MITIGATED NEGATIVE DECLARATION

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

PROJECT NAME: 865 Embedded Way Industrial Project

PROJECT FILE NUMBER: H22-022, ER22-113

PROJECT DESCRIPTION: The project consists of a Site Development Permit (File No. H22-022) to allow the construction of a one-story 121,400 square foot industrial/manufacturing warehouse on a vacant 10.17-acre project site. The project would include a connection to an existing 26-foot-wide drive aisle that extends from the eastern Embedded Way driveway through the adjacent eastern industrial property (875 Embedded Way) and currently terminates at the southeastern boundary of the project site. A total of 300 parking spaces would be provided in the surface parking lot surrounding the proposed building. The project would include the removal of 11 trees on-site, 2 of which are ordinance-size.

PROJECT LOCATION: The project site is located at 865 Embedded Way in San José, California.

ASSESSORS PARCEL NO.: 679-01-020 **COUNCIL DISTRICT:** 2

APPLICANT CONTACT INFORMATION: Oppidan, Inc. (Attn: Ian Halker), 1100 Lincoln Ave, Suite 382, San Jose, CA 95125; ianh@oppidan.com; (612) 803-8377

FINDING

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

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

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

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

C. AIR QUALITY– The project would not have a significant impact on this resource, therefore no

mitigation is required.

D. BIOLOGICAL RESOURCES

Impact BIO-1: While the project does not intend to remove or damage any Hall's bush mallow individuals, construction of the project could inadvertently, without proper precautions, result in impacts to Hall's bush mallow, a special-status plant species occurring within and outside the project development area.

MM BIO-1.1: *Protect Hall's Bush Mallow Individuals During Construction.* Prior to issuance of any grading or building permits, the project applicant shall prepare and submit construction plans clearly depicting all individual Hall's bush mallow (not including seedlings) and shall show construction-free buffers for individuals located within the project site to the Director of Planning, Building and Code Enforcement or the Director's designee. The project shall maintain construction-free buffers around individuals throughout the construction period to prevent incidental take of Hall's Bush Mallow individuals during construction activities. The radii of the buffers shall represent the maximum feasible distance between the individuals and proposed development activities. Based on the known locations of Hall's bush mallow individuals within the proposed development area, the maximum feasible radius for individuals within the proposed development area is four feet. Prior to initial ground disturbance or vegetation removal, the established buffers shall be marked in the field (e.g., with flagging, fencing, paint, or other means appropriate for the site in question). This marking shall be maintained intact and in good condition throughout project-related construction activities, and all construction personnel shall be trained (through a Worker Environmental Awareness Program or WEAP) on the locations of these plants, how their locations and the surrounding buffer are marked, and how impacts on these plants are to be avoided (i.e., the entry of construction personnel and vehicles within the marked buffers shall be prohibited, and no storage of equipment or materials within the marked buffers shall occur). These requirements shall be printed on all approved plans for grading and construction.

MM BIO-1.2: *Post-Construction Monitoring.* Post-construction monitoring shall be conducted for a period of three years after completion of construction activities to determine if MM BIO-1.1 successfully ensured the long-term survival of Hall's bush mallow individuals, or if indirect impacts of the project (e.g., dust mobilization, shading, and/or changes to hydrology) resulted in the death or decline in health of Hall's bush mallow plants. Monitoring shall be conducted annually by a qualified plant ecologist, consisting of a site visit conducted during the species' May to September flowering period, until the three year monitoring period is complete. A schedule for the flowering period surveys shall be prepared by the qualified plant ecologist and submitted to the Director of Planning, Building and Code Enforcement, or the Director's designee, for review and approval prior to the issuance of a grading permit or building permit, whichever occurs first. This schedule must include timing of the submittal of monitoring reports for the annual reports in the May to September flowering period, starting the first flowering period after issuance of the certificate of occupancy. A report documenting the survey results shall be submitted to the Director of Planning, Building and Code Enforcement, or the Director's designee, on an annual basis based on the approved schedule until monitoring is complete.

If the qualified plant ecologist determines that more than 10 percent of the 13 mature Hall's bush mallow population (i.e., more than one plant) within the project development area dies

or declines substantially in health following completion of the project, MM BIO-1.3 shall be implemented. However, if at least 90 percent of the mature Hall's bush mallow population (i.e., at least 12 plants) continues to be present and in good health three years following the completion of construction, no additional mitigation is required.

MM BIO-1.3: *Create or Enhance, Preserve, and Manage Mitigation Populations.* If more than 10 percent of the site population would be impacted despite the implementation of MM BIO-1.1, compensatory mitigation shall be provided by the property owner to increase the size of an existing population, or the creation and management of a new population to offset the impact. The compensatory mitigation shall be provided via the preservation, enhancement, and management of occupied habitat for the species as follows:

(1) If mitigation occurs through enhancement of an existing population, then on-site or off-site habitat occupied by the affected species shall be enhanced (e.g., through focused management for the species in question) to increase the number of individuals present. Mitigation may occur on-site if a qualified biologist identifies a location on the project site with sufficient available area to support the plants as well as suitable habitat conditions (e.g., slope, soils, lack of shading, and other factors) in the context of site conditions following project construction. If no locations on the site are suitable, off-site mitigation would be necessary. The increase in numbers shall be at least twice the number of individuals impacted (i.e., a 2:1 mitigation:impact ratio). The permanent preservation and management of these mitigation lands shall be ensured through an appropriate mechanism, such as a conservation easement or fee title purchase.

(2) Areas proposed to be preserved and enhanced as compensatory mitigation for impacts to Hall's bush mallow must contain extant populations of the species (as verified by a qualified plant ecologist), or in the event that expansion or establishment of a new population is selected, the area must contain sufficient suitable habitat to support the new mitigation population as determined by a qualified plant ecologist. Verification of the presence of suitable habitat shall be performed by a qualified plant ecologist at any time prior to establishment of the mitigation. Mitigation areas shall be permanently preserved and managed to encourage persistence and even expansion of this species. Mitigation lands cannot be located on land that is currently held publicly for resource protection unless substantial enhancement of habitat quality will be achieved by the mitigation activities, as determined by a qualified plant ecologist. The mitigation habitat shall be of equal or greater habitat quality compared to the impacted areas, as determined by a qualified plant ecologist, in terms of soil features, extent of disturbance, vegetation structure, and dominant species composition. At the time the mitigation is established, the mitigation habitat shall contain sufficient habitat to support at least twice as many individuals as are impacted, as determined by a qualified plant ecologist. The permanent protection and management of mitigation lands shall be ensured through an appropriate mechanism, such as a conservation easement or fee title purchase.

(3) A habitat mitigation and monitoring plan (HMMP) shall be developed by qualified plant or restoration ecologists and implemented for the mitigation lands for a minimum of 10 years. That plan shall include, at a minimum, the following information:

a. A summary of impacts to Hall's bush mallow, including impacts to its

habitat, and the proposed mitigation;

b. A description of the location and boundaries of the mitigation site and description of existing site conditions;
c. A description of measures to be undertaken to enhance (e.g., through focused management that may include removal of invasive species in adjacent suitable but currently unoccupied habitat, or other appropriate methods such as grazing, prescribed burns, planting native species, or mowing) the mitigation site for the species;
d. A description of measures to transplant individual plants or seeds from the impact area to the mitigation site, if appropriate (which shall be determined by a qualified plant or restoration ecologist, who will take into account factors such as genetics and the spread of pathogens, such as Phytophthora);
e. Proposed management activities to maintain high-quality habitat conditions for the species;
f. A description of habitat and species monitoring measures on the mitigation site, including specific, objective final and performance criteria, monitoring methods, data analysis, reporting requirements, monitoring schedule, etc. At a minimum, performance criteria shall include demonstration that any plant population fluctuations over the species, or mowing) the mitigation site for the species;
g. A description of measures to transplant individual plants or seeds from the impact area to the mitigation site, if appropriate (which shall be determined by a qualified plant or restoration ecologist, who will take into account factors such as genetics and the spread of pathogens, such as Phytophthora);
h. Proposed management activities to maintain high-quality habitat conditions for the species;
i. A description of habitat and species monitoring measures on the mitigation site, including specific, objective final and performance criteria, monitoring methods, data analysis, reporting requirements, monitoring schedule, etc. At a minimum, performance criteria shall include demonstration that any plant population fluctuations over monitoring period of a minimum of 10 years do not indicate a downward trajectory in terms of reduction in numbers and/or occupied area for the preserved mitigation population that can be attributed to management (i.e., that are not the result of local weather patterns, as determined by monitoring of a nearby reference population, or other factors unrelated to management). The duration of the monitoring activities (a minimum of 10 years, as stated above) shall ultimately be determined by the qualified plant or restoration ecologist based on the number of years that are necessary to ensure that the mitigation is successful;
j. The new population must contain at least twice the number of impacted individuals, by year 10, as determined by a qualified plant ecologist. If year 10 is a poor weather year for summer and fall-blooming annual plants and reference populations show a decline, this criteria can be measured in the next year occurring with average or better rainfall; and
k. Contingency measures for mitigation elements that do not meet performance criteria. For example, if by year 10 (or the next suitable rainfall year after year 10) of monitoring, the project is unable to establish a self-sustaining population of the required number of individuals as described above, the applicant shall create and manage an extant population of that

same species in order to achieve the success criteria under a revised HMMP. The ultimate performance criteria for the revised HMMP shall be unchanged, but the methods used to achieve the criteria may change, and additional land may need to be purchased.

The HMMP shall be provided to the Director of Planning, Building and Code Enforcement, or the Director's designee for approval. The applicant shall fund the management and monitoring of the mitigation site at least until the success criteria are achieved; if the applicant sells the land or its interest in the project and its mitigation, it must provide the City financial assurances that it shall satisfy its mitigation obligations.

Impact BIO-2: The project's ground disturbing activities including grading, construction activities, and tree removal during the nesting season could impact migratory birds and raptors, including the Yellow Warbler and White-Tailed Kite.

MM BIO-2.1: *Avoidance.* The project applicant shall schedule ground-disturbing and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive).

MM BIO-2.2: *Nesting bird surveys.* If it is not possible to schedule construction activities and/or tree removal between September 1 and January 31, preconstruction surveys for nesting birds shall be conducted by a qualified ornithologist to ensure that no nests shall be disturbed during project implementation. These surveys shall be conducted no more than seven days prior to the initiation of demolition or construction activities, including tree removal and pruning. During this survey, the ornithologist shall inspect all trees and other potential nesting habitats (e.g., trees, shrubs, ruderal grasslands, buildings) in and immediately adjacent to the impact areas for nests.

MM BIO-2.3: *Buffer zones.* If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist shall determine the extent of a construction free buffer zone to be established around the nest, typically 300 feet for raptors and 100 feet for other species, to ensure that raptor or migratory bird nests shall not be disturbed during project construction.

MM BIO-2.4: *Reporting.* Prior to any tree removal, or approval of any grading permits (whichever occurs first), the project applicant shall submit the ornithologist's report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement, or the Director's designee.

Impact BIO-3: The project would increase lighting near the Coyote Creek which could have a substantial adverse effect through habitat modifications on wildlife species that inhabit or occur along Coyote Creek s which are identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS.

MM BIO-3.1: Prior to the issuance of building permits, the project shall demonstrate the implementation of the following measures to minimize the lighting impacts on wildlife species using or near Coyote Creek:

1. All exterior lighting shall be fully shielded to block illumination from shining

outward towards Coyote Creek

2. Exterior light fixtures shall comply with lighting zone LZ-2, Moderate Ambient, as recommended by the International Dark-Sky Association (2011) for light commercial business districts and high-density or mixed-use residential districts. The allowed total initial luminaire lumens for the project site is 2.5 lumens per square foot of hardscape, and the BUG rating for individual fixtures shall not exceed B3 or G2, as follows:
    a. B3: 2,500 lumens high (60–80 degrees), 5,000 lumens mid (30–60 degrees), 2,500 lumens low (0–30 degrees)
    b. G2: 225 lumens (forward/back light 80–90 degrees), 5,000 lumens (forward 60–80 degrees), 1,000 lumens (back light 60–80 degrees asymmetrical fixtures), 5,000 lumens (back light 60–80 degrees quadrilateral symmetrical fixtures)
    c. Exterior lighting shall be minimized from 10 p.m. until sunrise, except as needed for safety and City code compliance. (i.e., the total outdoor lighting lumens shall be reduced by at least 30 percent or extinguished, consistent with recommendations from the International Dark-Sky Association [2011]).

A lighting plan demonstrating compliance with these requirements shall be submitted to the Director of Planning, Building and Code Enforcement, or the Director's designee, for review and approval prior to issuance of building permits.

E. CULTURAL RESOURCES & TRIBAL CULTURAL RESOURCES

Impact CUL-1: Project construction activities could result in the accidental disturbance and/or destruction of undocumented archaeological resources due to the site's high sensitivity based on the proximity of the site to Coyote Creek and known archaeological sites in the project's vicinity.

MM CUL-1.1: *Treatment Plan.* Prior to the issuance of any grading permit, a project-specific Cultural Resources Treatment Plan shall be prepared by a qualified archaeologist, in consultation with a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area. The Cultural Resources Treatment Plan shall reflect detail pertaining to depths and locations of all ground disturbing activities. The Cultural Resources Treatment Plan shall be prepared and submitted to the Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee prior to approval of any grading permit. The Treatment Plan shall contain, at a minimum:

1. Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations.
2. Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found).
3. Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information).
4. Detailed field strategy used to record, recover, or avoid the finds and address research goals.
5. Analytical methods.

6. Report structure and outline of document contents.
7. Disposition of the artifacts.
8. Appendices: all site records, correspondence, and consultation with Native Americans, etc.

MM CUL-1.2: *Investigation.* Prior to issuance of any grading permits, the project applicant shall complete a preliminary field investigation program in conformance with the project-specific Cultural Resources Treatment Plan required under Mitigation Measure MM CUL-1.1. The locations of subsurface testing and exploratory trenching shall be determined prior to issuance of any grading permit based on the Cultural Resources Treatment Plan recommendations. A qualified archaeologist and a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area, shall complete a presence/absence exploration. Results of the investigation shall be provided to the Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee prior to issuance of any grading permit.

If any finds were discovered during the preliminary field investigation, the project shall implement MM CUL-1.4 for evaluation and recovery methodologies. The results of the preliminary field investigation and program shall be submitted to the Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee for review and approval prior to issuance of any grading permit.

MM CUL-1.3: *Construction Monitoring and Protection Measures.* Although the data recovery and treatment program would be expected to recover potentially significant materials and information from the areas impacted by the project prior to grading, it is possible that additional resources could remain on-site. Therefore, all ground-disturbing activities (e.g., grading and excavation) shall be completed under the observation of a qualified archaeologist and a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area.

The qualified archaeologist or a qualified Native American monitor, registered with the NAHC for the City of San José and that is traditionally and culturally affiliated with the geographic area, shall have authority to halt construction activities temporarily in the immediate vicinity of an unanticipated find. If, for any reasons, the qualified archaeologist or a qualified Native American monitor, registered with the NAHC for the City of San José and that is traditionally and culturally affiliated with the geographic area, is not present, but construction crews encounter a cultural resource, all work shall stop temporarily within 50 feet of the find until a qualified archaeologist in consultation with a qualified Native American monitor, registered with the NAHC for the City of San José and that is traditionally and culturally affiliated with the geographic area, has been contacted to determine the proper course of action. The Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee shall be notified of any finds during the grading or other construction activities. Any human remains encountered during construction shall be treated according to the protocol identified in MM CUL-1.5.

MM CUL-1.4: *Evaluation and Data Recovery.* The Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee shall be notified of any finds during the preliminary field investigation, grading, or other construction activities. Any historic or prehistoric material identified in the project area during the

preliminary field investigation and during grading or other construction activities shall be evaluated for eligibility for listing as a Candidate City Landmark and/or in the California Register of Historic Resources. Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand auguring, and hand-excavation.

The techniques used for data recovery shall follow the protocols identified in the project-specific Cultural Resources Treatment Plan. Data recovery shall include excavation and exposure of features, field documentation, and recordation.

MM CUL-1.5: *Site Security.* At the discretion of the Director of the City of San José Department of Planning, Building, and Code Enforcement or the Director's designee, site fencing shall be installed on-site during the investigation, grading, building, or other construction activities to avoid destruction and/or theft of potential cultural resources (if determined to be present on-site during investigation). The responsible qualified archaeologist, in consultation with a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area, shall advise the Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee as to the necessity for a guard. The purpose of the security guard shall be to ensure the safety of any potential cultural resources (including human remains) that are left exposed overnight. The Director of PBCE shall have the final discretion to authorize the use of a security guard at the project site.

MM CUL-1.6: *Final Reporting.* Once all analyses and studies required by the project-specific Cultural Resources Treatment Plan have been completed, the project applicant, or representative, shall prepare a final report summarizing the results of the field investigation, data recovery activities and results, and compliance with the Cultural Resources Treatment Plan during all demolition, grading, building, and other construction activities (as applicable). The report shall document the results of field and laboratory investigations and shall meet the Secretary of the Interior's Standards for Archaeological Documentation. The contents of the report shall be consistent with the protocol included in the project-specific Cultural Resources Treatment Plan. The report shall be submitted to the Director of Planning, Building, and Code Enforcement for review and approval prior to issuance of any Certificates of Occupancy. Once approved, the final documentation shall be submitted to the NWIC at Sonoma State University, as appropriate.

MM CUL-1.7: *Curation.* Upon completion of the final report required by the project-specific Cultural Resources Treatment Plan, all recovered archaeological materials not identified as tribal cultural resources by the Native American monitor, shall be transferred to a long-term curation facility. Any curation facility used shall meet the standards outlined in the National Park Services' Curation of Federally Owned and Administered Archaeological Collections (36 CFR 79). The project applicant shall notify the Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee of the selected curation facility prior to the issuance of any Certificates of Occupancy. To the extent feasible, and in consultation with the Native American representative, all recovered Native American/tribal cultural resources and artifacts shall be reburied on-site in an area that is unlikely to be disturbed again. Treatment of materials to be curated shall be consistent with the protocols included in the project-specific Cultural Resources Treatment Plan.

All archaeological materials recovered during the data recovery efforts shall be cleaned, sorted, catalogued, and analyzed following standard archaeological procedures, and shall be documented in a report submitted to the Director of Planning, Building and Code Enforcement and the Northwest Information Center at Sonoma State University.

MM CUL-1.8: *Dignified and Respectful Treatment – Cultural Sensitivity Training Prior to Construction.* An important aspect of the consultation process is the dignified and respectful treatment of Tribal Cultural Resources. Prior to issuance of the Grading Permit, the project shall be required to submit evidence 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 registered with the Native American Heritage Commissions for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3.

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

G. GEOLOGY AND SOILS – The project would not have a significant impact on this resource, therefore no mitigation is required.

H. GREENHOUSE GAS EMISSIONS – The project would not have a significant impact on this resource, therefore no mitigation is required.

I. HAZARDS AND HAZARDOUS MATERIALS

Impact HAZ-1: The surface and sub-surface soils on-site could be contaminated due to the presence of agricultural chemicals and naturally occurring asbestos (NOA) on-site. Implementation of the project could expose construction workers and adjacent land uses to residual agricultural soil contamination above commercial screening levels.

MM HAZ-1.1: Prior to issuance of a grading permit, the project applicant shall retain a qualified environmental professional to complete a Phase II soil contamination investigation to evaluate past agricultural use and the potential for encountering asbestos. The Phase II shall include soil sampling and analysis for asbestos in accordance with the California Air Resources Board (CARB) test method 435, organochlorine pesticides and pesticide-based metals, arsenic, and lead to determine if these chemicals are present above the regulatory environmental screening levels for construction worker safety and commercial/industrial uses. The results of the soil sampling and testing must be provided to the Supervising Environmental Planner of the City of San José Planning, Building, and Code Enforcement, and the Environmental Compliance Officer in the City of San José's Environmental Services Department.

The SMP shall be provided to the Director of Planning, Building and Code Enforcement or the Director's designee, and Environmental Services Department (ESD) Municipal Compliance Officer prior to issuance of a grading permit.

MM HAZ-1.2: If the Phase II results indicate soil concentrations of pesticides or metals above the environmental screening levels, the applicant must obtain regulatory oversight from the Department of Toxic Substances Control, or the Santa Clara County Department of Environmental Health under their Site Cleanup Program. A Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document shall be prepared by a

qualified environmental consultant under regulatory oversight and approval that identifies remedial measures and/or soil management practices to ensure construction worker safety and the health of future site occupants. If asbestos is present above 0.25 percent, an Asbestos Dust Mitigation Plan (ADMP) will be prepared and submitted to the Bay Area Air Quality Management District (BAAQMD) for approval prior to construction. The ADMP would include track-out prevention and control, storage piles, on-site traffic control, preparation of areas prior to earth moving activities, and control for offsite transport, consistent with the California Air Resources Board's Asbestos Airborne Toxic Control Measure for Construction, Grading, Quarrying, and Surface Mining Operations. The plan and evidence of regulatory oversight shall be provided to the Director of Planning, Building, and Code Enforcement or Director's designee and the Environmental Compliance Officer in the City of San José Environmental Services Department.

J. HYDROLOGY AND WATER QUALITY – The project would not have a significant impact on this resource, therefore no mitigation is required.

K. LAND USE AND PLANNING – The project would not have a significant impact on this resource, therefore no mitigation is required.

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

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

N. POPULATION AND HOUSING – The project would not have a significant impact on this resource, therefore no mitigation is required.

O. PUBLIC SERVICES – The project would not have a significant impact on this resource, therefore no mitigation is required.

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

Q. TRANSPORTATION

Impact TRN-1: The proposed Research & Development project, which would support both office and industrial uses, would have 15.12 vehicles miles traveled (VMT) per industrial employee which would exceed the 14.37 VMT per industrial employees and would have 14.95 VMT per office employee which would exceed the 12.21 VMT per office employee threshold.

MM TRAN-1.1: Prior to issuance of a Certificate of Occupancy, the project shall implement the following multi-modal infrastructure improvements to incentivize alternative modes of travel and reduce VMT generation for the site:

1. The project shall remove the pork-chop islands on the southwest and northwest corners of the Embedded Way and Hellyer Avenue intersection to improve pedestrian safety and access. This improvement will require a signal modification at this intersection that will include the relocation of signal poles, heads, and crosswalks.

2. The project shall install raised median islands along Embedded Way consisting of a 120-foot segment at its western terminus and a 190-foot segment near the Embedded Way and Hellyer Avenue intersection for traffic calming purposes.

The multi-modal infrastructure improvements shall be part of a Public Improvement Plan that includes how the multi-modal improvements will be implemented and the schedules for completing the improvements. The Public Improvement Plan shall be reviewed and approved by the Director of Public Works or the Director's designee.

MM TRAN-1.2: Prior to the issuance of the Planning Site Development Permit, the project applicant shall submit a final TDM Plan, approved by the Director of Department of Public Works or Director's designee and the Director of Planning, Building and Code Enforcement, or Director's designee, that shall include implementation of the following TDM measures to reduce the project's VMT.

1. Commute Trip Reduction Marketing/Education: Implement marketing/educational campaigns that promote the use of transit, shared rides, and travel through active modes for 25 percent of the project employees. Strategies may include the incorporation of alternative commute options into new employee orientations, event promotions, and publications.
2. Subsidize Vanpool: Provide subsidies for individuals forming new vanpools for their commute. This encourages the use of vanpools, reducing drive-alone trips, and thereby reducing VMT. The project shall be required to subsidize 100 percent of the cost of the vanpool and achieve at least 25 percent employee participation.

The TDM plan shall be submitted to the Director of Public Works or Director's designee and the Director of Planning, Building and Code Enforcement or the Director's designee and shall include a trip cap for VMT monitoring purposes. The trip cap shall be prepared by a traffic engineer. The monitoring shall be based on annual trip generation counts that demonstrate the vehicle trips generated by the project are within 10 percent of an established peak hour trip cap that is prepared by a traffic engineer. The annual trip monitoring reports shall be submitted that demonstrate that project-generated VMT is below the significance threshold. If the annual trip monitoring report finds that the project is exceeding the established trip cap, the project shall be required to submit a follow-up report that demonstrates compliance with the trip cap requirements within a period not to exceed six months.

Impact TRN-2: The proposed project would increase hazards due to inadequate driveway width on Embedded Way, requiring inbound trucks entering the westernmost Embedded Way driveway to utilize the opposing outbound travel lane, reducing sight distance for outbound vehicles.

MM TRAN-2.1: The project shall increase the width of the westernmost driveway on Embedded Way in a manner sufficient to ensure that trucks do not utilize the opposing outbound travel lane when entering the project site. A site plan showing the widening of the driveway and a truck circulation plan that includes truck turning radii demonstrating adequate driveway width shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to issuance of grading permits.

S. UTILITIES AND SERVICE SYSTEMS – The project would not have a significant impact on

this resource, therefore no mitigation is required.

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

U. MANDATORY FINDINGS OF SIGNIFICANCE.

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

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **Wednesday, January 10, 2024** any person may:

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

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

CHRISTOPHER BURTON, Director
Planning, Building and Code Enforcement

12/18/23
Date

Deputy

Nhu Nguyen
Environmental Project Manager

Circulation period: December 21, 2023 to January 10, 2024

Initial Study

865 Embedded Way Industrial Project

File No. H22-022 and ER22-113

Prepared by

CITY OF SAN JOSE

CAPITAL OF SILICON VALLEY

In Consultation with

DAVID J. POWERS & ASSOCIATES, INC.

ENVIRONMENTAL CONSULTANTS & PLANNERS

December 2023

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SECTION 1.0 INTRODUCTION AND PURPOSE

1.1 PURPOSE OF THE INITIAL STUDY

The City of San José, as the Lead Agency, has prepared this Initial Study for the Embedded Way Industrial project in compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations §15000 et. seq.) and the regulations and policies of the City of San José, California.

The project proposes to develop a 121,400 square foot industrial building on an approximately 10.17-acre undeveloped site located at 865 Embedded Way in the City of San José. This Initial Study evaluates the environmental impacts that might reasonably be anticipated to result from implementation of the proposed project.

1.2 PUBLIC REVIEW PERIOD

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

Nhu Nguyen
Department of Planning, Building & Code Enforcement
200 East Santa Clara Street, 3rd Floor Tower
San José, CA 95113
Nhu.Nguyen@sanjoseca.gov

1.3 CONSIDERATION OF THE INITIAL STUDY AND PROJECT

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

1.4 NOTICE OF DETERMINATION

If the project is approved, the City of San José will file a Notice of Determination (NOD), which will be available for public inspection and posted within 24 hours of receipt at the County Clerk's Office for 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

865 Embedded Way Industrial Project

2.2 LEAD AGENCY CONTACT

Nhu Nguyen
City of San José, Department of Planning, Building & Code Enforcement
200 East Santa Clara Street, 3rd Floor Tower
San José, CA 95113
(408) 535-6894
nhu.nguyen@sanjoseca.gov

2.3 PROJECT APPLICANT

Ian Halker
Oppidan, Inc.
1100 Lincoln Avenue, Suite 382
San José, California 95125
(612) 803-8377
ianh@oppidan.com

2.4 PROJECT LOCATION

The project site is located at 865 Embedded Way in San José, California. Refer to Figure 2.8-1, Figure 2.8-2, and Figure 2.8-3 for the Regional, Vicinity, and Aerial maps, respectively.

2.5 ASSESSOR'S PARCEL NUMBER

The Assessor's Parcel Number (APN) for 865 Embedded Way is 679-01-020.

2.6 GENERAL PLAN DESIGNATION AND ZONING DISTRICT

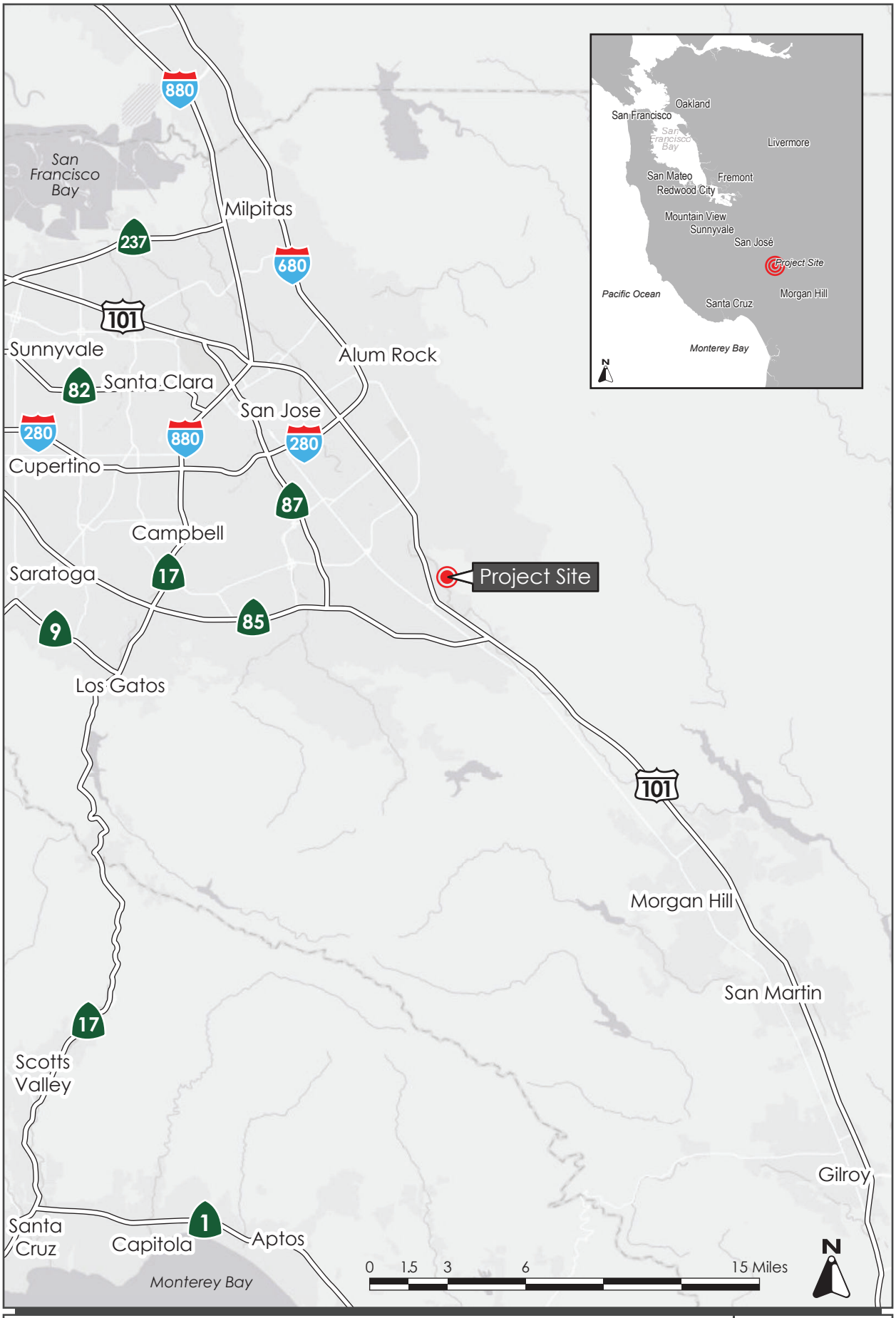
The project site is designated Industrial Park in the Envision San José 2040 General Plan (General Plan) and is within the Industrial Park (IP) Zoning District.

2.7 HABITAT PLAN DESIGNATION

The habitat plan designation is Urban – Suburban.

2.8 PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS

The project would require the following approvals, agreements, and permit: Site Development Permit, Tree Removal Permit, Demolition Permit, Public Works Clearances, including Grading Permit, and Building Permit.



REGIONAL MAP | FIGURE 2.8-1

VICINITY MAP

FIGURE 2.8-2

AERIAL MAP AND SURROUNDING LAND USE | FIGURE 2.8-3

SECTION 3.0 PROJECT DESCRIPTION

3.1 EXISTING SETTING

The approximately 10.17-acre project site is located at 865 Embedded Way (APN 679-01-020). The majority of the site is currently vacant and consists of undeveloped grassland. A paved parking area and access roadways associated with the adjacent property extend onto a portion of the site along its eastern boundary. The Coyote Creek Trail borders the project site to the west, while industrial uses border the site to the north and east. Embedded Way is directly south of the project site and there is a recreational facility south of Embedded Way. The existing site features are shown in Figure 2.8-3 above.

3.2 PROPOSED DEVELOPMENT

The 865 Embedded Way project (herein referred to as the project) proposes to construct a one-story 121,400 square foot industrial/manufacturing warehouse surrounded by a paved surface parking lot.[1] While a designated end user has not yet been determined for the project, the project is designed for a research and development (R&D) use. The IP land use and zoning designation allow for a variety of industrial uses, such as R&D, manufacturing, assembly, testing, and offices. For the purposes of this Initial Study, the project will be analyzed as an R&D facility. See Figure 3.2-1 for the project site plan.

3.2.1 Building Heights and Setbacks

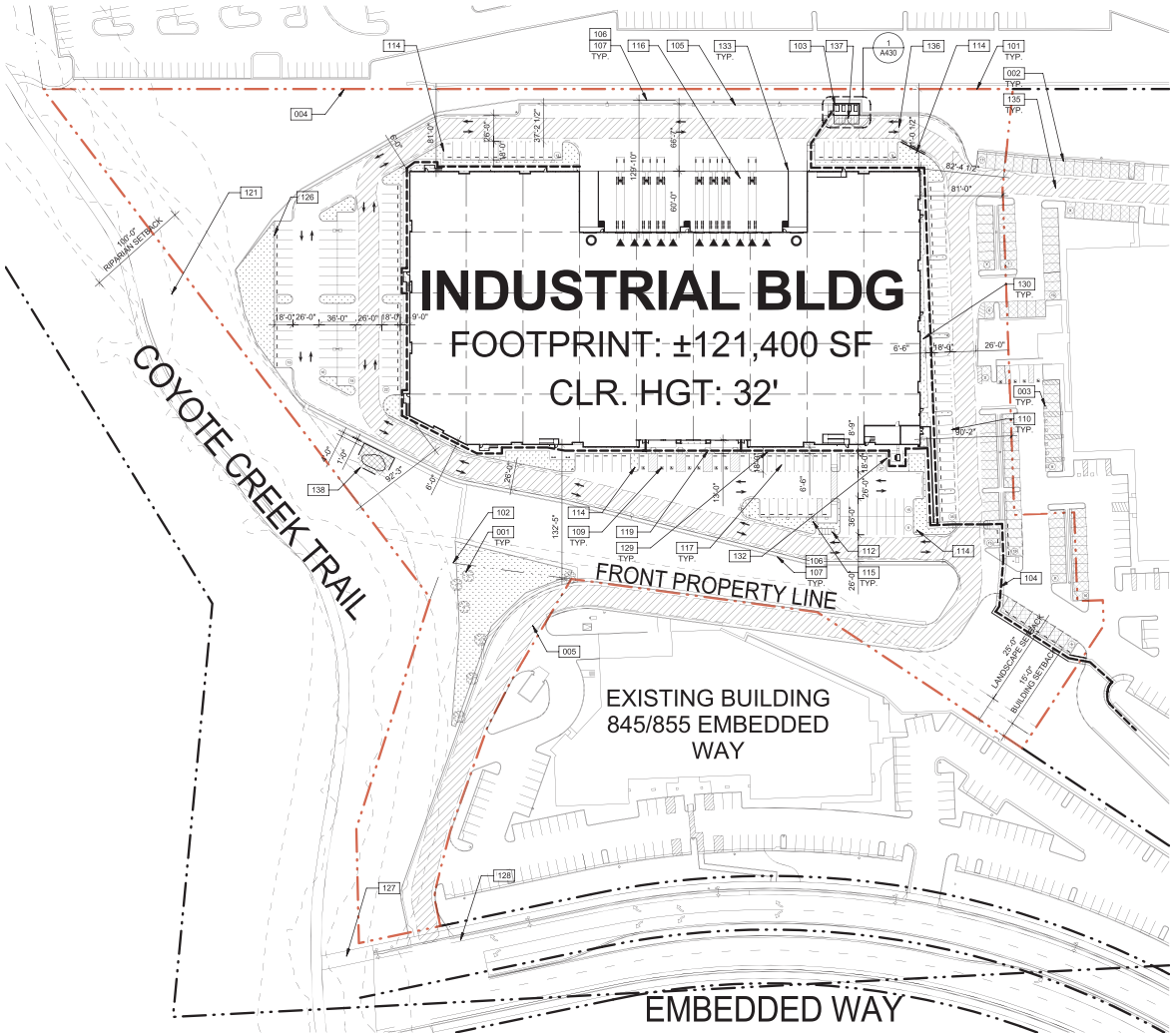
The proposed building would have a maximum roof height of approximately 45 feet. Refer to Figure 3.2-2 for building elevations.

The western limit of development, which includes the building footprint and pavement, would be set back 100 feet from the outer edge of the riparian habitat along Coyote Creek as required by the City's Riparian Corridor Protection and Bird-Safe Design Policy (Policy 6-34) and the Santa Clara Valley Habitat Conservation Plan. The proposed building would be set back approximately 81 feet from the northern property line, 132 feet from the southern property line, and 81 feet from the eastern property line.

3.2.2 Site Access and Parking

The project site would be accessible via three existing driveways that currently provide access to adjacent contiguous properties, with one driveway located on Hellyer Avenue and two driveways located on Embedded Way. Employees and visitors to the site traveling in passenger vehicles would likely utilize the two driveways on Embedded Way that connect to the eastern and southern adjacent properties. All future trucks traveling to the project site would be required to use only the western terminus project driveway due to the sight distance issues for outbound vehicles traveling on Hellyer Avenue, which are described further in Section 4.17 Transportation.

[1] Note that during the environmental review process the project square footage decreased from 121,850 square feet to 121,400, which is a difference of 450 square feet. Some of the technical analyses prepared for the project are based on the larger square footage, which represents a conservative impact scenario.



