Initial Study/Mitigated Negative Declaration

3464 Ambum Avenue Residential Subdivision Project

File No. PDC22-008, PD22-021, T22-034, ER22-237

Prepared by

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

In Consultation with

DAVID J. POWERS & ASSOCIATES, INC.
ENVIRONMENTAL CONSULTANTS & PLANNERS

June 2024

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: 3464 Ambum Avenue Residential Subdivision Project

PROJECT FILE NUMBER: PDC22-008, PD22-021, T22-034, and ER22-237

PROJECT DESCRIPTION: The project consists of Planned Development Rezoning, Planned Development Permit, and a Tentative Map to allow the redevelopment of a 2.59-acre site. The project comprises the demolition of existing improvements on-site, the reconfiguration of the parcel to be subdivided into four lots, and the construction of one new single-family residences on each lot. An existing private driveway on-site would be widened, extended, realigned, and converted into a new private street adjoining Ambum Avenue. A total of 39 on-site trees would be removed, of which 23 are ordinance sized.

PROJECT LOCATION: The project site is located at 3464 Ambum Avenue, in the City of San José.

ASSESSORS PARCEL NO.: 654-55-015 **COUNCIL DISTRICT:** 8

APPLICANT CONTACT INFORMATION: VIAM Capital (Attn: Ryan Do) 2189 Monterey Road, San José, CA 95125; ryan.do@viamcapital.com; (408) 599-2660

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

MM BIO-1.1: Tree removal and construction shall be scheduled to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1 through August 31, inclusive.

If tree removals and construction cannot be scheduled outside of nesting season, a qualified ornithologist shall complete pre-construction surveys to identify active nests that may be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (February 1 through April 30, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1 through August 31, inclusive), unless a shorter pre-construction survey is determined to be appropriate based on the presence of a species with a shorter nesting period. During this survey, the ornithologist shall inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests. If an active nest is found in an area that would be disturbed by construction, the ornithologist shall designate a construction-free buffer zone to be established around the nest. The buffer would ensure that raptor or migratory bird nests would not be disturbed during project construction.

Prior to the issuance of any grading or building permit for work occurring between February 1 – August 31, the project applicant shall submit a report indicating the results of the pre-construction survey and any designated buffer zones to the satisfaction of the Director of Planning, Building, and Code Enforcement.

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

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

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

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

I. HAZARDS AND HAZARDOUS MATERIALS.

Impact HAZ-1: Construction activities associated with the proposed project could expose construction workers and/or nearby residents to contaminated soils from previous agricultural operations.

MM HAZ-1.1: Prior to the issuance of any demolition or grading permit, the project applicant shall retain an environmental professional to collect shallow soil samples on the project site to

determine whether organochlorine pesticides and metals (e.g., arsenic and lead) from pervious agricultural operations are present on-site at concentrations above established residential environmental screening levels (ESLs). The results of soil sampling and testing shall be provided to the City's Supervising Planner of the Planning, Building and Code Enforcement Department and the Municipal Compliance Officer of the City of San José Environmental Services Department for review.

If pesticide contaminated soils are found in concentrations above regulatory ESLs, the applicant shall obtain regulatory oversight from Santa Clara County Department of Environmental Health (SCCDEH) or the Department of Toxic Substances Control (DTSC) under their Site Cleanup Plan (SCP). In addition, a Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document shall be prepared by a qualified hazardous materials consultant. The plan shall establish remedial measures and/or soil management practices to ensure construction worker safety and the health of future workers and visitors. The plan and evidence of regulatory oversight (as well as the results of the soil sampling and testing) shall be provided to the Supervising Environmental Planner of the City of San José Planning, Building and Code Enforcement and the Environmental Compliance Officer in the City of San José 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.

Impact NOI-1: The mechanical equipment for the project has the potential to exceed 55 dBA DNL at adjacent single-family residences.

MM NOI-1.1: Prior to issuance of building permits, mechanical equipment shall be selected and designed to meet the City's 55 dBA DNL noise level requirements at the property line of nearby noise sensitive land uses. The applicant shall retain a qualified acoustical consultant to review the mechanical noise equipment to determine specific noise reduction measures needed to reduce equipment noise to comply with the City's noise levels requirements. Noise reduction measures could include, but are not limited to, selection of equipment that emits low noise levels and installation of noise barriers, such as enclosures and parapet walls, to block the line-of-sight between the noise source and the nearest receptors. Other alternate measures include locating equipment in less noise-sensitive areas (such as along the building facades farthest from the nearest residences) where feasible. The findings and recommendations from the acoustical consultant for noise reduction measures shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee for review and approval prior to the issuance of any building permits.

