francisco Castellanos, Associate Architect

Housing Department

Ragan Henninger, Deputy Director

Gregory Pensinger, Housing Policy and Plan Administrator

## 6.2 Consultants

**David J. Powers & Associates, Inc.**

Environmental Consultants and Planners

Shannon George, Vice President and Principal Project Manager

Carolyn Mogollon, Project Manager

Ryan Osako, Graphic Artist

**Illingworth & Rodkin, Inc.**

Air Quality Technical Consultants

James Reyff, Principal

Zachary Palm, Consultant

# Section 7.0 Acronyms and Abbreviations

| | |
|---|---|
| AB | Assembly Bill |
| ACM | asbestos-Containing Material |
| AMSL | above mean sea level |
| APN | assessor's parcel number |
| BAAQMD | Bay Area Air Quality Management District |
| Basin Plan | San Francisco Bay Basin Plan |
| Bay Area | San Francisco Bay Area |
| BMPs | best management practices |
| CAAQS | California Ambient Air Quality Standard |
| Cal/OSHA | California Department of Industrial Relations, Division of Occupational Safety and Health |
| CalARP | California Accidental Release Prevention |
| CalEPA | California Environmental Protection Agency |
| CALGreen | California Green Building Standards |
| Caltrans | California Department of Transportation |
| CARB | California Air Resources Board |
| CBC | California Building Standards Code |
| CDFW | California Department of Fish and Wildlife |
| CEQA | California Environmental Quality Act |
| CERCLA | Comprehensive Environmental Response, Compensation, and Liability Act |
| CFR | Code of Federal Regulations |
| CMP | Congestion Management Program |
| CNEL | community noise equivalent level |
| CO | carbon monoxide |
| $CO_2$ | carbon dioxide |
| Construction General Permit | NPDES General Construction Permit for the State of California |
| CRHR | California Register of Historical Resources |
| CUPA | Certified Unified Program Agency |
| dBA | A-weighted decibel |

| | |
|---|---|
| DNL | day/night average sound level |
| DPM | diesel particulate matter |
| DTSC | Department of Toxic Substances Control |
| EPA | Environmental Protection Agency |
| ESA | Environmental Site Assessment |
| ESLs | environmental screening limits |
| FAA | Federal Aviation Administration |
| Facility | San José – Santa Clara Regional Wastewater Facility |
| FIRMS | Flood Insurance Rate Maps |
| FTA | Federal Transit Administration |
| GHG | greenhouse gases |
| Habitat Plan | Santa Clara Valley Habitat Plan |
| IWMP | Integrated Watershed Management Program |
| $L_{eq}$ | Energy-Equivalent Sound/Noise Descriptor |
| LID | low impact development |
| $L_{max}$ | Maximum A-weighted noise level during a measurement period |
| LOS | level of service |
| LRT | light rail transit |
| MBTA | Migratory Bird Treaty Act |
| MND | Mitigated Negative Declaration |
| mpg | miles per gallon |
| mph | miles per hour |
| MRP | Municipal Regional Stormwater Control Permit |
| MTC | Metropolitan Transportation Commission |
| $N_2O$ | nitrous oxide |
| NAAQS | National Ambient Air Quality Standard |
| NAHC | Native American Heritage Commission |
| NFIP | National Flood Insurance Program |
| $NO_2$ | nitrogen dioxide |
| NOD | Notice of Determination |
| NOI | Notice of Intent |

| | |
|---|---|
| $NO_x$ | nitrogen oxides |
| NRHP | National Register of Historic Places |
| $O_3$ | ozone |
| OPR | Office of Planning and Research |
| PCB | polychlorinated biphenyls |
| PCF | perfluorocarbon |
| PDA | Priority Development Areas |
| PDO | Parkland Dedication Ordinance |
| Phase II | Phase II Subsurface Investigation |
| PIO | Parkland Impact Ordinance |
| PM | particulate matter |
| $PM_{10}$ | particulate matter with a diameter of 10 microns or less |
| $PM_{2.5}$ | particulate matter with a diameter of 2.5 microns or less |
| PPV | peak particle velocity |
| RCRA | Resource Conservation and Recovery Act |
| RHNA | Regional Housing Needs Allocation |
| ROG | reactive organic gases |
| RWQCB | Regional Water Quality Control Board |
| SFHAs | special flood hazard areas |
| SJFD | San José Fire Department |
| SJPD | San José Police Department |
| SJWC | San José Water Company |
| SMP | Site Management Plan |
| $SO_x$ | sulfur oxides |
| SVOCs | semi-volatile organic compounds |
| SWPPP | Stormwater Pollution Prevention Program |
| SWRCB | State Water Resources Control Board |
| TAC | toxic air contaminants |
| TCM | treatment control measures |
| TCR | Tribal Cultural Resources |
| Title 24 | Title 24, Part 6 of the California Code of Regulations |

| | |
|---|---|
| TPH | total petroleum hydrocarbons |
| TSCA | Toxic Substances Control Act |
| USACE | United States Army Corps of Engineers |
| USFWS | United States Fish and Wildlife Service |
| USTs | underground storage tanks |
| UWMP | Urban Water Management Plan |
| VOC | volatile organic compounds |
| VMT | vehicle miles traveled |
| Williamson Act | California Land Conservation Act |