KEYNOTES:

001 SEVEN (7) EXISTING TREES TO BE REMOVED, SEE ARBORIST REPORT AND LANDSCAPE PLANS.
002 EXISTING PARKING STALLS DEEDED TO PROJECT.
003 EXISTING EV CHARGING SPACES DEEDED TO PROJECT.
004 EXISTING SLOPE TO REMAIN, NOT TO BE IMPACTED BY DEVELOPMENT.
005 EXISTING ACCESS DRIVEWAY.
101 PROPERTY LINE, SEE CIVIL DRAWINGS.
102 PROPERTY LOT LINE, SEE CIVIL DRAWINGS.
103 TRASH ENCLOSURE WITH 3 CUBIC YARD CONTAINERS FOR REFUSE AND RECYCLING, SEE CIVIL DRAWINGS.
104 ACCESSIBLE PATH OF TRAVEL, 1:20 MAX. SLOPE, 2% MAX. CROSS SLOPE.
105 FIRE LANE CURB, DASHED LINE INDICATES EXTENT OF CONTINUOUS CURB TO BE PAINTED RED.
106 RETAINING WALL, SEE CIVIL DRAWINGS.
107 GUARDRAIL, SEE CIVIL DRAWINGS.
109 ACCESSIBLE PARKING STALL.
110 COMPACT PARKING STALL.
112 MOTORCYCLE PARKING STALL.
114 (N) FIRE HYDRANT, SEE CIVIL DRAWINGS.
115 POLE MOUNTED LIGHTING, SEE PHOTOMETRIC PLANS.
116 CONCRETE TRUCK DOCK.
117 CLEAN AIR/EV/VANPOOL PARKING.
119 TRUNCATED DOME PLATE.
121 35' OFFSET FROM OUTER EDGE OF RIPARIAN CANOPY.
126 BIO RETENTION CURB, REFER TO CIVIL.
127 FUTURE TRAIL ACCESS POINT WITH SIGNAGE. DESIGN TO BE COORDINATED WITH PRNS.
128 NEW CLASS II BIKE LANE MARKINGS.
129 FUTURE EV CHARGER CONNECTION.
130 LANDSCAPE AREA, REFER TO LANDSCAPE DRAWINGS.
132 TRANSFORMER, REFER TO CIVIL DRAWINGS.
133 BOLLARD, PAINTED "HAZARD YELLOW".
135 FIRE APARATUS ACCESS PATH.
136 COLLECTION TRUCK APPROACH.
137 COLLECTION BIN STAGING AREA.
138 HALL'S BUSH MALLOW AVOIDANCE BUFFER.

SITE LEGEND

PROPERTY LINE
EASEMENT LINE, SEE KEYNOTES FOR SPECIFIC EASEMENT PURPOSES.
POLE MOUNTED LIGHT FIXTURE.
20'-0" FIRE LANE (HATCHED), MIN. 26'-0 WIDE LANES PROVIDED FOR FIRE APARATUS ACCESS.
PARKING STALL COUNT TOTAL
DOCK HIGH TRUCK DOOR
GRADE LEVEL TRUCK DOOR
FIRE HYDRANT
P.I.V. WITH TAMPER
EXISTING PARKING DEDICATED TO PROJECT PER DEVELOPMENT AGREEMENT WITH ADJACENT PARCELS.
PROJECT BOUNDARY

N

0 30 60 120 180 300 Feet

SITE LEGEND

DEVELOPMENT STANDARDS:

GENERAL PLAN:	INDUSTRIAL PARK
ZONING:	IP INDUSTRIAL PARK
MAX FAR.:	10
MAX BLDG. HT.:	120 FT
BUILDING SETBACKS:	
FRONT:	15 FT
SIDE:	0 FT
REAR:	0 FT
LANDSCAPE SETBACKS:	
FRONT:	25 FT
SIDE:	0 FT
REAR:	0 FT
OFF-STREET PARKING:	
FULL SIZE:	9X18
SMALL SIZE:	8X16
DRIVE AISLE:	26 FT
FIRE LANE:	20 FT
MOTORCYCLE:	3X6 (1/50 REQ'D PARKING)
BICYCLE:	1/5000 SF (MANUFACTURING)
TREE WELL:	40 SF (5 FT NET MIN.)
REQ. PARKING BY USE:	
MANUFACTURING:	1/350 SF OF GROSS AREA

PROJECT DATA:

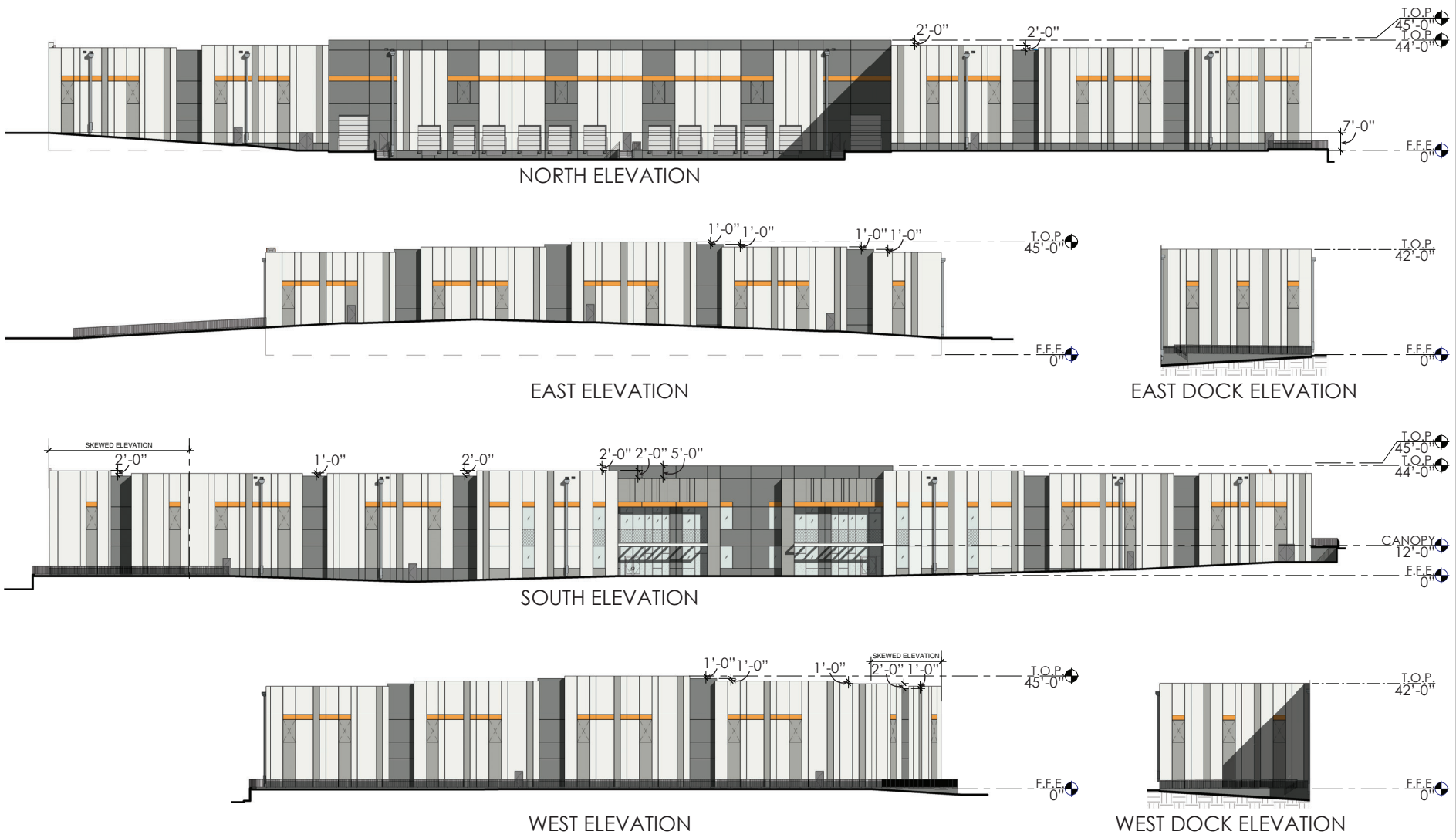
SITE AREA:	
GROSS:	10.165 +/- ACRES (442,787 +/- SF)
DETENTION:	13,284 SF (@ 3%)
NET:	429,503 +/- SF (9.86 +/- ARES)
BUILDING FOOTPRINT:	121,400 SF
BUILDING USE:	INDUSTRIAL / MANUFACTURING
CONSTRUCTION TYPE:	III-B
OCCUPANCY:	B/S-1
SITE COVERAGE:	27.5%
PARKING REQUIRED:	
MANUFACTURING:	348 STALLS (1/350 SF)
15% REDUCTION:	296 STALLS *
PARKING PROVIDED:	
TOTAL:	298 STALLS
NEW:	221 STALLS
EXISTING ASSIGNED:	77 STALLS
STALL SIZE:	FULL SIZE 9X18 COMPACT 9X16
ADA SPACES:	8 STALLS
EV CHARGING:	6 EXISTING/54 FUTURE STALLS (20%)
MOTORCYCLE:	6 SPACES
BICYCLE**:	25 SPACES
TRUCK DOCKS:	
DOCK-HIGH DOORS (▲):	11
DRIVE-IN DOORS(○):	2

* PER OPPIDAN'S CONSULTATION WITH CITY OF SAN JOSE PLANNING DIRECTOR, A SINGLE USE BUILDING CAN REDUCE 15% OF TOTAL REQUIRED PARKING SPACES FOR COMMON AREA/CIRCULATION.
PER OPPIDAN'S CONSULTATION WITH CITY OF SAN JOSE PLANNING DIRECTOR, A SINGLE USE BUILDING CAN REDUCE 15% OF TOTAL REQUIRED PARKING SPACES FOR COMMON AREA/CIRCULATION.
** LONG TERM BICYCLE PARKING DEFERRED TO FUTURE TI DEVELOPMENT TO ALLOW FLEXIBILITY IN LOCATION (INTERIOR STORAGE VS EXTERIOR)

Source: Ware Malcomb, July, 31 2023.

SITE PLAN

FIGURE 3.2-1



Source: Ware Malcomb, November 23, 2022.

BUILDING ELEVATIONS | FIGURE 3.2-2

The project would include a connection to an existing 26-foot-wide drive aisle that extends from the eastern Embedded Way driveway through the adjacent eastern industrial property (875 Embedded Way) and currently terminates at the southeastern boundary of the project site. Trucks accessing the site would only be permitted to use the westernmost driveway off of Embedded Way. Internal drive aisles (26-feet in width) would provide vehicle and truck circulation around the perimeter of the proposed building.

A total of 300 parking spaces would be provided in the surface parking lot surrounding the proposed building. Out of the 300 parking spaces, 223 would be new stalls and the remaining 77 stalls are existing parking spaces currently associated with the eastern adjacent parcel but dedicated to the 865 Embedded Way property (i.e., the project) per a development agreement. In addition, eight parking spaces out of the total 300 spaces would be designed to be compliant with the Americans with Disabilities Act (ADA) regulations and 24 spaces would be designated clean air vehicle spaces. A total of 18 electric vehicle (EV) capable spaces would be provided with six of the spaces currently existing and 12 new spaces proposed. A total of six motorcycle parking spaces and 25 bicycle parking spaces would also be provided. The northern side of the building would include 11 truck loading docks.[2] Of the trucks anticipated to travel to the project site, none are assumed to be trucks equipped with transport refrigeration units because the project would not include cold storage.

3.2.3 Stormwater Management

To manage stormwater runoff on the site, the project proposes two bioretention basins and a subsurface infiltration system consisting of underground reservoirs that capture, temporarily store, and infiltrate stormwater into the surrounding soil. A 3,192 square foot bioretention basin would be located on-site adjacent to the western surface parking area and a 6,956 square foot bioretention basin would be located on the southern portion of the site adjacent to the existing drive aisle on the 845 Embedded Way property. Both bioretention basins would be unlined with an underdrain system. The subsurface infiltration system would be located underneath the western parking lot adjacent to the 3,400 square foot detention basin. The infiltration system would have a volume of approximately 9,746 cubic feet.

3.2.4 Landscaping

The project site would be landscaped with drought tolerant, medium water, and low water use trees, shrubs, and grasses. Vegetation would be planted along the perimeter of the property line and the proposed building. In addition, trees and shrubs would be placed in planters throughout the surface parking lot. The project would remove a total of 11 trees with two being ordinance-sized native trees and nine being non-ordinance sized trees. Of the nine trees, five are native trees and four are non-native trees. To replace the trees that would be removed, a total of 129 15-gallon trees would be planted with 53 of the trees being native trees and 76 trees being non-native trees.

[2] Note that during the environmental review process the number of truck loading docks decreased from 12 to 11 loading docks. Some of the technical analyses prepared for the project are based on the former number of docks.

3.2.5 Site Lighting

The project would install 25 foot tall security lighting throughout the site in parking areas, along pathways, and adjacent to buildings. All lighting would conform to the City's Outdoor Lighting Policy (Policy 4-3) as applicable and be shielded to direct light downwards to ensure that lighting does not spill over onto adjacent residential properties, consistent with City standards.

3.2.6 Sustainability Features

The proposed project would include energy conservation measures required by the California Building Code Title 24 building energy efficiency standards including high-efficiency lighting, high-efficiency heating/cooling, thermal insulation, and water conserving plumbing fixtures. The project would provide solar photovoltaic panels on the rooftop as required under the 2019 Building Energy Efficiency Standards. The proposed building would also be built in conformance with San José Council Policy 6-32 and the City's Green Building Measures. Pursuant to Ordinance Number 30502, which was adopted by the San José City Council on December 1, 2020, the proposed structure would be required to be an all-electric building with no natural gas infrastructure. This energy requirement applies to all new construction in the City of San José. The project would also procure electricity from the San José Clean Energy (SJCE) TotalGreen service, which provides electricity sourced from 100 percent renewable energy.

3.2.7 Mechanical Equipment

The project would include a 472-horsepower diesel fueled fire pump within the building in the southeast corner. The project would also include mechanical equipment such as heating, ventilation , and air conditioning (HVAC) units

3.2.8 Construction

The total construction period would be 10 months with construction beginning in 2024. The site is vacant and would not require demolition. Construction activities would include site preparation, grading, building construction, architectural coating, and paving. Approximately 18,000 cubic yards of soil would be imported during the grading phase. The project would also complete utility work in the project's driveway off Embedded Way. During excavation, the maximum depth of excavation on-site would be 20 feet. The project would also comply with the City's Zero Waste Strategic Plan to enhance construction recycling.

SECTION 4.0 ENVIRONMENTAL SETTING, CHECKLIST, AND IMPACT DISCUSSION

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

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

The discussion for each environmental subject includes the following subsections:

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

4.1 AESTHETICS

4.1.1 Environmental Setting

4.1.1.1 *Regulatory Framework*

State

Streets and Highway Code Sections 260 through 263

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

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

Local

Envision San José 2040 General Plan

The 2040 General Plan includes the following policies applicable specifically to development projects in San José:

Envision San José 2040 Relevant Aesthetic Policies

Policy	Description
CD-1.1	Require the highest standards of architecture and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
CD-1.22	Include adequate, drought-tolerant landscaped areas in development and require provisions for ongoing landscape maintenance.
CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
CD-1.25	Apply Riparian Corridor Goals and Policies of this Plan when reviewing development adjacent to creeks.

[3] California Department of Transportation. "Scenic Highways." Accessed May 11, 2022. https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways.

	• Development adjacent to creekside areas should incorporate compatible design and landscaping, including appropriate setbacks and plant species that are native to the area or are compatible with native species. • Development should maximize visual and physical access to creeks from the public right-of-way while protecting the natural ecosystem. Consider whether designs could incorporate linear parks along creeks or accommodate them in the future.
CD-1.27	When approving new construction, require the undergrounding of distribution utility lines serving the development. Encourage programs for undergrounding existing overhead distribution lines. Overhead lines providing electrical power to light rail transit vehicles and high-tension electrical transmission lines are exempt from this policy.
CD-2.5	Integrate Green Building Goals and Policies of this Plan into site design to create healthful environments. Consider factors such as shaded parking areas, pedestrian connections, minimization of impervious surfaces, incorporation of stormwater treatment measures, appropriate building orientations, etc.
CD-4.1	Maintain and update design guidelines adopted by the City and abide by them in the development of projects.
CD-4.4	In non-growth areas, design new development and subdivisions to reflect the character of predominant existing development of the same type in the surrounding area through the regulation of lot size, street frontage, height, building scale, siting/setbacks, and building orientation.
CD-4.9	For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).
CD-8.1	Ensure new development is consistent with specific height limits established within the City's Zoning Ordinance and applied through the zoning designation for properties throughout the City. Land use designations in the Land Use/ Transportation Diagram provide an indication of the typical number of stories expected for new development, however specific height limitations for buildings and structures in San José are not identified in the *Envision General Plan*.

San José Design Review Process and Citywide Design Standards and Guidelines

Nearly all new private development is subject to a design review process (architecture and site planning). The design review process is used to evaluate projects for conformance with adopted design guidelines and other relevant policies and ordinances.

To assist those involved with the design, construction, review, and approval of development in San José, the City developed the San José Citywide Design Standard Guidelines, which were adopted in October 2022. Guidelines are provided for specific development types, including general industrial and industrial research and development as described below.

The General Industrial Guidelines apply to facilities such as light and heavy industrial uses, combined industrial commercial uses, and manufacturing, processing, and recycling. These facilities are typically space-intensive, have large open plan spaces, and require large vehicle/truck access and circulation. Any proposed office and open space uses should be located facing the street to engage

the public realm. Parking should be screened from adjacent developments. Utilities should be placed in such a way that minimizes the visual and physical impact on the public realm. Building façades should be articulated using architectural elements such as windows, columns, and sunshades. Pedestrian connections should be provided to the street, and parking connections should be provided to primary building entrances. Driveways should be located to the side or rear of development sites.

City of San José Outdoor Lighting Policy (Policy 4-3)

The City of San José's Outdoor Lighting Policy requires outdoor lighting on private properties to be directed downward and include shielding to reduce light pollution and spill light. The policy also requires the use of energy efficient lighting fixtures.[4]

4.1.1.2 *Existing Conditions*

Existing On-site Setting

The project site is a vacant, undeveloped property that had been previously graded. It primarily consists of ruderal grasses and small shrubs. A few scattered trees are located on the southeastern portion of the site. The site contains serpentine rock outcroppings within areas (approximately 1.5 acres) mapped as serpentine bunchgrass grassland as shown in the Biological Communities Figure 4.4-1. Pictures of the project site can be seen in Photo 1, Photo 2, Photo 3, and Photo 4.

Existing Surrounding Setting

The area surrounding the project site is currently occupied by two-story industrial and office buildings. These structures are located to the north, east and south of the project site. To the west, the project site is bordered by Coyote Creek, Coyote Creek Trail, and its associated open space recreational area. The surrounding area can be seen in Photo 5, Photo 6, Photo 7, and Photo 8. In addition, views of the project site from the Coyote Creek Trail are shown in Photo 9 and Photo 10.

Scenic Views

Based on the General Plan EIR, a scenic vista consists of hillsides, woodland, bayland areas, scenic skyline, or the built environment. Panoramic views of hillside areas, including the foothills of the Diablo Range, Silver Creek Hills, Santa Teresa Hills, and foothills of the Santa Cruz Mountains, are key scenic features in the San José area. Other open space areas visible locally include areas of open fields off State Route 85 in the Edenvale area and open fields, farmland, and the wooded riparian corridor of Coyote Creek visible from roadways in the Coyote and Edenvale Planning Areas. Notable riparian corridors include segments of Penitencia Creek in the Alum Rock and Berryessa Planning Areas and Coyote Creek in the Central and South Planning Areas, upstream and downstream of Kelly Park. Views of the Baylands are generally local due to the flat topography of marsh and tidal wetland areas around San Francisco Bay.[5] The project site and surrounding areas are located on an

[4] City of San José. "Outdoor Lighting on Private Developments, Policy Number 4-3". Revised June 20, 2020. Accessed May 11, 2022. Available at: https://www.sanjoseca.gov/home/showpublisheddocument/12835/636669964179500000#:~:text=Outdoor%20lighting%20shall%20be%20fully,of%20business%2C%20whichever%20is%20later.

[5] City of San José. Draft Program Environmental Impact Report for the Envision San José 2040 General Plan. SCH# 2009072096. Page 722. June 2011.

Photo 1: Western Project Site Existing Conditions

Photo 2: Northern Project Site Existing Conditions

PHOTOS 1 & 2

Photo 3: Eastern Project Site Existing Conditions

Photo 4: Southern Project Site Existing Conditions

PHOTOS 3 & 4

Photo 5: Southern Surrounding Land Uses (Office Buildings and Athletic Facility)

Photo 6: Eastern Surrounding Land Uses (Parking Lot and Office Building)

PHOTOS 5 & 6

Photo 7: Northern Surrounding Land Uses (Office Buildings)

Photo 8: Western Surrounding Land Uses (Coyote Creek Trail)

PHOTOS 7 & 8

Photo 9: View of Western Project Site Boundary from the Coyote Creek Trail

Photo 10: View of Western Project Site Boundary from the Coyote Creek Trail

PHOTOS 9 & 10

elevated parcel that has a view of the Coyote Ridge to the east. The project area has minimal to no scenic views of the Santa Cruz Mountains to the west and the Diablo Range to the east, apart from the adjacent Coyote Ridge.

Light and Glare

Sources of light and glare in the project vicinity include but are not limited to streetlights, parking lot lights, security lights, vehicular headlights, internal building lights, and reflective building surfaces and windows.

4.1.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Except as provided in Public Resources Code Section 21099, would the project:				
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☒	☐
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings?[6] 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?	☐	☐	☒	☐

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

The construction of the proposed project would create a single-story 45-foot-tall warehouse structure that would be used for R&D purposes. The proposed structure would be similar in scale to existing buildings east, north, and south of the site. The building would occupy most of the vacant lot, which would obstruct the views of the Coyote Ridge east of the project site from the south. However, the Coyote Ridge scenic vista (refer to Section 4.1.1.2 Existing Conditions for a description of scenic vistas) would still be visible from most areas around the project site. From the publicly available areas, such as the Coyote Creek trail, the views of Coyote Ridge are already obstructed due to the existing elevated nature of the site or due to the existing surrounding buildings. Refer to Photo 9 and Photo 10 to see the public vantage point from the Coyote Creek Trail. The project site and the Coyote Ridge are not visible from the trail due to the elevation difference.

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

The proposed development would alter the visual character of the project site compared to the existing conditions since the existing site is undeveloped. The General Plan Final EIR (as amended) concluded that new development and redevelopment allowed under the General Plan would alter the appearance of San José, but implementation of applicable policies and regulations (including the City's Design Guidelines) would avoid substantial degradation of the visual character of the City. The project would also be required to comply with the City of San José Industrial Design Guidelines, which establish standards for aesthetic compatibility and ensure that new industrial developments align with the City's objectives.[7] As an industrial development, the project would complement the surrounding existing industrial buildings and keep in character (e.g., building form and scale) with the existing uses. The proposed building would, however, be comparable in mass and scale to the existing light industrial buildings in the project area and consistent with the planned growth within the General Plan.

The project would comply with the setback requirements for an IP zoning district (as described in Chapter 20.50.200 of the City's Municipal Code). The building would be setback more than 15 feet of the front property line at approximately 133 feet, loading docks would be more than 60 feet from the property line at approximately 68 feet, and the parking lot for passenger vehicles would be setback more than 25 from the front at approximately 115 feet. There are no side or rear setback requirements. The project development (including the building footprint, surface parking lot, and landscaping) would be outside of the 100-foot Coyote Creek riparian corridor setback and would not degrade the riparian corridor as described in Section 4.4 Biological Resources. The loading docks for trucks and the trash enclosures would be located in the rear of the building away from public streets. The project would also include landscaping throughout the perimeter of the site. The above-mentioned project design features comply with the Industrial Design Guidelines. As a result, the project would not degrade visual character of the area, and would not obscure any scenic vistas, damage scenic resources, or degrade the visual quality of the area. Therefore, implementation of the project would not result in a significant impact on a scenic vista. **(Less than Significant Impact)**

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

As described in Section 4.1.1.1 Regulatory Framework, there are no state-designated scenic highways in San José. The nearest scenic highway, Interstate 280, is located approximately nine miles northwest from the project site.[8] Moreover, according to the General Plan Scenic Corridors Diagram, the project site is located approximately two feet north from the nearest designated Gateway (intersection of U.S. Route 101 and State Route 85), and intervening development and vegetation obscures the project site from the designated Gateway.

While the project site contains serpentine rock outcroppings as described in Section 4.1.1.2 Existing Conditions and construction of the project would remove these rock outcroppings (shown in Photo 7); the serpentine rock outcroppings are not a scenic resource because the rock outcroppings are not prominent, are not visible off the property, and are not within a state scenic highway. Discussion of

[7] City of San José. *Industrial Design Guidelines*. August 25, 1992.
[8] California Department of Transportation. "California State Scenic Highway System Map." Accessed February 6, 2023. https://caltrans.maps.arcgis.com/apps/webappviewer/index.html?id=465dfd3d807c46cc8e8057116f1aacaa.

the serpentine rock outcroppings as a biological resources is included in Section 4.4 Biological Resources. Therefore, the project would not damage scenic resources within any state-designated scenic highways. **(No Impact)**

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

The project site is located within an increasingly urbanized area that consists of other industrial uses, roadways, and a recreational facility. The proposed project would comply with Title 20 of the City's Municipal Code and would be subject to a design review process conducted as part of the development permit review process to ensure that it conforms with all adopted design guidelines and other relevant policies and ordinances. Pursuant to the Zoning Code, the maximum height for the project is 50 feet (similar to other industrial buildings in the area), and the proposed project at 45 feet would not exceed this height. This height would also be consistent and thus compatible with adjacent existing industrial uses to the north, south, and east. Because of this, the proposed project would be consistent with the current pattern of the project vicinity. The City of San José Municipal Code (Zoning Code) Title 20, Chapter 20.50, Part 3, Section 200, includes other development standards to assist in ensuring scenic quality such as minimum lot area, minimum setbacks, and minimum street frontage (see Table 20-120 of the Zoning Code), and the City would confirm consistency with these requirements as part of the development review process.

The General Plan contains design guidelines, policies, and development standards that include measures to help ensure quality design listed in the regulatory section above which pertain to appearance of buildings, site and landscape design, utility placement, and design of projects near riparian corridors. The project would be required to adhere to these goal, policies, and development standards, and the City would confirm consistency with these requirements as part of the development review process. For these reasons, the proposed project would not conflict with applicable zoning and other regulations governing scenic quality. **(Less than Significant Impact)**

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

The proposed project would construct a 45-foot tall industrial structure which would result in more visible nighttime lighting than currently exists on-site. The proposed project would include internal building lights and external security lights. Exterior lighting on the site would be similar to the exterior lighting present on surrounding industrial properties. Exterior lights would be placed at the entrance of the building, in the truck loading area, and throughout the surface parking lot. All exterior lights in the parking lot would be 25 feet tall.

There are no residential uses in proximity to the site. The nearest residences are a part of a single-family neighborhood approximately 345 feet west of the project site, separated by the Coyote Creek. Due to the location of Coyote Creek and associated riparian vegetation (in-between the site and neighborhood), the view of the proposed building from the single-family residences would be obscured. Additionally, as described previously, exterior lighting on the site would be similar to the

exterior lighting present on surrounding industrial properties. For these reasons, the project would not result in substantial light or glare affecting views in the area. The project's lighting impacts to the Coyote Creek riparian corridor are discussed further in Section 4.4 Biological Resources.

Additionally, the proposed project would be subject to the City's design review process prior to the issuance of development permits to ensure that it is consistent with General Plan policies and the City's Design Guidelines. Compliance with the City Design Guidelines, City policies, and regulations would protect the night sky and control the amount of light shining on streets and sidewalks. Therefore, the proposed project would not adversely affect day or nighttime views in the area from lighting or glare. **(Less than Significant Impact)**

4.2 AGRICULTURE AND FORESTRY RESOURCES

4.2.1 Environmental Setting

4.2.1.1 *Regulatory Framework*

State

Farmland Mapping and Monitoring Program

The California Department of Conservation's Farmland Mapping and Monitoring Program (FMMP) assesses the location, quality, and quantity of agricultural land and conversion of these lands over time. Agricultural land is rated according to soil quality and irrigation status. The best quality land is identified as Prime Farmland. In CEQA analyses, the FMMP classifications and published county maps are used, in part, to identify whether agricultural resources that could be affected are present on-site or in the project area.[9]

California Land Conservation Act

The California Land Conservation Act (Williamson Act) enables local governments to enter into contracts with private landowners to restrict parcels of land to agricultural or related open space uses. In return, landowners receive lower property tax assessments. In CEQA analyses, identification of properties that are under a Williamson Act contract is used to also identify sites that may contain agricultural resources or are zoned for agricultural uses.[10]

Fire and Resource Assessment Program

The California Department of Forestry and Fire Protection (CAL FIRE) identifies forest land, timberland, and lands zoned for timberland production that can (or do) support forestry resources.[11] Programs such as CAL FIRE's Fire and Resource Assessment Program and are used to identify whether forest land, timberland, or timberland production areas that could be affected are located on or adjacent to a project site.[12]

[9] California Department of Conservation. "Farmland Mapping and Monitoring Program." Accessed May 11,2022. http://www.conservation.ca.gov/dlrp/fmmp/Pages/Index.aspx.
[10] California Department of Conservation. "Williamson Act." http://www.conservation.ca.gov/dlrp/lca.
[11] Forest Land is land that can support 10 percent native tree cover and allows for management of forest resources (California Public Resources Code Section 12220(g)); Timberland is land not owned by the federal government or designated as experimental forest land that is available for, and capable of, growing trees to produce lumber and other products, including Christmas trees (California Public Resources Code Section 4526); and Timberland Production is land used for growing and harvesting timber and compatible uses (Government Code Section 51104(g)).
[12] California Department of Forestry and Fire Protection. "Fire and Resource Assessment Program." Accessed May 12, 2022. http://frap.fire.ca.gov/.

4.2.1.2 *Existing Conditions*

The project site is vacant land not under a current Williamson Act contract and is classified as Urban and Built-Up Land on the California Important Farmland Finder.[13,14] Under the Fire and Resources Assessment Program provided by CAL FIRE, the project site is not identified as forestland and does not contain forest resources.[15]

4.2.2 Impact Discussion

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

Note: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board.

[13] California Department of Conservation. "California Important Farmland Finder." Updated September 29, 2021. Accessed May 11, 2022. https://www.arcgis.com/home/item.html?id=8ab78d6c403b402786cc231941d1b929
[14] County of Santa Clara. "Williamson Act Properties." Accessed May 12, 2022. Available at https://sccplanning.maps.arcgis.com/apps/webappviewer/index.html?id=1f39e32b4c0644b0915354c3e59778ce
[15] California Department of Forestry and Fire Protection. "Landcover California Wildlife Habitat Relationships System Types." Accessed May 11, 2022. https://frap.fire.ca.gov/media/10311/fveg_19_ada.pdf. .

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

As discussed in Section 4.2.12 Existing Conditions, there are no agricultural resources located on-site including, Prime Farmland; Unique Farmland; or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency. The project would have no impact on agricultural resources. **(No Impact)**

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

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

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

The project site is zoned Industrial Park District. The project site is not zoned for forestland, timberland, or timberland zoned Timberland Production. The project would not impact these resources by conflicting with existing zoning for forest land, timberland, or timberland zoned Timberland Production. **(No Impact)**

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

The project site does not contain land uses that could serve as forest land. Therefore, the project would not result in the conversion of forest land to non-forest uses. **(No Impact)**

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

The project site is vacant and does not contain land uses that could serve as agricultural or forest land. Therefore, the project would not result in the conversion of agricultural or forest land to non-agricultural or non-forest uses. **(No Impact)**

4.3 AIR QUALITY

The information in this section is based in part on an Air Quality Assessment prepared by Illingworth and Rodkin, Inc. in August 2022. This report is available in Appendix A of this document.

4.3.1 Environmental Setting

4.3.1.1 *Regulatory Framework*

4.3.1.2 *Background Information*

Criteria Pollutants

Air quality in the Bay Area is assessed related to six common air pollutants (referred to as criteria pollutants), including ground-level ozone (O_3), nitrogen oxides (NO_x), particulate matter (PM), carbon monoxide (CO), sulfur oxides (SO_x), and lead.[16] Criteria pollutants are regulated because they result in health effects. An overview of the sources of criteria pollutants and their associated health are summarized in Table 4.3-1. The most commonly regulated criteria pollutants in the San Francisco Bay Area (Bay Area) are discussed further below.

Table 4.3-1: Health Effects of Air Pollutants

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

High O_3 levels are caused by the cumulative emissions of reactive organic gases (ROG) and NO_x. These precursor pollutants react under certain meteorological conditions to form high O_3 levels.

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

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 that are downwind of air pollutant sources.

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

Toxic Air Contaminants

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

Diesel exhaust is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs. Diesel exhaust is a complex mixture of gases, vapors, and fine particles. Medium- and heavy-duty diesel trucks represent the bulk of DPM emissions from California highways. The majority of DPM is small enough to be inhaled into the lungs. Most inhaled particles are subsequently exhaled, but some deposit on the lung surface or are deposited in the deepest regions of the lungs (most susceptible to injury).[17] Chemicals in diesel exhaust, such as benzene and formaldehyde, have been previously identified as TACs by the California Air Resources Board (CARB).

Sensitive Receptors

Some groups of people are more affected by air pollution than others. CARB has identified the following persons who are most likely to be affected by air pollution: children under 16, the elderly over 65, athletes, 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. The closest sensitive receptors to the project site are the single-family residences in a single-family neighborhood approximately 345 feet to the west of the project site opposite Coyote Creek. This project would not introduce new sensitive receptors (i.e., residents) to the area.

Federal and State

Clean Air Act

At the federal level, the United States Environmental Protection Agency (EPA) is responsible for overseeing implementation of the Clean Air Act and its subsequent amendments. The federal Clean

[17] California Air Resources Board. "Overview: Diesel Exhaust and Health." Accessed May 13, 2022. https://ww2.arb.ca.gov/resources/overview-diesel-exhaust-and-health.

Air Act requires the EPA to set national ambient air quality standards for the six common criteria pollutants (discussed previously), including PM, O_3, CO, SO_x, NO_x, and lead.

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

Risk Reduction Plan

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

Regional

2017 Clean Air Plan

The Bay Area Air Quality Management District (BAAQMD) is the agency primarily responsible for assuring that the federal and state ambient air quality standards are maintained in the San Francisco Bay Area. Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how state and federal air quality standards will be met. BAAQMD's most recently adopted plan is the Bay Area 2017 Clean Air Plan (2017 CAP). The 2017 CAP focuses on two related BAAQMD goals: protecting public health and protecting the climate. To protect public health, the 2017 CAP describes how BAAQMD will continue its progress toward attaining state and federal air quality standards and eliminating health risk disparities from exposure to air pollution among Bay Area communities. To protect the climate, the 2017 CAP includes control measures designed to reduce emissions of methane and other super-greenhouse gases (GHGs) that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.[18]

[18] BAAQMD. *Final 2017 Clean Air Plan.* April 19, 2017. Accessed May 13, 2022. Available at: https://www.baaqmd.gov/~/media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a_-proposed-final-cap-vol-1-pdf.pdf?la=en.

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.

Envision San José 2040 General Plan

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

Envision San José 2040 Relevant Air Quality Policies

Policy	Description
MS-10.1	Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement feasible air emission reduction measures.
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-11.2	For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.
MS-11.3	Review projects generating significant heavy duty truck traffic to designate truck routes that minimize exposure of sensitive receptors to TACs and particulate matter.
MS-11.5	Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.
MS-13.1	Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.

4.3.1.3 *Existing Conditions*

The Bay Area is designated nonattainment-marginal for the 8-hour ozone National Ambient Air Quality Standard (NAAQS), nonattainment-moderate for the $PM_{2.5}$ NAAQS, and maintenance for CO. The Bay Area is designated nonattainment for the O_3, $PM_{2.5}$, and PM_{10} California Ambient Air Quality Standards (CAAQS). 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. These thresholds are for O_3 precursor pollutants (ROG and NO_X), PM_{10}, and $PM_{2.5}$, and apply to both construction period and operational period impacts.

4.3.2 Impact Discussion

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

4.3.2.1 *Thresholds of Significance*

Impacts from the Project

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

It should be noted that BAAQMD published the updated 2022 California Environmental Quality Act Air Quality Guidelines on April 20, 2023. At the time the environmental review for the project commenced, BAAQMD's 2017 Guidelines were still in effect. As a result, this Initial Study, and the Air Quality Assessment contained in Appendix A, were prepared in accordance with BAAQMD's 2017 Guidelines. While the 2022 Guidelines contain updates to recommended methodology, the significance thresholds remain unchanged from those included in the 2017 Guidelines. The updated

methodological recommendations would not alter the overall conclusions of the Air Quality Assessment or the Initial Study.

Table 4.3-2: BAAQMD Air Quality Significance Thresholds

	Construction Thresholds	Operation Thresholds	
Pollutant	**Average Daily Emissions (pounds/day)**	**Average Daily Emissions (pounds/day)**	**Annual Average Emissions (tons/year)**
Criteria Air Pollutants			
ROG, NO_x	54	54	10
PM_{10}	82 (exhaust)	82	15
$PM_{2.5}$	54 (exhaust)	54	10
CO	Not Applicable	9.0 ppm (eight-hour) or 20.0 ppm (one-hour)	
Fugitive Dust	Dust Control Measures/Best Management Practices	Not Applicable	
Health Risks and Hazards for New Sources (within a 1,000-foot Zone of Influence)			
Health Hazard	**Single Source**	**Combined Cumulative Sources**	
Excess Cancer Risk	10 per one million	100 per one million	
Hazard Index	1.0	10.0	
Incremental Annual $PM_{2.5}$	0.3 $\mu g/m^3$	0.8 $\mu g/m^3$ (average)	

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

2017 Clean Air Plan

As described in Section 4.3.1.3 Regulatory Framework, the most current air quality plan from BAAQMD is the 2017 CAP. The goals of the 2017 CAP include protecting public health (as it relates to air quality) and protecting the climate. The BAAQMD Air Quality Guidelines states that a determination of consistency with the 2017 CAP should demonstrate that the project supports the primary goals of the 2017 CAP, includes applicable control measures from the 2017 CAP, and does not disrupt or hinder implementation of any 2017 CAP control measures.

The project would support the primary goals of the 2017 CAP of protecting public health and protecting the climate and would be consistent with control measures that focus on reducing emissions in the transportation, building, and energy sectors. The project's consistency with the Bay Area 2017 CAP is summarized below in Table 4.3-3.