Impact NOI-2: Construction of the project could exceed the vibration limit of 0.2 in/sec PPV at adjacent single-family residences.

MM NOI-2.1: Prior to the issuance of any demolition, grading, tree removal, or building permits (whichever occurs first), a qualified noise consultant shall review the final construction equipment list for the project to ensure the construction equipment would not exceed the 0.2 in/sec PPV thresholds for conventional construction buildings at the nearby properties. A project-specific vibration plan shall be prepared and include the project's planned vibration-generating construction activities (e.g., demolition, vibratory compaction), the potential project-specific vibration levels (given project-specific equipment and soil conditions, if known) at specific building locations that may be impacted by the vibration-generating work activities (generally buildings within 50 feet of the work area), and identify any necessary vibration control measures to reduce levels to 0.2 in/sec PPV or below. The project applicant shall submit a copy of the project-specific vibration plan to the Director of Planning, Building and Code Enforcement or Director's designee for review and approval.

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

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

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

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

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

S. UTILITIES AND SERVICE SYSTEMS – The project would not have a significant impact on this resource, therefore no mitigation is required.

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

U. MANDATORY FINDINGS OF SIGNIFICANCE.

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

PUBLIC REVIEW PERIOD

The public review period starts on June 3, 2024, and end on June 24, 2024. Before June 24, 2024, 5:00 pm, 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

5/29/2024

Date

Deputy

Nhu Nguyen
Environmental Project Manager

Circulation period: June 3, 2024 to June 24, 2024.

Table of Contents

Figures

Photos

Tables

Appendices

All appendices are incorporated herein by reference.

Section 1.0 Introduction and Purpose

1.1 Purpose of the Initial Study

The City of San José, as the Lead Agency, has prepared this Initial Study for the 3464 Ambum Avenue Residential Subdivision project in compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations Section 15000 et. seq.) and the regulations and policies of the City of San José, California.

The project proposes to demolish the existing improvements on a 2.59-acre site located at 3464 Ambum Avenue, reconfigure the two existing lots to be subdivided into four lots, and construct four new single-family residences. 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, Planner I
City of San José
Department of Planning, Building, and Code Enforcement
200 East Santa Clara Street, 3rd Floor
San José, CA 95113
Nhu.Nguyen@sanjoseca.gov
(408) 535-6894

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

3464 Ambum Avenue Residential Project

2.2 Lead Agency Contact

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

2.3 Project Applicant

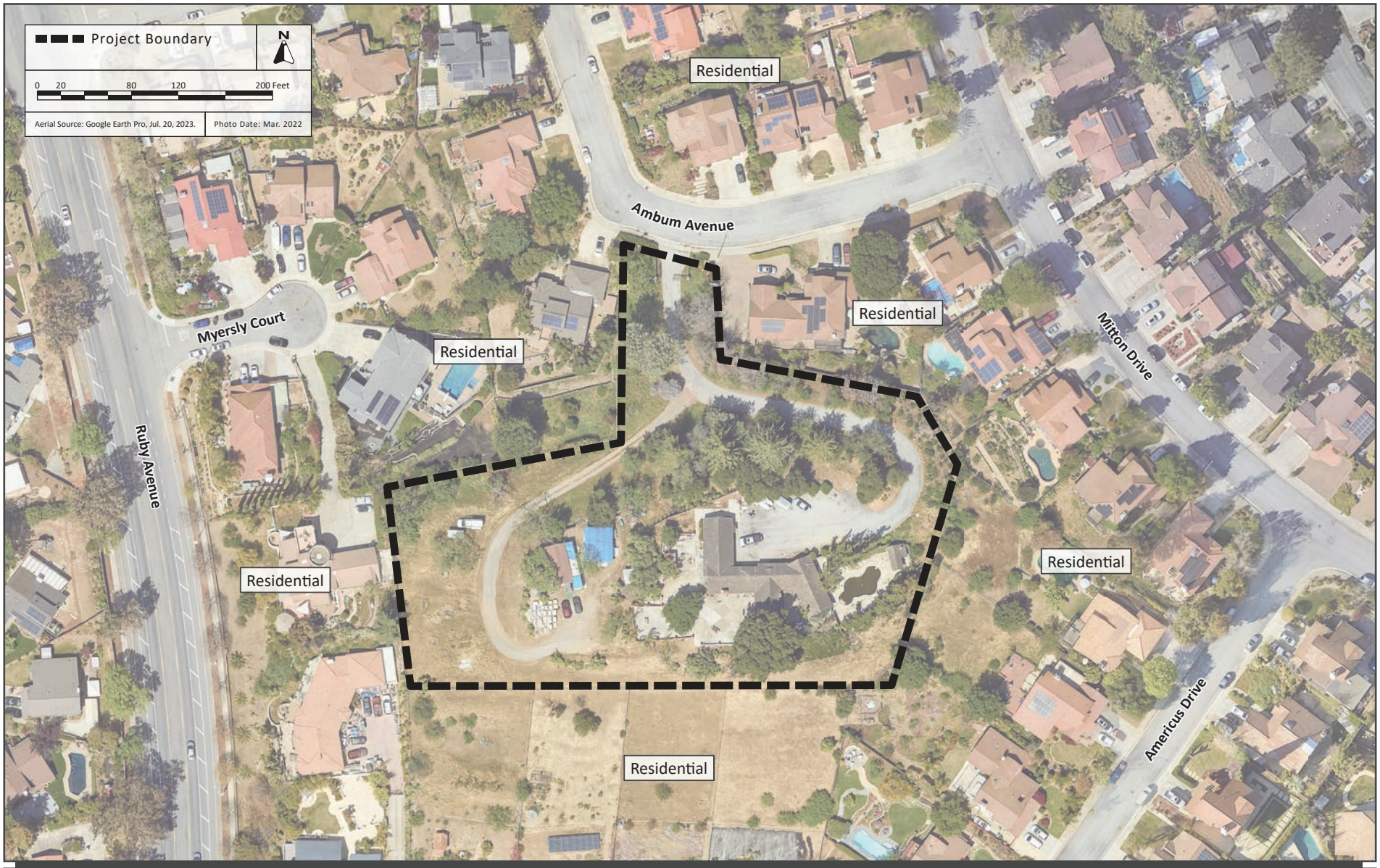
Ryan Do
VIAM Capital
2189 Monterey Road
San José, CA 95125
ryan.do@viamcapital.com
(408) 599-2660

2.4 Project Location

The proposed project is located on a 2.59-acre site that consists of one parcel at 3464 Ambum Avenue, near the intersection of Ambum Avenue and Mitton Drive, in the City of San José. The site is located in an urbanized part of east San José, bound by residences on all sides, and is connected to Ambum Avenue via a private, gated driveway. Regional and vicinity maps of the site are shown below on Figure 2.4-1 and Figure 2.4-2, respectively, and an aerial photograph of the project site and the surrounding land uses is shown on Figure 2.4-3.

REGIONAL MAP | FIGURE 2.4-1

VICINITY MAP | FIGURE 2.4-2



AERIAL MAP AND SURROUNDING LAND USES | FIGURE 2.4-3

2.5 Assessor's Parcel Number

654-55-015

2.6 General Plan Designation and Zoning District

The site is designated as Residential Neighborhood in the Envision San José 2040 General Plan (General Plan). This designation preserves the character of existing neighborhoods and strictly limits new development to infill projects which closely conform to the prevailing existing neighborhood character. New infill development should improve and/or enhance existing neighborhood conditions by conforming with the character of the surrounding neighborhood and integrating into the existing neighborhood pattern. The density allowed is typically eight dwelling units per acre (or matching existing neighborhood density). A Floor Area Ratio (FAR) up to 0.7 is allowed, and buildings can range from one to two and a half stories.

The project site is zoned R-1-5 Single Family Residence District, which allows for a density of up to five dwelling units per acre.