Table 4.3-3: Applicable Control Measures

Control Measure	Project Consistency with Measure Intent
Stationary Source Measures	
SS30 - Residential Fan Type Furnaces: Reduce NO_X emission limits on new and replacement central furnace installations. Explore potential Air District rulemaking options regarding the sale of fossil fuel-based space and water heating systems for both residential and commercial use.	The City adopted a Reach Code ordinance which prohibits natural gas infrastructure in all new construction. The proposed project would include all electric building construction, consistent with the City's Reach Code. The project is consistent with this measure.
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 would include 25 bicycle parking spaces consistent with City requirements. The project is consistent with this measure.
TR13 - Parking Policies: Encourage parking policies and programs in local plans, e.g., reduce minimum parking requirements; limit the supply of off-street parking in transit-oriented areas; unbundle the price of parking spaces; support implementation of demand-based pricing in high-traffic areas.	The project proposes parking for the site consistent with City urban design policies and guidelines. Parking for the project would be provided within surface parking lots located on the western, southern, and eastern sides of the proposed building. For these reasons, the project is consistent with this measure.
Energy Measures	
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 required to comply with the City's Green Building Ordinance and the most recent CALGreen requirements. For these reasons, the project would be consistent with this measure.
Building Measures	
BL1 - Green Buildings: Collaborate with partners such as KyotoUSA to identify energy-related improvements and opportunities for onsite 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	As discussed above, the project would be required to comply with the City's Green Building Ordinance and the most recent CALGreen requirements. The project would also procure electricity from San José Clean Energy at the TotalGreen level, which is electricity that is 100 percent carbon free and sourced from all renewables. Therefore, the project is consistent with this measure.

Control Measure	Project Consistency with Measure Intent
the buildings sector. Engage with additional partners to target reducing emissions from specific types of buildings.	
BL2 - Decarbonize Buildings: Explore potential Air District rulemaking options regarding the sale of fossil fuel-based space and water heating systems for both residential and commercial use. Explore incentives for property owners to replace their furnace, water heater or natural-gas powered appliances with zero-carbon alternatives. Update Air District guidance documents to recommend that commercial and multi-family developments install ground source heat pumps and solar hot water heaters.	As noted above, the City adopted a Reach Code ordinance which prohibits natural gas infrastructure in all new construction. The proposed project would include all electric building construction, consistent with the City's Reach Code and 18 EV parking spaces would be provided on-site. The project is consistent with this 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.	A total of 11 on-site trees would be removed as a part of the project. The project would be required to comply with the City's tree replacement policy to replace the trees. The project proposes to plant 131 15-gallon trees. Therefore, the project is consistent with this control measure.
Waste Management Measures	
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, including 75 percent diversion by 2013 and zero waste by 2022. In addition, the project would comply with the City's Construction and Demolition Diversion Program during construction which ensures that at least 75 percent of construction waste generated by the project is recovered and diverted from landfills. Therefore, the project is consistent with this control measure.
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 planned growth in the General Plan and 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.

Additionally, as described in further detail below, the project would not exceed the BAAQMD significance thresholds related to criteria air pollutant emissions (refer to Table 4.3-4,Table 4.3-5, and Table 4.3-6), therefore, the project would not conflict with 2017 CAP's goal of attaining the NAAQS and CAAQS. As a result, the project would not conflict with or obstruct the implementation of an applicable air quality plan and the project would have a less than significant impact. **(Less than Significant Impact)**

Construction Criteria Pollutant Emissions

The California Emissions Estimator Model (CalEEMod) Version 2020.4.0 was used to estimate emissions from on-site construction activity, construction vehicle trips, and evaporative emissions. The model provides emission estimates for both on-site and off-site construction activities. On-site activities are primarily made up of construction equipment emissions, while off-site activity includes worker, hauling, and vendor traffic. The project land use types and size, and anticipated construction schedule described in Section 3.0 Project Description, were input to CalEEMod. The CARB EMission FACtors 2021 (EMFAC2021) model was used to predict emissions from construction traffic, which includes worker travel, vendor trucks, and haul trucks. The CalEEMod model output along with construction inputs are included in Appendix A.

Average daily emissions were calculated for construction by dividing the annual construction emissions by the number of active construction workdays that year.[19] Table 4.3-4 shows the average daily construction emissions of ROG, NO_X, PM_{10} exhaust, and $PM_{2.5}$ exhaust during construction of the project. As indicated in Table 4.3-4, predicted average daily project construction emissions would not exceed the BAAQMD significance thresholds during any year of construction. Therefore, project construction would have a less than significant criteria pollutant emissions impact and would not conflict with or obstruct implementation of the 2017 CAP. **(Less than Significant Impact)**

Table 4.3-4: Average Daily Construction Criteria Pollutant Emissions

Year	**Emissions (pounds/day)***			
	ROG	**NO_x**	**PM_{10} Exhaust**	**$PM_{2.5}$ Exhaust**
2023	7.77	11.13	0.51	0.62
BAAQMD Significance Threshold	**54**	**54**	**82**	**54**
Significant?	***No***	***No***	***No***	***No***

*Based on 195 construction workdays
Source: Illingworth & Rodkin, Inc. *865 Embedded Way Industrial Project Air Quality Assessment*. August 2022.

[19] As noted in Section 3.2.8 Construction of the Initial Study, construction is anticipated to begin in fall 2023 and end in 2024. However, at the time the Air Quality and GHG Assessment was prepared (refer to Appendix B), construction was anticipated to begin and end in 2023. As a result, the emissions computed in the Initial Study are based on a 2023 construction start date. This represents a conservative estimate of project's construction emissions because the modeling software used to estimate construction emissions assumes a slightly older construction fleet for the year 2023 than for the year 2024, resulting in slightly higher emissions estimates.

Operational Criteria Pollutant Emissions

Operational criteria pollutant emissions from the project would be generated primarily from trucks and passenger vehicles driven by future employees traveling to the proposed project site. Based on the 12 truck loading docks, it was assumed that the project would generate 24 trucks or 48 truck trips daily. In addition, evaporative emissions from architectural coatings and maintenance products (classified as consumer products) are typical operational emissions from these types of uses. CalEEMod was used to estimate emissions from operation of the proposed project assuming full build-out. Additionally, a 472-horsepower diesel fueled fire pump would be installed in the southeastern corner of the building as part of the project. It was assumed the fire pump would operate 50 hours per year for testing and maintenance purposes. Table 4.3-5 provides annual operational emissions and Table 4.3-6 provides the average daily operational emissions. The daily emissions were calculated assuming 365 days of operation.

Table 4.3-5: Annual Operational Criteria Pollutant Emissions

Year	Annual Emissions (tons/year)			
	ROG	**NO_x**	**PM_{10}**	**$PM_{2.5}$**
2024	1.16	0.50	0.82	0.21
BAAQMD Significance Threshold	**10**	**10**	**15**	**10**
Exceed Threshold?	***No***	***No***	***No***	***No***

Source: Illingworth & Rodkin, Inc. *Air Quality Assessment*. August 2022.

Table 4.3-6: Average Daily Operational Criteria Pollutant Emissions

Year	Emissions (pounds/day)*			
	ROG	**NO_x**	**PM_{10}**	**$PM_{2.5}$**
2024	6.38	2.74	4.49	1.16
BAAQMD Significance Threshold	**54**	**54**	**82**	**54**
Exceed Threshold?	***No***	***No***	***No***	***No***

*Based on 365 days of operation
Source: Illingworth & Rodkin, Inc. *865 Embedded Way Industrial Project Air Quality Assessment*. August 2022.

As shown in Table 4.3-5and Table 4.3-6, the proposed project would not exceed significance thresholds for ROG, NO_X, PM_{10}, and $PM_{2.5}$ during operations. Therefore, the project would have a less than significant criteria pollutant emissions impact and would not conflict with or obstruct implementation of the 2017 CAP. **(Less than Significant Impact)**

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

The Bay Area 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. The proposed project would increase criteria pollutants in the

Bay Area, contributing to existing violations of O_3 and particulate matter standards. As described in the BAAQMD CEQA Air Quality Guidelines, air pollution by its nature is largely a cumulative impact. No single project is sufficient in size to, by itself, result in nonattainment of ambient air quality standards. If a project exceeds the identified significance thresholds, its emissions would be cumulatively considerable, resulting in significant adverse air quality impacts to the region's existing air quality conditions. As discussed above in the discussion under checklist question "a" the proposed project would not result in any air pollutant emissions exceeding BAAQMD's significance thresholds. As a result, the proposed project would not result in a cumulatively considerable net increase of any criteria pollutant for which the region is in non-attainment. **(Less than Significant Impact)**

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

Criteria Air Pollutants

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 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.

Fugitive Dust

Construction activities associated with the project, particularly during site preparation and grading, would temporarily generate fugitive dust in the form of PM_{10} and $PM_{2.5}$. Sources of fugitive dust would include disturbed soils at the construction site and trucks carrying uncovered loads of soils. Unless properly controlled, vehicles leaving the site would deposit mud on local streets, which could be an additional source of airborne dust after it dries. The BAAQMD CEQA Air Quality Guidelines consider these impacts to be less than significant if best management practices are implemented to reduce the emissions. As described below, the project includes Standard Permit Conditions that incorporate the BAAQMD best management practices to reduce fugitive dust related impacts to a less than significant level.

Standard Permit Condition:

- **Construction-related Air Quality.** The following measures shall be implemented during all phases of construction to control dust and exhaust at the project site:

- Water active construction areas at least twice daily or as often as needed to control dust emissions.
- Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- Remove visible mud or dirt track-out onto adjacent public roads using wet-power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- Pave new or improved roadways, driveways, and sidewalks as soon as possible.
- Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- All vehicle speeds on unpaved roads shall be limited to 15 mph
- Replant vegetation in disturbed areas as quickly as possible.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Minimize idling times either by shutting off equipment when not in use, or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.
- Maintain and properly tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

With implementation of the above Standard Permit Conditions, the project would have a less than significant impact related fugitive dust emissions. The project would, therefore, not expose sensitive receptors to substantial pollutant concentrations associated with fugitive dust.

Toxic Air Contaminants

Construction

Construction equipment and associated heavy-duty truck traffic emit DPM, which is a known TAC. Construction exhaust emissions pose health risks for sensitive receptors such as surrounding residents west of the Coyote Creek. The primary community risk impacts associated with construction emissions are cancer risk and exposure to DPM and $PM_{2.5}$.

Operation

Sources of operational TAC would be the trucks traveling to and from the project site in addition to the emergency fire pump source. The health risk assessment prepared by Illingworth & Rodkin, Inc. estimated there would be 24 trucks or 48 truck trips generated daily by the project based on the 12 truck loading docks. All trucks were assumed to be heavy-duty diesel-powered trucks and a source of

long-term DPM emissions. These trucks would travel to and from the site and are anticipated to idle at loading docks for 5 minutes for each trip. The 472-horsepower) diesel emergency fire pump would be operated for testing and maintenance purposes for a maximum of 50 hours per year under normal conditions.

As described in Section 3.0 Project Description, trucks equipped with transport refrigeration units are not anticipated since the project would not include cold storage. The project includes the following condition of approval to ensure no refrigerated trucks are used in the future:

Condition of Approval

- No Refrigerated Uses: Approved operations under this permit include dry storage only, with no option for the conversion to cold storage in the future. If conversion to cold storage is proposed in the future, additional environmental review is required.

Summary of Project TAC Health Risks and Hazards

The health risk assessment completed for the project (refer to Appendix A) evaluated potential health effects from the project's TAC sources (construction and operation) upon nearby sensitive receptors (e.g., residences). The health risk assessment identified a maximally exposed individual (MEI). The project maximally exposed individual (MEI) is identified as the sensitive receptor that is most impacted by the project's construction and operation TAC sources based on factors such as emission sources and the prevailing wind direction. The MEI for this project is located at a single-family residence to the northwest of the project site across Coyote Creek approximately 535 feet northwest of the project site. The sensitive receptor identified as the MEI is the most exposed receptor to construction activity, truck traffic, and emissions from the testing and maintenance of the fire pump station. The health risk impacts related to the project's TAC sources are summarized in Table 4.3-7 and the location of the MEI is shown in Figure 4.3-1 below.

Table 4.3-7: Project Risk Impacts at the Off-Site MEI

Source	**Cancer Risk (per million)**	**Annual $PM_{2.5}$ ($\mu g/m^3$)**	**Hazard Index**
Project Construction (Years 0-1)	0.47 (infant)	0.01	<0.01
Project Truck Traffic (Years 2-30)	0.21 (infant)	<0.01	<0.01
Project Fire Pump	0.23 (infant)	<0.01	<0.01
Total/Maximum Project Impact (Years 0-30)	0.91 (infant)	0.01	<0.01
BAAQMD Single-Source Threshold	***10***	***0.3***	***1.0***
Exceed Threshold?	**No**	**No**	**No**

Source: Illingworth & Rodkin, Inc. *865 Embedded Way Industrial Project Air Quality Assessment*. August 2022.

As shown in Table 4.3-7, the risk impacts associated with construction and operation of the proposed project would not exceed the BAAQMD single-source thresholds for cancer risk, $PM_{2.5}$ concentrations, or the hazard index at the MEI receptor; therefore, the project would result in less than significant TAC related impacts.

Source: Illingworth & Rodkin, Inc., August 5, 2022.

PROJECT TAC SOURCES AND MAXIMUM TAC IMPACT (MEI) | FIGURE 4.3-1

Cumulative Health Risk Impact at the Project MEI

The community health risk assessment considered all substantial sources of TACs that could affect sensitive receptors located within 1,000 feet of the project site. Cumulative community risk sources within 1,000 feet of the project site include Hellyer Avenue and one permitted stationary source (emergency generator owned by KBAY-KEZR Alpha Media LLC). Table 4.3-8 reports both the project and cumulative community risk impacts at the project MEI. Figure 4.3-2 shows the locations of the cumulative TAC sources in relation to the Project MEI.

Table 4.3-8: Cumulative Risk Impacts at the Off-Site MEI

Source	Cancer Risk (per million)	Annual $PM_{2.5}$ ($\mu g/m^3$)	Hazard Index
Total/Maximum Project Impact	0.7	0.01	<0.01
Hellyer Ave, ADT 12,710	0.05	<0.01	<0.01
KBAY-KEZR Alpha Media LLC (Facility ID #201638, Generators), MEI at 750 feet	0.01	-	-
Combined Sources[1]	0.72	<0.02	<0.02
BAAQMD Cumulative Source Threshold	***100***	***0.8***	***10.0***
Exceed Threshold?	**No**	**No**	**No**

[1]Some numbers may not add up precisely due to rounding considerations
Source: Illingworth & Rodkin, Inc. *865 Embedded Way Industrial Project Air Quality Assessment.* August 2022.

As shown in Table 4.3-8, the project's community risk impact would not exceed the cumulative thresholds for increased cancer risk, $PM_{2.5}$ concentration, or hazard index values. Therefore, the project would not expose sensitive receptors to substantial pollutant concentrations. **(Less than Significant Impact)**

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

The proposed project would construct an industrial building for research and development purposes. Heavy-duty construction equipment and vehicles would emit odors, such as diesel exhaust, during use and at idle (limited to five minutes). However, these odors would be intermittent, and the odors disperse with distance. All construction-related odors would cease upon completion of construction. In addition, the operation of the R&D building would not be a typical source of odors. The BAAQMD 2017 *CEQA Air Quality Guidelines* lists screening distance for land uses that generate substantial odors with typical land uses being landfills, food manufacturing, compositing facilities, and chemical plants. An industrial research and development facility is not listed nor is anticipated to release significant and unusual odors; therefore, the project would not include any sources of significant odors that would cause complaints from surrounding uses. Odor impacts from construction and operational activities would be less than significant. **(Less than Significant Impact)**

Source: Illingworth & Rodkin, Inc., August 5, 2022.

CUMULATIVE TAC AND $PM_{2.5}$ SOURCES AND THE PROJECT MEI | FIGURE 4.3-2

4.4 BIOLOGICAL RESOURCES

The following discussion is based in part on a Biological Resources Report prepared for the project by H.T. Harvey & Associates, Inc. in November 2023 and an Arborist Report prepared by Traverso Tree in March 2023. Copies of these reports are attached to this Initial Study as Appendix B and Appendix C, respectively.

4.4.1 Environmental Setting

4.4.1.1 *Regulatory Framework*

Federal and State

Endangered Species Act

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

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

Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA) prohibits killing, capture, possession, or trade of migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. Hunting and poaching are also prohibited. 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 Ordinance

The City of San José maintains the urban landscape by controlling the removal of ordinance trees on private property (San José Municipal Code Section 13.32). Ordinance trees are defined as trees 38 inches in circumference, or approximately 12 inches in diameter, at a height of 4.5 feet above the ground. Ordinance trees are generally mature trees that help beautify the City, slow the erosion of topsoil, minimize flood hazards, minimize the risk of landslides, increase property values, and improve local air quality. A tree removal permit is required from the City of San José for the removal of ordinance trees.

Riparian Corridor Protection and Bird-Safe Design Council Policy

The City's Riparian Corridor Protection and Bird-Safe Design Council Policy provides guidance consistent with the goals, policies, and actions of the City's General Plan.[20] New buildings in existing urban infill areas are required to have a minimum 100-foot setback from riparian corridors. Additionally, new development should use materials and lighting that are designed and constructed to reduce light and glare impacts to riparian corridors and should be directed away from riparian corridors.

Bird-Safe Design Guidance includes: (1) the design of buildings and structures should avoid mirrors and large areas of reflective glass, (2) avoidance of transparent glass skyways, walkways, or entryways, (3) free-standing glass walls, and transparent building corners, (4) avoidance of funneling open space to a building façade. The area north of Highway 237 is specifically mentioned in these guidelines as a location where bird safe design is an important consideration.

[20] City of San José. *Riparian Corridor Protection and Bird-Safe Design*. August 23, 2016. Accessed May 13, 2022. Available at: https://www.sanjoseca.gov/home/showpublisheddocument?id=12815

Envision San José 2040 General Plan

The Envision San José 2040 General Plan contains the following policies which are specific to biology and applicable to the proposed project:

Envision San José 2040 Relevant Biological Policies

Policy	Description
ER-4.1	Preserve and restore, to the greatest extent feasible, 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-4.4	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 of activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.
ER-5.2	Require that development projects incorporate measures to avoid impacts to nesting migratory birds
ER-6.3	Employ low-glare 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-6.6	Encourage the use of native plants in the landscaping of developed areas adjacent to natural lands.
ER-6.8	Design and construct development to avoid changes in drainage patterns across adjacent natural areas and for adjacent native trees, such as oaks.

4.4.1.2 *Existing Conditions*

The project site is located within the Coyote Creek watershed, at the southern end of the San Francisco Bay. The proposed project is classified as an "Urban Development" land cover type, which is a "covered project" under the Habitat Plan.

Habitat Conditions

Field surveys completed on the site in May 2022 identified four land cover types: California annual grassland, serpentine bunchgrass grassland, urban-suburban, and mixed oak woodland. These habitats are described in detail below. Table 4.4-1 provides a summary of the land cover acreages on the site, and their distribution is depicted in Figure 4.4-1. Focused surveys were conducted in May

2022, October 2022, March 2023, April 2023, May 2023, and August 2023, and the results of these surveys are discussed in detail below.

Table 4.4-1: Habitats on the Project Site

Biological Community	Area (acres)	Percentage of Site
California Annual Grassland	6.9	68%
Serpentine Bunchgrass Grassland	1.5	15%
Urban-Suburban	1.3	13%
Mixed Oak Woodland	0.4	4%
Total	**10.1**	**100%**

Source: H.T. Harvey & Associates. *865 Embedded Way Biological Resources Report*. November 2023.

California Annual Grassland

California annual grassland is the dominant land cover type on the project site (refer to Figure 4.4-1). Nonnative grasses such as wild oat, ripgut brome, foxtail barley, and soft brome, as well as weedy nonnative forbs such as short-podded mustard, black mustard, redstem filaree, annual yellow sweetclover, and rose clover are present within this habitat. Native California poppies are widely distributed throughout this habitat, and small patches of native dwarf plantain are interspersed among the annual grasses. In the central portion of the site, the California annual grassland habitat has been previously disturbed due to historical grading and is dominated by nonnatives, but portions of the site that have not been previously disturbed support small patches of native California sage or widely dispersed individuals of native naked buckwheat. In addition, dense patches of nonnative poison hemlock (Conium maculatum), black mustard, and sweetclover are present in the northwest and southwest corners of this land cover. This annual grassland habitat contains a number of plant species ranked by the California Invasive Plant Council (Cal-IPC) as being moderately invasive.

Serpentine Bunchgrass Grassland

Serpentine bunchgrass grassland is present along the boundaries of the previously disturbed area on the project site (refer to Figure 4.4-1). Native plants present within this habitat include grasses such as purple needlegrass and small fescue; shrubs such as toyon; and forbs such as dwarf plantain, hayfield tarweed, blow wives, gumweed, popcorn flower, naked buckwheat, and California poppy. Approximately 85 individuals of Santa Clara Valley dudleya, a state rare plant and federally endangered species, are present on approximately 10 serpentine rock outcrops in these grasslands in the northeastern corner of the project site. Hall's bush mallow is also a species often associated with serpentine habitats. A total of 13 individuals of Hall's bush mallow, a California rare plant that is not listed on either the state or federal endangered species lists, and three seedlings are also present on the project site along the western boundary of the pavement footprint shown in Figure 4.4-1. Two additional Hall's bush mallow individuals located outside of the project's impact area were detected immediately off-site, on the slope between the site boundary and the Coyote Creek Trail as shown in Figure 4.4-1. A total of 15 mature Hall's bush mallow individuals and three seedlings are within the project site vicinity.

Urban-Suburban

Urban-Suburban areas include paved asphalt parking lots, sidewalks, and roadways adjacent to the undeveloped portion of the project site that are interspersed with small islands of landscape

vegetation, as well as a graveled roadway that extends westward across the previously disturbed portion of the site from the site's eastern boundary (refer to Figure 4.4-1). Landscape vegetation present within these areas includes nonnative creeping rosemary, flowering pear, and strawberry tree.

Mixed Oak Woodland

Mixed Oak Woodland habitat is located in the southwestern portion of the site (refer to Figure 4.4-1) and includes native coast live oaks, valley oaks, toyon, elderberry, and coyote bush. Several nonnative flowering pears and ornamental plums are also present in this habitat.

Seasonal Wetland

No wetlands or other waters of the United States/state occur on the project site.

Non-Wetland Waters

The Coyote Creek borders the project site to the west and flows south to north. Coyote Creek is considered a water of the United States based on the ordinary high-water mark, regular flow, and direct connectivity to the San Francisco Bay. The RWQCB regulates the Coyote Creek. No project activities are proposed within the bed and banks of Coyote Creek.

Special-Status Species

CEQA requires assessment of the effects of a project on species that are protected by state, federal, or local governments as "threatened, rare, or endangered," which are species typically described as "special-status species." For the purpose of the environmental review of the project, special-status species have been defined as described below.

For purposes of this analysis, "special-status" plants are considered plant species that meet one or more of the following criteria:

- Listed under the Federal Endangered Species Act (FESA) as threatened, endangered, proposed threatened, proposed endangered, or a candidate species.
- Listed under California Endangered Species Act (CESA) as threatened, endangered, rare, or a candidate species.
- Listed by the CNPS as CRPR 1A, 1B, 2, 3, or 4.

For purposes of this analysis, "special-status" animals are considered animal species that meet one or more of the following criteria:

- Listed under FESA as threatened, endangered, proposed threatened, proposed endangered, or a candidate species.
- Listed under CESA as threatened, endangered, or a candidate threatened or endangered species.
- Designated by the CDFW as a California species of special concern.

Source: H.T. Harvey & Associates, November 2023.

BIOLOGICAL COMMUNITIES PRESENT WITHIN PROJECT AREA | FIGURE 4.4-1

- Listed in the California Fish and Game Code as fully protected species (fully protected birds are provided in Section 3511, mammals in Section 4700, reptiles and amphibians in Section 5050, and fish in Section 5515).

Information concerning threatened, endangered, and other special-status species that potentially occur on the project site was collected from several sources and reviewed by H. T. Harvey & Associates.

Focused surveys were conducted in May 2022, October 2022, March 2023, April 2023, May 2023, and August 2023 to (1) identify and assess existing biotic habitats and plant and animal communities on the project site, (2) assess the project site for its potential to support special-status species and their habitats, and (3) identify potential jurisdictional and sensitive habitats, such as waters of the U.S./state and riparian habitat.

Special-Status Plant Species

Based on the Biological Resources Report (Appendix B), 16 special-status plant species were determined to have suitable habitat present on the project site. Based on field surveys completed, the following 14 special-status plant species were determined to be absent from the project site: Tiburon paintbrush, coyote ceanothus, Metcalf Canyon jewel-flower, arcuate bush mallow, big-scale balsamroot, Brewer's clarkia, most beautiful jewel-flower, woolly-headed lessingia, bent-flowered fiddleneck, fragrant fritillary, pink creamsacs, San Francisco collinsia, woodland woollythreads, and smooth lessingia.

Two special-status plant species, Santa Clara Valley dudleya (a federally endangered species and a Habitat Plan covered species) and Hall's bush mallow [21], were observed on the project site during the May 2022 site visit. Approximately 85 individual Santa Clara Valley dudleya plants were identified in the northwestern corner (as shown in Figure 4.4-1) of the project site during the field survey. A total of 13 mature individuals of Hall's bush mallow and three seedlings were identified on-site west of the pavement footprint as shown in Figure 4.4-1 with two more mature Hall's bush mallow individuals off-site approximately 70 feet west of the project site boundaries. The mature Hall's bush mallow individuals were identified in the May 2022 surveys. In March 2023, the three Hall's bush mallow seedlings were identified.

Table 4.4-2 lists the two special-status plant species that are either confirmed to be present or have the potential to occur on the site. Of the two species, only the Santa Clara Valley dudleya is covered under the Habitat Plan.

[21] Section 15380(b) of the CEQA Guidelines provides that a species not listed on the federal or state lists of protected species may be considered rare if the species can be shown to meet certain specified criteria. All potentially rare or sensitive species, or habitats capable of supporting rare species, are considered for environmental review per the CEQA Guidelines Section 15380(b). Hall's bush mallow has no formal regulatory protection but this plant species is listed as a rare, threatened, or endangered in California on the California Rare Plant Rank (CRPR 1 B.2) per the California Native Plant Society (CNPS). Pursuant to CEQA Guidelines Section 15380(b), this plant species is analyzed as a special-status plant and adverse effects to this plant may be considered significant.

Table 4.4-2: Special-Status Plant Species on the Project Site

Special-Status Plant Species	Potential to Occur on Project Site	Covered under the Valley Habitat Plan?
Hall's bush mallow	Present	No
Santa Clara Valley dudleya	Present	Yes

Source: H.T. Harvey & Associates. *865 Embedded Way Biological Resources Report*. November 2023.

Special-Status Wildlife Species

The project site either generally lacks suitable habitat for special-status wildlife species and/or the site is isolated from the nearest known population by development or unsuitable habitat. As a result, no federal or state listed wildlife species are expected to occur on the site. Specifically, the following special-status wildlife species are absent from the project site based on the lack of habitat observed during the May 2022 field survey and lack of recorded sightings: the western bumble bee, California tiger salamander, California red-legged frog, foothill yellow-legged frog, Swainson's hawk, bald eagle, least Bell's vireo, San Joaquin kit fox, burrowing owl, loggerhead shrike, San Francisco dusky-footed woodrats, and Townsend's big-eared bat.

Due to the lack of aquatic habitat on-site, the project site does not support special-status fish species. However, there is potential for project activities to affect special-status fish species present in the Coyote Creek, such as Central California Coast steelhead, Central Valley fall-run Chinook salmon, Pacific lamprey, Sacramento hitch, and Central California roach. Additionally, the southwestern pond turtle, a California species of special concern, may be present along Coyote Creek.

Due to the project site lacking suitable nesting, roosting, or breeding habitat, the following species are not expected to nest, roost, or breed on or near the project site: tricolored blackbird, Bryant's savannah sparrow, golden eagle, peregrine falcon, mountain lion, pallid bat, American badger, and monarch butterfly. The project site is in an area with high levels of human activity and does not provide the specific habitat needs (e.g., trees with large cavities for roosting, non-tidal freshwater marshes with tall emergent herbaceous vegetation, and diked/muted tidal salt marsh habitat with pickleweed-dominated portions) for the listed wildlife species.

The only special-status wildlife species that can potentially breed or occur on or immediately adjacent to the project site are the Bay checkerspot butterfly, Crotch's bumble bee, yellow warbler, and white-tailed kite. Of these species, only the Bay checkerspot butterfly is covered under the Habitat Plan. During a survey conducted in April 2023, no Bay checkerspot butterfly adults or Crotch's bumble bees were observed. While the Bay checkerspot butterfly and Crotch's bumble bee are unlikely to be present, it is possible that individuals may occasionally forage or breed on the site and, therefore, the species cannot be deemed absent.

Existing Trees

A total of 29 trees were identified on-site with 11 trees requiring removal based on the results of the Arborist Report (refer to Appendix C). Per the project's proposed landscape plan, development of the project would result in the removal of 11 trees. The species and quantities of each tree are listed in Table 4.4-3. As shown in Table 4.4-3, 11 trees are proposed for removal by the project in order to accommodate the proposed development.

Table 4.4-3: Summary of Existing Trees On-Site

Number	Species	Diameter at Breast Height	Ordinance Trees	Preservation Status
1	Callery Pear	7	No	Keep
2	Valley Oak	13	Yes	Keep
3	Valley Oak	10,13	Yes	Keep
4	Valley Oak	9, 14	Yes	Keep
5	Callery Pear	5.5	No	Keep
6	Coast Live Oak	7, 6, 7, 4	Yes	Keep
7	Valley Oak	10,9, 12, 13	Yes	Keep
8	Valley Oak	8	No	Keep
9	Callery Pear	6.5	No	Remove
10	Callery Pear	6	No	Remove
11	Callery Pear	6	No	Remove
12	Coast Live Oak	10.5	No	Remove
13	Coast Live Oak	7	No	Remove
14	Valley Oak	14.5	Yes	Remove
15	Valley Oak	11	No	Remove
16	Valley Oak	9.5	No	Remove
17	Valley Oak	8, 8	Yes	Remove
18	Valley Oak	10, 16	Yes	Remove
19	Callery Pear	3.5	No	Remove
20	Holly Oak	5	No	Remove
21	Mexican Fan Palm	20	Yes	Keep
22	Coast Live Oak	4, 4, 7	Yes	Keep
23	Coast Live Oak	2, 3	No	Keep
24	Coast Live Oak	7, 3, 3, 3, 4	Yes	Keep
25	Callery Pear	11.5	No	Keep
26	Purple Leaf Plum	11	No	Keep
27	Purple Leaf Plum	5, 6, 4.5	Yes	Keep
28	Holly Oak	5.5	No	Keep
29	Holly Oak	5.5	No	Keep

Note: Multiple trucks resulted in multiple diameter at breast height.
Source: Traverso Tree. *Arborist Report for 865 Embedded Way – Parcel B*. March 2023.

4.4.2 Impact Discussion

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

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

Impacts on California Annual Grassland and Urban-Suburban Land Cover

The construction of the project would result in the permanent removal of approximately 6.6-acres of California annual grassland habitat and disturbance of approximately 1.3-acres of urban-suburban land cover on the project site. However, these areas have been previously disturbed due to historical

grading (refer to Section 4.5 Cultural Resources and Section 4.7 Geology and Soils for the grading history) and are located in an urban area. The grassland does not provide high-quality habitat for native vegetation, wildlife, or special-status species as described in Section 4.4.1.2 Existing Conditions. Therefore, impacts related to the permanent removal of California annual grassland and disturbance of urban-suburban land cover would be less than significant. **(Less than Significant Impact)**

Impacts on Serpentine Bunchgrass Grassland and Associated Special-Status Plant Species

As a result of the project, approximately 1.5 acres of serpentine bunchgrass grassland would be converted into urban-suburban land uses on the project site, which would reduce native serpentine vegetation on-site. The project would be required to pay all applicable Habitat Plan land cover fees, including fees for impacts to serpentine land cover, as a standard permit condition. These fees would contribute to the Habitat Plan's conservation program, which includes habitat acquisition, restoration, preservation, and management targeted at serpentine land cover habitats. With payment of Habitat Plan fees, project impacts on 1.5 acres of serpentine bunchgrass grassland would be reduced to a less-than-significant level.

As described previously, serpentine bunchgrass grassland supports many special-status plant species, two of which have been confirmed to be present on the site: Santa Clara Valley dudleya and Hall's bush mallow. Impacts to these two species are discussed below.

Santa Clara Valley Dudleya

The Santa Clara Valley dudleya is a special-status plant species covered under the Habitat Plan. The 85 Santa Clara Valley dudleya individual plants known to be present within the serpentine bunchgrass grassland habitat on the site would be removed as a result of the project. Since Santa Clara Valley dudleya is a covered species under the Habitat Plan, payment of relevant fees and compliance with required conditions under the Habitat Plan would reduce impacts to a less-than-significant level. As described in the discussion under checklist question "f" below, the project would be required to comply with all applicable Habitat Plan provisions as a standard permit condition. As a result, impacts to Santa Clara Valley dudleya would be less than significant, as the Habitat Plan was prepared specifically to allow for development projects to mitigate for their impacts to covered species by participating in, including providing funding for, the Habitat Plan. **(Less than Significant Impact)**

Hall's Bush Mallow

The Hall's bush mallow is a special-status plant species that is not covered under the Habitat Plan, nor is it listed under the FESA or CESA. The 13 mature Hall's bush mallow individuals identified in the May 2022 survey and three seedlings present in the March 2023 survey are present within the serpentine bunchgrass grassland habitat on the site. The project does not propose or intend to remove or damage these individuals, and the project site design includes small buffers to avoid impacting these plants. However, without proper precautions, the 13 mature Hall's bush mallow individuals may inadvertently be directly or indirectly impacted by the project. Direct impacts could include unintentional grading or filling areas supporting this species, trampling or crushing of plants, and soil compaction, if construction crews are not properly informed of the plants' locations and need for protection. Indirect impacts could include increased mobilization of dust onto plants, which can

affect their photosynthesis and respiration, changes to hydrology supporting these plants due to grading or construction in nearby habitats, and nitrogen deposition resulting from an increase in vehicle trips associated with the completed project.

While the surveys disclosed the presence of several seedlings, unlike the mature Hall's bush mallow individuals, the effects of construction are not considered for the three seedlings because the seedlings' mortality is high (with or without the impacts of construction activities) and seedlings take approximately three years to mature. Based on these factors, the three seedlings are not considered individuals that would be possibly impacted by construction of the project. In addition, construction activities would not indirectly impact the two mature Hall's bush mallow individuals approximately 70 feet west of the site boundary due to their distance to active construction areas.

The project would actively avoid impacts to the Hall's bush mallow individuals identified within the project disturbance area (which includes the 13 mature individuals and three seedlings) with a buffer surrounding the plant individuals. The project does not intend to remove or damage any Hall's bush mallow individuals; all individuals within the project site boundaries would be retained. However, the possibility exists, even with the use of avoidance buffers implemented during project construction, that individual plants may be unintentionally directly or indirectly impacted.

.As a result, implementation of the mitigation measures identified below would be required to reduce potential impacts to Hall's bush mallow. Alternatively, if Hall's bush mallow is formally added to the Habitat Plan as a covered species in the future and the project has not submitted a Habitat Plan application, compliance with Habitat Plan conditions and payment of Habitat Plan fees would reduce impacts on Hall's bush mallow to less-than-significant levels under CEQA, and mitigation measures MM BIO-1.1, BIO-1.2, and BIO-1.3 would not be necessary.

Impact BIO-1: While the project does not intend to remove or damage any Hall's bush mallow individuals, construction of the project could inadvertently, without proper precautions, result in impacts to Hall's bush mallow, a special-status plant species occurring within and outside the project development area.

Mitigation Measures:

MM BIO-1.1: **Protect Hall's Bush Mallow Individuals During Construction**. Prior to issuance of any grading or building permits, the project applicant shall prepare and submit construction plans clearly depicting all individual Hall's bush mallow (not including seedlings) and shall show construction-free buffers for individuals located within the project site to the Director of Planning, Building and Code Enforcement or the Director's designee. The project shall maintain construction-free buffers around individuals throughout the construction period to prevent incidental take of Hall's Bush Mallow individuals during construction activities. The radii of the buffers shall represent the maximum feasible distance between the individuals and proposed development activities. Based on the known locations of Hall's bush mallow individuals within the proposed development area, the maximum feasible radius for individuals within the proposed development area is four feet. Prior to initial ground disturbance or vegetation removal, the

established buffers shall be marked in the field (e.g., with flagging, fencing, paint, or other means appropriate for the site in question). This marking shall be maintained intact and in good condition throughout project-related construction activities, and all construction personnel shall be trained (through a Worker Environmental Awareness Program or WEAP) on the locations of these plants, how their locations and the surrounding buffer are marked, and how impacts on these plants are to be avoided (i.e., the entry of construction personnel and vehicles within the marked buffers shall be prohibited, and no storage of equipment or materials within the marked buffers shall occur). These requirements shall be printed on all approved plans for grading and construction.

MM BIO-1.2: **Post-Construction Monitoring**. Post-construction monitoring shall be conducted for a period of three years after completion of construction activities to determine if MM BIO-1.1 successfully ensured the long-term survival of Hall's bush mallow individuals, or if indirect impacts of the project (e.g., dust mobilization, shading, and/or changes to hydrology) resulted in the death or decline in health of Hall's bush mallow plants. Monitoring shall be conducted annually by a qualified plant ecologist, consisting of a site visit conducted during the species' May to September flowering period, until the three year monitoring period is complete. A schedule for the flowering period surveys shall be prepared by the qualified plant ecologist and submitted to the Director of Planning, Building and Code Enforcement, or the Director's designee, for review and approval prior to the issuance of a grading permit or building permit, whichever occurs first. This schedule must include timing of the submittal of monitoring reports for the annual reports in the May to September flowering period, starting the first flowering period after issuance of the certificate of occupancy. A report documenting the survey results shall be submitted to the Director of Planning, Building and Code Enforcement, or the Director's designee, on an annual basis based on the approved schedule until monitoring is complete.

If the qualified plant ecologist determines that more than 10 percent of the 13 mature Hall's bush mallow population (i.e., more than one plant) within the project development area dies or declines substantially in health following completion of the project, MM BIO-1.3 shall be implemented. However, if at least 90 percent of the mature Hall's bush mallow population (i.e., at least 12 plants) continues to be present and in good health three years following the completion of construction, no additional mitigation is required.