2.7 Habitat Plan Designation

The project site is located within the Santa Clara Valley Habitat Conservation Plan (Habitat Plan) permit area. The entire site is located within Area 4: Urban Development Equal to or Greater Than 2 Acres Covered and is designated as Urban-Suburban land cover. The site has approximately 2.49 acres in the Urban Area land cover fee zone and approximately 0.1 acres in Fee Zone C: Small Vacant Sites. The land cover fees established in the Habitat Plan are meant to assist in recovering the costs of preparing the Habitat Plan, developing an endowment fund for post-permit management and monitoring costs, and covering Habitat Plan costs during the permit term.

2.8 Project-Related Approvals, Agreements, and Permits

- Planned Development Rezoning
- Tentative Map
- Planned Development Permit (including Tree Removal Permit)
- Building Permits
- Public Improvement Permit
- Grading and Drainage Permit

Section 3.0 Project Description

3.1 Overview

The project site comprises one parcel that is divided into two lots and is currently developed with one unoccupied single-family residence built circa 1956 and six accessory structures used for storage of construction tools and materials (e.g., tiles, cabinets, plumbing hardware, etc.).

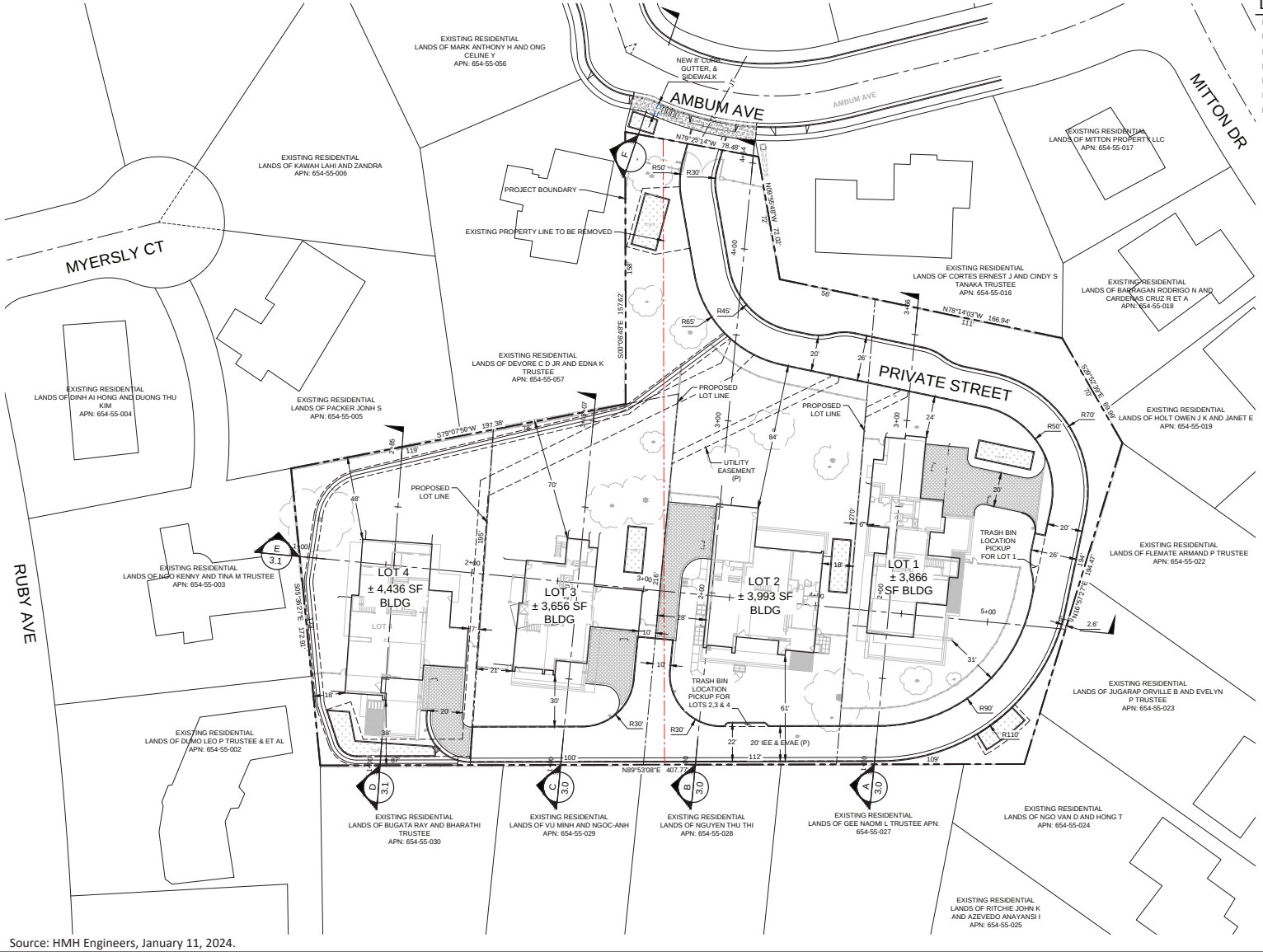
The project would involve the demolition of the existing improvements on-site, the reconfiguration of the two existing lots to be subdivided into four lots, and the construction of one new single-family residence on each lot. The project would require a rezoning from the R-1-5 Single Family Residence District to R-1-5 (PD) Planned Development District to allow the proposed development on-site. The project would have a density of 1.54 dwelling units per acre (du/ac), which would not exceed the current density in the existing neighborhood of 3.43 du/ac. The FAR for the site would be 0.22.[1] The primary project components are described below.

3.2 Primary Project Components

3.2.1 Single-Family Residences

The project site would be subdivided into four lots, and a new single-family residence would be constructed on each lot. These residences would range from approximately 5,045 to 6,210 square feet in living area, and be two-stories tall (with a maximum building height of approximately 34 feet). All four residences would each have a private garage ranging from approximately 665 to 925 square feet that would be accessible via the existing private gated driveway (which is proposed to be widened, extended, realigned, and converted to a private street) connected to Ambum Avenue. The new residences would have a minimum side setback of 18 feet, a minimum rear setback of 38 feet, and a minimum front setback of 48 feet, from the existing adjacent residential property lines surrounding the site. The proposed site plan is shown on Figure 3.2-1 and elevations for the residences are shown on Figure 3.2-2 and Figure 3.2-3.

[1] FAR is calculated by dividing the total building area including garage space by the total site area. 25,332 square feet / 112,424 square feet = 0.22.

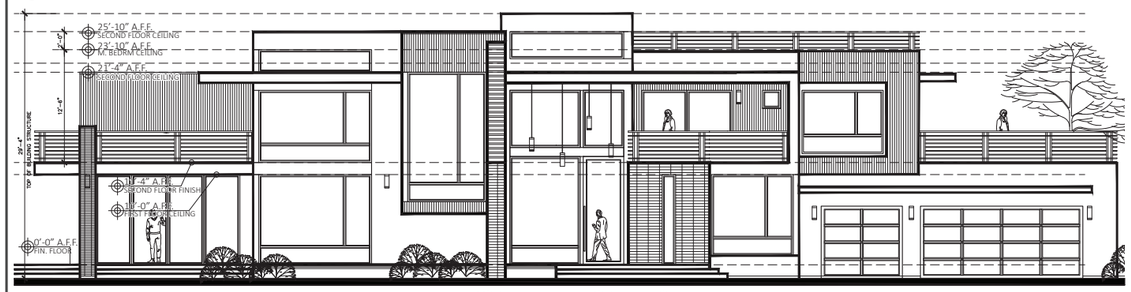


Source: HMH Engineers, January 11, 2024.