MM BIO-1.3: **Create or Enhance, Preserve, and Manage Mitigation Populations.** If more than 10 percent of the site population would be impacted despite the implementation of MM BIO-1.1, compensatory mitigation shall be provided by the property owner to increase the size of an existing population, or the creation and management of a new population to offset the impact. The compensatory mitigation shall be provided via the preservation, enhancement, and management of occupied habitat for the species as follows:

(1) If mitigation occurs through enhancement of an existing population, then on-site or off-site habitat occupied by the affected species shall be enhanced (e.g., through focused management for the species in question) to increase the number of individuals present. Mitigation may occur on-site if a qualified biologist identifies a location on the project site with sufficient available area to support the plants as well as suitable habitat conditions (e.g., slope, soils, lack of shading, and other factors) in the context of site conditions following project construction. If no locations on the site are suitable, off-site mitigation would be necessary. The increase in numbers shall be at least twice the number of individuals impacted (i.e., a 2:1 mitigation:impact ratio). The permanent preservation and management of these mitigation lands shall be ensured through an appropriate mechanism, such as a conservation easement or fee title purchase.

(2) If mitigation occurs through creation of a new population, seed from the population to be impacted shall be harvested (or obtained from another Santa Clara County source) and used either to expand an existing population or to establish an entirely new population in suitable habitat. The number of individuals produced by this population expansion or creation shall be at least twice the number of individuals impacted (i.e., a 2:1 mitigation:impact ratio). The permanent protection and management of these mitigation lands shall be ensured through an appropriate mechanism, such as a conservation easement or fee title purchase.

Areas proposed to be preserved and enhanced as compensatory mitigation for impacts to Hall's bush mallow must contain extant populations of the species (as verified by a qualified plant ecologist), or in the event that expansion or establishment of a new population is selected, the area must contain sufficient suitable habitat to support the new mitigation population as determined by a qualified plant ecologist. Verification of the presence of suitable habitat shall be performed by a qualified plant ecologist at any time prior to establishment of the mitigation. Mitigation areas shall be permanently preserved and managed to encourage persistence and even expansion of this species. Mitigation lands cannot be located on land that is currently held publicly for resource protection unless substantial enhancement of habitat quality will be achieved by the mitigation activities, as determined by a qualified plant ecologist. The mitigation habitat shall be of equal or greater habitat quality compared to the impacted areas, as determined by a qualified plant ecologist, in terms of soil features, extent of disturbance, vegetation structure, and dominant species composition. At the time the mitigation is established, the mitigation habitat shall contain sufficient habitat to support at least twice as many individuals as are impacted, as determined by a qualified plant ecologist. The permanent protection and management of mitigation lands shall be ensured through an appropriate mechanism, such as a conservation easement or fee title purchase.

A habitat mitigation and monitoring plan (HMMP) shall be developed by qualified plant or restoration ecologists and implemented for the mitigation lands for a minimum of 10 years. That plan shall include, at a minimum, the following information:

- A summary of impacts to Hall's bush mallow, including impacts to its habitat, and the proposed mitigation;
- A description of the location and boundaries of the mitigation site and description of existing site conditions;
- A description of measures to be undertaken to enhance (e.g., through focused management that may include removal of invasive species in adjacent suitable but currently unoccupied habitat, or other appropriate methods such as grazing, prescribed burns, planting native species, or mowing) the mitigation site for the species;
- A description of measures to transplant individual plants or seeds from the impact area to the mitigation site, if appropriate (which shall be determined by a qualified plant or restoration ecologist, who will take into account factors such as genetics and the spread of pathogens, such as Phytophthora);
- Proposed management activities to maintain high-quality habitat conditions for the species;
- A description of habitat and species monitoring measures on the mitigation site, including specific, objective final and performance criteria, monitoring methods, data analysis, reporting requirements, monitoring schedule, etc. At a minimum, performance criteria shall include demonstration that any plant population fluctuations over the monitoring period of a minimum of 10 years do not indicate a downward trajectory in terms of reduction in numbers and/or occupied area for the preserved mitigation population that can be attributed to management (i.e., that are not the result of local weather patterns, as determined by monitoring of a nearby reference population, or other factors unrelated to management). The duration of the monitoring activities (a minimum of 10 years, as stated above) shall ultimately be determined by the qualified plant or restoration ecologist based on the number of years that are necessary to ensure that the mitigation is successful;
- The new population must contain at least twice the number of impacted individuals, by year 10, as determined by a qualified plant ecologist. If year 10 is a poor weather year for summer and fall-blooming annual plants and reference populations show a decline, this criteria can be measured in the next year occurring with average or better rainfall; and
- Contingency measures for mitigation elements that do not meet performance criteria. For example, if by year 10 (or the next suitable rainfall year after year 10) of monitoring, the project is unable to establish a self-sustaining population of the required number of individuals as

described above, the applicant shall create and manage an extant population of that same species in order to achieve the success criteria under a revised HMMP. The ultimate performance criteria for the revised HMMP shall be unchanged, but the methods used to achieve the criteria may change, and additional land may need to be purchased.

The HMMP shall be provided to the Director of Planning, Building and Code Enforcement, or the Director's designee for approval. The applicant shall fund the management and monitoring of the mitigation site at least until the success criteria are achieved; if the applicant sells the land or its interest in the project and its mitigation, it must provide the City financial assurances that it shall satisfy its mitigation obligations.

Implementation of mitigation measures MM BIO-1.1 through MM BIO-1.3 would reduce potential impacts to Hall's bush mallow to a less than significant level. **(Less than Significant Impact with Mitigation Incorporated)**

Impacts on Mixed Oak Woodland

The project would result in the permanent conversion of 0.4 acre of mixed oak woodland to urban-suburban land uses on the project site. These impacts would result in a reduction in the extent of native oak woodland vegetation on the site, including approximately nine mature native oak trees based on the Arborist Report Appendix C. Direct impacts would include grading or filling areas supporting oak woodland species, trampling, or crushing of plants, and soil compaction. Indirect impacts would include increased mobilization of dust onto plants, which can affect their photosynthesis and respiration, and changes to hydrology supporting these plants due to grading or construction in nearby habitats.

The project would be required to pay all applicable Habitat Plan land cover fees, including fees for impacts to mixed oak woodland, as a standard permit condition. These fees would contribute to the Habitat Plan's conservation program, which includes habitat acquisition, restoration, preservation, and management targeted at oak woodland habitats. With payment of Habitat Plan fees, project impacts on 0.4 acre of mixed oak woodland would be reduced to a less-than-significant level. **(Less than Significant Impact)**

Impacts on Water Quality, Special-Status Fish, and Southwestern Pond Turtle

The project would not directly impact the Coyote Creek since no project activities are proposed within 100 feet of the edge of the riparian canopy. Project construction activities that increase erosion, sedimentation, and turbidity, or result in spillage from refueling could indirectly affect water quality, the Central California Coast steelhead, Central Valley fall-run Chinook salmon, Pacific lamprey, Central California roach, Sacramento hitch, and the southwestern pond turtle in Coyote Creek. Since the project is a covered activity under the Habitat Plan, it would be required to comply with Condition 3, which applies to all covered projects and identifies a set of programmatic BMPs, performance standards, and control measures to minimize increases of peak discharge of storm water and to reduce runoff of pollutants to protect water quality, including during project construction. These requirements include preconstruction, construction site, and post-construction actions.

Preconstruction conditions are site design planning approaches that protect water quality by preventing and reducing the impacts of stormwater pollutants and increases in peak runoff rate and volume. They include hydrologic source control measures that focus on the protection of natural resources. Construction site conditions include source and treatment control measure to prevent pollutants from leaving the construction site and minimizing site erosion and local stream sedimentation during construction. Post-construction conditions include measures for stormwater treatment and flow control.

Also, as described in Section 4.10 Hydrology and Water Quality, the project is required to comply with the National Pollutant Discharge Elimination System (NPDES) General Construction Permit to control discharging pollutant into a water of the United States as a City standard permit condition. For post-construction urban runoff, the project would be required to comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29), which would ensure that the project includes stormwater design features to minimize stormwater pollutant discharges. The project proposes to create two bioretention areas and a subsurface infiltration system underneath the western parking lot. Compliance with these regulatory requirements would avoid indirect effects on water quality, special-status fish, or southwestern pond turtles in Coyote Creek and the project would be in compliance with Condition 3 above. **(Less than Significant Impact)**

Impacts on the Bay Checkerspot Butterfly

As described above, the project would permanently impact one acre of serpentine bunchgrass grassland and approximately 6.6-acres of California annual grassland, which are land covers that are potential habitats for the Bay checkerspot butterfly. Both land covers on the site have low potential to be occupied by Bay checkerspot butterflies since there is not suitable quality serpentine bunchgrass grassland habitat to support a viable population, and no butterflies were identified in the 2023 surveys, as described in Section 4.4.1.2 Existing Conditions. However, since a portion of the serpentine habitat includes dwarf plantain (a plant that is suitable for breeding), it is possible that small numbers of Bay checkerspot butterflies could either breed on-site or forage within the project site. The preparation of a Habitat Plan application for the project and payment of Habitat Plan impact fees (including the serpentine specialty fee) pursuant to the City's standard permit condition would reduce impacts to the Bay checkerspot butterfly. Payment of these fees would contribute to the Habitat Plan's conservation program, which includes habitat acquisition, restoration, preservation, and management targeted at the Bay checkerspot butterfly and its habitat. For these reasons, impacts related to Bay checkerspot butterfly would be less than significant. **(Less than Significant Impact)**

Impacts on Crotch's Bumble Bee

As described in Section 4.4.1.2 Existing Conditions, Crotch's bumble bee is unlikely to occur on the site and, therefore, unlikely to be impacted by the project. If the project impacts the species at all, it would impact only a very small proportion of the species' regional population, given that the project site provides a very small proportion of the species' regionally available habitat (i.e., grassland, scrub, and woodland throughout the South San Francisco Bay area). The areas of serpentine bunchgrass grassland and California annual grassland that would be impacted by the project are limited in extent, and do not support high-quality foraging habitat for this species. Grassland that would remain unimpacted on the project site, and possibly landscaped areas, may provide suitable habitat (at least for foraging) following project construction. Given the very limited extent of

potentially suitable habitat within the project impact area; the low quality of this habitat; the lack of any detections of this species during an April 2023 survey (in which the species was looked for); and the isolation of this habitat from known populations, few, if any, Crotch's bumble bees are expected to be present on the project site when construction occurs. Thus, due to the abundance of suitable foraging habitat in the project region (i.e., east and south of the project site in the foothills of the Diablo Range and along Coyote Ridge) and low probability of the Crotch's bumble bee occurring on-site., project activities are not expected to result in a substantial impact on nesting and foraging habitat for Crotch's bumble bees. . **(Less than Significant Impact)**

Impacts on Nesting Birds (Yellow Warbler and White-Tailed Kite)

The trees on and adjacent to the project site could provide nesting habitat for birds, including migratory birds and raptors. The yellow warbler (a California species of special concern) could potentially nest adjacent to the project site in riparian trees along Coyote Creek, and the white-tailed kite (a state fully protected species) may nest in trees along Coyote Creek or in mixed oak woodland habitat or landscape trees on and adjacent to the project site. The project would not result in the loss of suitable nesting habitat for the yellow warbler since no activities are proposed within the bed and banks of Coyote Creek. However, the project would result in the permanent loss of suitable nesting and foraging habitat for the white-tailed kite, as well as suitable foraging habitat for the yellow warbler.

Nesting birds are among the species protected under provisions of the Migratory Bird Treaty Act and California Fish and Game Code Sections 3503, 3503.5, and 2800. Development of the site during the nesting season (i.e., February 1 to August 31) could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes abandonment and/or loss of reproductive effort is considered a taking by CDFW and USFWS. Any loss of fertile eggs, nesting raptors, or any activities resulting in nest abandonment would constitute an impact. Construction activities such as site grading that disturb a nesting bird or raptor on-site or immediately adjacent to the project construction zone would also constitute an impact.

Impact BIO-2: The project's ground disturbing activities including grading, construction activities, and tree removal during the nesting season could impact migratory birds and raptors, including the Yellow Warbler and White-Tailed Kite.

Mitigation Measures:

MM BIO-2.1: **Avoidance**. The project applicant shall schedule ground-disturbing and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive), as amended.

MM BIO-2.2: **Nesting bird surveys**. If it is not possible to schedule construction activities and/or tree removal between September 1 and January 31, preconstruction surveys for nesting birds shall be conducted by a qualified ornithologist to ensure that no nests shall be disturbed during project implementation. These surveys shall be conducted no more than seven days prior to the initiation of demolition or construction activities, including tree removal and pruning.

During this survey, the ornithologist shall inspect all trees and other potential nesting habitats (e.g., trees, shrubs, ruderal grasslands, buildings) in and immediately adjacent to the impact areas for nests.

MM BIO-2.3: **Buffer zones**. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist shall determine the extent of a construction free buffer zone to be established around the nest, typically 300 feet for raptors and 100 feet for other species, to ensure that raptor or migratory bird nests shall not be disturbed during project construction.

MM BIO-2.4: **Reporting**. Prior to any tree removal, or approval of any grading permits (whichever occurs first), the project applicant shall submit the ornithologist's report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement, or the Director's designee.

Implementation of mitigation measures MM BIO-2.1 through MM BIO-2.4 would reduce potential impacts to nesting birds to a less than significant level. **(Less than Significant Impact with Mitigation Incorporated)**

Impacts Due to Bird Collisions

The proposed project would convert the existing undeveloped land into an urban development with a R&D building. The project's installation of new trees and landscaping may provide greater habitat opportunities for birds compared to existing conditions. The future landscape vegetation that would be planted on the site would be expected to provide somewhat greater habitat structure and foraging opportunities for birds compared to the existing grassland vegetation, primarily due to the presence of new trees on the site.

Additionally, riparian habitats along the Coyote Creek adjacent to the western project boundary support relatively high bird diversity. Birds on the project site would be expected to move between the riparian habitat along Coyote Creek and planted landscape vegetation on-site to look for feeding and resting opportunities in landscape vegetation of the project. Due to the movement of the birds between the riparian habitat and project site there is moderate potential for collisions with all building facades. The highest potential for bird collisions with the new building is with glazing that faces Coyote Creek (i.e., the west façade of the proposed new building). There is also collision potential due to the rows of trees that would be planted alongside the proposed R&D building providing connectivity between the Coyote Creek and portions of the project site located farther to the east.

Based on the project architectural plans, the building facades are composed primarily of opaque wall panels broken up by smaller windows, and no extensive areas of glazing are proposed. The opaque material would improve building visibility to birds. Also, the proposed project does not include any free-standing glass features or transparent glass corners, which are materials that lead to high-risk avian collision hazards. There is some glazing on the proposed building's main entrance, but vegetation and the limited glazing portion would limit bird collisions with this glazed area. A low number of bird collisions are expected due to the overall opaque material of the proposed R&D

building. Therefore, any bird collisions resulting from the proposed project would represent a very small portion of regional populations and would not represent a substantial portion of any species. For these reasons, the project would not result in the substantial loss of any special-status birds due to bird collision, and the project design conforms with the City's bird-safe design guidelines. **(Less than Significant Impact)**

Impacts Due to Increased Lighting

The project would result in the construction of buildings and other features (e.g., pedestrian walkways and open space areas) that would increase the amount of lighting within and around the project site. Lighting from the project would be generated by light fixtures illuminating buildings, building architectural lighting, and parking lot and pedestrian lighting. Depending on the location, direction, and intensity of exterior lighting, this lighting could potentially spill into adjacent natural areas, thereby resulting in an increase in lighting compared to existing conditions. Riparian and wetland habitat along Coyote Creek located west of the project site are close enough to the project site to be affected by the increase in lighting.

Wildlife species using Coyote Creek or inhabiting sensitive habitats along the creek may be subject to increased predation, decreased habitat availability (for species that show aversions to increased lighting), and alterations of physiological processes if the proposed development produces appreciably greater illuminance than the existing conditions. This impact on local wildlife populations is potentially significant due to the high ecological value of the adjacent habitat area along the Coyote Creek.

Impact BIO-3: The project would increase lighting near the Coyote Creek which could have a substantial adverse effect through habitat modifications on wildlife species that inhabit or occur along Coyote Creek s which are identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS.

Mitigation Measures:

MM BIO-3.1: Prior to the issuance of building permits, the project shall demonstrate the implementation of the following measures to minimize the lighting impacts on wildlife species using or near Coyote Creek:

- All exterior lighting shall be fully shielded to block illumination from shining outward towards Coyote Creek
- Exterior light fixtures shall comply with lighting zone LZ-2, Moderate Ambient, as recommended by the International Dark-Sky Association (2011) for light commercial business districts and high-density or mixed-use residential districts. The allowed total initial luminaire lumens for the project site is 2.5 lumens per square foot of hardscape, and the BUG rating for individual fixtures shall not exceed B3 or G2, as follows:

- B3: 2,500 lumens high (60–80 degrees), 5,000 lumens mid (30–60 degrees), 2,500 lumens low (0–30 degrees)
- G2: 225 lumens (forward/back light 80–90 degrees), 5,000 lumens (forward 60–80 degrees), 1,000 lumens (back light 60–80 degrees asymmetrical fixtures), 5,000 lumens (back light 60–80 degrees quadrilateral symmetrical fixtures)

- Exterior lighting shall be minimized from 10 p.m. until sunrise, except as needed for safety and City code compliance. (i.e., the total outdoor lighting lumens shall be reduced by at least 30 percent or extinguished, consistent with recommendations from the International Dark-Sky Association [2011]).

A lighting plan demonstrating compliance with these requirements shall be submitted to the Director of Planning, Building and Code Enforcement, or the Director's designee, for review and approval prior to issuance of building permits.

Implementation of MM BIO-3.1, above, would minimize the spillover of lighting as part of the project and would therefore reduce this impact to a less-than-significant level. **(Less than Significant Impact with Mitigation Incorporated)**

Impacts due to Increased Noise Levels

There would be potential for the project to result in the indirect disturbance of wildlife species using habitats along Coyote Creek due to construction noise and post-construction noise levels during operation of the new facility. Disturbance from increased noise levels could result in a reduction in foraging efficiency, increased movement or flushing from cover, or altered activity patterns that reduce energy reserves and increase predation risk. However, the increased noise levels from construction activities would be temporary and the operational noise associated with the project (e.g., vehicles and human activity) is similar to existing surrounding uses. Wildlife that occurs along Coyote Creek adjacent to the site are acclimated to the existing noise levels within this habitat from surrounding urban disturbances, including the operation of commercial facilities north and south of the site, residents located west of Coyote Creek, vehicle traffic on busy roadways such as Coyote Road and Hellyer Avenue, and recreational activity along the Coyote Creek Trail. In addition, the project footprint is set back a minimum of 100 feet from the riparian corridor, with the exception of a small portion of an existing driveway that is already used by existing development and would be used by the project. Noise and vibration levels attenuate or decrease with increasing distance from the source. The 100-foot riparian setback would provide buffer between the project site and the riparian habitat, minimizing the noise and vibration impacts on the wildlife in the riparian corridor. Therefore, given the existing development in proximity to the riparian corridor and the 100-foot riparian setback, wildlife inhabiting areas along Coyote Creek adjacent to the site would not be substantially affected by increased noise levels during or following project construction. **(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?

Coyote Creek flows from south to north adjacent to the west of, but not through, the project site. The entirety of ground-disturbing project impacts would occur outside of the riparian corridor and east of the Coyote Creek Trail. The project building footprint and landscaping are designed to be outside of the 100 foot riparian setback. However, the southwestern portion of the existing paved western-most driveway on Embedded Way (approximately 1,720 square feet of the 36 foot driveway at the widest portion) encroaches into the 100 foot riparian setback. The Embedded Way driveway is an existing driveway that was constructed in the early 2000s as part of adjacent development, and the driveway was analyzed in the 2000 Mitigated Negative Declaration adopted for the adjacent development (referred to as the Hellyer Vista View and Creekside Plaza project).[22]. As part of the overall construction activities described in Section 3.2.8, there would be utility work within the driveway which would require trenching and re-paving. A 15-inch storm drain pipe and two 2-inch water lines would be installed. The utility work would require construction phases, such as excavation, trenching, and paving, which would be completed alongside the overall construction of the project and not take more than several months to complete. These construction impacts within the 100 feet setback would be temporary and the driveway would be restored to its original use post-construction. All construction activities would occur within the paved driveway and, therefore, would not physically alter the riparian corridor.

During project operation, the Embedded Way driveway would be the primary site access point for future project vehicle and truck trips. As a result, traffic associated with the project (during construction and operation) would increase the number of vehicles using the driveway compared to existing conditions. The most western Embedded Way driveway is likely a secondary driveway for the adjacent commercial buildings because there are two more eastern driveways along Embedded Way that provide direct access to the adjacent existing buildings.

However, as determined by the project biologists, the increase in usage of the driveway would not represent a new impact on the riparian corridor since the driveway is used by the existing industrial and office buildings surrounding the project site. The increased use of the Embedded Way driveway by the project would also not affect the ecological value of the riparian corridor or its use by wildlife due to the slight encroachment, which has existed for nearly two decades. Wildlife in the riparian corridor is already acclimated to the human activity that is present on the trail, on the roadways, and within the project area. Therefore, while a portion of the driveway associated with the project is already located within the 100-foot riparian setback, it is an existing driveway that is currently used by vehicles and the increased usage from additional project trips would not remove or cause the degradation of the riparian corridor. Therefore, the proposed project would have no direct permanent or temporary impacts on riparian habitat.

There is potential for indirect effects to occur within riparian areas adjacent to the project site if runoff from the project increases in intensity or frequency due to the proposed project. However, required construction-period BMPs and post-construction stormwater requirements would apply to

[22] City of San José. *Initial Study and Negative Declaration for Site Development Permits (File H 99-06-040 & H 99-06-041)*. May 11, 2000.

the proposed project as discussed above, and these requirements would avoid and reduce these impacts to a less-than-significant level.

For the reasons described above, impacts related to encroachment into the riparian corridor along Coyote Creek would be less than significant. **(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?

Wetlands and other waters of the U.S./state are present adjacent to the project site within the Coyote Creek corridor. The project would avoid all impacts to state or federally protected wetlands and aquatic habitats by limiting development and construction activities to only occur outside of the 100-foot riparian setbacks required under City Council Policy 6-34 and the Habitat Plan. Additionally, required construction-period BMPs and post-construction stormwater requirements would apply to the proposed project, as discussed above, reducing the potential for project activities to affect nearby wetlands. Therefore, no wetland habitat would be impacted directly or indirectly by the project. **(Less than Significant Impact)**

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

Migratory movements of animal species are most often associated with riparian corridors. The Coyote Creek and the associated riparian corridor provide an important movement pathway for both aquatic and terrestrial wildlife species, connecting the associated wetlands to the San Francisco Bay. Although the proposed project would not result in any loss of aquatic, wetland, or riparian habitat along the Coyote Creek or in any substantial reduction in the value of the Coyote Creek corridor for wildlife movement (as described in the discussions under checklist questions “a” and “b”, above), it is expected to increase the number of human users of the Coyote Creek Trail to a small degree due to the introduction of employees on the project site, potentially subjecting animals within the riparian corridor to increased human disturbance. However, this trail is already heavily used by pedestrians and cyclists, and use of the riparian habitat along the river by persons experiencing homelessness already introduces human disturbance within the riparian habitat. The increase in users of the Coyote Creek Trail as a result of this project is not expected to contribute substantially to human disturbance of animals using the Coyote Creek corridor. Aquatic and terrestrial species would continue to be able to move north to south along the Coyote Creek following project development. Therefore, the project would not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites. **(Less than Significant Impact)**

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

Tree Replacement

As described in Section 4.4.1.2 Existing Conditions, the proposed project would remove approximately 11 trees on-site, including two ordinance-sized native trees and nine non-ordinance sized trees of which five are native trees and four are non-native trees. The proposed project would be required to conform to tree replacement requirements as identified in the Municipal Code Section 13.28.300, General Plan Policies MS-21.4, MS-21.5, MS-21.6 and CD-1.24 and City of San José Tree Removal Ordinance (Municipal Code Section 13.31.010 to 13.32.100). The proposed project would be required to offset the impact to the urban forest through compliance with the Standard Permit Conditions below.

Standard Permit Condition: Trees removed for the project shall be replaced at ratios required by the City. The removal of a total of 11 trees would require planting of 38 15-gallon replacement trees or 19 24-inch box replacement trees at a tree planting ratio as stated in Table 4.4-4 below.

Table 4.4-4: Tree Replacement Ratios

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

x:x = tree replacement to tree loss ratio
Note: Trees greater than or equal to 38-inch circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For Multi-Family residential, Commercial, and Industrial properties, a permit is required for removal of trees of any size.
A 38-inch tree equals 12.1 inches in diameter.
A 24-inch box tree = two 15-gallon trees
Single Family and Two-dwelling properties may be mitigated at a 1:1 ratio.

- A total of 11 trees on-site would be removed. According to the replacement ratios noted above, four trees would be replaced at a 2:1 ratio, five trees would be replaced at a 3:1 ratio, and the remaining two trees would be replaced at a 5:1 ratio. The total number and size of replacement trees required to be planted on-site is 38 15-gallon trees.
- The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the project site.
- Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of building permit(s), in accordance with the City Council approved Fee Resolution in effect at the time of payment. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

The project proposes to plant a total of 129 15-gallon trees, which would exceed the City's requirements. Therefore, the proposed project would not conflict with any ordinance protecting

biological resources and would not result in a significant impact to trees and the community forest. **(Less than Significant Impact)**

City of San José Riparian Setback Policy (Policy 6-34)

As discussed in checklist question "b," a portion of the existing Embedded Way driveway that would be used by the project encroaches into the City of San José's 100-foot riparian setback. As described in the Biological Resources Report (Appendix B), the existing paved driveway does not have a riparian setback exception because the previous Mitigated Negative Declaration for the project site (which included the project site) indicated the Embedded Way driveway would be outside the riparian setback identified at the time it was prepared in 2000.[23] However, due to increased riparian vegetation growth in the intervening period, along with more accurate mapping, the riparian corridor, and the corresponding100-foot riparian setback, has shifted and now a section of the existing Embedded Way driveway is within the setback. The encroachment of the driveway would not require a riparian setback exception since this is an existing developed infrastructure feature and construction work in the driveway would be temporary. Animals using the riparian habitat along the adjacent reach of Coyote Creek are habituated to traffic, trail use, and other activities on both sides of the creek, the increase in use of the driveway due to project trips would not substantially affect the ecological value of the riparian corridor or its use by wildlife Therefore, the project would not conflict with the City's riparian setback policy, and impacts would be less-than-significant. (**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 proposed project falls within the Habitat Plan Permit Area and would be required to comply with the Habitat Plan conditions and fees including the measures discussed above to mitigate impacts to serpentine bunchgrass grassland, Santa Clara Valley dudleya, and the Bay checkerspot butterfly.

Nitrogen Deposition Impacts on Serpentine Habitat

All development covered by the Habitat Plan is required to pay a nitrogen deposition fee as mitigation for cumulative impacts to serpentine plants in the Habitat Plan area. 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 Bay checkerspot butterfly. All major remaining populations of the butterfly and many of the sensitive serpentine plant populations occur in areas subject to air pollution from vehicle exhaust and other sources throughout the Bay Area including the project area. Because serpentine soils tend to be nutrient poor, and nitrogen deposition artificially fertilizes serpentine soils, nitrogen deposition facilitates the spread of invasive plant species. The displacement of these species, and subsequent decline of the several federally listed species, including the butterfly and its larval host plants, has been documented on Coyote Ridge in central Santa Clara County, immediately east of the project site.

[23] City of San José. *Initial Study and Negative Declaration for Site Development Permits (File H 99-06-040 & H 99-06-041)*. May 11, 2000.

Nitrogen tends to be efficiently recycled by the plants and microbes in infertile soils such as those derived from serpentine, so that fertilization impacts could persist for years and result in cumulative habitat degradation. The impacts 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. The nitrogen deposition fees collected under the Habitat Plan for new vehicle trips would be used as mitigation to purchase and manage conservation land for the Bay checkerspot butterfly and other sensitive species. The project would implement the following Standard Permit Condition.

Standard Permit Condition:

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

Through compliance with the condition above, the project would not 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 would pay nitrogen deposition fees based on the trip generation associated with the proposed uses. **(Less than Significant Impact)**

4.5 CULTURAL RESOURCES

The discussion below is based in part on a Literature Review Memorandum prepared for the project by PaleoWest in July 2022. A copy of the Literature Search, which is a confidential report, is on file at the City of San José Department of Planning, Building & Code Enforcement and is available upon request with appropriate credentials.

4.5.1 Environmental Setting

4.5.1.1 *Regulatory Framework*

Federal and State

National Historic Preservation Act

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

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.[24]

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.

[24] California Office of Historic Preservation. "CEQA Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6." Accessed August 31, 2020. http://www.ohp.parks.ca.gov/pages/1069/files/technical%20assistance%20bulletin%206%202011%20update.pdf.

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

Envision San José 2040 General Plan

The 2040 General Plan includes the following policies applicable specifically to development projects in San José:

Envision San José 2040 Relevant Cultural Resources Policies

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 archeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design
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

4.5.1.2 *Existing Conditions*

Archeological Setting

Native Americans occupied Santa Clara Valley and the greater Bay Area for more than 5,000 years. The exact time period of the Ohlone (originally referred to as Costanoan) migration into the Bay Area is debated by scholars. Dates of the migration range between 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.

Artifacts pertaining to the Ohlone occupation of San José have been found primarily along the City's major waterways. The project site is located adjacent to Coyote Creek, which is a known area of archaeological sensitivity . The project site has been analyzed as part of previous environmental studies addressing a much larger planning area, specifically the Edenvale Redevelopment Project EIR.[25] A Limited Cultural Resources Record Review memorandum was prepared by Basin Research Associates for the Edenvale Redevelopment area on May 12, 1998. The memorandum noted that three formally recorded prehistoric archaeological sites with lithic scatter were within or adjacent to the Edenvale Redevelopment area.[26] One of the identified archaeological sites is located directly south of the project site. Archaeological boundary testing was conducted in 1981 for all three sites to re-evaluate the boundaries of resources, resulting in the redefinition of the archaeological site boundaries near the project site. Subsequent subsurface trenching completed in 1983 on the archaeological site near the project site did not result in any cultural material that extended to any depth below the surface, and the lithic scatter known to be present on the archaeological site was determined to lack contextual integrity. It was also determined that prior subsurface disturbances within the Edenvale Redevelopment project area near the three identified archaeological sites had compromised the integrity of any subsurface deposits. While no cultural materials of significance were identified during the subsurface testing of the archaeological site near the project site, the portions of the Edenvale Redevelopment area in proximity to Coyote Creek were still deemed a high sensitivity archaeological zone; therefore, archaeological monitoring during subsurface construction activities and data recovery (for unexpected finds) were recommended in the Edenvale Redevelopment Plan EIR as mitigation measures for future development of the redevelopment area. The Edenvale Redevelopment area was graded in late the 1980s and grading activities were

[25] The Edenvale Redevelopment project was an approximately 2,312 acre project area. The project encompasses two areas with the "Old Edenvale" area bounded by Santa Teresa Boulevard, Bernal Road to the South, Cottle Road to the west, and Monterey Highway to the northeast. The "New Edenvale" area was bounded by United States Highway 101 and Coyote Creek to the west, Hellyer Avenue to the northeast, and Silicon Valley Boulevard to the south. The project included the construction of approximately 8.08 million square feet of industrial uses and transportation improvements. Source: City of San José. *Draft Environmental Impact Report Edenvale Redevelopment Project*. March 2000.

[26] Archaeological sites and cultural resources are typically found near sources of fresh water, such as rivers and lakes, because humans occupied areas where food and shelter opportunities were present.

monitored by Basin Research Associates. No significant cultural materials were noted or found at the locations of the three archaeological sites (which included the archaeological site south of the project site) during grading activities.[27]

The Literature Review Memorandum completed for the project site by PaleoWest in 2022 also noted the prehistoric resources (in particular the archaeological site to the south of the project site) near Coyote Creek that were evaluated in the Basin Research Associates reports. A records search request was submitted to the Northwest Information Center on April 27, 2022 and the results indicated that one previously identified Prehistoric Period site and one informal resource overlaps with a small portion of the project site. During a site reconnaissance completed by PaleoWest archaeologists on June 2, 2022, there were no cultural materials, prehistoric or historic, identified as present on-site. Additionally, as detailed in Section 4.7 Geology and Soils and shown on Figure 4.7-1, the areas of the project site where ground disturbing activities would occur consist entirely of artificial fill or serpentine bedrock material, neither of which are considered sensitive for buried archaeological resources. The only native alluvium soil deposits, which are considered sensitive for buried archaeological resources, are located along the western boundary of the project site adjacent to Coyote Creek, in areas where no ground disturbing activities are proposed. The utility work that would occur in the project's driveway (the existing most western driveway off Embedded Way) would occur in area that is archaeologically sensitive but the existing driveway is located in an area with artificial fill and has been disturbed previously.

However, due to the existence of known archaeological sites in the immediate vicinity, the project site is considered to have high sensitivity for the presence of subsurface archaeological resources.

Historical Resources

The project site contains no built structures and, therefore, does not contain historic resources. There are no designated historic resources on properties surrounding the site. The nearest designated historic resource is Hayes Mansion, located approximately one mile southwest of the project site.[28] The project site was developed as a rural agricultural farmland from 1948 until the mid-1980s. Between 1982 and 1987, Embedded Way and Hellyer Avenue were constructed and during this time period the project site was graded and levelled. The surrounding industrial development was constructed between 1998 and 2002.

[27] Basin Research Associates. *Limited Cultural Resources Records Review*. May 12, 1998.
[28] City of San José. "Historic Resource Inventory." Map. Accessed July 12, 2022. https://www.arcgis.com/apps/webappviewer/index.html?id=b2d7cc355a86493c8da904b8c2fc3e3e&extent=-13591970.1207%2C4462771.7617%2C-13533877.9792%2C4499308.6613%2C102100

4.5.2 Impact Discussion

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

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

The project site is vacant and does not contain structures of historical significance. Additionally, there are no historic structures located adjacent to the project site. Therefore, the proposed project would have no impact on historically significant structures pursuant to CEQA Guidelines Section 15064.5. **(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 discussed in Section 4.5.1.2 Existing Conditions, the site is considered to have high sensitivity for prehistoric and historic archaeological resources. As a result, construction activities could result in the inadvertent exposure of buried prehistoric or historic archaeological materials that could be eligible for inclusion on the California Register and/or meet the definition of a unique archaeological resource as defined in Section 21083.2 of the Public Resources Code.

Impact CUL-1: Project construction activities could result in the accidental disturbance and/or destruction of undocumented archaeological resources due to the site's high sensitivity based on the proximity of the site to Coyote Creek and known archaeological sites in the project's vicinity.

Mitigation Measures:

MM CUL-1.1: **Treatment Plan:** Prior to the issuance of any grading permit, a project-specific Cultural Resources Treatment Plan shall be prepared by a qualified archaeologist, in consultation with a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area. The Cultural Resources Treatment Plan shall reflect detail

pertaining to depths and locations of all ground disturbing activities. The Cultural Resources Treatment Plan shall be prepared and submitted to the Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee prior to approval of any grading permit. The Treatment Plan shall contain, at a minimum:

- Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations.
- Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found).
- Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information).
- Detailed field strategy used to record, recover, or avoid the finds and address research goals.
- Analytical methods.
- Report structure and outline of document contents.
- Disposition of the artifacts.
- Appendices: all site records, correspondence, and consultation with Native Americans, etc.

MM CUL-1.2: **Investigation**. Prior to issuance of any grading permits, the project applicant shall complete a preliminary field investigation program in conformance with the project-specific Cultural Resources Treatment Plan required under Mitigation Measure MM CUL-1.1. The locations of subsurface testing and exploratory trenching shall be determined prior to issuance of any grading permit based on the Cultural Resources Treatment Plan recommendations. A qualified archaeologist and a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area, shall complete a presence/absence exploration. Results of the investigation shall be provided to the Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee prior to issuance of any grading permit.

If any finds were discovered during the preliminary field investigation, the project shall implement MM CUL-1.4 for evaluation and recovery methodologies. The results of the preliminary field investigation and program shall be submitted to the Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee for review and approval prior to issuance of any grading permit.

MM CUL-1.3: **Construction Monitoring and Protection Measures**. Although the data recovery and treatment program would be expected to recover potentially

significant materials and information from the areas impacted by the project prior to grading, it is possible that additional resources could remain on-site. Therefore, all ground-disturbing activities (e.g., grading and excavation) shall be completed under the observation of a qualified archaeologist and a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area.

The qualified archaeologist or a qualified Native American monitor, registered with the NAHC for the City of San José and that is traditionally and culturally affiliated with the geographic area, shall have authority to halt construction activities temporarily in the immediate vicinity of an unanticipated find. If, for any reasons, the qualified archaeologist or a qualified Native American monitor, registered with the NAHC for the City of San José and that is traditionally and culturally affiliated with the geographic area, is not present, but construction crews encounter a cultural resource, all work shall stop temporarily within 50 feet of the find until a qualified archaeologist in consultation with a qualified Native American monitor, registered with the NAHC for the City of San José and that is traditionally and culturally affiliated with the geographic area, has been contacted to determine the proper course of action. The Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee shall be notified of any finds during the grading or other construction activities. Any human remains encountered during construction shall be treated according to the protocol identified in MM CUL-1.5.

MM CUL-1.4: **Evaluation and Data Recovery**. The Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee shall be notified of any finds during the preliminary field investigation, grading, or other construction activities. Any historic or prehistoric material identified in the project area during the preliminary field investigation and during grading or other construction activities shall be evaluated for eligibility for listing as a Candidate City Landmark and/or in the California Register of Historic Resources. Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand auguring, and hand-excavation.

The techniques used for data recovery shall follow the protocols identified in the project-specific Cultural Resources Treatment Plan. Data recovery shall include excavation and exposure of features, field documentation, and recordation.

MM CUL-1.5: **Site Security**. At the discretion of the Director of the City of San José Department of Planning, Building, and Code Enforcement or the Director's designee, site fencing shall be installed on-site during the investigation, grading, building, or other construction activities to avoid destruction and/or theft of potential cultural resources (if determined to be present on-site during

investigation). The responsible qualified archaeologist, in consultation with a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area, shall advise the Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee as to the necessity for a guard. The purpose of the security guard shall be to ensure the safety of any potential cultural resources (including human remains) that are left exposed overnight. The Director of PBCE shall have the final discretion to authorize the use of a security guard at the project site.

MM CUL-1.6: **Final Reporting**. Once all analyses and studies required by the project-specific Cultural Resources Treatment Plan have been completed, the project applicant, or representative, shall prepare a final report summarizing the results of the field investigation, data recovery activities and results, and compliance with the Cultural Resources Treatment Plan during all demolition, grading, building, and other construction activities (as applicable). The report shall document the results of field and laboratory investigations and shall meet the Secretary of the Interior's Standards for Archaeological Documentation. The contents of the report shall be consistent with the protocol included in the project-specific Cultural Resources Treatment Plan. The report shall be submitted to the Director of Planning, Building, and Code Enforcement for review and approval prior to issuance of any Certificates of Occupancy. Once approved, the final documentation shall be submitted to the Northwest Information Center at Sonoma State University, as appropriate.

MM CUL-1.7: **Curation**. Upon completion of the final report required by the project-specific Cultural Resources Treatment Plan, all recovered archaeological materials not identified as tribal cultural resources by the Native American monitor, shall be transferred to a long-term curation facility. Any curation facility used shall meet the standards outlined in the National Park Services' Curation of Federally Owned and Administered Archaeological Collections (36 CFR 79). The project applicant shall notify the Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee of the selected curation facility prior to the issuance of any Certificates of Occupancy. To the extent feasible, and in consultation with the Native American representative, all recovered Native American/tribal cultural resources and artifacts shall be reburied on-site in an area that is unlikely to be disturbed again. Treatment of materials to be curated shall be consistent with the protocols included in the project-specific Cultural Resources Treatment Plan.

All archaeological materials recovered during the data recovery efforts shall be cleaned, sorted, catalogued, and analyzed following standard archaeological procedures, and shall be documented in a report submitted to

the Director of Planning, Building and Code Enforcement and the Northwest Information Center at Sonoma State University.

MM CUL-1.8: **Dignified and Respectful Treatment – Cultural Sensitivity Training Prior to Construction**. An important aspect of the consultation process is the dignified and respectful treatment of Tribal Cultural Resources. Prior to issuance of the Grading Permit, the project shall be required to submit evidence 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 registered with the Native American Heritage Commissions for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3.

The proposed project would be required to implement the provisions of a project-specific Cultural Resources Treatment Plan, as outlined in the mitigation measures above. Implementation of these measures would ensure extensive subsurface investigation where subsurface excavation and groundwork would occur. Through this field investigation and data recovery program, the project would avoid demolition, substantial alteration, or relocation of an eligible resource. Significant disturbance of any human remains, Native American or otherwise, would be avoided through a robust protection program designed to respond to an encounter with cultural resources and/or human remains in consultation with appropriate parties (e.g., the Most Likely Descendant).

With implementation of MM CUL-1.1 through MM CUL-1.8, the project would not cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5. **(Less than Significant Impact with Mitigation Incorporated)**

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

As stated above, the proposed project would require ground disturbing activities within an area of high archeological sensitivity. The project would be required to comply with the City's standard permit condition if human remains are encountered at the project site during construction.

Standard Permit Condition:

- If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American

Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

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

Through compliance with the standard permit condition, the proposed project would result in less than significant impacts to human remains which may be present on site. **(Less than Significant Impact)**

4.6 ENERGY

4.6.1 Environmental Setting

4.6.1.1 *Regulatory Framework*

Federal and State

Energy Star and Fuel Efficiency

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

Renewables Portfolio Standard Program

In 2002, California established its Renewables Portfolio Standard Program, with the goal of increasing the percentage of renewable energy in the state's electricity mix to 20 percent of retail sales by 2010. Governor Schwarzenegger issued Executive Order (EO) S-3-05, requiring statewide emissions reductions to 80 percent below 1990 levels by 2050. In 2008, EO S-14-08 was signed into law, requiring retail sellers of electricity serve 33 percent of their load with renewable energy by 2020. In October 2015, Governor Brown signed SB 350 to codify California's climate and clean energy goals. A key provision of SB 350 requires retail sellers and publicly owned utilities to procure 50 percent of their electricity from renewable sources by 2030. SB 100, passed in 2018, requires 100 percent of electricity in California to be provided by 100 percent renewable and carbon-free sources by 2045.

Executive Order B-55-18 To Achieve Carbon Neutrality

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

California Building Standards Code

The Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6 of the California Code of Regulations (Title 24), was established in 1978 in response to a legislative mandate to reduce California's energy consumption. Title 24 is updated approximately every three years.[29] Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.[30]

[29] California Building Standards Commission. "California Building Standards Code." Accessed May 13, 2022. https://www.dgs.ca.gov/BSC/Codes#@ViewBag.JumpTo.
[30] California Energy Commission (CEC). "2019 Building Energy Efficiency Standards." Accessed May 13, 2022. https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2019-building-energy-efficiency.

California Green Building Standards Code

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

Advanced Clean Cars Program

CARB adopted the Advanced Clean Cars program in 2012 in coordination with the EPA and National Highway Traffic Safety Administration. The program combines the control of smog-causing pollutants and GHG emissions into a single coordinated set of requirements for vehicle model years 2015 through 2025. The program promotes development of environmentally superior passenger cars and other vehicles, as well as saving the consumer money through fuel savings.[31]

Regional and Local

Climate Smart San José

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

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

Reach Building Code

In 2019, the San José City Council approved Ordinance No. 30311 and adopted Reach Code Ordinance (Reach Code) to reduce energy related GHG emissions consistent with the goals of Climate Smart San José. The Reach Code applies to new construction projects in San Jose. It requires new residential construction to be outfitted with entirely electric fixtures. Mixed-fuel buildings (i.e., use of natural gas) are required to demonstrate increased energy efficiency through a higher Energy Design Ratings and be electrification ready. Effective August 1, 2021, all new construction developments are required to be all-electric buildings with no natural gas infrastructure. In addition, the Reach Code requires EV charging infrastructure for all building types (above current CALGreen requirements), and solar readiness for non-residential buildings.

[31] California Air Resources Board. "The Advanced Clean Cars Program." Accessed May 13, 2022. https://www.arb.ca.gov/msprog/acc/acc.htm.

Envision San José 2040 General Plan

The Envision San José 2040 General Plan contains the following policies which are specific to energy and applicable to the proposed project:

Envision San José 2040 Relevant Energy Policies

Policy	Description
MS-1.1	Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City's Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction.
MS-2.3	Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
MS-2.4	Promote energy efficient construction industry practices.
MS-2.11	Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize the effectiveness of passive solar design).

4.6.1.2 *Existing Conditions*

Total energy usage in California was approximately 7,802 trillion British thermal units (Btu) in the year 2019, the most recent year for which this data was available.[32] Out of the 50 states, California is ranked second in total energy consumption and 46th in energy consumption per capita. The California Energy consumption breakdown by end-use sector was approximately 19 percent (1,456 trillion Btu) for residential uses, 19 percent (1,468 trillion Btu) for commercial uses, 23 percent (1,805 trillion Btu) for industrial uses, and 39 percent (3,073 trillion Btu) for transportation.[33] This energy is primarily supplied in the form of natural gas, petroleum, nuclear electric power, and hydroelectric power.

[32] United States Energy Information Administration. "California State Energy Profile." Last Updated March 17, 2022. Accessed May 13, 2022. Available at: https://www.eia.gov/state/?sid=CA#tabs-3
[33] Ibid.

Electricity

In 2020, a total of approximately 16,436 gigawatt hours (GWh) of electricity was consumed in Santa Clara County.[34] The non-residential sector consumed 12,043 GWh or 73 percent of the total, while the residential sector consumed 4,392 GWh or 25 percent.

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

Natural Gas

PG&E provides natural gas services within San José. In 2020, approximately two percent of California's natural gas supply came from in-state production, while the remaining supply was imported from other western states and Canada.[35] In 2020, 12,332 millions of therms of natural gas were consumed. The commercial sector consumed approximately 12 percent of the natural gas delivered to California, while the residential sector consumed approximately 23 percent. The electric power sector used 30 percent of the natural gas delivered and the industrial sector used 34 percent. Transportation accounted for one percent of natural gas use in California. In 2020, Santa Clara County (419 million of therms) used approximately two percent of the state's total consumption of natural gas (12,332 million of therms).[36]

Fuel for Motor Vehicles

In 2021, 13.1 billion gallons of gasoline were sold in California.[37] The average fuel economy for light-duty vehicles (autos, pickups, vans, and sport utility vehicles) in the United States has steadily increased from about 13.1 miles per gallon (mpg) in the mid-1970s to 25.4 mpg in 2020.[38] Federal fuel economy standards have changed substantially since the Energy Independence and Security Act was passed in 2007. That standard, which originally mandated a national fuel economy standard of 35 miles per gallon by the year 2020, was updated in March 2020 to require all cars and light duty trucks achieve an overall industry average fuel economy of 40.4 mpg by model year 2026. [39,40]

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[34] California Energy Commission. Energy Consumption Data Management System. "Electricity Consumption by County." Accessed May 13, 2022. http://ecdms.energy.ca.gov/elecbycounty.aspx.

[35] California Gas and Electric Utilities. 2020 *California Gas Report.* Accessed May 13, 2021. Available at: https://www.socalgas.com/sites/default/files/2020-10/2020_California_Gas_Report_Joint_Utility_Biennial_Comprehensive_Filing.pdf

[36] California Energy Commission. "Natural Gas Consumption by County." Accessed May 13, 2022. Available at: http://ecdms.energy.ca.gov/gasbycounty.aspx.

[37] California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed May 13, 2022. Available at: https://www.cdtfa.ca.gov/taxes-and-fees/spftrpts.htm.

[38] United States Environmental Protection Agency. "The 2021 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." November 2021. Accessed May 13, 2022. Available at: https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P1013L1O.pdf.

[39] United States Department of Energy. *Energy Independence & Security Act of 2007.* Accessed May 13, 2022. Available at: http://www.afdc.energy.gov/laws/eisa.

[40] Public Law 110–140—December 19, 2007. *Energy Independence & Security Act of 2007.* Accessed May 13, 2022. Available at: http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf.

4.6.2 Impact Discussion

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

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

Energy Use During Construction

Construction of the project would require energy for the manufacture and transportation of building materials, preparation of the project site (i.e., grading), and the construction of the building. Construction energy usage is temporary and would not result in excessive energy consumption because construction processes are generally designed to be efficient to avoid excess monetary costs. The project would be constructed in an urbanized area with close access to roadways, construction supplies, and workers, making the project more efficient than construction occurring in outlying, more isolated areas. The construction process is already efficient and opportunities for increasing energy efficiency during construction are limited.

The project would be required to implement BAAQMD Best Management Practices, which would restrict unnecessary idling of construction equipment and require the applicant to post signs on the project site reminding workers to shut off idle equipment, thus reducing the potential for energy waste. In accordance with General Plan Policies MS-14.3 and MS-2.11, the project would implement the City's Green Building Policies to ensure that construction of the project meets industry best practices and techniques are applied to maximize energy performance at the construction stage. The City's Zero Waste Strategic Plan would be implemented at a project level to enhance construction and demolition debris recycling, thus increasing diversion from landfills and further contributing to the energy efficiency of the project's construction activities. For these reasons, construction of the project would not result in wasteful or inefficient use of energy. **(Less than Significant Impact)**

Energy Use During Operation

The project site is vacant, and the proposed project would result in an increase in energy use at the site. Energy would be consumed via heating and cooling of the proposed building, electricity use, water use, solid waste disposal and gasoline consumption of vehicles traveling to and from the site. The project is in an urban area and would connect to existing utilities and use existing roadways for access. Table 4.6-1 below shows the estimated annual energy use of the proposed R&D use.

Table 4.6-1: Estimated Annual Energy Use of Proposed Development1

Land Use	Electricity Use (kWh)	Gasoline (gallons)
Research and Development	989,422	94,192
Parking Lot	30,100	--
Total	1,019,522	94,192

kWh = kilowatt per hour; kBtu = kilo-British thermal unit
Note: the estimated gasoline demand is based on the estimated annual VMT of 2,392,483 for the project, and an average fuel economy of 25.4 mpg. Source United States Environmental Protection Agency. The 2021 EPA Automotive Trends Report. November 2021. https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P1013L1O.pdf
Source: Illingworth & Rodkin, Inc. *865 Embedded Way Industrial Project Air Quality Assessment*. August 2022.

The proposed project would result in an annual increase in energy use of approximately 1,019,522 kWh and 94,192 gallons of gasoline. The project would be required to comply with all standards set in the latest iteration of the California Building Standards Code (California Code of Regulations Title 24), which would minimize the wasteful, inefficient, or unnecessary consumption of energy resources by the built environment during operation. California's CALGreen standards (California Code of Regulations Title 24, Part 11) require implementation of energy-efficient light fixtures and building materials into the design of new construction projects. The project would provide solar photovoltaic panels on the rooftop as required under the 2019 Building Energy Efficiency Standards and procure electricity from SJCE at the TotalGreen level, which is 100 percent carbon free electricity. The proposed project would also construct a 100 percent electric building with no natural gas infrastructure in accordance with the City's each code.

In addition, the project would be required to prepare and implement a Transportation Demand Management (TDM) plan (refer to MM TRAN-1.2) to reduce project VMT below the City threshold for office and commercial projects. The TDM plan would incentivize the use of alternative methods of transportation to and from the site, which would reduce the project's gasoline demand. New automobiles used by employees, guests, and vendors of the proposed project would be subject to fuel economy and efficiency standards applied throughout the State of California, which means that over time the fuel efficiency of vehicles associated with the project site would improve. For these reasons, the project would not result in a wasteful use of energy or conflict with a state or local plan for renewable energy or energy efficiency. **(Less than Significant Impact)**

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

The proposed project would be required to be built in conformance with City of San José policies and plans, including Council Policy 6-32 which governs green building requirements for private development. The project would be required to comply with existing regulations, including applicable measures from the City's General Plan and the City's reach code, which requires all new developments to be all-electric with no natural gas infrastructure. As such, the proposed project would not conflict with any other state-level regulations pertaining to energy. The proposed project would comply with existing State energy standards and would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency and, as a result, impacts would be less than significant. **(Less than Significant Impact)**

4.7 GEOLOGY AND SOILS

A geological hazard evaluation and geotechnical investigation was prepared for the project by Cornerstone Earth Group in May 2023 (Appendix D). The report summarized the current geological site conditions, identified geological hazards, and provided engineering recommendations to reduce geological hazards. The contents of the geotechnical engineering study inform the following discussions.

4.7.1 Environmental Setting

4.7.1.1 *Regulatory Framework*

State

Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Earthquake Fault Zoning Act was passed following the 1971 San Fernando earthquake. The act regulates development in California near known active faults due to hazards associated with surface fault ruptures. Alquist-Priolo maps are distributed to affected cities, counties, and state agencies for their use in planning and controlling new construction. Areas within an Alquist-Priolo Earthquake Fault Zone require special studies to evaluate the potential for surface rupture to ensure that no structures intended for human occupancy are constructed across an active fault.

Seismic Hazards Mapping Act

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

California Building Standards Code

The California Building Standards Code (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

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

Envision San José 2040 Relevant Geologic and Soil Hazard Policies

Policy	Description
EC-4.2	Approve development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.
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, are adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 1 and April 15.

4.7.1.2 *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.

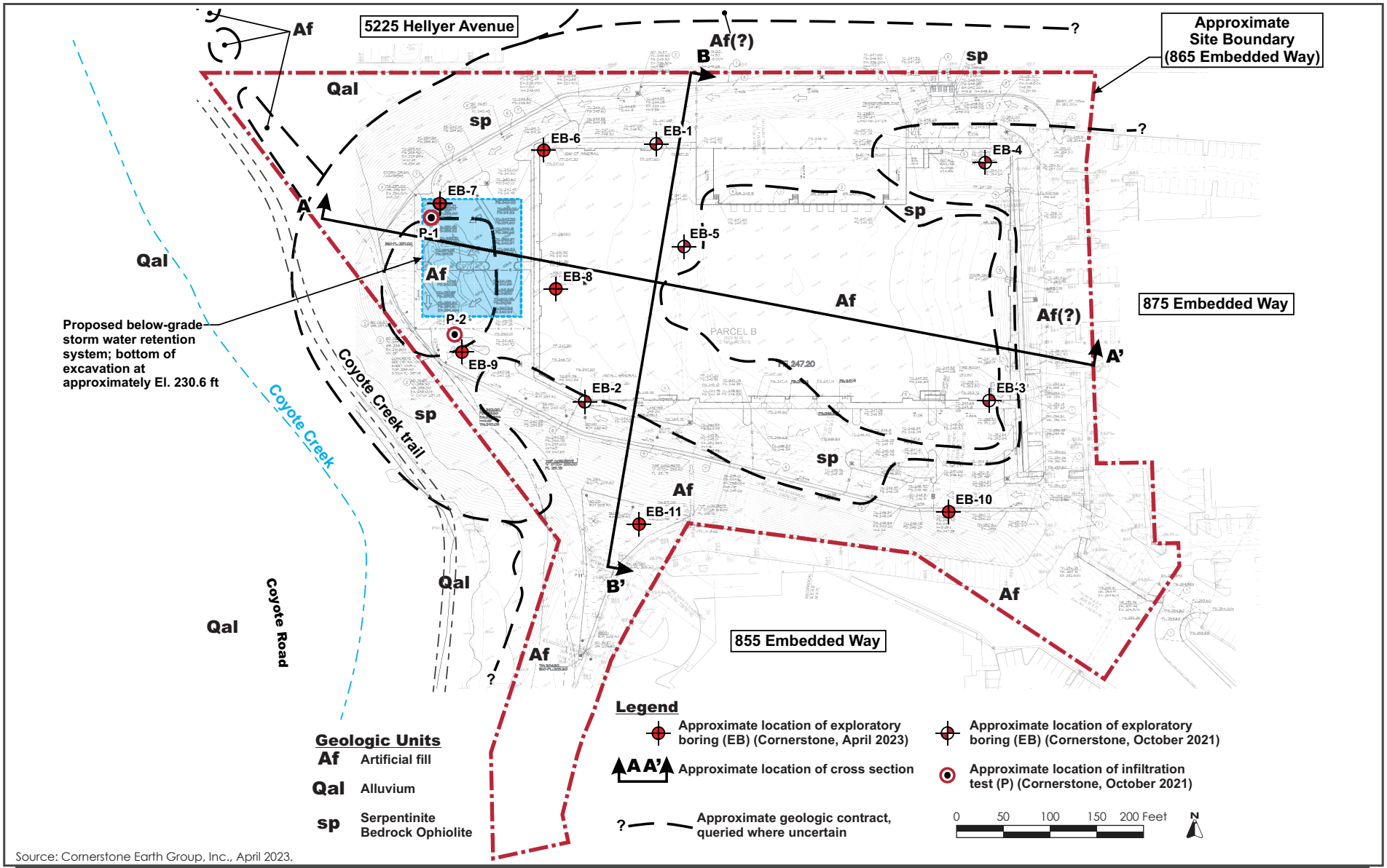
On-site Geologic Conditions

Topography and Soils

The topography of the site has been modified by grading from its original form and now consists of a flat building pad that slopes along the northern, western, and southern sides. The slopes that bound to the site to the north and west range from 30 to 35 feet high and are inclined at approximately 2:1 to 3:1 (horizontal: vertical). The southern and eastern slopes are man-made fill slopes with heights of 30 and 10 feet, respectively, and an incline of 2:1. The site was previously graded in the 1980s for future development.[41] The site was then re-graded in the 1990s. As a result of the previous grading, the site is underlain by localized man-made fills near the ground surface and shallow bedrock consisting of ultramafic rocks from the Cretaceous-Jurassic Franciscan Complex. In samples of the bedrock, serpentinite was identified, which is often associated with natural occurring asbestos (NOA).The artificial man-made fill ranges from a silty gravelly sand to sandy gravel with cobbles. Artificial fill was encountered between approximately two and 14 feet below ground surface in the building footprint for the project, the western parking lot, the eastern parking lot, and along the project's driveway off Embedded Way. Serpentine bedrock was identified along the northwestern and northern boundaries of the project site, in between the project's western boundary and east of Coyote Creek trail. Alluvium soil deposits were identified along the western boundary of Coyote Creek, within the northwestern corner of the project's property line, and directly west of the project's driveway outside of the project's property lines. Refer to Figure 4.7-1.

Expansive soils possess a "shrink-swell" characteristic. Shrink-swell is the cyclic change in volume (expansion and contraction) that occurs in fine-grained clay sediments from the process of wetting and drying. Structural damage may result over a long period of time, usually the result of inadequate soil and foundation engineering or the placement of structures directly on expansive soils. Although expansive soils can be a hazard, it is generally mitigated through adherence with the standard engineering and building practices and techniques specified in the CBC and adherence to the recommendations in the site-specific geotechnical report. Based on the results of the geotechnical investigation, the soils on-site have a plasticity index of 21 and have a medium potential for expansion.

[41] Basin Research Associates. *Limited Cultural Resources Records Review*. May 12, 1998.



Source: Cornerstone Earth Group, Inc., April 2023.

PROJECT SITE SOIL GEOLOGY MAP | FIGURE 4.7-1

Groundwater

Based on the geological hazard evaluation and preliminary geotechnical investigation, groundwater is likely at or near the Coyote Creek level. Groundwater in the project area flows in a west or southwest direction. Based on the Geotechnical Investigation, groundwater has been estimated to occur at depths greater than 30 feet below ground surface. Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall, underground patterns, and other factors, such as surface topography and distance from Coyote Creek.

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 6.7 or higher, and strong to very strong ground shaking is expected to occur at the project site during a major earthquake. Active faults within 16 miles of the project site are shown in Table 4.7-1. The project area is not located within the Alquist-Priolo Earthquake Fault Zone.

Table 4.7-1: Active Faults Near the Project Site

Fault	Distance from Site
Hayward Fault	3.2 miles west
Monte Vista-Shannon Fault	4.6 miles southwest
Calaveras Fault	6.8 miles east
San Andreas Fault	12.6 miles west

Source: Cornerstone Earth Group. Geological Hazard Evaluation and Preliminary Geotechnical Investigation. August 2022

Liquefaction

Liquefaction occurs when water-saturated soils loose structural integrity due to seismic activity. Soils that are most susceptible to liquefaction are loose to moderately dense, saturated granular soils with poor drainage. Based on the results of the results of the analysis in Appendix D, the project is not located within State-designated liquefaction hazard zone or a Santa Clara County liquefaction hazard zone. The site has low potential for liquefaction.

Lateral Spreading

Lateral spreading is a type of ground failure related to liquefaction. It consists of the horizontal displacement of flat-lying alluvial material toward an open area, such as a steep bank of a stream channel. Areas of San José most prone to lateral spreading include lands adjacent to Guadalupe River and Coyote Creek.[42] Coyote Creek is located adjacent to the western project site boundary. However, as described in the geotechnical engineering study, the potential for lateral spreading on the site is low because the site is underlain by shallow bedrock (Appendix D).

[42] City of San José. *Envision San José 2040 General Plan Draft Program Environmental Impact Report.* June 2011. P. 504.

Landslides

Landslides occur when the stability of a slope changes from a stable to an unstable condition. A small portion of the northeastern section of the project site is located within a Santa Clara County Landslide Hazard Zone likely due to a western slope having a free face towards the Coyote Creek Drainage (Appendix D).[43]

Paleontological Resources

Paleontological resources include fossils (the remains or traces of once-living organisms preserved in sediments or sedimentary rocks) and the geologic context in which they occur. Based on the paleontological sensitivity diagram in the General Plan FEIR, the project site has serpentinite (Jsp) and melange (fm) rock types and there is low paleontological sensitivity.

4.7.2 Impact Discussion

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

[43] County of Santa Clara. "Landslide Hazard Zones KMZ files." Accessed May 16, 2022. https://plandev.sccgov.org/ordinances-codes/geology-and-natural-hazards/geological-maps-and-data

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

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

Fault Rupture

According to the geotechnical report prepared for the project, the site is not located within an Earthquake Fault Zone as defined by the California Geological Survey in accordance with the Alquist-Priolo Earthquake Fault Zone Act of 1972. As shown in Table 4.7-1, there are active faults within 10 miles of the site, but the project site is located outside their fault rupture zones. For these reasons, the project would not directly or indirectly cause potential substantial adverse effects from rupture of a known earthquake fault. **(Less than Significant Impact)**

Strong Seismic 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 Standard Permit Condition shall be implemented to ensure the proposed development is designed to address seismic hazards.

Standard Permit Condition:

- The project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The report should also include, but not limited to, foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.

Through compliance with the standard permit condition above the proposed project would not experience a substantial risk of loss of life or property as a result of seismic activity causing ground failure or strong shaking. **(Less than Significant Impact)**

Liquefaction and Lateral Spreading

As discussed previously in Section 4.7.1.2 Existing Conditions, the project site is not located within a designated liquefaction hazard zone. Adherence to the current CBC and the recommendations in the required site-specific geotechnical report would reduce the risk of liquefaction at the project site. Additionally, as described in Section 4.7.1.2 Existing Conditions, the site is underlain with shallow bedrock, which reduces the potential for lateral spreading associated with the adjacent Coyote Creek. For these reasons, the project would not cause potential substantial adverse effects related to liquefaction and lateral spreading. Impacts would be less than significant. **(Less than Significant Impact)**

Landslides

As discussed under Section 4.7.1.2 Existing Conditions, a small portion of the northwestern part of the project site is within an earthquake-induced landslide zone due to the moderately steep slope that faces towards the Coyote Creek drainage. Construction of the project would not include substantial earthwork that would create unstable slopes that would exacerbate any existing landslide risks nor would construction occur in the landslide hazard zone. The project would be required to adhere to the current CBC and the recommendations in the site-specific geotechnical report in accordance with the City's standard permit conditions. Therefore, the proposed project would not result in instability which may cause landslides, and impacts would be less than significant. **(Less than Significant Impact)**

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

Construction of the proposed project would involve ground disturbance activities, such as excavation, and on-site vehicle activity that would also disturb soils. These activities would increase exposure of soil to wind and water erosion and increase sedimentation. The City's NPDES Municipal Permit, urban runoff policies, and the Municipal Code are the primary means of enforcing erosion control measures through the grading and building permit process. The Final Program EIR for the General Plan concluded that with the regulatory programs currently in place, the possible impacts of accelerated erosion during construction would be less than significant.[44] The City shall require all phases of the project to comply with all applicable City regulatory programs pertaining to construction related erosion, including the following standard permit conditions:

Standard Permit Conditions:

- All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.

[44] City of San José. *Draft Program Environmental Impact Report for the Envision San José 2040 General Plan.* SCH# 2009072096. Page 515.

- 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.

Through compliance with the NPDES Municipal Permit, the proposed project would have a less than significant impact on soil erosion or 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?

Strong shaking during an earthquake can result in ground failure such as that associated with soil liquefaction and differential compaction. The project site is not within a liquefaction or landslide zone, but a portion of the northwest site is within a liquefaction landslide overlap zone. Impacts related to these geological hazards would be reduced with implementation with the City's Standard permit condition, which requires future developments be designed and constructed in accordance with the recent California Building Code.

Standard Permit Condition:

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

A design-level geotechnical investigation will also be prepared for the proposed development that identifies site-specific ground failure hazards such as liquefaction and lateral spreading and appropriate techniques to minimize risks to people and structures. Development of the project site would not change or exacerbate the geologic conditions of the project area. Therefore, the project would not be located on a geologic unit or soil that is unstable, or that would become unstable because of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse. For these reasons, the proposed project would have a less than significant impact on the stability of the site geologic unit. **(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?

Soils on the project site were determined to have a medium potential for expansion with changes in moisture content. Structures supported by this type of soil are exposed to cycles of heave and settlement which may result in damage if structures are not constructed with proper structural design. As stated under checklist questions a) and b), building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. This would include constructing the project in such a manner as to reduce the effects of underlying expansive soils. Therefore, through compliance with standard measures established in the California Building Code, and the standard permit conditions as adopted by the City, the proposed project

would result in a less than significant impact associated with expansive soils. **(Less than Significant Impact)**

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

The proposed project would connect to the existing sewer system; therefore, the project would not require septic tanks or alternative wastewater disposal systems. **(No Impact)**

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

As described in Section 4.7.1.2 Existing Conditions, the project site is located in an area with low paleontological resource sensitivity. It is unlikely the project would encounter paleontological resources since sensitivity is low; however, the General Plan EIR recognized that while development allowed under the General Plan could directly impact paleontological resources, implementation of General Plan policies and existing regulations and programs would reduce potential impacts to a less than significant level. As such, the following standard permit condition would be applied to the proposed project to reduce and avoid impacts to unidentified paleontological resources.

Standard Permit Condition:

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

Through implementation of the standard permit condition above, the proposed project would result in a less than significant impact to paleontological resources. **(Less than Significant Impact)**

4.8 GREENHOUSE GAS EMISSIONS

4.8.1 Environmental Setting

4.8.1.1 *Background Information*

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

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

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

4.8.1.2 *Regulatory Framework*

State

Assembly Bill 32 and State Bill 32

Under the California Global Warming Solutions Act, also known as Assembly Bill (AB) 32, CARB established a statewide GHG emissions cap for 2020, adopted mandatory reporting rules for significant sources of GHGs, and adopted a comprehensive plan, known as the Climate Change Scoping Plan, identifying how emission reductions would be achieved from significant GHG sources.

In 2016, SB 32 was signed into law, amending the California Global Warming Solution Act. SB 32, and accompanying Executive Order B-30-15, require CARB to ensure that statewide GHG emissions are reduced to 40 percent below the 1990 level by 2030. CARB updated its Climate Change Scoping Plan in December of 2017 to express the 2030 statewide target in terms of million metric tons of CO_2e ($MMTCO_2e$). Based on the emissions reductions directed by SB 32, the annual 2030 statewide target emissions level for California is 260 $MMTCO_2e$.

Senate Bill 375

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

Consistent with the requirements of SB 375, the Metropolitan Transportation Commission (MTC) partnered with the Association of Bay Area Governments (ABAG), BAAQMD, and the Bay Conservation and Development Commission to prepare the region's Sustainable Communities Strategy (SCS) as part of the Regional Transportation Plan (RTP) process. The SCS is referred to as Plan Bay Area 2050. Plan Bay Area 2050 is a 30-year plan that focuses on implementing 35 measures to improve housing, the economy, transportation, and environment in the Bay Area.

Regional and Local

2017 Clean Air Plan

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

CEQA Air Quality Guidelines

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

On April 20, 2022, the BAAQMD Board of Directors adopted the Justification Report: CEQA Thresholds for Evaluating the Significance of Climate Impacts from Land Use Projects and Plans. The report includes BAAQMD's thresholds of significance for use in determining whether a proposed project or plan would have a significant impact on climate change and provides substantial evidence to support these thresholds. The April 2022 GHG thresholds replace the GHG thresholds set forth in the May 2017 BAAQMD CEQA Air Quality Guidelines and represent the approach

BAAQMD recommends lead agencies use to evaluate new land use development projects and plans to achieve California's long-term climate goal of carbon neutrality by 2045.[45]

Climate Smart San José

Climate Smart San José is a plan to reduce air pollution, save water, and create a stronger and healthier community. Refer to Section 4.6 Energy, for the details of the plan.

Reach Building Code

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

San José 2030 Greenhouse Gas Reduction Strategy

The 2030 Greenhouse Gas Reduction Strategy (GHGRS) is the latest update to the City's GHGRS and is designed to meet statewide GHG reduction targets for 2030 set by Senate Bill 32. As a qualified Climate Action Plan, the 2030 GHGRS allows for tiering and streamlining of GHG analyses under CEQA. The GHGRS identifies General Plan policies and strategies to be implemented by development projects in the areas of green building/energy use, multimodal transportation, water conservation, and solid waste reduction. Projects that comply with the policies and strategies outlined in the 2030 GHGRS, would have less than significant GHG impacts under CEQA.[46]

4.8.1.3 *Existing Conditions*

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

[45] Unlike the 2022 California Environmental Quality Act Air Quality Guidelines, the updated BAAQMD GHG thresholds were published during preparation of the Initial Study. Therefore, these guidelines are incorporated into the analysis.
[46] City of San José. "Greenhouse Gas Reduction Strategy." Accessed May 16, 2022. Available at: https://www.sanjoseca.gov/your-government/department-directory/planning-building-code-enforcement/planning-division/environmental-planning/greenhouse-gas-reduction-strategy.

4.8.2 Impact Discussion

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

4.8.2.1 *Thresholds of Significance*

The BAAQMD threshold of significance for land use development projects is to either A) incorporate project design elements and achieve a reduction in project-generated vehicle miles traveled (VMT) below the regional average consistent with the current version of the California Climate Change Scoping Plan or B) be consistent with a local GHG reduction strategy that meets the criteria of CEQA Guidelines Section 15183.5 (b). Pursuant with BAAQMD, for land use projects to result in a less than significant GHG emissions impact, the land use project would need to comply with threshold A or B below.

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

B. Be consistent with a local GHG reduction strategy that meets the criteria under State CEQA Guidelines Section 15183.5(b)

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

Construction Emissions

Construction activities on-site would result in temporary GHG emissions. Construction-related GHG emissions vary depending on the level of activity, length of the construction period, specific construction operations, types of equipment, and number of personnel. Neither the City of San José nor BAAQMD has established a quantitative threshold or standard for determining whether a project's construction related GHG emissions are significant. Project construction would occur over a period of approximately 10 months and would result in the release of 140 $MTCO_2e$. Since these impacts would only occur during construction the proposed project would not result in a significant contribution to GHG emission. The proposed project construction activity and resulting GHG emissions would not interfere with the implementation of SB 32.

Operational Emissions

As described in Section 4.8.1.2 Regulatory Framework, BAAQMD updated their recommended CEQA thresholds of significance for GHG emissions. Under these recently updated thresholds, projects must demonstrate either A) specific building design and transportation elements or B) consistency with a local GHG reduction strategy. The City of San José has adopted a qualified GHG reduction strategy that meets the CEQA Guidelines Section 15183.5(b) guidelines. Therefore, the BAAQMD qualitative threshold B (described above) is used.

Since the project is consistent with the General Plan land use designation for the site and planned growth from build out of the General Plan, the project's GHG emissions are accounted for in the citywide GHG emissions inventory addressed in the GHGRS, provided the project complies with applicable GHG reduction measures identified in the GHGRS. As discussed in more detail below under question b), the project applicant has completed the Greenhouse Gas Reduction Strategy Consistency Checklist, which documents the project's compliance with the GHGRS and demonstrates the project would result in a less than significant GHG emissions impact.

As stated above, the proposed project would result in temporary GHG emissions during construction which would not contribute to interference with SB 32 and the project's ongoing operational GHG emissions would be covered by the GHGRS given the project is consistent with the General Plan and the project incorporates applicable requirements of the GHGRS. Therefore, the proposed project would result in a less than significant GHG impact during construction and operations of the proposed project. **(Less than Significant Impact)**

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

2030 Greenhouse Gas Reduction Strategy

As mentioned in Section 4.8.1.3 Regulatory Framework, projects that are consistent with the GHGRS would have a less than significant impact related to GHG emissions through 2030. The proposed

project is consistent with the General Plan development assumptions for the site and therefore covered by the analysis included within the General Plan Final EIR; therefore, the project would be consistent with the 2030 GHGRS.

The GHGRS includes seven strategies for emissions reductions. These include use of San José Clean Energy, achieving zero net carbon for residential construction, renewable energy development, retrofits of existing buildings to remove natural gas demands, achieving a zero-waste goal, modernization of Caltrain, and water conservation. The proposed project would comply with specific measures of the GHGRS, as follows. The proposed project is consistent with the Land Use/Transportation Diagram designation of General Plan. The project would be enrolled in the SJCE TotalGreen program , which represents the largest reduction in GHG emissions identified in the reduction strategy. To ensure the project would enroll in SJCE, the following City of San José Standard Permit Condition is required.

Standard Permit Condition:

- Prior to issuance of any Certificate of Occupancy for the project, the occupant shall provide to the Director of the PBCE, or Director's designee, proof of enrollment in either the SJCE GreenSource program (which is procured approximately 90 percent carbon free or renewable energy) or SJCE TotalGreen program (which is procured from 100 percent renewable energy). Program enrollment will be determined by the level assumed in the approved environmental clearance for the project in accordance with CEQA. If it is determined the project's environmental clearance requires enrollment in the TotalGreen program, neither the occupant, nor any future occupant, may opt out of the TotalGreen program.

The applicant shall enroll in SJCE's TotalGreen program as stated in their response to the GHGRS Development Checklist contained in Appendix E.

The proposed project also incorporates all applicable mandatory measures of the GHGRS (refer to Appendix E), including installing solar photovoltaic panels on the rooftop of the proposed building and providing bicycle parking spaces. Additionally, the proposed project would include Tier 2 multi-modal infrastructure that would help reduce vehicle miles traveled (VMT) and mobile greenhouse gas emissions, and the project would implement a Transportation Demand Management (TDM) program. The proposed project would also be consistent with the 2030 GHG Reduction Strategy through compliance with the State's Model Water Efficient Landscape Ordinance and the City's Water-Efficient Landscape Ordinance (Chapter 15.11 of the San José Municipal Code) and would include landscaping and landscaped shading of the parking areas and walkways. Additionally, the project would include low-flow fixtures and appliances and would utilize recycled water for the outdoor landscaping based on availability. Lastly, the project would be constructed in accordance with the latest California Building Code, green building regulations/CALGreen, the City's Council Policy 6-32 and the City's Green Building Ordinance.

For these reasons, the project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs.

Climate Smart San José

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

As discussed in Section 4.6 Energy, the project would be designed and constructed in compliance with the City of San José Council Policy 6-32, the City's reach code, and the City's Green Building Ordinance. In addition, Action MS-2.11 of the General Plan requires new development to incorporate energy conservation and efficiency through site design, architectural design, and construction techniques. For these reasons, the project is consistent with the City's climate action goals as set forth in Climate Smart San José. **(Less than Significant Impact)**

4.9 HAZARDS AND HAZARDOUS MATERIALS

A Phase I Environmental Site Assessment (ESA) was prepared for the project by Cornerstone Earth Group on October 17, 2021 (Appendix F). The report summarized the historical use of the size, identified records of hazardous waste incidents, and listed potential hazardous risks. The contents of the Phase I ESA inform the following discussions.

4.9.1 Environmental Setting

4.9.1.1 *Regulatory Framework*

Overview

The storage, use, generation, transport, and disposal of hazardous materials and waste are highly regulated under federal and state laws. In California, the EPA has granted the enforcement authority over federal hazardous materials regulations to the California Environmental Protection Agency (CalEPA). In turn, local agencies have been granted responsibility for implementation and enforcement of many hazardous materials regulations under the Certified Unified Program Agency (CUPA) program.

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

Federal and State

Federal Aviation Regulations Part 77

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

Comprehensive Environmental Response, Compensation, and Liability Act

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 five 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.[47]

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 (HSWA) 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 underground storage tank program.[48]

[47] United States Environmental Protection Agency. "Superfund: CERCLA Overview." Accessed June 8, 2022. https://www.epa.gov/superfund/superfund-cercla-overview.
[48] United States Environmental Protection Agency. "Summary of the Resource Conservation and Recovery Act." Accessed June 8, 2022. https://www.epa.gov/laws-regulations/summary-resource-conservation-and-recovery-act.