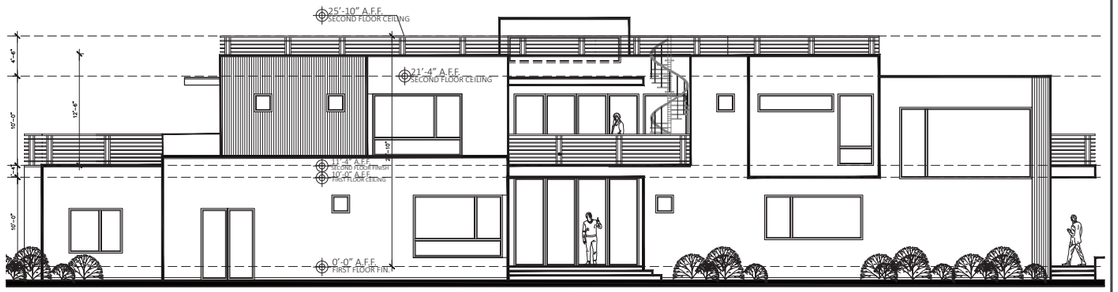
PROPOSED SITE PLAN

FIGURE 3.2-1

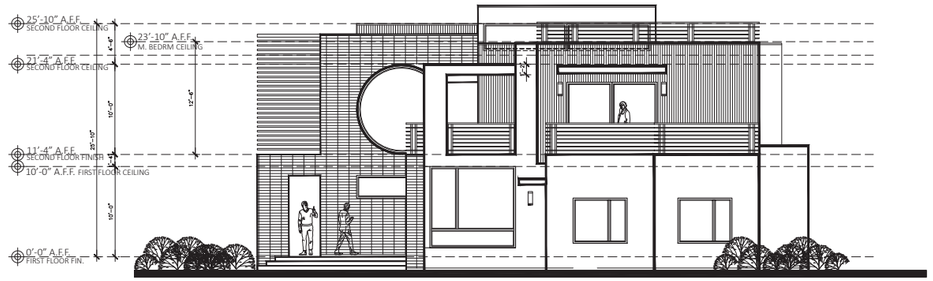
LOT 1



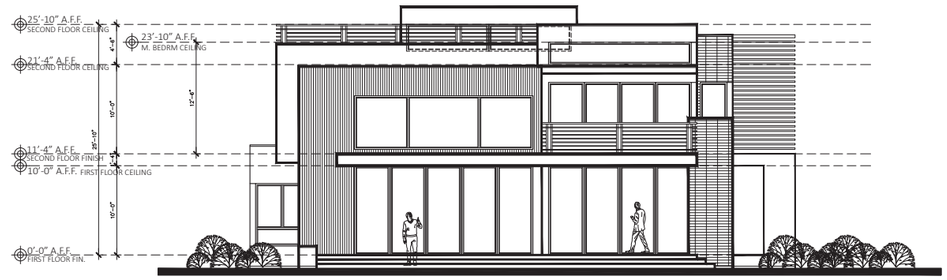
FRONT ELEVATION - EAST



REAR ELEVATION - WEST

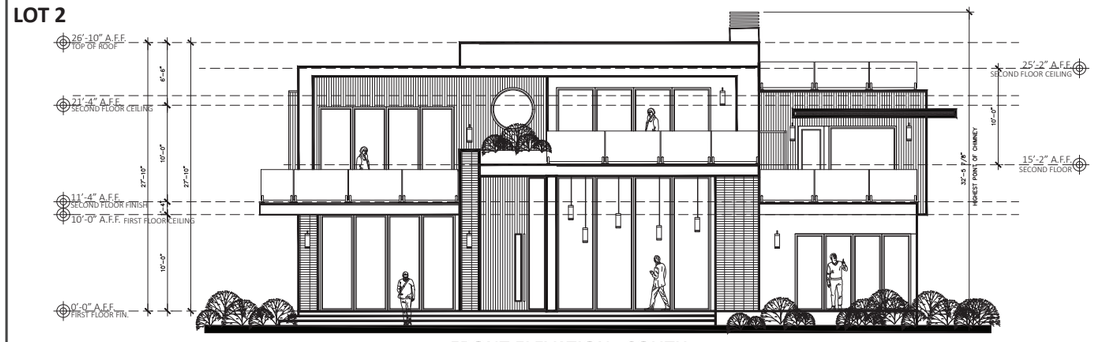


RIGHT ELEVATION - NORTH

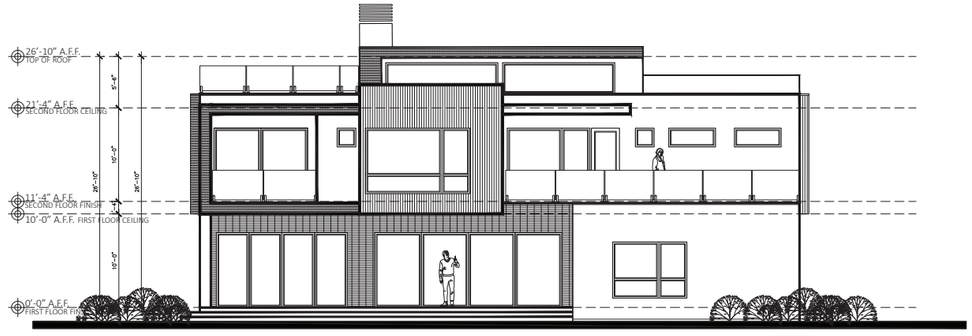


LEFT ELEVATION - SOUTH