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).[49]

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 uses of asbestos products.[50] The EPA is currently considering a proposed ban on on-going use of asbestos.[51] 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.

[49] California Environmental Protection Agency. "Cortese List Data Resources." Accessed June 8, 2022. https://calepa.ca.gov/sitecleanup/corteselist/.
[50] United States Environmental Protection Agency. "EPA Actions to Protect the Public from Exposure to Asbestos." Accessed April 19, 2022. https://www.epa.gov/asbestos/epa-actions-protect-public-exposure-asbestos
[51] Ibid.

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

The Envision San José 2040 General Plan contains the following policies which are specific to hazards and hazardous materials and applicable to the proposed project:

Envision San José 2040 Relevant Hazards Policies

Policy	Description
EC-6.1	Require all users and producers of hazardous materials and wastes to clearly identify and inventory the hazardous materials that they store, use or transport in conformance with local, state and federal laws, regulations and guidelines.
EC-6.2	Require proper storage and use of hazardous materials and wastes to prevent leakage, potential explosions, fires, or the escape of harmful gases, and to prevent individually innocuous materials from combining to form hazardous substances, especially at the time of disposal by businesses and residences. Require proper disposal of hazardous materials and wastes at licensed facilities.
EC-6.4	Require all proposals for new or expanded facilities that handle hazardous materials that could impact sensitive uses off-site to include adequate mitigation to reduce identified hazardous materials impacts to less than significant levels.
EC-6.5	The City shall designate transportation routes to and from hazardous waste facilities as part of the permitting process in order to minimize adverse impacts on surrounding land uses and to minimize travel distances along residential and other non-industrial frontages.
EC-6.10	Promote source reduction and recycling as alternatives to hazardous materials land disposal whenever feasible.
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-7.5 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-7.6 The City will encourage use of green building practices to reduce exposure to volatile or other hazardous materials in new construction materials.

EC-7.7 Determine for any development or redevelopment site that is within 1,000 feet of a known, suspected, or likely geographic ultramafic rock unit (as identified in maps developed by the Department of Conservation – Division of Mines and Geology) or any other known or suspected locations of serpentine or naturally occurring asbestos, if naturally occurring asbestos exists and, if so, comply with the Bay Area Air Quality Management District's Asbestos Air Toxic Control Measure requirements.

EC-7.11 Require sampling for residual agricultural chemicals, based on the history of land use, on sites to be used for any new development or redevelopment to account for worker and community safety during construction. Mitigation to meet appropriate end use such as residential or commercial/industrial shall be provided.

4.9.1.2 *Existing Conditions*

Site History

The site has historically been undeveloped since at least 1889. Between 1939 and 1982, the site was developed land with orchards along the northwest corner and southern boundary of the site. In 1998, the project site was graded and the orchards along the southern boundary were removed. Between the years 2006 to 2016, paved parking areas for the adjacent southern and eastern commercial buildings were constructed on the project site. However, the majority of the site remains undeveloped. Due to site being previously occupied by orchards there is a possibility that residual pesticides are present on-site.

Conditions On-Site

Hazardous Materials Storage and Use

A recognized environmental condition (REC) refers to the presence or likely presence of any hazardous substances or petroleum products in, on, or at a property; due to release to the environment; under conditions indicative of a release to the environment; or under conditions that pose a material threat of a future release to the environment. The Phase I ESA prepared for the proposed project did not identify any recognized environmental concerns on-site. There was no evidence of chemical storage or use on-site, nor was there evidence of underground storage tanks or

above ground storage tanks on the project site. No nearby spill incidents were reported nor were there any city or county agency files about the project site.

Naturally Occurring Asbestos

The site is located within an area that contains ultramafic rock outcrops, which naturally contains asbestos. Naturally occurring asbestos (NOA) when disturbed can result in negative health ailments.

BAAQMD oversees the public exposure to NOA and enforces the Asbestos Airborne Toxic Control Measure (ATCM) for Construction and Grading Operations.

Cortese List

The project site is not located on the Cortese List.[52]

Off-Site Sources of Contamination

There are no off-site sources of contamination report within 1,000 feet of the project site as documented in the Phase I ESA.

Other Hazards

Airports

The nearest public airport is the County of Santa Clara Reid-Hillview Airport. The project site is approximately six miles south of the airport. Due to the distance of the airport, the project site is not within the 2022 aircraft noise contours, or the airport safety zones for the Reid-Hillview Airport.[53]

Wildfire Hazards

The project site is in an urban area surrounded by existing development that is not near any wildlands that could present a fire hazard. The site is not located within an identified Very High Fire Hazard Severity Zone in a State Responsibility Area (SRA) or a Local Responsibility (LRA).[54]

[52] California Environmental Protection Agency. "Cortese List Data Resources." Accessed June 8, 2022. https://calepa.ca.gov/sitecleanup/corteselist/.
[53] Santa Clara County Airport Land Use Commission. *Reid-Hillview Airport Comprehensive Land Use Plan*. Figures 5 and 6. Amended November 18, 2020. Accessed June 8, 2022. https://stgenpln.blob.core.windows.net/document/ALUC_RHV_CLUP.pdf
[54] California Department of Forestry & Fire Protection. Fire Hazards Severity Zone Viewer. Accessed May 23, 2022. Available at: https://egis.fire.ca.gov/FHSZ/

4.9.2 Impact Discussion

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

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

The proposed project would construct an industrial building on a vacant site that could be used for developments such as R&D, manufacturing, assembly, testing, and offices. The exact operational occupant of the site is not currently determined and is likely to change over the full economic life of the project which may be 50 or more years; however, for the purposes of this Initial Study it is assumed the proposed development would be used for R&D purposes. Based on the proposed R&D designation and the existing land use designations for the project site, it is possible that hazardous materials may be utilized in operations on the site. Additionally, the proposed building would contain

small amounts of cleaning supplies and would create increased operations of large diesel vehicles during deliveries, which could result in minor fuel spills.

As required by the state's Hazardous Materials Management Program, if the project handles hazardous materials, then the project would be required to prepare and submit a Hazardous Materials Business Plan to the Santa Clara County Hazardous Materials Compliance Division, the local CUPA for Santa Clara County, before beginning to operate any facility that would manage hazardous materials subject to the requirement. Business Plans include information about the handling and storage of hazardous materials, including site layout, storage in appropriate containers with secondary containment to contain a potential release, and emergency response and notification procedures in the event of a spill or release. In addition, the Business Plans require annual employee health and safety training. The Business Plan must be approved by the CUPA before the start of operations. The Business Plan would also provide local agencies with the information needed to plan appropriately for a chemical release, fire, or other incident, reducing the potential for an accidental release to harm the health of workers or the public or substantially degrade the environment.

All hazardous materials must be stored and handled according to manufacturers' directions and federal, state, and local regulations. The California Fire Code would also require measures for the safe storage and handling of hazardous materials. As a part of the CUPA program, all hazardous materials must be used, stored, transported, and disposed of in compliance with the code requirements of the City of San José Fire Department, the San José–Santa Clara Wastewater Treatment Facility, the Santa Clara County Department of Environment Health (SCCDEH), and Caltrans. Transportation and disposal of wastes, such as spent cleaning solutions, would also be subject to regulations for safe handling, transportation, and disposal. These regulations would include appropriate containerization and labeling, transportation by licensed hazardous materials haulers, and disposal at licensed facilities permitted to accept the waste.

Compliance with the broad array of existing regulations from state and local governments noted above in Section 4.9.1.1 Regulatory Framework would ensure the project would result in less than significant impacts related to the potential 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?

Given the project site was used for orchards from the years 1889 to 1980, there is potential that agricultural chemicals, such as pesticides, are present on-site. In addition, there is potential for NOA to be present on-site due to the project site being within a mapped ultramafic rock outcrop area. Soils on-site and groundwater beneath the site could be contaminated with agricultural chemicals and/or NOA, which could be released into the environment and expose construction workers and adjacent land uses to contamination.

Impact HAZ-1: The surface and sub-surface soils on-site could be contaminated due to the presence of agricultural chemicals and naturally occurring asbestos (NOA) on-site. Implementation of the project could expose construction workers and

adjacent land uses to residual agricultural soil contamination and NOA above commercial screening levels.

Mitigation Measures:

MM HAZ-1.1: Prior to issuance of a grading permit, the project applicant shall retain a qualified environmental professional to complete a Phase II soil contamination investigation to evaluate past agricultural use and the potential for encountering asbestos. The Phase II shall include soil sampling and analysis for asbestos in accordance with the California Air Resources Board (CARB) test method 435, organochlorine pesticides and pesticide-based metals, arsenic, and lead to determine if these chemicals are present above the regulatory environmental screening levels for construction worker safety and commercial/industrial uses. The results of the soil sampling and testing must be provided to the Supervising Environmental Planner of the City of San José Planning, Building, and Code Enforcement, and the Environmental Compliance Officer in the City of San José's Environmental Services Department.

MM HAZ-1.2: If the Phase II results indicate soil concentrations of pesticides or metals above the environmental screening levels, the applicant must obtain regulatory oversight from the Department of Toxic Substances Control, or the Santa Clara County Department of Environmental Health under their Site Cleanup Program. A Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document shall be prepared by a qualified environmental consultant under regulatory oversight and approval that identifies remedial measures and/or soil management practices to ensure construction worker safety and the health of future site occupants. If asbestos is present above 0.25 percent, an Asbestos Dust Mitigation Plan (ADMP) will be prepared and submitted to the Bay Area Air Quality Management District (BAAQMD) for approval prior to construction. The ADMP would include track-out prevention and control, storage piles, on-site traffic control, preparation of areas prior to earth moving activities, and control for offsite transport, consistent with the California Air Resources Board's Asbestos Airborne Toxic Control Measure for Construction, Grading, Quarrying, and Surface Mining Operations. The plan and evidence of regulatory oversight shall be provided to the Director of Planning, Building, and Code Enforcement or Director's designee and the Environmental Compliance Officer in the City of San José Environmental Services Department.

With implementation of MM HAZ-1.1 and MM HAZ-1.2 above, the proposed project would not result in impacts related to soil and groundwater quality. **(Less than Significant Impact with Mitigation Incorporated)**

As stated above, the proposed project is not identified on regulatory databases for hazardous materials and would not result in accidental release of hazardous materials. During construction, the construction workers would have risk of exposure to NOA and soil contaminants associated with historical agriculture uses. The proposed project would implement Mitigation Measure MM HAZ-1.1 and MM HAZ-1.2 to reduce the exposure of construction workers to a less than significant impact.

Therefore, the proposed project would result in a less than significant impact with mitigation incorporated. **(Less than Significant Impact with Mitigation Incorporated)**

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

The project site is approximately 0.4 mile southeast of the nearest school, Samuel E. Strip Elementary School. The project is not located within 0.25 mile of any existing or proposed schools. **(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 was not identified to be on current lists of hazardous materials sites pursuant to Government Code Section 65962.5. Therefore, the proposed project would not result in a significant hazard to the public or the environment as a result of being included on a list of existing hazardous materials sites. **(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?

As described in Section 4.9.1.2 Existing Conditions, the project site is located approximately six miles from the Reid-Hillview County Airport. The proposed project would be located outside the noise contours of the airport and would not be located within the airport safety zones. Therefore, the proposed project would result in no impacts from hazards associated with nearby airports. **(No Impacts)**

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

The proposed project would develop a vacant site consistent with the General Plan land use designation and would not alter evacuation routes. The project would not result in closure, rerouting or substantial alteration of streets or property access points during or after construction. Construction would occur within the project site. In addition, the project would be constructed in accordance with current building and fire codes and would be required to be maintained in accordance with applicable City policies identified in the General Plan Final EIR to avoid unsafe building conditions. Therefore, the proposed project would be consistent with existing emergency response plans and emergency evacuation plans and would have a less than significant impact **(Less than Significant Impact)**

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

As described in Section 4.9.1.2 Existing Conditions, the project site is not located in a fire hazard severity zone. The project would not exacerbate existing conditions. Therefore, the project would not expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires. **(No Impact)**

4.10 HYDROLOGY AND WATER QUALITY

4.10.1 Environmental Setting

4.10.1.1 *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 Environmental Protection Agency (EPA) and the State Water Resources Control Board (SWRCB) have been developed to fulfill the requirements of this legislation. EPA regulations include the National Pollutant Discharge Elimination System (NPDES) permit program, which controls sources that discharge pollutants into the waters of the United States (e.g., streams, lakes, bays, etc.). These regulations are implemented at the regional level by the Regional Water Quality Control Boards (RWQCBs). The project site is within the jurisdiction of the San Francisco Bay RWQCB.

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.[55]

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 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.

[55] 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 September 2, 2022. https://www.waterboards.ca.gov/water_issues/programs/water_quality_assessment/2020_2022_integrated_report.html.

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.[56] 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 flow controlled reservoir, or, in a catchment that drains to channels that are tidally influenced; or (3) the project is located in a catchment or sub-watershed that is highly developed (i.e., that is 70 percent or more impervious).[57]

[56] 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.

[57] 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.

Water Resources Protection Ordinance and District Well Ordinance

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

2021 Groundwater Management Plan

The 2021 Groundwater Management Plan (GWMP) describes the 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.[58]

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

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

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

The City of San José's Policy No.8-14 implements the hydromodification management requirements of Provision C.3 of the MRP. Policy No. 8-14 requires new development and redevelopment projects that create or replace one acre or more of impervious surface area and are located within a sub-watershed 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

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

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 sub-watersheds 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.

4.10.1.2 *Existing Conditions*

Site Drainage and Water Quality

The project site does not contain surface water resources within the boundaries of the site. The nearest waterway, Coyote Creek, is located approximately 150 feet southwest of the project site. Water from the project site would primarily infiltrate into the bare ground surface on the site or surface flow across the site into the City's established drainage system or Coyote Creek. According to the EPA, the Coyote Creek is currently listed on the 303(d) list of impaired waterways for Diazinon toxicity and trash. [59]

Flooding

According to the FEMA Flood Insurance Rate Maps (FIRM), the project site is located in Flood Zone D. Zone D is an area of undetermined but possible flood hazard that is outside the 100-year flood plain. There are no City floodplain requirements for Zone D. [60]

Dam Failure

The project site is not located within the Anderson Dam nor the Coyote dam failure inundation hazard zones.[61,62]

Seiches, Tsunamis, and Mudflows

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

[59] United States Environmental Protection Agency. Waterbody Quality Assessment Report for 2022 Waterbody Report for Coyote Creek (Santa Clara Co.). 2016. Accessed November 7, 2022. https://mywaterway.epa.gov/waterbody-report/CA_SWRCB/CAR2053002119990218112824/2022.
[60] Federal Emergency Management Agency. "FEMA Flood Map Service Center." Accessed June 13, 2022. https://msc.fema.gov/portal/search?AddressQuery.
[61] Santa Clara Valley Water District. "Inundation Map for the Hypothetical Fair Weather Failure of Leroy Anderson Dam." January 2020. Accessed June 13, 2022. https://fta.valleywater.org/dl/f0uHPXKX7E
[62] Santa Clara Valley Water District. "Inundation Map for the Hypothetical Fair Weather Failure of Coyote Dam." January 2020. Accessed June 13, 2022. https://fta.valleywater.org/dl/zeXOXXRO1b.

A tsunami is a sea wave generated by an earthquake, landslide, or other large displacement of water in the ocean. There are no bodies of water near the project site that would affect the site in the event of a tsunami.[63]

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

Groundwater

Groundwater has been estimated to occur at depths greater than 30 feet below ground surface flowing to the west or southwest direction.[64] Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall, and underground drainage patterns.

Hydromodification

Hydromodification is a change in stormwater runoff characteristics from a watershed caused by changes in land use conditions (i.e., urbanization) that alter the natural cycling of water. Changes in local land use can cause runoff volumes and velocity to increase which can result in a decrease in natural vegetation, changing of river/creek bank grades, soil compaction, and the creation of new drainages

The project site is located within a sub-watershed with less than 65 percent impervious surfaces, therefore the project site is subject to hydromodification requirements outlined in City Council Policy No. 8-14.[65]

[63] California Geological Survey. "CGS Information Warehouse: Tsunami Hazard Area Map." Accessed November 7, 2022. https://maps.conservation.ca.gov/cgs/informationwarehouse/ts_evacuation/?extent=-13597903.6729%2C4493258.9735%2C-13569239.7873%2C4508871.2366%2C102100&utm_source=cgs+active&utm_content=santaclara

[64] Valley Water. Santa Clara County Depth to First Groundwater. Updated January 24, 2017. Accessed June 13, 2022.

[65] City of San José. "Public GIS Viewer – Hydromodification Management Zone." Accessed November 7, 2022. https://csj.maps.arcgis.com/apps/webappviewer/index.html?id=3c5516412b594e79bd25c49f10fc672f

4.10.2 Impact Discussion

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

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

Construction Impacts

Implementation of the proposed project would involve excavation and grading activities on-site. Ground-disturbing activities would temporarily increase the volume of loose debris on-site and grading activities could increase erosion and sedimentation that could be carried by runoff into the San Francisco Bay. More than one acre of soil would be disturbed since the project site is approximately 10.17-acres. Therefore, the project would be required to obtain an NPDES General Permit for Construction Activities. All development projects in the City are also required to comply

with the City of San José's Grading Ordinance regardless even if the project is required to obtain an NDPES General Construction Permit. [66] Prior to the issuance of a permit for grading activity occurring during the rainy season (October 1st to April 30th), the applicant shall submit an Erosion Control Plan to the Director of Public Works for review and approval. The Erosion Control Plan shall detail BMPs that would be implemented to prevent the discharge of stormwater pollutants.

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

Standard Permit Conditions:

- 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 project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

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

Post-Construction Impacts

Under existing conditions, the project site is entirely comprised of pervious surface area. Upon completion of the proposed project, the site would be covered with approximately 239,905 square feet (91 percent) of impervious surfaces and 23,093 square feet (9 percent) of pervious surface area.

[66] The San José Grading Ordinance requires the use of erosion and sediment controls to protect water quality when a site is under construction.

Construction of the project would result in the replacement of more than 10,000 square feet of impervious surface area. Therefore, the project would be required to comply with the City of San José' Post-Construction Urban Runoff Policy 6-29 and the MRP.

The MRP requires all post-construction stormwater runoff to be treated by numerically sized LID treatment controls, such as biotreatment facilities, unless the project is granted Special Project LID Reduction Credits, which would allow the project to implement non-LID measures for all or a portion of the site depending on the project characteristics. To treat stormwater runoff, the project proposes two unlined bioretention basins with underdrains and a subsurface infiltration system underneath the western parking lot adjacent to one of the detention basins.

In addition to LID measures the proposed project would be required to comply with measures included in the General Plan for managing stormwater runoff. The General Plan Final EIR concluded that with the regulatory programs currently in place, stormwater runoff from new development would have a less than significant impact on stormwater quality. With inclusion of LID stormwater treatment and compliance with the City's regulatory policies pertaining to stormwater runoff, operation of the proposed project would have a less than significant water quality impact.

The proposed project would implement the standard permit conditions established by the City of San José and would be constructed with LID features to capture and release stormwater during project operations. Additionally, the project would not impact groundwater and would not require groundwater dewatering. Therefore, the proposed project would result in less than significant impacts on runoff and groundwater associated with the proposed project. **(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 proposed project is located within the Santa Clara Subbasin, one of two groundwater basins located within the City of San José Urban Growth Boundaries. Planned build out within the scope of the General Plan does not include areas within any of the Santa Clara Valley Water District's 18 major groundwater recharge systems. The Santa Clara Subbasin has not been identified as a groundwater basin in a state of overdraft. The project site is not located within a groundwater recharge area.

Groundwater has been estimated to occur at depths greater than 30 feet below ground surface, although the depth can vary seasonally. Since construction of the project would not require substantial below-ground excavation (maximum excavation of 20 feet), dewatering would not be required. Construction activities proposed by the project would therefore not substantially decrease groundwater supplies or interfere with groundwater recharge. The proposed project would increase water demand on-site but would rely on existing water delivery systems to meet its demand and would not rely on groundwater derived from beneath the site. The project would not establish or require additional groundwater pumping, actions which could impede efforts to sustainably manage the Santa Clara Subbasin. **(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?

Although the project site is located adjacent to Coyote Creek, improvements are limited to the project site and the project would not substantially alter the existing drainage pattern of the site or area through the alteration of any waterway.

As described in checklist question "a", the impervious area on-site would increase with the proposed project compared to existing conditions, which would result in increased surface runoff. The project would comply with the City's Post-Construction Urban Runoff Policy 6-29 and the RWQCB MRP to minimize and treat stormwater runoff to reduce the rate of stormwater runoff while removing pollutants. The proposed project would include two bioretention basins and a subsurface infiltration system consisting of underground reservoirs that capture, temporarily store, and infiltrate stormwater into the surrounding soil. The bioretention basins would be located on the western side of the project site and the subsurface infiltration system would be underneath a portion of the western parking lot. These stormwater management features would capture stormwater during rainfall events and would prevent surface runoff from resulting in flooding on- and off-site during most rainfall events by retaining and releasing water slowly over time. Stormwater management features are not sized to handle flows from large, infrequent rainfall events. The proposed project would size the stormwater features consistent with Provision C.3.c.iii.(3) of the Municipal Regional Stormwater Permit which requires features to accommodate runoff of five inches per hour. This drainage rate would accommodate most storms and the project would not release water from the site during a majority of storm events and therefore, polluted runoff and erosion would not be delivered into streams or other waterways. Therefore, the proposed project would not substantially alter the existing drainage pattern of the site or create or contribute runoff which would exceed existing stormwater drainage capacity or result in flooding on- or off-site. Impacts related to the existing drainage patter and stormwater runoff would be less than significant. **(Less than Significant Impact)**

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

Based on the FEMA Flood Map Service, the project site is located in Flood Zone D, an area of undetermined but possible flood hazard that is outside of the 100-year floodplain. Also, based on the Valley Water dam failure inundation hazard maps (fair weather and inflow design flood failure), the project site is not within the Anderson Dam failure flood inundation hazard zone; therefore, in the event that a dam failure happens, the site would not become inundated.[67,68] In addition, the project

[67] Valley Water. Inundation Map of Hypothetical Fair Weather Failure of Anderson Dam. Sheet 11 and 12. November 2019. Accessed June 13, 2022. https://fta.valleywater.org/dl/f0uHPXKX7E
[68] Valley Water. Inundation Map of Hypothetical Inflow Design Flood Failure of Anderson Dam. Sheet 16 and 17. November 2019. Accessed June 13, 2022. https://fta.valleywater.org/dl/f0uHPXKX7E

site is located inland of the San Francisco Bay and would not be subject to inundation following a tsunami or seiche. Therefore, the project would not risk the release of pollutants due to inundation from flooding, tsunamis, or seiches. **(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 Permit 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. For these reasons, the project would not conflict with implementation of a water quality or groundwater management plan. **(Less than Significant Impact)**

4.11 LAND USE AND PLANNING

4.11.1 Environmental Setting

4.11.1.1 *Regulatory Framework*

Regional

Habitat Conservation Plan/Natural Community Conservation Plan

As described in Section 4.4 Biological Resources, the Santa Clara Valley Habitat Plan (Habitat Plan), which encompasses a study area of 519,506 acres (or approximately 62 percent of Santa Clara County), was adopted by six local entities in Santa Clara County and went into effect in October 2013. The entire 10.17-acre project site is contained within the boundaries of the HCP and the project would be considered a covered activity.

Envision San José 2040 General Plan

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

Envision San José 2040 Relevant Land Use Policies

Policies	Description
CD-1.1	Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
CD-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).
ER-2.1	Ensure that new public and private development adjacent to riparian corridors in San José are consistent with the provisions of the City's Riparian Corridor Policy Study and any adopted Santa Clara Valley Habitat Conservation Plan/Natural Communities Conservation Plan (HCP/NCCP).

ER-2.2	Ensure that a 100-foot setback from riparian habitat is the standard to be achieved in all but a limited number of instances, only where no significant environmental impacts would occur.
Policy ER-2.3	Design new development to protect adjacent riparian corridors from encroachment of lighting, exotic landscaping, noise and toxic substances into the riparian zone.
Policy ER-2.4	When disturbances to riparian corridors cannot be avoided, implement appropriate measures to restore, and/or mitigate damage and allow for fish passage during construction.
Policy ER-2.5	Restore riparian habitat through native plant restoration and removal of nonnative/invasive plants along riparian corridors and adjacent areas.

4.11.1.2 *Existing Conditions*

The project site is currently designated Industrial Park under the General Plan and located within the Industrial Park Zoning District.

The Industrial Park General Plan designation is an industrial designation intended for a wide variety of industrial users such as research and development, manufacturing, assembly, testing and offices. This designation is differentiated from the Light Industrial and Heavy Industrial designations in that Industrial Park uses are limited to those for which the functional or operational characteristics of a hazardous or nuisance nature can be mitigated through design controls. Areas identified exclusively for Industrial Park uses may contain a very limited number of supportive and compatible commercial uses, when those uses are of a scale and design providing support only to the needs of businesses and their employees in the immediate industrial area. These commercial uses should typically be located within a larger industrial building to protect the character of the area and maintain land use compatibility. One primary difference between this use category and the "Light Industrial" category is that, through the Zoning Ordinance, performance and design standards are more stringently applied to Industrial Park uses. [69]

The Industrial Park District zoning district is intended for a wide variety of industrial users such as research and development, manufacturing, assembly, testing, and offices. Industrial uses are consistent with this designation insofar as any functional or operational characteristics of a hazardous or nuisance nature can be mitigated through design controls. Areas exclusively for industrial uses may contain a very limited amount of supportive commercial uses, in addition to industrial uses, when those uses are of a scale and design providing support only to the needs of businesses and their employees in the immediate industrial area. These commercial uses should be located within a larger industrially utilized building to protect the character of the area and maintain land use compatibility.

[69] City of San José. *Envision San José 2040 General Plan.* As amended December 14, 2021. P. 11.

In addition, warehouse retail uses are allowed where they are compatible with adjacent industrial uses and would not constrain future use of the subject site for industrial purposes. [70]

4.11.2 Impact Discussion

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

a) Would the project physically divide an established community?

Changes in land use are not adverse environmental impacts in and of themselves, however, they may create conditions that adversely affect existing uses in the immediate vicinity. As proposed, the project would construct a one-story, 121,400 square-foot industrial building and associated surface parking. The project would not result in the construction of any features that would physically divide the community (e.g., roadway, railway, or highway). The General Plan Final EIR concluded that future development under the General Plan would not substantially change allowed land uses in the City and would generally continue and reinforce the patterns of land use currently in place. The proposed project would be consistent with the existing uses in the project area and would not physically divide an established community. **(Less than Significant Impact)**

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

The proposed project would be consistent with the Industrial Park General Plan designation and zoning code regulations. As described within the individual sections of this document, implementation of the identified mitigation measures, the City's Standard Permit Conditions, and the required General Plan Final EIR and regulatory requirements, the project would not cause a significant environmental impact due to a conflict with plans, policies or regulation adopted for the purpose of avoiding or mitigating an environmental effect. The project site is located within the New Edenvale Employment Area General Plan Planned Growth Area. According to the General Plan, significant job growth is planned through intensification of the City's Employment Land Areas, including Edenvale. The City anticipates accommodating a wide variety of industry types and development forms, including high rise and mid-rise office or research and development uses, heavy and light industrial uses, and supporting commercial uses to respond to the projected demand for

[70] City of San José. San Jose - Municipal Code Section 20.50.010(C)3. Accessed May 20, 2022. Available at https://library.municode.com/ca/san_jose/codes/code_of_ordinances?nodeId=TIT20ZO_CH20.50INZODI_PT1GE_20.50.010INZODI

each type of industrial land. The proposed project is consistent with the industrial development envisioned by the plan. Additionally, the project site is located within the boundaries of the Santa Clara Valley Habitat Plan and would be considered a covered activity. As described in Section 4.4 Biological Resources, the project would comply with the requirements of the Habitat Plan. **(Less than Significant Impact)**

4.12 MINERAL RESOURCES

4.12.1 Environmental Setting

4.12.1.1 *Regulatory Framework*

State

Surface Mining and Reclamation Act

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

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

4.12.1.2 *Existing Conditions*

The project site is located in the southern area of San José which is not known to contain mineral resources of local or state importance. The nearest mineral resources identified in the General Plan are located approximately 5.7 miles northwest at Communications Hill.[71]

4.12.2 Impact Discussion

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

[71] City of San José. *Envision San José 2040 General Plan*. Page 36. As Amended on December 14, 2021.

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

Based on the United States Geological Survey (USGS) map of mines and mineral resources, the project site is not comprised of known mineral resources or mineral resource production areas The project site is located in the southern area of San José and is located 5.7 miles southeast of Communications Hill, which is the nearest identified mineral resource. Therefore, the proposed project would not result in the loss of availability of a known mineral resource that would be of value to the region and residents of the state. **(No Impact)**

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

As described in question a), the project site includes no mineral resources, no mineral resource production areas, nor is it in proximity to an area with identified mineral resources. Therefore, the project would not result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan. **(No Impact)**

4.13 NOISE

The information in this section is based in part on the *865 Embedded Way Industrial Project Noise and Vibration Assessment* prepared by Illingworth & Rodkin, Inc. in August 2022. This report is available as Appendix G of this document.

4.13.1 Environmental Setting

4.13.1.1 *Background Information*

Noise

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

Since excessive noise levels can adversely affect human activities and human health, federal, state, and local governmental agencies have set forth criteria or planning goals to minimize or avoid these effects. Noise guidelines are generally expressed using one of several noise averaging methods, including L_{eq}, DNL, or CNEL.[72] 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.

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

4.13.1.2 *Regulatory Framework*

State and Local

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

Envision San José 2040 Relevant Noise Policies

Policies	Description
Policy EC-1.1	Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, State and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include: Interior Noise Levels • The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected General Plan traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan. Exterior Noise Levels • The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (refer to Table EC-1 in the General Plan or • Table 4.13-1 in this Initial Study). 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.

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

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

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

Policy EC-1.7 Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would:

- Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months.

For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.

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.

Table 4.13-1: General Plan Land Use Compatibility Guidelines

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

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

Normally Acceptable:

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

Conditionally Acceptable:

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

Unacceptable:

New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies.

4.13.1.3 *Existing Conditions*

Existing Noise Environment

The existing noise environment in the project area is primarily due to vehicular traffic along United States Highway (US 101) and Hellyer Avenue.

Existing Ambient Noise Levels

A noise monitoring survey consisting of two long-term (LT-1 and LT-2) and three short-term (ST-1, ST-2, and ST-3) noise measurements was completed at the site and the surrounding area between Wednesday, July 6, 2022, and Friday, July 8, 2022. All measurement locations are shown in Figure

4.13-1, and Table 4.13-2 lists the short-term noise measurements. The long-term measurement at LT-1 was 63 dBA DNL and at LT-2 was 61 dBA DNL.

Table 4.13-2: Short-Term Noise Measurements

Noise Measurement Location	Date, Time	L_{max}	$L_{(1)}$	$L_{(10)}$	$L_{(50)}$	$L_{(90)}$	L_{eq}
ST-1: NE corner of the project site	7/6/2022, 12:20-12:30	66	57	53	52	51	52
ST-2: ~35 feet west of the centerline of the southbound through lanes of Coyote Road	7/6/2022, 12:40-12:50	74	71	63	52	45	59
ST-3: Near the intersection of Embedded Way and Hellyer Avenue	7/8/2022, 12:10-12:20	64	62	58	51	47	54

ST = short-term; L_{max} = maximum A-weighted noise level during the measurement period; $L_{(1)}$, $L_{(10)}$, $L_{(50)}$, $L_{(90)}$ = The A-weighted noise levels that are exceeded 1%, 10%, 50%, and 90% of the time during the measurement period; L_{eq} = The average A-weighted noise level during the measurement period.
Source: Illingworth & Rodkin Inc. *865 Embedded Way Industrial Project Noise and Vibration Assessment.* August 2022

Existing Noise-Sensitive Receptors

The nearest noise sensitive receptors to the project site are the single-family residences in a single-family neighborhood approximately 345 feet to the west of the project site across Coyote Creek.

NOISE MEASUREMENT LOCATIONS | FIGURE 4.13-1

4.13.2 Impact Discussion

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

4.13.2.1 *Thresholds of Significance*

The following criteria were used to evaluate the significance of environmental noise resulting from the project:

- A significant noise impact would be identified if the project would generate a substantial temporary or permanent noise level increase over ambient noise levels at existing noise-sensitive receptors surrounding the project site and that would exceed applicable noise standards presented in the General Plan at existing noise-sensitive receptors surrounding the project site.

    - A significant noise impact would be identified if temporary construction-related activities would substantially increase ambient noise levels at sensitive receptors. The City of San José considers large or complex projects involving substantial noise-generating activities and lasting more than 12 months significant when within 500 feet of residential land uses or within 200 feet of commercial land uses or offices. After a period of 12 months, a significant temporary noise impact would occur if construction noise levels would exceed 80 dBA L_{eq} at residential land uses near the site or 90 dBA L_{eq} at commercial land uses near the site.

    - A significant permanent noise level increase would occur if the project would result in: a) a noise level increase of 5 dBA DNL or greater, with a future noise level of less than 60 dBA DNL, or b) a noise level increase of 3 dBA DNL or greater, with a future noise level of 60 dBA DNL or greater.

- A significant noise impact would be identified if the project would expose persons to or generate noise levels that would exceed applicable noise standards presented in the General Plan.

- A significant impact would be identified if the construction of the project would generate excessive vibration levels surrounding receptors. Groundborne vibration levels exceeding 0.08 in/sec PPV would have the potential to result in cosmetic damage to historic buildings, and groundborne vibration levels exceeding 0.2 in/sec PPV would have the potential to result in cosmetic damage to normal buildings.

- A significant noise impact would be identified if the project would expose people residing or working in the project area to excessive aircraft noise levels.

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

Construction Noise

Policy EC-1.7 of the City's General Plan requires that all construction activities within the City use 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. Furthermore, 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.

While the City of San José does not establish noise level thresholds for construction activities, this analysis uses the noise limits established by the Federal Transit Administration (FTA) to identify the potential for impacts due to substantial temporary construction noise. The FTA identifies construction noise limits in the *Transit Noise and Vibration Impact Assessment Manual*.[1] During daytime hours, an exterior threshold of 80 dBA L_{eq} shall be applied at residential land uses and 90 dBA L_{eq} shall be applied at commercial and industrial land uses. Table 4.13-3 lists the noise level estimates at nearby land uses in proximity to the project. The noise levels do not assume reductions due to intervening buildings or existing barriers.

Table 4.13-3: Estimated Construction Noise Levels at Nearby Land Uses (dBA)

Phase of Construction	North Industrial (310ft)	East Industrial (340ft)	South Industrial (240ft)	West Residences (700ft)
Demolition	66 dBA L_{eq}	65 dBA L_{eq}	68 dBA L_{eq}	59 dBA L_{eq}
Site Preparation	68 dBA L_{eq}	67 dBA L_{eq}	70 dBA L_{eq}	61 dBA L_{eq}
Grading/Excavation	69 dBA L_{eq}	68 dBA L_{eq}	71 dBA L_{eq}	62 dBA L_{eq}
Trenching/Foundation	66 dBA L_{eq}	65 dBA L_{eq}	68 dBA L_{eq}	59 dBA L_{eq}
Building –Exterior	65 dBA L_{eq}	64 dBA L_{eq}	67 dBA L_{eq}	58 dBA L_{eq}
Building – Interior/ Architectural Coating	52 dBA L_{eq}	51 dBA L_{eq}	54 dBA L_{eq}	45 dBA L_{eq}
Paving	69 dBA L_{eq}	68 dBA L_{eq}	71 dBA L_{eq}	62 dBA L_{eq}

L_{eq} = The average A-weighted noise level during the measurement period.
Source: Illingworth & Rodkin Inc. *865 Embedded Way Industrial Project Noise and Vibration Assessment.* August 2022

As shown in Table 4.13-3, construction noise levels would intermittently range from 45 to 62 dBA L_{eq} at existing residential uses and from 51 to 71 dBA L_{eq} at existing industrial uses in the project vicinity when construction activities are focused near the center of the project site. These construction noise levels would not exceed the exterior threshold of 80 dBA L_{eq} at residential land uses. The 90 dBA L_{eq} threshold would not be exceeded at industrial land uses in the project vicinity during project construction. Additionally, the project would be required to implement the following standard permit condition to minimize construction-related noise impacts.

Standard Permit Condition:

- **Construction-related Noise.** Noise minimization measures include, but are not limited to, the following:
    - Limit construction to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential use.
    - Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
    - Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
    - Prohibit unnecessary idling of internal combustion engines.
    - Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
    - Utilize "quiet" air compressors and other stationary noise sources where technology exists.
    - Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.

- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.
- If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
- Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

Based the above, project construction would not exceed 12 months in duration, nor would construction-related noise impacts exceed the FTA thresholds for residential and industrial land uses. With implementation of the standard permit condition, General Plan Policy EC-1.7, and Municipal Code requirements, the proposed project would not result in a significant construction noise impact. **(Less than Significant Impact)**

Operational Noise

The proposed project would create new sources of noise in the project vicinity. Major sources of noise associated with the proposed project include the following: vehicular traffic, mechanical equipment, parking lot, and truck deliveries.

As discussed in Section 4.13.1.4 Existing Conditions, the closest sensitive receptors are single-family homes located approximately 345 feet southwest of the project site west of the Coyote Creek Trail. For this analysis, the residential noise standards were used to determine impacts. The City of San José's stationary source exterior Zoning Ordinance Noise Standards for industrial areas adjacent to a property used or zoned for industrial or use other than commercial or residential purposes uses is limited to70 dBA Leq. Additionally, the noise standard for industrial next to residential uses is 55 dBA Leq. Per General Plan Policy EC-1.1, land use compatibility standard for business commercial areas is up to 70 dBA DNL.

Project Vehicular Traffic Increase

In general, a traffic noise increase of less than three dBA is barely perceptible to people, while a five-dBA increase is readily noticeable. Traffic volumes on project area roadways would have to approximately double for the resulting traffic noise levels to increase by three dBA. Therefore, permanent increases in ambient noise levels of less than three dBA are considered to be less than significant. The proposed project would generate increased traffic volumes along roadway segments near the project site. As shown in Table 4.13-4, the noise analysis determined that the additional traffic generated from the project (which are estimated from peak hour project trips) would increase the existing noise levels on nearby roadways by one dBA DNL or less. **(Less than Significant Impact)**

Table 4.13-4 Estimated Noise Level Increases of Existing Plus Project Traffic Volumes Over Existing Volumes at Receptors in the Project Vicinity

Roadway	Segment	Estimated Noise Level Increase
Embedded Way	East of Hellyer Avenue	0 dBA DNL
	West of Hellyer Avenue	1 dBA DNL
Fontanoso Way	East of Hellyer Avenue	0 dBA DNL
	Hellyer Avenue to Silver Creek Valley Road	1 dBA DNL
	South of Silver Creek Valley Road	0 dBA DNL
Silver Creek Valley Road/ Blossom Hill Road	East of Hellyer Avenue	0 dBA DNL
	Hellyer Avenue to Fontanoso Way	0 dBA DNL
	Fontanoso Way to US 101 NB ramps/Coyote Road	0 dBA DNL
	US 101 NB ramps/Coyote Road to US SB ramps	0 dBA DNL
	West of US 101 SB ramps	0 dBA DNL
Hellyer Avenue	North of US 101 SB ramps	0 dBA DNL
	US 101 SB ramps to US 101 NB ramps/Dove Road	0 dBA DNL
	US 101 NB ramps/Dove Road to Embedded Way	0 dBA DNL
	Embedded Way to Fontanoso Way	0 dBA DNL
	Fontanoso Way to Silver Creek Valley Road	0 dBA DNL
	South of Silver Creek Valley Road	0 dBA DNL
Coyote Road	North of Silver Creek Valley Road/Blossom Hill Road	0 dBA DNL
Dove Road	North of Hellyer Avenue	0 dBA DNL
US 101 NB ramps	On/off ramp at Hellyer Avenue	0 dBA DNL
	Off ramp at Silver Creek Valley Road/Blossom Hill Road	0 dBA DNL
US 101 SB ramps	On/off ramp at Hellyer Road	0 dBA DNL
	Off ramp at Blossom Hill Road	0 dBA DNL
	On ramp at Blossom Hill Road	0 dBA DNL

dBA = The average A-weighted noise level during the measurement period; DNL = Day/Night Average Sound Level

Source: Illingworth & Rodkin Inc. *865 Embedded Way Industrial Project Noise and Vibration Assessment.* August 2022

Mechanical Equipment

The project would include HVAC units which are associated with operational noise. Noise levels from the project's rooftop HVAC units were calculated assuming all four proposed units would cycle on and off continuously throughout a 24-hour period. Assuming no reductions due to shielding effects or building elevations, the estimated rooftop equipment noise levels were estimated at the property lines of the nearest surrounding land uses. The estimated noise levels at the receptors are summarized in Table 4.13-5.

Table 4.13-5: Estimated Rooftop Equipment Noise Levels at Receiving Land Uses

Receptor	Distance from Nearest Center of the Equipment Area	Hourly L_{eq}	DNL	Noise Level Increase, DNL
West Residences	700 feet	43 to 44 dBA	50 dBA	0 dBA
North Industrial	385 feet	48 to 49 dBA	55 dBA	N/A[a]
East Industrial	315 feet	50 to 51 dBA	57 dBA	N/A[a]
South Industrial	200 feet	54 to 55 dBA	61 dBA	N/A[a]

[a] Noise level increases were not calculated at the existing industrial uses surrounding the site since Policy EC-1.2 would not apply to these land uses.
dBA = The average A-weighted noise level during the measurement period; L_{eq} = The average A-weighted noise level during the measurement period.; DNL = Day/Night Average Sound Level
Source: Illingworth & Rodkin Inc. *865 Embedded Way Industrial Project Noise and Vibration Assessment.* August 2022

Hourly average noise levels would not exceed the 55 dBA threshold at the property lines of the nearest residences west of the site, and the day-night average noise level would not exceed 55 dBA DNL at the nearest residences. The Municipal Code thresholds for industrial uses would also not be exceeded at the property lines of the nearest land uses. Mechanical equipment noise would not result in a measurable or detectable increase over existing ambient noise levels at the residential land uses in the project vicinity. Therefore, the project would not have a significant permanent noise impact pertaining to mechanical equipment. **(Less than Significant Impact)**

Parking Lot

Surface parking lots would be located to the east, to the south, and to the west of the proposed building. Noise sources associated with the use of the parking lots would include vehicular circulation, loud engines, door slams, and human voices. Due to the nature of the proposed industrial building, the parking lot activity would be busy in the morning when people arrive to work and, in the evening, when people depart. For estimating worst-case conditions, hourly average noise levels in a busy parking lot were assumed for two AM hours and for three PM hours when calculating the day-night average noise level. Table 4.13-6 lists the estimated parking lot noise levels at the nearby land uses.

Table 4.13-6: Estimated Parking Lot Noise Levels at Receiving Land Uses

Receptor	Distance from Center of Nearest Parking Area	Hourly L_{eq}	DNL	Noise Level Increase, DNL
West Residences	435 feet	27 to 37 dBA	30 dBA	0 dBA
North Industrial	300 feet	31 to 41 dBA	34 dBA	N/A*
East Industrial	45 feet	47 to 57 dBA	50 dBA	N/A*
South Industrial	150 feet	37 to 47 dBA	40 dBA	N/A*

*Noise level increases were not calculated at the existing industrial uses surrounding the site since Policy EC-1.2 would not apply to these land uses.
dBA = The average A-weighted noise level during the measurement period; L_{eq} = The average A-weighted noise level during the measurement period.; DNL = Day/Night Average Sound Level
Source: Illingworth & Rodkin Inc. *865 Embedded Way Industrial Project Noise and Vibration Assessment.* August 2022

Noise levels resulting from parking activities would be below ambient noise levels and the City threshold for residences (55 dBA DNL). Proposed parking lot/parking activities would not measurably contribute to an increase in the ambient noise levels at noise-sensitive receptors in the project vicinity.

Truck Deliveries and Loading

Truck delivery noise would include both maneuvering activities occurring at the loading docks and truck pass-by activities occurring at the access driveways. Trucks maneuvering would generate a combination of engine, exhaust, and tire noise, as well as the intermittent sounds of back-up alarms and releases of compressed air associated with truck/trailer air brakes. Similar to the truck delivery analysis in Section 4.3 Air Quality, the 12 truck loading docks were assumed to have a maximum turnover of two trucks per day, which equates to 48 daily truck trips. For an assumed 12-hour daily operations schedule from 7:00 a.m. to 7:00 p.m., this would equate to four trucks per hour for the entire 12-hour period.

Due to the orientation of the proposed warehouse building, the only surrounding receptors with direct line-of-sight to the loading docks where the truck maneuvering would occur would be the industrial building to the north. All other receptors, including the nearest residences to the west, would be shielded from the truck loading area and would not be exposed to truck maneuvering noise. The property line of the industrial building to the north would be approximately 170 feet from the center of the truck loading area. At this distance, hourly average noise levels would be 54 to 59 dBA L_{eq}, and the day-night average noise level is estimated to be 53 dBA DNL. Noise levels resulting from truck maneuvering activities in the loading area would not exceed the City's Municipal Code threshold of 70 dBA DNL for receiving industrial land uses.

To estimate the pass-by noise levels for heavy trucks traveling at speeds of 15 to 25 mph, which is assumed for on-site driveway access, the Federal Highway Administration's Traffic Noise Model (FHWA TNM), Version 2.5, was used to model various hourly scenarios for truck traffic, based on the assumed daily trip distribution discussed above. Table 4.13-7 summarizes the estimated truck pass-by noise levels at the property lines of the surrounding receptors when propagated from the center of the nearest on-site access driveway.

Table 4.13-7: Estimated Truck Pass-by Noise Levels at Receiving Land Uses

Receptor	Distance from Center of Nearest Driveway	Hourly L_{eq}	DNL	Noise Level Increase, DNL
West Residences	380 feet	36 dBA	33 dBA	0 dBA
North Industrial	100 feet	47 dBA	44 dBA	N/A[a]
East Industrial	45 feet	54 dBA	51 dBA	N/A[a]
South Industrial	110 feet	47 dBA	44 dBA	N/A[a]

[a] Noise level increases were not calculated at the existing industrial uses surrounding the site since Policy EC-1.2 would not apply to these land uses.
Source: Illingworth & Rodkin Inc. *865 Embedded Way Industrial Project Noise and Vibration Assessment.* August 2022

Hourly average noise levels and the day-night average noise level due to truck deliveries at the project site would not exceed the City's General Plan or Municipal Code thresholds at the property lines of the nearest surrounding land uses. Additionally, project noise due to truck deliveries would not result in a measurable or detectable increase over existing ambient noise levels at the nearest residences. Therefore, the project would not have a significant permanent noise impact pertaining to truck deliveries. **(Less than Significant Impact)**

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

Construction 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. Construction activities would include site demolition work, preparation work, excavation, foundation work, and new building framing and finishing. Impact pile driving (which generates substantial vibration) is not proposed as a method of construction.

According to General Plan Policy EC-2.3, a continuous vibration limit of 0.2 in/sec PPV is used to minimize damage at 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.

As described in Section 4.5 Cultural Resources, the nearest historical building is the Hayes Mansion, approximately one mile southwest of the project site. At this distance, vibration levels due to construction activities at the project site would be 0.0004 in/sec PPV or below. All buildings in the immediate vicinity of the project site would consist of normal conventional construction materials and would be subject to the City's 0.2 in/sec PPV threshold. Table 4.13-8 lists the vibration levels at the adjacent buildings to the project site.

Table 4.13-8: Vibration Levels at Adjacent Buildings Surrounding the Project Site

Equipment	PPV (in/sec)			
	West Residences (350ft)	North Industrial (120ft)	East Industrial (60ft)	South Industrial (95ft)
Clam shovel drop	0.011	0.036	0.077	0.047
Hydromill in soil	<0.001	0.001	0.003	0.002
(slurry wall) in rock	0.001	0.003	0.006	0.004
Vibratory Roller	0.012	0.037	0.080	0.048
Hoe Ram	0.005	0.016	0.034	0.020
Large bulldozer	0.005	0.016	0.034	0.020
Caisson drilling	0.005	0.016	0.034	0.020
Loaded trucks	0.004	0.014	0.029	0.018
Jackhammer	0.002	0.006	0.013	0.008
Small bulldozer	<0.001	0.001	0.001	0.001

Source: Illingworth & Rodkin Inc. *865 Embedded Way Industrial Project Noise and Vibration Assessment.* August 2022

The nearest structure adjoining the project site would be the industrial building approximately 60 feet east from the boundary of the project site. At this distance, the conventional industrial building would be exposed to vibration levels at or below 0.08 in/sec PPV, which is below the City's 0.2 in/sec PPV threshold. All other buildings in the project vicinity would be exposed to lower vibration levels due to project construction.

Construction of the project would not generate vibration levels exceeding the General Plan threshold of 0.08 in/sec PPV at the nearest historic property (located over one mile southwest from the project site). Additionally, maximum vibration levels at the nearest non-historical building would be 0.008 in/sec PPV, which would not exceed the City's 0.2 in/sec PPV threshold for buildings of conventional construction. For these reasons, the project would not result in generation of excessive ground borne vibration or ground borne noise and impacts would be less than significant. **(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 proposed project is approximately six miles from the nearest airport, the Reid-Hillview County Airport. Additionally, the Norman Y. Mineta San Jose International Airport is located approximately nine miles to the north. Therefore, the proposed project would not be constructed withing two miles of a public or private airport and would not expose people working in the project area to excessive noise. **(No Impact)**

4.14 POPULATION AND HOUSING

4.14.1 Environmental Setting

4.14.1.1 *Regulatory Framework*

State

Housing-Element Law

State requirements mandating that housing be included as an element of each jurisdiction's general plan is known as housing-element law. The Regional Housing Need Allocation (RHNA) is the state-mandated process to identify the total number of housing units (by affordability level) that each jurisdiction must accommodate in its housing element. California housing-element law requires cities to: 1) zone adequate lands to accommodate its RHNA; 2) produce an inventory of sites that can accommodate its share of the RHNA; 3) identify governmental and non-governmental constraints to residential development; 4) develop strategies and a work plan to mitigate or eliminate those constraints; and 5) adopt a housing element and update it on a regular basis.[73] The City of San José Housing Element and related land use policies were last updated in 2015.[74]

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.[75]

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.

[73] California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements" Accessed August 25, 2022. https://www.hcd.ca.gov/regional-housing-needs-allocation
[74] City of San José. 2014-2023 Housing Element. Adopted January 27, 2015. Accessed May 20, 2022. Available at: https://www.sanjoseca.gov/home/showpublisheddocument/16025/636681585185400000
[75] Association of Bay Area Governments and Metropolitan Transportation Commission. *Plan Bay Area 2050.* October 21, 2021. Page 20.

4.14.1.2 *Existing Conditions*

The population of San José was estimated to be approximately 1,049,187 in January 2020 with an average of 3.19 persons per household.[76] The City currently has approximately 336,507 housing units[77] and, by 2040, the City's population is projected to reach 1,337,145 and 448,310 households.[78] The City of San José currently has a higher number of employed residents than jobs (approximately 0.8 jobs per employed resident), but this trend is projected to reverse with full build out under the General Plan.

The project site is a comprised of a vacant parcel with no existing development.

4.14.2 Impact Discussion

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

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

The proposed project would construct an industrial development with R&D uses on a vacant site. As described in Section 4.11 Land Use and Planning, the proposed project would be consistent with the General Plan land use designation and zoning for Industrial Park uses on the site. Therefore, the jobs created by the proposed project are currently accounted for in the General Plan. The proposed project would not directly contribute to residential development or population expansion since it is a non-residential industrial use. Additionally, the proposed project would not expand existing roads or infrastructure supporting population growth. Therefore, the proposed project would not induce substantial unplanned population growth, and no impacts would occur. **(No Impact)**

[76] State of California, Department of Finance. *E-5 Population and Housing Estimates for Cities, Counties, and the State – January 1, 2011 – 2020.* Sacramento, California, May 2020.
[77] Ibid.
[78] ABAG. *Projections 2040: Forecasts for Population, Household, and Employment for the Nine County San Francisco Bay Area Region*. 2017.

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

The site is not currently developed and has not been used for residential purposes in the recent past. Therefore, the proposed development would not displace existing housing or people. No impact would occur. **(No Impact)**

4.15 PUBLIC SERVICES

4.15.1 Environmental Setting

4.15.1.1 *Regulatory Framework*

State

Government Code Section 66477

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

Government Code Section 65995 through 65998

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

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

Regional and Local

Countywide Trails Master Plan

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

Parkland Dedication Ordinance and Park Impact Ordinance

The City of San José has adopted the Parkland Dedication Ordinance (PDO, Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO, Municipal Code Chapter 14.25), requiring new residential development to either dedicate sufficient land to serve new residents or pay fees to offset the increased costs of providing new park facilities for new development. Under the PDO and PIO, a

project can satisfy half of its total parkland obligation by providing private recreational facilities on-site. For projects exceeding 50 units, the City decides whether the project will dedicate land for a new public park site or provide a fee in-lieu of land dedication. Affordable housing including low, very-low, and extremely-low income units are subject to the PDO and PIO at a rate of 50 percent of applicable parkland obligation. The acreage of parkland required is based on the minimum acreage dedication formula outlined in the PDO.

Envision San José 2040 General Plan

The following policies are specific to public services and are applicable to the proposed project:

Envision San José 2040 Relevant Public Services Policies

Policies	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: 1. For police protection, use as a goal a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls. 2. For fire protection, use as a goal a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents. 3. Enhance service delivery through the adoption and effective use of innovative, emerging techniques, technologies and operating models. 4. Measure service delivery to identify the degree to which services are meeting the needs of San José's community. 5. Ensure that development of police and fire service facilities and delivery of services keeps pace with development and growth in the city.
ES-3.9	Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly-visible and accessible spaces.

ES-3.11	Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.
PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
PR-1.2	Provide 7.5 acres per 1,000 population of citywide /regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
PR-1.3	Provide 500 square feet per 1,000 population of community center space.
PR-2.4	To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a ¾ mile radius of the project site that generates the funds.

4.15.1.2 *Existing Conditions*

Fire Protection Services

Fire protection services for the project site are provided by the San José Fire Department (SJFD). The SJFD responds to all fires, hazardous materials spills, and medical emergencies (including injury accidents) in the City.[79] The closest station to the project site is San José Fire Department Station 35 located at 135 Poughkeepsie Road, approximately 2.5-miles southwest of the project site.[80] The General Plan identifies a service goal of eight minutes and a total travel time of four minutes or less for 80 percent of emergency incidents for fire protection.[81]

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 11-miles northwest of the project site. SJPD is divided into four geographic divisions: Central, Western, Foothill, and Southern. The project site is directly served by the SJPD Southern Division.[82] The Southern Division includes four police patrol districts that cover approximately 123 square miles.[83] The General Plan identifies a

[79] City of San José. "About SJFD." Accessed May 20, 2022. Available at: https://www.sanjoseca.gov/your-government/departments/fire-department
[80] City of San José. "Fire Stations." Accessed May 20, 2022. Available at: https://www.sanjoseca.gov/your-government/departments-offices/fire/stations
[81] City of San José. *Envision San José 2040 General Plan*. P. 38-39.
[82] San José Police Department. "Bureau of Field Operations." Accessed May 20, 2022. Available at: https://www.sjpd.org/about-us/organization/bureau-of-field-operations
[83] San José Police Department. "Western Division." Accessed May 2, 2022. Available at: https://www.sjpd.org/about-us/organization/bureau-of-field-operations/western-division

service goal of six minutes or less for 60 percent of all Priority 1 (emergency) calls and 11 minutes or less for 60 percent all Priority 2 (nonemergency) calls.[84]

Schools

The project site is located in the Oak Grove School District and East Side Union High School District. The Oak Grove School District is a transitional kindergarten through eighth grade school district that provides services to neighborhoods in San José. The district includes 15 elementary schools, one intermediate school for 5th through 8th grade, and three intermediate schools that serve 7th through 8th grade that serve approximately 9,896 students.[85,86] East Side Union High School District includes one adult education school, five alternative education schools, 11 traditional high schools, and 12 charter schools.[87] The nearest schools to the project site are Ledesma Elementary School, Bernal Intermediate School, and Oak Grove High School.

Parks

The City of San José currently operates 209 parks, 41 community/neighborhood centers, and 61.6 miles of trail. Of the total 209 parks, 199 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] Shady Oaks Park is an 8.2-acre neighborhood park located approximately 925 feet south of the project site. Adjacent to the south of Shady Oaks Park is the 50-acre Shady Oaks open space.[89] The Coyote Creek trail is a Class I shared use pathway and one of the longest trail systems extending from the Bay to the City's southern boundary. The trail runs parallel to Coyote Creek and provides both pedestrian and bicycle access to the project site. The closest trail access is informally provided at the west end of Embedded Way, approximately 900 feet from the project site. The trail borders the site on the west side, but there is a steep slope between the site and the trail that presently prevents direct access along that border.

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.[90] The main library is the Dr. Martin Luther King, Jr. Library in downtown San José and there are 24 branch libraries. The nearest public library is the Edenvale Branch Library at 101 Branham Lane East (three miles west of the site).[91]

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[84] City of San José. *Envision San José 2040 General Plan*. P. 38-39.
[85] Oak Grove School District. "Schools." Accessed May 20, 2022. Available at: https://www.ogsd.net/our-schools/schools
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4.15.2 Impact Discussion

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

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

The proposed industrial development on the project site is accounted for in the planned growth for the City under the General Plan. The project site is also located adjacent to industrial buildings which are currently served by the San José fire protection services. Therefore, the proposed project would not expand the demand for fire protection services and would result in a less than significant impact on service ratios, response times, or other performance objectives for fire protection services.
(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?

The proposed industrial development on the project site is accounted for in the planned growth for the City under the General Plan. The project site also located adjacent to industrial buildings which are currently served by the San José police department. Therefore, the proposed project would not expand the demand for police protection services and would result in a less than significant impact on service ratios, response times, or other performance objectives for police protection services.
(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?

The proposed project would not involve the construction of new housing or other uses that would generate students requiring 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 proposed project would involve the construction of a new industrial R&D facility and it would not be subject to PDO/PIO fees. There would be new jobs associated with the proposed project and future employees may utilize nearby parks and trails, such as the Coyote Creek trail, but these employees would not place a physical burden or substantial increase in demand on these facilities. The proposed project would not increase the use of existing parks or other recreational facilities such that substantial physical deterioration would occur. Therefore, the proposed project would have a less than significant impact on park facilities in the City. **(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?

Public facilities, such as libraries and community centers, would not experience a substantial increase in demand as a result of the proposed project because it is an industrial use that would not result in new residential growth. The project would not require the construction or expansion of additional governmental facilities in order to maintain acceptable service ratios or performance objectives. Therefore, the proposed project would have a less than significant impact on other public facilities. **(Less than Significant Impact)**

4.16 RECREATION

4.16.1 Environmental Setting

4.16.1.1 *Regulatory Framework*

State

Government Code Section 66477

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

4.16.1.2 *Existing Conditions*

The City of San José currently operates 209 parks, 41 community/neighborhood centers, and 61.6 miles of trail. Of the total 209 parks, 199 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.[92] The City's Departments of Parks, Recreation, and Neighborhood Services is responsible for the development, operation, and maintenance of all park facilities.

Shady Oaks Park is an 8.2-acre neighborhood park located approximately 925 feet south of the project site. Adjacent to the south of Shady Oaks Park is the 50-acre Shady Oaks open space. [93] The nearest community center is Edenvale Community Center, located approximately 0.9 miles west of the project site.[94]

The Coyote Creek trail is a Class I shared use pathway and one of the longest trail systems extending from the Bay to the City's southern boundary. The trail runs parallel to Coyote Creek and provides both pedestrian and bicycle access to the project site. The closest trail access is informally provided at the west end of Embedded Way, approximately 900 feet from the project site. The trail borders the site on the west side, but there is a steep slope between the site and the trail that presently prevents direct access along that border.

[92] City of San José Parks, Recreation & Neighborhood Services. Fast Facts 2019-2020. Last Updated on November 12, 2020.
[93] City of San José. "San Jose Parks Finder." Accessed May 20, 2022. Available at: https://csj.maps.arcgis.com/apps/webappviewer/index.html?id=93ae7909fe8f4b758daa5a73baa895c3
[94] City of San José. "Browse Citywide Community Centers." Accessed May 20, 2022. Available at: https://www.sanjoseca.gov/your-government/departments/parks-recreation-neighborhood-services/search-locations-facilities/community-centers

4.16.2 Impact Discussion

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

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

The proposed project would construct an industrial structure to be occupied with R&D uses, which would not increase the population of the City and would not contribute to the use of parks surrounding the project site. Therefore, the proposed project would not cause substantial physical deterioration of the park facilities. **(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?

The project does not include the expansion or construction of additional recreational facilities. In addition, as an industrial building to be occupied by R&D uses, the project would not require the construction or expansion of recreational facilities for the City to meet its service goals. For these reasons, implementation of the project would not result in an adverse physical effect on the environment. **(No Impact)**

4.17 TRANSPORTATION

The following discussion is based, in part, on a Transportation Analysis (TA) prepared for the proposed project by Hexagon Transportation Consultants, Inc. The TA, dated October 2022, is included as Appendix H.

4.17.1 Environmental Setting

4.17.1.1 *Regulatory Framework*

State

Regional Transportation Plan

MTC is the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area, including Santa Clara County. MTC is charged with regularly updating the Regional Transportation Plan, a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle, and pedestrian facilities in the region. MTC and ABAG adopted Plan Bay Area 2050 on October 21, 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.

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, for an industrial project (e.g., warehouse, manufacturing, distribution), the impact would be less than significant if the project VMT is equal to or less than existing average regional VMT per employee. 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.

Edenvale Area Development Policy

The project site is located in Area 1 of the Edenvale Area Development Policy (EADP), and the base maximum floor area ratio (FAR) is 0.35 for development in this area. The EADP establishes a policy framework to guide the ongoing development of the Edenvale San José area and accomplish the following goals:

- Manage the traffic congestion associated with near term development in the Edenvale Policy Area
- Promote General Plan goals for economic development, particularly high technology driven industries
- Encourage a citywide reverse commute to jobs at southerly location in San Jose
- Provide for transit-oriented, mixed-use residential and commercial development to increase internalization of automobile trips and promote transit ridership

4.17.1.2 *Existing Conditions*

Roadway Network

Highway 101

United States Highway 101 (US 101) is an eight-lane freeway that connects with State Route 85 and travels in a north-south direction in the City of San José. Access to and from the project site is provided by ramps at the intersection of Blossom Hill Road and Silver Creek Valley Road. The existing interchange at Blossom Hill Road is being expanded to provide additional travel lanes and roadway capacity.

State Route 85

State Route 85 is a predominantly north-south freeway that is oriented in an east-west direction in the vicinity of the project site. It extends from Mountain View to south San Jose, terminating at US 101. SR 85 is a six-lane freeway with four mixed-flow lanes and two HOV lanes. SR 85 provides access to the project site via interchanges with US 101 and Bernal Road.

Monterey Road

Monterey Road is a four- to six-lane north-south oriented Grand Boulevard that extends from Alma Street in downtown San Jose to US 101 south of the City of Gilroy. Monterey Road has a raised median island with left-turn pockets and has a posted speed limit of 55 mph in the project vicinity. A sidewalk is provided on the east side of the street only while striped bike lanes are provided on both sides. Monterey Road provides access to the project site via an interchange at Blossom Hill Road.

Blossom Hill Road

Blossom Hill Road is a six-lane divided arterial that runs in an east-west direction from the US 101/Silver Creek Valley Road interchange to the Town of Los Gatos. In the vicinity of the proposed project, it has a posted speed of 40 mph and has an interchange with the US 101 southbound ramps. East of the interchange, Blossom Hill Road becomes Silver Creek Valley Road. Blossom Hill Road has sidewalks and striped bike lanes on both sides of the street east of the US 101 northbound off-ramp. There are no bike lanes or sidewalks between US 101 and Monterey Road. Blossom Hill Road is a designated Main Street west of Snell Avenue and a designated City Connector Street east of Snell Avenue. Blossom Hill Road provides access to the project site via Silver Creek Valley Road.

Silver Creek Valley Road

Silver Creek Valley Road is generally a divided four-lane arterial that extends from the US 101/Blossom Hill Road interchange in the west to Yerba Buena Road in the east. In the vicinity of the proposed project, Silver Creek Valley Road has a posted speed of 45 mph, has an interchange with the US 101 northbound ramps, and provides access to the project site via Hellyer Avenue and Fontanoso Way. Silver Creek Valley Road is a designated On-Street Primary Bicycle Facility with striped bike lanes and sidewalks on both sides of the street in the project vicinity. East of Hellyer Avenue, Silver Creek Valley Road has a sidewalk on one side of the street only.

Hellyer Avenue

Hellyer Avenue is a four-lane divided City Connector Street with a posted speed limit of 45 mph. Hellyer Avenue extends northward from Silicon Valley Boulevard until its intersection with Senter Road. Hellyer Avenue has striped bike lanes along the extent of the roadway and sidewalks on the east side of the street in the immediate vicinity of the project site. Hellyer Avenue provides access to the project site via its intersection with Embedded Way and an existing driveway located north of Embedded Way that serves the parcel along the eastside of the project site.

Fontanoso Way

Fontanoso Way is a two-lane local collector street that runs between Silver Creek Valley Road and Hellyer Avenue. Fontanoso Way has a posted speed limit of 35 mph. Fontanoso Way has sidewalks

along both sides of the street. It provides access to the project site via its intersections with Hellyer Avenue and Silver Creek Valley Road.

Embedded Way

Embedded Way is a four-lane local street with a posted speed limit of 35 mph that extends westward from Hellyer Avenue Sidewalks are provided along both sides of the street. Embedded Way provides direct access to the project site via an existing driveway at its western terminus as well as a driveway that serves the parcel adjacent to the east side of the project site.

Pedestrian and Bicycle Facilities

Pedestrian and bicycle activity within project vicinity are active along several routes surrounding the site. Connected sidewalks at least six feet wide are available on at least one side of all major City roadways in the project vicinity with adequate lighting and signing. At signalized intersections, marked crosswalks, Americans with Disabilities Act (ADA) standard curb ramps, and count down pedestrian signals provide improved pedestrian visibility and safety.

The Coyote Creek trail is a Class I shared use pathway and one of the longest trail systems extending from the Bay to the City's southern boundary. The trail runs parallel to Coyote Creek and provides both pedestrian and bicycle access to the project site. The closest trail access is informally provided at the west end of Embedded Way, approximately 900 feet from the project site. The trail borders the site on the west side, but there is a steep slope between the site and the trail that presently prevents direct access along that border.

Class II bikeways are striped bike lanes on roadways that are marked by signage and pavement markings. The following roadway segments have Class II bikeways:

- Hellyer Avenue, between the US 101 northbound ramps and Silicon Valley Road
- Silver Creek Valley Road, between the US 101 northbound ramps and Yerba Buena Road
- Embedded Way, along its entire length

Existing Transit Facilities

Transit services in the study area include light rail, shuttles, and buses provided by the Santa Clara Valley Transportation Authority (VTA) and Caltrain. The project site is served by VTA Local Bus Route 42. Route 42 travels along Silver Creek Valley Road, Hellyer Avenue, and Silicon Valley Boulevard in the project vicinity and provides service between Evergreen Valley College and Kaiser San Jose. Route 42 runs on 60-minute headways between 6:00 AM and 7:00 PM and provides service to the Blossom Hill Caltrain station. Local Route 42 has stops just west of the intersection of Silver Creek Valley Road and Hellyer Avenue, about 0.9 miles from the project site. The Blossom Hill Caltrain Station is located at the Monterey Road/Ford Road intersection, approximately 1.15 miles southwest of the project site. A pedestrian bridge to access the station is provided between Great Oaks Boulevard and Monterey Road. The associated Park-and-Ride lot is located on the southeast corner of the intersection of Monterey Road and Ford Road. The Blossom Hill Caltrain Station is served by two northbound trains in the morning commute period with 30-minute headway and two southbound trains in the evening commute period with 90-minute headway.

4.17.2 Impact Discussion

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

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

Edenvale Area Development Policy

As described in Section 4.17.1.1 Regulatory Setting, the EADP is a policy addressing the circulation system and specifically roadways serving the project area. The project is located in Area 1, and per the EADP, the base maximum floor area ratio (FAR) is 0.35 for development. The project would have a FAR of 0.27 and would not exceed the maximum FAR in the EADP. The proposed project, therefore, is within the development envelope assumed in the EADP.

Bicycle Facilities

The project would not remove or inhibit access to any existing bicycle facilities. The project would be required to provide an in-lieu contribution for the future Class IV protected bike lanes along the Hellyer Avenue project frontage per the City's 2025 Better Bike Plan. The project would also provide 25 short-term bicycle parking spaces in the front of the building facing Embedded Way.

Pedestrian Facilities

The project would not inhibit pedestrian flow through the area by reducing sidewalk width or eliminating sidewalks to accommodate vehicular flow. The existing network of sidewalks and crosswalks provides connectivity between Hellyer Avenue, Embedded Way, and Fontanoso Way. Within the project site, sidewalks would provide access to the proposed building and the surface parking areas. The project would not conflict with any program, plan, ordinance, or policy addressing pedestrian facilities.

Transit Facilities

The project site is not near bus or rail services. VTA local bus route 42 is the only bus service in the project vicinity and the nearest bus stop is approximately one mile south of the project site at the intersection of Silver Creek Valley Road and Hellyer Avenue. It is assumed that based on the distance of the bus stop to the project site few employees would use the transit facilities. However, the employees that may use the VTA buses could be accommodated by the current transit system. Therefore, implementation of the proposed project would not conflict with any program, plan, ordinance, or policy addressing transit facilities.

The proposed project would not result in conflicts with transit, roadways, bicycle lanes, and pedestrian facilities. Additionally, the proposed project would not result in design features which would prevent plans or policies from creating the planned transportation facilities. Therefore, the proposed project would result in a less than significant impact on the circulation system around the project site. **(Less than Significant Impact)**

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

The proposed project would construct an approximately 121,400 square foot industrial building to be occupied with R&D uses in the City of San José. The San José City Council Policy 5-1 establishes guidelines for the generation of Vehicle Miles Traveled by new development in the City and has determined screening criteria for different land uses. The City's VMT evaluation methodology and VMT evaluation tool require that proposed project uses be categorized as one of three primary land use types: office, industrial, or retail. In terms of trip generation, warehouse and industrial uses generate fewer daily trips per 1,000 square feet than R&D uses. R&D uses generate daily trips per 1,000 square feet of space that are similar to office uses. Therefore, the VMT analysis included the evaluation of the proposed 121,850 square feet of building space as both industrial for the potential warehouse and industrial uses and office space for the potential R&D uses.

The current regional average VMT for industrial employment uses is 14.37 per employee and for office uses the VMT threshold is 12.21 VMT per employee.

Based on the City's VMT Evaluation Tool for an industrial use, the project would generate a 15.03 VMT per employee. For an office use, the project would generate a 14.95 VMT per employee. Both VMTs exceed their respective thresholds. Implementation of Mitigation Measure TRAN-1 and Mitigation Measure TRAN-2 would be required to reduce impacts to less than significant.

Impact TRAN-1 The proposed Research & Development project, which would support both office and industrial uses, would have 15.12 vehicles miles traveled (VMT) per industrial employee which would exceed the 14.37 VMT per industrial employees and would have 14.95 VMT per office employee which would exceed the 12.21 VMT per office employee threshold.

Mitigation Measures:

MM TRAN-1.1: Prior to issuance of a Certificate of Occupancy, the project shall implement the following multi-modal infrastructure improvements to incentivize alternative modes of travel and reduce VMT generation for the site:

- The project shall remove the pork-chop islands on the southwest and northwest corners of the Embedded Way and Hellyer Avenue intersection to improve pedestrian safety and access. This improvement shall require a signal modification at this intersection that shall include the relocation of signal poles, heads, and crosswalks.
- The project shall install raised median islands along Embedded Way consisting of a 120-foot segment at its western terminus and a 190-foot segment near the Embedded Way and Hellyer Avenue intersection for traffic calming purposes.

The multi-modal infrastructure improvements shall be part of a Public Improvement Plan that demonstrates how the multi-modal improvements will be implemented and the schedules for completing the improvements. The Public Improvement Plan shall be reviewed and approved by the Director of Public Works or the Director's designee. The implementation of the multi-modal improvements shall be verified by the Director of Public Works or the Director's designee.

The implementation of the multimodal infrastructure improvements described above would reduce the VMT generated by the industrial uses to 14.52 VMT per R&D employee and to 114.36 VMT per office employee which would both still be greater than the established impact thresholds in the City's Transportation Analysis Policy. The project's VMT could be reduced further with the implementation of Travel Demand Management (TDM) measures.

MM TRAN-1.2: Prior to the issuance of the Planning Site Development Permit, the project applicant shall submit a final TDM Plan, approved by the Director of Department of Public Works or Director's designee and the Director of Planning, Building and Code Enforcement, or Director's designee, that shall include implementation of the following TDM measures to reduce the project's VMT.

- Commute Trip Reduction Marketing/Education: Implement marketing/educational campaigns that promote the use of transit, shared rides, and travel through active modes for 25 percent of the project employees. Strategies may include the incorporation of alternative commute options into new employee orientations, event promotions, and publications.
- Subsidize Vanpool: Provide subsidies for individuals forming new vanpools for their commute. This encourages the use of vanpools, reducing drive-alone trips, and thereby reducing VMT. The project shall

be required to subsidize 100 percent of the cost of the vanpool and achieve at least 25 percent employee participation.

The TDM plan shall be submitted to the Director of Public Works or Director's designee and the Director of Planning, Building and Code Enforcement or the Director's designee and shall include a trip cap for VMT monitoring purposes. The trip cap shall be prepared by a traffic engineer. The monitoring shall be based on annual trip generation counts that demonstrate the vehicle trips generated by the project are within 10 percent of an established peak hour trip cap that is prepared by a traffic engineer. The annual trip monitoring reports shall be submitted that demonstrate that project-generated VMT is below the significance threshold. If the annual trip monitoring report finds that the project is exceeding the established trip cap, the project shall be required to submit a follow-up report that demonstrates compliance with the trip cap requirements within a period not to exceed six months.

The implementation of MM TRAN-1.1 and MM TRAN-1.2 would reduce the project's VMT to 14.36 VMT per employee for R&D uses and 12.18 VMT per employee for office uses. The current regional average VMT for industrial employment uses is 14.37 per employee and for office uses the VMT threshold is 12.21 VMT per employee. Therefore, VMT would be below the regional average VMT thresholds and result in a less than significant impact for both potential uses of the proposed building. **(Less than Significant Impact with Mitigation Incorporated)**

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)?

Geometric Design

On-Site Circulation

Direct access to the site would be provided via an existing full-access driveway located at the western terminus of Embedded Way. Vehicles would also be able to access the project site via driveways off Hellyer Avenue and the eastern terminus of Embedded Way because the project's surface lots and drive aisles would connect to the adjoining properties. The project's drive aisle would also all be 26 feet wide, which would comply with the City's standard minimum width of 26 feet wide. Therefore, there would be adequate space and connectivity for vehicles traveling on-site

Sight Distance and Truck Operations

Acceptable sight distance at project driveways must comply with the American Association of State Highway Transportation Officials sight distance guidance to reduce the probability of collision at a driveway. The minimum acceptable sight distance is the American Association of State Highway Transportation Officials stopping sight distance. There are no sight distance issues at the westernmost driveway on Embedded Way due to the driveway being at the end of a dead-end, low roadway speeds, and no visual obstructions along the driveway. Drivers entering and existing the

western Embedded Way driveway would have adequate sight distance, consistent with the American Association of State Highway Transportation Officials stopping sight distance.

All future trucks traveling to the project site would be required to use only the western terminus project driveway due to the sight distance issues for outbound vehicles traveling on Hellyer Avenue. If a truck were to turn into the driveway off Hellyer Avenue, the truck would cross the lane of oncoming traffic and southbound vehicles would not have adequate sight distance to stop in time. This access issue is avoided by requiring trucks to enter and exit via the western terminus driveway on Embedded Way. All future trucks would be directed to only utilize the western Embedded Way driveway. However, the right-hand turn into the western Embedded Way drive is sharper than 90 degrees, which would require incoming trucks to cross into the outbound drive lane of the site driveway. Trucks crossing into the outbound lane would limit the sight distance for the outbound vehicles. The project would implement the following condition of approval to ensure the project avoids hazardous geometric roadway design.

Impact TRAN-2 The proposed project would increase hazards due to inadequate driveway width on Embedded Way, requiring inbound trucks entering the westernmost Embedded Way driveway to utilize the opposing outbound travel lane, reducing sight distance for outbound vehicles.

Mitigation Measures:

MM TRAN-2.1: The project shall increase the width of the westernmost driveway on Embedded Way in a manner sufficient to ensure that trucks do not utilize the opposing outbound travel lane when entering the project site. A site plan showing the widening of the driveway and a truck circulation plan that includes truck turning radii demonstrating adequate driveway width shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to issuance of grading permits.

With adherence to MM TRAN 2.1, identified above, the project would not substantially increase hazards related to on-site vehicular circulation. Therefore, the project would not substantially increase hazards due to vehicles entering and exiting the project site. **(Less than Significant Impact with Mitigation Incorporated)**

Incompatible Uses

As shown on Figure 2.8-3, the project site, which has a IP General Plan land use designation, is adjacent to similar light industrial and office uses to the north, east, and south, As discussed under Section 3.11 Land Use and Planning, the proposed R&D use is consistent with the project site's land use designation and therefore has been found programmatically compatible by the General Plan EIR with the aforementioned surrounding developments. Because the project's land use is compatible with uses in the area, the project's use of circulation systems also would be compatible and would not create a hazard. **(Less than Significant Impact)**

d) Would the project result in inadequate emergency access?

The proposed project would be required to comply with the City of San José policies and ordinances requiring adequate emergency access for the project site. The proposed project would not interfere with the emergency response to the project area; therefore, the proposed project would result in a less than significant impact to emergency access to and around the project site. **(Less than Significant Impact)**

4.17.3 Non-CEQA Effects

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

Project Trip Generation

Trip generation for the proposed project land uses was calculated using average trip generation rates from the Institute of Transportation Engineers (ITE) Trip Generation Manual, 11th Edition 2021. Trip generation calculations are displayed in Table 4.17-1 below.

Pursuant with the City of San José's 2020 Transportation Analysis Handbook, trip generation reduction credits were applied to the project including location-based mode-share and potential VMT reduction strategies. Development of the proposed project with all applicable trip reductions and credits is anticipated to generate a net new total of 1,269 additional daily trips, 119 AM Peak Hour trips, and 112 PM peak hour trips to the roadway network.

Vehicle and Bicycle Parking

Based on City required parking ratios for R&D and light industrial uses, one off-street vehicle parking space per 350 square feet of floor area is required. According to the City's Bicycle Parking Standards, both R&D and light industrial uses are required to provide one bicycle parking space per 5,000 square feet of floor area. Floor area is defined as 85 percent of the total gross floor area of the building. Based on the City's rates, the project would be required to provide 295 parking spaces and 24 bicycle parking spaces. The project would provide a total of 300 parking spaces and 25 bicycle parking spaces. Therefore, the project would comply with the City's requirements for vehicle and bicycle parking spaces.

Table 4.17-1 Project Trip Generation

Land Use	Project Size	Total Daily Rate	Total Daily Trips	AM Peak Trips				PM Peak Trips			
				Rate	In	Out	Total	Rate	In	Out	Total
Research and Development	121,850 sf*	11.08	1,350	1.03	103	23	126	0.98	19	100	119
Location Based Reduction[1]			-68		-5	-1	-6		-1	-5	-6
VMT-Based Reduction[2]			-13		-1	0	-1		0	-1	-1
Project Trips After Reduction			**1,269**		**97**	**22**	**119**		**18**	**94**	**112**

[1] A 5 percent reduction was applied based on the location-based vehicle mode share percentage outputs (Contained in Table 6 of the City's TA Handbook) produced from the San Jose Travel Demand Model for the Place
[2]Existing and project VMTs were estimated using the City of San Jose VMT Evaluation Tool. It is assumed that every percent reduction in VMT per-employee (in this case 1.05 percent) is equivalent to one percent reduction in peak-hour vehicle trips.
*At the time of analysis, the project had a larger square footage at 121,850 but the size of the project has since decreased to 121,400 square feet. The use of the larger square footage is a conservative approach.
Source*:* Hexagon Transportation Consultants, Inc. *Embedded Way Industrial Development Transportation Analysis*. October 2022

4.18 TRIBAL CULTURAL RESOURCES

4.18.1 Environmental Setting

4.18.1.1 *Regulatory Framework*

State

Assembly Bill 52

AB 52, effective July 2015, established a new category of resources for consideration by public agencies called Tribal Cultural Resources (TCR). AB 52 requires lead agencies to provide notice of projects to tribes that are traditionally and culturally affiliated with the geographic area if they have requested to be notified. Where a project may have a significant impact on a TCR, consultation is required until the parties agree to measures to mitigate or avoid a significant effect on a TCR or until it is concluded that mutual agreement cannot be reached.

Under AB 52, TCRs are defined as follows:

- Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are also either:
    - Included or determined to be eligible for inclusion in the California Register of Historic Resources, or
    - Included in a local register of historical resources as defined in Public Resources Code Section 5020.1(k).
- A resource determined by the lead agency to be a TCR.

Local

Envision San José 2040 General Plan

The City of San José sets forth the following policies pertaining to TCR in its General Plan.

Envision San José 2040 Relevant Tribal Cultural Resources Policies

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 archeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
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.

4.18.1.2 *Existing Conditions*

A records search of the Native American Heritage Commission (NAHC) Sacred Lands File was completed for the site on May 29, 2022 and the results were negative, meaning no Sacred Lands or TCRs have been reported to the NAHC in the project vicinity.

An AB 52 notification letter was sent to Tamien Nation on July 6, 2022. No response or request for consultation was received from Tamien Nation within the 30 day response timeframe. An AB 52 notification letter was sent to the Indian Canyon Band of Costanoan Ohlone People on August 3, 2022 with no response or request for consultation received within the 30 day response timeframe. Due to a lack of response during the AB 52 consultation period, the City determined in late summer 2022 that AB 52 consultation had closed and that further discussions with any tribe would be in the context of the normal environmental review process under CEQA available to any public agency and the general public. However, in February 2023, the City sent a follow up e-mail inquiry to Tamien Nation as a courtesy to determine interest in the project. In March 2023, Tamien Nation responded to the City's follow0up email inquiry and requested formal AB 52 consultation for the project. As a result, the City entered into AB 52 consultation with Tamien Nation. Consultation continued through October 2023 and consisted of meetings, calls, provision of technical reports, and a general exchange of information between the two agencies. Based on the evidence in the record, known cultural resources in the project area, and communication with Tribes, including AB 52 consultation with Tamien Nation, the City has determined that there may be TCRs present on the project site. A letter from Tamien Nation was received by the City on November 15, 2023indicating that the mitigation measures required to be implemented by the project were satisfactory to reduce impacts to TCRs (refer to Section 4.5.2 and the discussion under checklist question "a" below for details regarding the mitigation measures). As a result, consistent with the requirements of AB 52, consultation concluded with both parties agreeing to measures to mitigate or avoid significant effects on TCRs.

4.18.2 Impact Discussion

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

b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	☐	☒	☐	☐

a) Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?

As described in Section 4.18.1.2 Existing Conditions, TCRs may be present on the site and there is the possibility that TCRs could be impacted during project construction activities, such as excavation and grading.

As described in Section 4.5 Cultural Resources, the project would be required to implement standard permit conditions to avoid potential impacts to unknown subsurface cultural resources and human remains. In addition to implementing the City's standard permit conditions, the project would implement MM CUL-1.1 through MM CUL 1.8 to reduce impacts to archaeological resources, which may include TCRs. These standard permit conditions and mitigation measures would be applicable to TCRs and would function to avoid impacts to such resources if they are discovered on-site during construction. Therefore, the proposed project would not cause a substantial adverse change in the significance of a TCR that is listed or eligible for listing on local or state registers. **(Less than Significant Impact with Mitigation Incorporated)**

b) Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1?

As discussed above under checklist question "a", there are no known TCRs on the project site, but implementation of the project could disturb unknown subsurface resources. These resources may not be eligible for listing in the CRHR, but the City or a qualified archaeologist could nonetheless determine resources uncovered during construction to be significant. The proposed project would be required to implement City standard permit conditions (which apply to archaeological resources and human remains) and MM CUL-1.1 through CUL-1.8 to address any accidental disturbance of cultural resources (including TCRs) and set forth the appropriate procedure to be followed in the event of discovery. Implementation of these standard permit conditions and mitigation measures would ensure the project does not cause a substantial adverse change in the significance of a TCR that is determined to be significant by the City. Therefore, the impact would be less than significant. **(Less than Significant Impact with Mitigation Incorporated)**

4.19 UTILITIES AND SERVICE SYSTEMS

4.19.1 Environmental Setting

4.19.1.1 *Regulatory Framework*

State

State Water Code

Pursuant to the State Water Code, water suppliers providing water for municipal purposes to more than 3,000 customers or supplying more than 3,000 acre-feet (approximately 980 million gallons) of water annually must prepare and adopt an urban water management plan (UWMP) and update it every five years. As part of a UWMP, water agencies are required to evaluate and describe their water resource supplies and projected needs over a 20-year planning horizon, water conservation, water service reliability, water recycling, opportunities for water transfers, and contingency plans for drought events. The City of San José adopted its most recent UWMP in June 2021.[95]

Assembly Bill 939

The California Integrated Waste Management Act of 1989, or AB 939, established the Integrated Waste Management Board, required the implementation of integrated waste management plans, and mandated that local jurisdictions divert at least 50 percent of solid waste generated (from 1990 levels), beginning January 1, 2000, and divert at least 75 percent by 2010. Projects that would have an adverse effect on waste diversion goals are required to include waste diversion mitigation measures.

Assembly Bill 341

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

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.[96]

[95] City of San José. *City of San Jose 2020 Urban Water Management Plan*. June 2021. Accessed June 8, 2022. https://www.sanjoseca.gov/home/showpublisheddocument/422/637602045327100000

[96] 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.

California Green Building Standards Code

In January 2010, the State of California adopted the California Green Building Standards Code, establishing mandatory green building standards for all buildings in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resources efficiency, and indoor environmental quality. These standards include the following mandatory set of measures, as well as more rigorous voluntary guidelines, for new construction projects to achieve specific green building performance levels:

- Reducing indoor water use by 20 percent;
- Reducing wastewater by 20 percent;
- Recycling and/or salvaging 50 percent of nonhazardous construction and demolition debris; 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:

Envision San José 2040 Relevant Utilities and Service Systems Policies

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

San José Sewer System Management Plan

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

Private Sector Green Building Policy

The City of San José's Green Building Policy for new private sector construction encourages building owners, architects, developers, and contractors to incorporate meaningful sustainable building goals early in the design process. This policy establishes baseline green building standards for private sector construction and provides a framework for the implementation of these standards. It is also intended to enhance the public health, safety, and welfare of San José residents, workers, and visitors by fostering practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water, and other resources.

4.19.1.2 *Existing Conditions*

Water Supply

The site is vacant and does not generate water demand. The project site is located within the Edenvale Service Area, which consists of approximately 700 acres of area located east of Coyote Creek and south of Hellyer Avenue. The service areas is zoned only for industrial and commercial uses.[97] Water service to the project area is provided by the San José Municipal Water System with the water source being groundwater for the Edenvale Service Area.[98]

Wastewater Services

Wastewater from the City of San José is treated at the San José-Santa Clara Regional Wastewater Facility (Wastewater Facility) which is administered and operated by the City's Environmental Services Department. The Wastewater Facility treats an average of 110 million gallons of wastewater per day with a capacity of up to 167 million gallons per day. The Wastewater Facility serves 1.4 million residents and 17,000 businesses.[99] The City generates approximately 69.8 million gallons per day of dry weather sewage flow. The City's capacity allocation at the Facility is approximately 108.6 million gallons per day, leaving the City with approximately 38.8 million gallons per day of excess treatment capacity.[100]

The site is vacant and does not generate wastewater. There is an existing 10-inch sanitary sewer main at the end of Embedded Way which could be utilized to serve the project site.

Storm Drainage

The City of San José owns and maintains the municipal stormwater drainage system which serves the project site. Currently, the project site is undeveloped and comprised of 100 percent pervious surfaces. Stormwater on the existing site likely infiltrates into the soil but is it possible there is some overland release of stormwater directly into Coyote Creek during heavy rain flow.

There is an existing 24" storm main line located along Embedded Way that could potentially serve the project. The line drains into Coyote Creek which ultimately flows to the San Francisco Bay.

Solid Waste

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California IWMB in 1996 and was reviewed in 2004 and 2007. Based on the IWMP, the County has adequate landfill capacity. In October 2007, the San José City Council adopted a Zero Waste Resolution which set a goal of 75 percent waste diversion by 2013 and zero waste by 2022. According to the IWMP, the County has adequate disposal capacity beyond 2030.[101] Solid waste generated within the County is transported to Guadalupe Mines, Kirby Canyon, Newby Island, and Zanker Road landfills. In

[97] City of San José. *2020 Urban Water Management Plan*. June 2021. Page 3-2.
[98] Valley Water. "Water Service Area." Accessed June 8, 2022. https://valleywater.maps.arcgis.com/apps/webappviewer/index.html?id=0f05e5c2956b49da940b62b0313ae142
[99] City of San José. San José-Santa Clara Regional Wastewater Facility. Accessed June 8, 2022. http://www.sanjoseca.gov/?nid=1663.
[100] City of San José. *Envision San José 2040 General Plan Draft Program EIR*. June 2011. Page 631.
[101] Ibid.

2019, there were approximately 600,000 tons of material generated in San Jose that was disposed in various landfills throughout the State. Newby Island, however, only received approximately 290,000 of that tonnage. The total permitted landfill capacity of the five operating landfills in the City is approximately 5.3 million tons per year. According to the IWMP, the County has adequate disposal capacity beyond 2030.[102]

Municipal solid waste generated in the City is first processed at various approved facilities in San José, and the residuals are disposed at Newby Island Sanitary Landfill (NISL). The City has an existing contract with NISL through December 31, 2022 with the option to extend the contract for as long as the landfill is open. The estimated closure date for NISL is 2035 and the facility has a remaining life of 12 years.[103] The City has an annual disposal allocation for 395,000 tons per year. As of May 2023, NISL had approximately 12.4 million cubic yards of capacity remaining.[104]

The project site is vacant and does not currently generate solid waste.

4.19.2 Impact Discussion

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

[102] Santa Clara County. *Five-Year CIWMP/RAIWMP Review Report*. June 2016.
[103] Boccaleoni, Anthony. Division Manager, Republic Services. Personal Communication. May 12, 2023.
[104] Ibid.

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

Water Facilities

The project would construct an industrial building totaling 121,400 square feet on a 10.17-acre site. The development would use approximately 611,755 gallons of water per year for landscaping and 59,691,652 gallons per year (60 million gallons per year) for indoor water use.[105] The project would use 1,676 gallons per day of water for landscaping and 163,539 gallons per day for indoor water use. The potable and irrigation water demands of the project would be met by existing service providers (San Jose Municipal Water). Existing water lines in the adjacent streets would serve the proposed project. The project would not require the construction or expansion of water delivery systems or the expansion of the boundaries of the San Jose Municipal Water service area. Although water demand within the San José Municipal Water System service area could exceed water supply during dry and multiple dry years after 2025 from full build out, the General Plan Final EIR concluded that with the implementation of existing regulations and General Plan policies, water demand would not exceed water supply. As noted previously, the project is consistent with the General Plan land use assumptions for the site, and the project's water demand has been accounted for in the water supply assessment prepared by San José Municipal Water System evaluating planned growth in the General Plan. The project would comply with all applicable Public Works requirements to ensure water mains would have the capacity for water and fire flows required by the proposed project. Therefore, the project would not result in significant environmental effects related to the relocation or construction of new or expanded water facilities.

Sanitary Sewer and Wastewater Treatment

The proposed project would connect to the City's existing sanitary sewer system, and sanitary sewer lines in adjacent streets would be used to serve the project. The proposed project is estimated to generate 56,917,262 gallons of wastewater per year or 155,362 gallons of wastewater per day.[106] No relocation or construction of new or expanded treatment facilities would be required to serve the proposed project. The proposed project does not include the construction of any additional sewer mains or sewer lines, aside from lateral connections to existing mains. Installation of sanitary sewer laterals for the new building would occur during grading of the site and would result in minimal impacts.

Wastewater generated by the proposed project would be disposed of at the RWF, a wastewater treatment facility which has adequate capacity to accommodate the increased demand created by the project. The RWF currently has approximately 38.8 million gallons per day of excess wastewater treatment capacity. The full build out under the General Plan would increase average dry weather flows by approximately 30.8 million gallons per day. Wastewater from the proposed project (155,362 gallons per day) would be treated at the RWF which has adequate capacity to accommodate the

[105] Indoor water use based on CalEEMod annual water use rates of 491,694 gallons per year per 1,000 square feet of R&D space.

[106] Wastewater is assumed to be 95 percent of the total on-site water use (59,691,652 gallons of wastewater*0.95 = 56,707,069 gallons of wastewater)

increased demand created by the project. Since the proposed development is consistent with planned growth in the City, the project would not require expansion or relocation of the existing City infrastructure. In addition, the project would comply with CALGreen requirements and the City's Private Sector Green Building Policy. As a result, relocation or construction of new or expanded water facilities would not be needed.

There is an existing 10" sanitary main line located at the end of Embedded Way. The project would comply with all applicable Public Works requirements to ensure sanitary sewer mains would have capacity for sanitary sewer service and wastewater as required by the proposed project. The General Plan Final EIR concluded that implementation of General Plan policies requiring future development to provide adequate sewer system capacity would reduce project-level impacts to a less than significant level.

Storm Drainage

Impervious surfaces on-site would increase by approximately 239,905 square feet under project conditions. All new and redeveloped projects, including the project, regardless of size and land use would be required to implement post-construction BMPs and TCM consistent with City Policy No. 6-29, Post-Construction Urban Runoff Management. Additionally, the project would be required to comply with the RWQCB MRP as described in Section 4.10 Hydrology and Water Quality. With the project's adherence to these requirements, the existing storm drainage system has sufficient capacity to support the proposed project. Furthermore, all new and redeveloped projects, including the project, regardless of size and land use would be required to implement post-construction BMPs and TCM consistent with City Policy No. 6-29, Post-Construction Urban Runoff. Management Development of the project site would not exceed the capacity of the existing storm drainage system serving the project site. Installation of storm sewer laterals for the site areas would occur during grading of the site and would result in minimal impacts. For these reasons, no new storm water treatment or disposal facilities would need to be constructed to accommodate the proposed project.

Electric Power, Natural Gas, and Telecommunications

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

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

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

As mentioned above, the proposed project would use approximately 611,755 gallons of water per year for landscaping and 59,912,907 gallons per year (60 million gallons per year) for indoor water use.[107] As discussed above, San José Municipal Water provides water service to the project site. The San José Municipal Water 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 (including the proposed project) and found insufficient water supplies would be available during normal, single-dry, and multiple-dry years within its service area without conservation measures.[108] 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 one occur. Conservation measures include mandatory and voluntary measures such as reductions in the amount and time when landscaping can be irrigated, requiring automatic hose shutoffs, requiring restaurants to only provide water on request, requiring hotels to offer opt out of linen service, and restricting water use for decorative water features such as fountains and pools.

For the reasons discussed above, 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?

As described in Section 4.19.1.2 Existing Conditions, wastewater generated by the proposed project (155,362 gallons per day) would be treated at the Wastewater Facility. All wastewater generated by the proposed project would be directed to the municipal wastewater conveyance and treatment system. The proposed project would be consistent with the growth assumptions in the General Plan Final EIR and the Wastewater Facility would have adequate capacity to serve 100 percent of the project's projected demand in addition to its existing commitments (refer to checklist question "a"). **(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?

[107] Based on CalEEMod annual water use rates of 491,694 gallons per year per 1,000 square feet of R&D space
[108] San Jose Water Company. 2020 Urban Water Management Plan. June 2021. Pages 7-24 through 7-26.

The proposed project would generate approximately 10 tons per year of solid waste per 1,000 square feet based on the solid waste generation rate from CalEEMod for a R&D land use.[109] This would equate to approximately five pounds per day of solid waste or less than one cubic yard per day.[110] As mentioned previously, NISL had approximately 13.7 million cubic yards of capacity remaining in April 2021. Given NISL's remaining capacity, the City's contract with NISL, the amount of waste the City disposes at NISL, and the amount of waste the project is estimated to generate, there is sufficient capacity at NISL to serve the project and impacts related to solid waste would be less than significant. **(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?

Future projects (including the proposed project) would be required to provide on-site recycling facilities, develop a construction waste management plan, salvage at least 50 percent of non-hazardous construction/demolition debris (by weight), and implement other waste reduction measures consistent with CALGreen requirements. The estimated increase in solid waste generation from future development would be avoided through implementation of the City's Zero Waste Strategic Plan. The Zero Waste Strategic Plan, in combination with existing regulations and programs, would ensure that the proposed project would not result in significant impacts on solid waste disposal capacity in excess of state or local standards or in excess of NISL capacity. **(Less than Significant Impact)**

[109] Based on the CalEEMod rate of 0.08 tons per year of solid per 1,000 square feet of R&D space, the annual tons of solid waste would be 10 tons (121.85 1000 square feet * 0.08 tons per year = 10 tons per year).
[110] Based on CalRecycle conversion rates for Mixed Solid Waste (Uncompacted) material of 0.0005 ton per pound and 0.217590909 ton per cubic yard. The daily amount assumes 365 days of operation ([10 tons per year *0.005 ton per pound]/365 days = 5 pounds per day; [10 tons per year *0.217590909 ton per cubic yard]/365 days = <1 cubic yard per day).

4.20 WILDFIRE

4.20.1 Environmental Setting

4.20.1.1 *Regulatory Framework*

State

Fire Hazard Severity Zones

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

California Fire Code Chapter 47

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

California Public Resources Code Section 4442 through 4431

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

- Earthmoving and portable equipment with internal combustion engines would be equipped with a spark arrestor to reduce the potential for igniting a wildland fire (Public Resources Code Section 4442);
- Appropriate fire suppression equipment would be maintained during the highest fire danger period, from April 1 to December 1 (Public Resources Code Section 4428);
- On days when a burning permit is required, flammable materials would be removed to a distance of 10 feet from any equipment that could produce a spark, fire, or flame, and the construction contractor would maintain appropriate fire suppression equipment (Public Resources Code Section 4427); and
- On days when a burning permit is required, portable tools powered by gasoline-fueled internal combustion engines would not be used within 25 feet of any flammable materials (Public Resources Code Section 4431).

California Code of Regulations Title 14

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

Fire Management Plans

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

Local

San José Fire Department Wildland-Urban Interface Fire Conformance Policy

Buildings proposed to be built within the San José Fire Department wildland-urban interface (WUI) shall comply with all WUI materials and construction methods per CBC Chapter 7A and CRC Section R337.[111] The applicant shall, prior to construction, provide sufficient detail to demonstrate that the building proposed to be built complies with this policy. Building Permit Plans are also to be approved by the SJFD.

4.20.1.2 *Existing Conditions*

The project site is located in an urbanized area of San José. The project site is not located in or near State responsibility areas or lands classified as Very High FHSZ. The project site is not in any fire hazard severity zone in a State Responsibility Area. The nearest Very High FHSZ is approximately 4.8 miles east of the project site.[112]

[111] San José Fire Department. *Wildland-Urban Interface (WUI) Fire Conformance Policy.* January 1, 2017. Accessed May 23, 20220. Available at: https://www.sanjoseca.gov/Home/ShowDocument?id=9345
[112] California Department of Forestry & Fire Protection. Fire Hazards Severity Zone Viewer. November 21, 2022. Accessed June 9, 2023. Available at: https://calfire-forestry.maps.arcgis.com/apps/webappviewer/index.html?id=fd937aba2b044c3484a642ae03c35677.

4.20.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, Would the project:				
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	☐	☐	☐	☒
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines, or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	☐	☐	☐	☒
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	☐	☐	☐	☒

The project site is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones; therefore, the project would not result in wildfire impacts. **(No Impact)**

4.21 MANDATORY FINDINGS OF SIGNIFICANCE

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

a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?

As discussed in the individual resource sections of this Initial Study, the proposed project would not degrade the quality of the environment with the implementation of identified standard conditions of approval and mitigation measures. As discussed in Section 4.4 Biological Resources, with implementation of the identified mitigation measures (MM BIO-1.1 to reduce potential disturbance to Santa Clara Valley dudleya special-status plants; MM BIO-2.1 through MM BIO-2.3 to reduce impacts to Hall's bush mallow; MM BIO-3.1 through MM BIO-3.4 to reduce impacts to nesting birds; and MM BIO-4.1 to reduce lighting impacts on species) As discussed in Section 4.5 Cultural Resources, the project would implement MM CUL-1.1 through MM CUL-1.8 to reduce potential impacts to unknown buried cultural resources to a less than significant level **(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.

Resource Topics Not Impacted by the Project

As described in the respective sections throughout this Initial Study, the proposed project would have no impact on agricultural resources, historic resources, mineral resources, population/housing, recreational facilities, or wildfire risk. Therefore, the project has no potential to combine with other projects to result in cumulative impacts to those resources.

Cumulative Biological Resources Impacts

The geographic area for cumulative impacts to biological resources includes the project site and its Habitat Plan area because localized development would affect the same group of biological resources. As discussed in Section 4.4 Biological Resources, the project site is in an urban area with existing industrial uses and Coyote Creek borders the project to the west. The project does include land cover that would provide some suitable habitat for species and a portion of the project site is within the Coyote Creek riparian setback (100-foot setback). To reduce impacts to special-status plants, MM BIO-1.1 through MM BIO-1.3 include measures to reduce construction disturbance by requiring a pre-construction survey and by providing avoidance measures to reduce loss of special-status plants. Existing trees on-site could provide nesting habitat for birds, and construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings. Implementation of mitigation measures MM BIO-2.1 through MM BIO-2.4 would ensure that project construction does not result in the loss of fertile eggs or nestlings or otherwise lead to nest abandonment. Implementation of MM BIO-3.1 would reduce disturbance of the existing wildlife due to the increased lighting from the project. The project proposes removal of 11 trees, including three ordinance-sized trees, which would conform with tree replacement requirements identified in Municipal Code Section 13.28.300, General Plan Policies MS-21.4, MS-21.5, MS-21.6 and CD-1.24, and City of San José Tree Removal Ordinance. Similarly, the project would comply with the City's ordinances protecting biological resources and the requirements of the Santa Clara Valley Habitat Plan. Future developments in proximity to the project would be subject to similar mitigation measures and standard conditions of approval. For these reasons, the proposed project would not contribute to a cumulatively considerable contribution to a significant biological resources impact.

Cumulative Air Quality, Greenhouse Gas, and Energy Impacts

By its very nature, air pollution is a cumulative impact. The geographic area for cumulative air quality impacts is the San Francisco Bay Area Air Basin. 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. The proposed project would emit criteria air pollutants and contribute to the overall regional emissions of these pollutants. The project-level thresholds identified by BAAQMD (which the project's emissions were compared to in Section 4.3 Air Quality) are the basis for determining whether a project has a cumulatively considerable contribution to g cumulative air quality impacts. As discussed in Section 4.3 Air Quality, the project's construction and operational criteria air pollutant emissions would be below BAAQMD's recommended thresholds for these pollutants. Additionally, the project would result in temporary, localized odors during construction (i.e., from diesel exhaust, construction equipment, and painting) and operation (i.e., use of cleaning supplies and landscaping chemicals). Thus, the project would not result in a cumulatively considerable contribution to a significant cumulative air quality impact.

The proposed project and past, present, present, and future development projects worldwide contribute to global climate change. No single project is sufficient in size to, by itself, change the global average temperature. Therefore, due to the nature of GHG impacts, a significant project impact is a significant cumulative impact. As discussed in Section 4.8 Greenhouse Gas Emissions, the project's operational emissions would be less than significant since the project would be consistent with the City's Greenhouse Gas Reduction Strategy for 2030. Therefore, the project would not result in a significant GHG impact. For these reasons, the project would not result in a cumulatively considerable contribution to a significant cumulative GHG impact.

Similarly, the discussion of the project's energy impact also reflects cumulative conditions since the project's consumption of electricity and gasoline was assessed in comparison with consumption at the state and county level. Therefore, the proposed project would not make a cumulatively considerable contribution to significant cumulative air quality, GHG emissions, or energy use impacts.

Cumulative Cultural Resources, Tribal Cultural Resources, and Geologic Impacts

The geographic area for cumulative archaeological resources, TCR, and geologic impacts would be locations adjacent to the site that would have the potential to also affect resources that may be present and potentially impacted by the project. The project would be designed to meet the current City code and would not change any geologic conditions, of which there are no significant cumulative impacts. The project thus would not combine with other past, present, and reasonably foreseeable future projects to create a significant cumulative geologic impact. The project also would not make a cumulatively considerable contribution to significant cumulative impacts on archeological resources and TCRs with the project-level mitigation (MM CUL-1.1 through MM CUL-1.8) and adherence to standard permit conditions described in this Initial Study. There are no other current or future projects immediately adjacent to the project site. Therefore, the project would not result in a cumulatively considerable contribution to a significant cumulative impact to cultural resources or TCRs, nor a cumulative geological impact.

Cumulative Hydrology and Utilities Impacts

The geographic area for cumulative hydrology and water quality impacts is the Coyote Creek watershed. Cumulative developments near the project would be subject to similar hydrological and urban runoff conditions. All projects occurring within San José would be required to implement the same standard conditions and measures related to construction quality as the proposed project (including preparation of a SWPPP if disturbance is greater than one acre). In addition, all current and future projects that would disturb more than one acre of soil or replace/add more than 2,500 square feet of impervious surfaces would be required to meet applicable site design and runoff reductions measures where feasible. For these reasons, cumulative projects, including the proposed project, would not combine to result in significant cumulative hydrology or water quality impacts.

The geographic area for cumulative utilities and service systems is the City boundaries. The project would incrementally contribute to cumulative demands on utilities and service systems (i.e., water, sewer, solid waste, and storm drainage). The proposed project, and other future projects that were accounted for in the General Plan, were included in the UWMP water demand projections and General Plan EIR. 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. Therefore, the proposed project would not result in cumulatively considerable impacts to utilities and service systems.

Cumulative Hazards and Hazardous Materials Impacts

The geographic area for cumulative hazardous materials impacts would be the project site and adjacent parcels. The use, storage, transportation, and disposal of fuel, and maintenance chemicals would be managed in accordance with existing laws and regulations that ensure storage, and transportation to and from the cumulative sites would not result in a significant cumulative impact related to hazardous materials. There are no other current or future projects immediately adjacent to the project site that the project would combine with to create a significant cumulative impact. Therefore, the proposed project would not contribute to a cumulatively significant hazards and hazardous materials impact.

Cumulative Noise Impacts

The geographic area for cumulative noise impacts is defined as all locations within 1,000 feet of the project site. Based on a review of proposed and approved development permits, there are no developments proposed within 1,000 feet of the proposed project. Therefore, there would be no significant cumulative impact with respect to construction noise, and the project would not result in a cumulatively considerable contribution to construction noise impacts.

Additionally, as discussed in Section 4.13 Noise, the permanent operational sources of noise (e.g., rooftop mechanical equipment, vehicle trips, parking lot noise, and truck deliveries) would constitute a less than significant operational noise impact because the increase in ambient noise is below the recommended City thresholds. Furthermore, the additional daily vehicle trips on local roadways resulting from the proposed project would not correspond to an increase in ambient noise levels in

the area. Due to the existing noise environment, simultaneous operation of the project would result in a less than significant cumulative noise impact.

For these reasons, the project would not combine with other projects to create a significant cumulative noise impact and would not make a cumulatively considerable contribution to areas with existing significant cumulative noise impacts.

Cumulative Transportation Impacts

The City's Transportation Analysis Handbook states that an evaluation of cumulative transportation impacts should take a project's long-term effects on VMT into account. In addition, a cumulative analysis should address a project's potential to increase land development in outlying areas, thereby increasing lengths and VMT. As discussed in Section 4.17 Transportation, the impacts of the proposed project on long-term VMT would be less than cumulatively considerable with implementation of mitigation measures MM TRAN-1.1 and MM TRAN-1.2. Impacts related to geometric design and hazards would be addressed with implementation of MM TRAN-2.1. Since the year 2040 is the horizon year for the City's General Plan, the VMT analysis for the year 2020 takes planned Citywide/cumulative growth into account. Furthermore, the proposed project would be consistent with applicable General Plan policies regarding circulation and would, therefore, not result in a cumulative conflict with those policies. Additionally, cumulative projects, including the proposed project, would be required to comply with current building and fire codes and would be reviewed by the SJFD to ensure adequate emergency access. For these reasons, the project would not combine with other projects to create a significant cumulative transportation impact and would not make a cumulatively considerable contribution to areas with existing significant cumulative transportation impacts.

The project does not have impacts that are individually limited, but cumulatively considerable. **(Less than Significant Impact with Mitigation Incorporated)**

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 construction TACs, noise, and contaminated soil. Implementation of applicable regulations and policies, Standard Permit Conditions, and mitigation measures (MM HAZ-1.1 and MM HAZ-1.2) would reduce the impacts to a less than significant level. No other direct or indirect adverse effects on human beings have been identified. **(Less than Significant Impact 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
Department of Planning, Building, and Code Enforcement
David Keyon, Principal Planner
Nhu Nguyen, Environmental Planner

6.2 CONSULTANTS

David J. Powers & Associates, Inc.
Environmental Consultants and Planners
Akoni Danielsen, Principal Project Manager
Michael Lisenbee, Senior Project Manager
Mimi McNamara, Associate Project Manager
Ryan Osako, Graphic Artist

Cornerstone Earth Group
Geotechnical Consultants and Engineers
William Godwin, Senior Engineering Geologist
John R. Dye, Senior Principal Engineer
Peter M. Langtry, Senior Principal Geologist
Diana Lin, Project Engineer

Hexagon Transportation Consultants
Transportation Consultants and Engineers
Robert Del Rio, Vice President, Principal

H. T. Harvey & Associates
Biological Resources Consultants
Steve Rottenborn, Ph.D., Principal/Senior Wildlife Ecologist
Kelly Hardwicke, Ph.D., Associate Plant/Senior Wetland Ecologist
Robin Carle, M.S., Project Manager/Senior Wildlife Ecologist
Jane Lien, B.S., Wildlife Ecologist

Illingworth & Rodkin, Inc.
Air Quality and Acoustical Consultants
James Reyff, Principal
Michael Thill, Principal
Carrie Janello, Senior Consultant
Casey Divine, Consultant

PaleoWest
Archaeological Consultants
Clarus Backes, Principal Investigator and Northern California Team Lead
Katherine Sinsky, Associate Archaeologist

SECTION 7.0 ACRONYMS AND ABBREVIATIONS

2017 CAP	2017 Clean Air Plan
2040 General Plan	Envision San José 2040 General Plan
AB	Assembly Bill
ABAG	Association of Bay Area Governments
ACM	Asbestos-Containing Material
ALUC	Airport Land Use Commission
APN	Assessor's Parcel Number
ATCM	Asbestos Airborne Toxic Control Measure
BAAQMD	Bay Area Air Quality Management District
Bay Area	San Francisco Bay Area
BCDC	San Francisco Bay Conservation and Development Commission
Btu	British Thermal Unit
CAAQS	California Ambient Air Quality Standard
CAL FIRE	California Department of Forestry and Fire Protection
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
CESA	California Endangered Species Act
CFC	Chlorofluorocarbon
CFR	Code of Federal Regulations
CGS	California Geological Survey
CH_4	Methane
CLUP	Comprehensive Land Use Plan
CNEL	Community Noise Equivalent Level

CNPS	California Native Plant Society
CO	Carbon Monoxide
CO_2	Carbon Dioxide
CO_2e	Carbon Dioxide Equivalents
CRHR	California Register of Historical Resources
CRPR	California Rare Plant Rank
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
EIR	Environmental Impact Report
EO	Executive Order
EPA	Environmental Protection Agency
ESA	Environmental Site Assessment
FAA	Federal Aviation Administration
FAR	Federal Aviation Regulations
FESA	Federal Endangered Species Act
FHSZ	Fire Hazard Severity Zone
FMMP	Farmland Mapping and Monitoring Program
GHG	Greenhouse Gases
GHGRS	Greenhouse Gas Reduction Strategy
GWh	Gigawatt Hour
GWP	Global Warming Potential
Habitat Plan	Santa Clara Valley Habitat Plan
HSWA	Hazardous and Solid Waste Amendments
IP	Industrial Park
L_{eq}	Energy-Equivalent Sound/Noise Descriptor
L_{max}	Maximum A-weighted noise level during a measurement period
LOS	Level of Service
LRA	Local Responsibility Area
MBTA	Migratory Bird Treaty Act
$MMTCO_2e$	Million Metric Tons of Carbon Dioxide Equivalent

MND	Mitigated Negative Declaration
mpg	Miles per Gallon
MSL	Mean Sea Level
MTC	Metropolitan Transportation Commission
N_2O	Nitrous Oxide
NAAQS	National Ambient Air Quality Standard
NAHC	Native American Heritage Commission
NCP	National Contingency Plan
NESHAP	National Emission Standards for Hazardous Air Pollutants
NO_2	Nitrogen Dioxide
NOA	Naturally Occurring Asbestos
NOD	Notice of Determination
NO_x	Nitrogen Oxides
NRHP	National Register of Historic Places
O_3	Ozone
PCB	Polychlorinated Biphenyls
PCF	Perfluorocarbon
PDA	Priority Development Areas
PG&E	Pacific Gas and Electric Company
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
R&D	Research and Development
RAP	Removal Action Plan
RCRA	Resource Conservation and Recovery Act
ROG	Reactive Organic Gases
RTP	Regional Transportation Plan
RWQCB	Regional Water Quality Control Board
SB	State Bill
SCCDEH	Santa Clara County Department of Environment Health
SCS	Sustainable Communities Strategy
SF_6	Sulfur Hexafluoride

SHMA	Seismic Hazards Mapping Act
SJCE	San José Clean Energy
SMARA	Surface Mining and Reclamation Act
SMGB	State Mining and Geology Board
SMP	Site Management Plan
SO_x	Sulfur Oxides
SR	State Route
SRA	State Responsibility Area
SWRCB	State Water Resources Control Board
TAC	Toxic Air Contaminants
Title 24	Title 24, Part 6 of the California Code of Regulations
TSCA	Toxic Substances Control Act
USACE	United States Army Corps of Engineers
USFWS	United States Fish and Wildlife Service
Valley Water	Santa Clara Valley Water District
VMT	Vehicle Miles Traveled
VTA	Santa Clara Valley Transportation Authority
Williamson Act	California Land Conservation Act
WUI	Wildland-Urban Interface
ZNE	Zero Net Carbon Emission
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
EIR	Environmental Impact Report
MND	Mitigated Negative Declaration
NOD	Notice of Determination
RWQCB	Regional Water Quality Control Board
USFWS	United States Fish and Wildlife Service