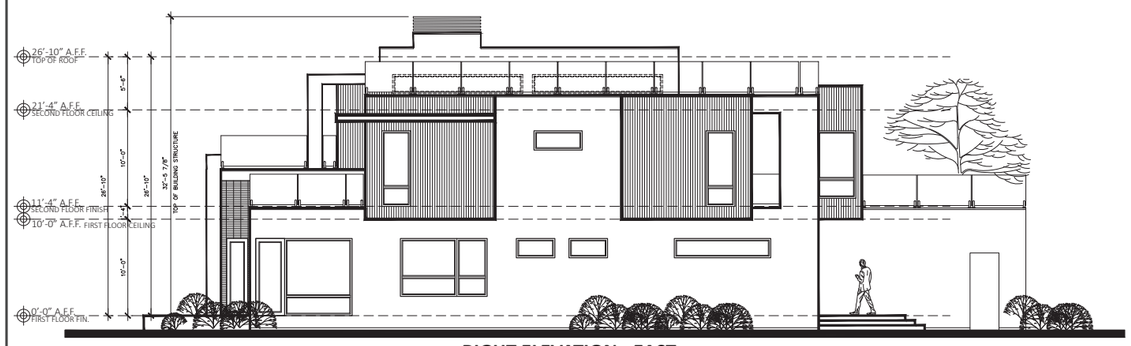
LOT 2



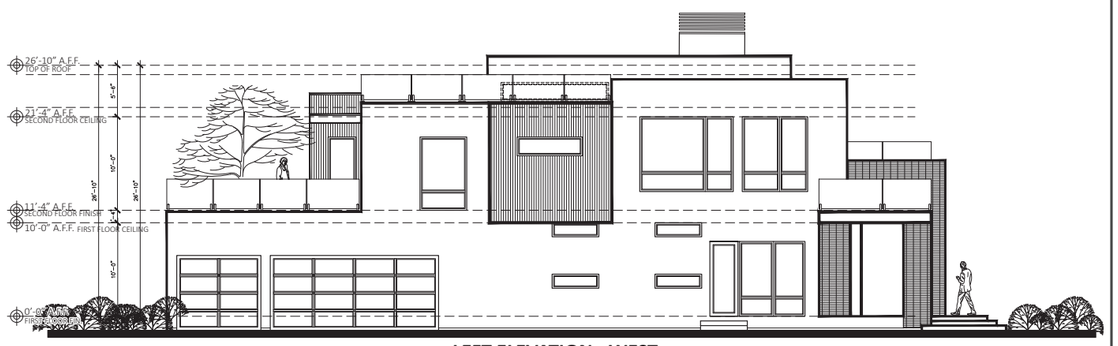
FRONT ELEVATION - SOUTH



REAR ELEVATION - NORTH



RIGHT ELEVATION - EAST



LEFT ELEVATION - WEST

Source: 08 Design Studio, August 18, 2022.

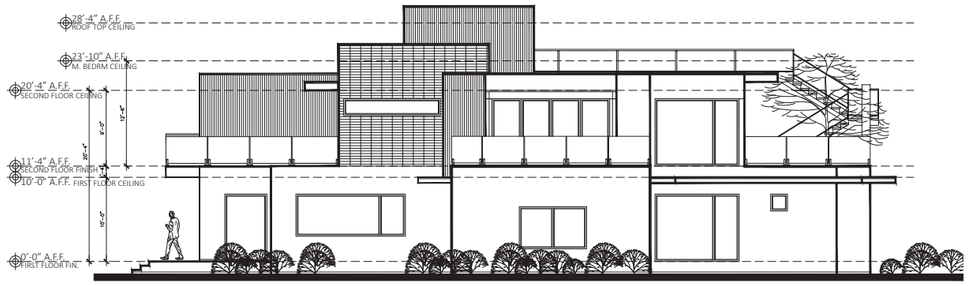
CONCEPTUAL RESIDENCE ELEVATIONS (LOT 1 & 2)

FIGURE 2.1-2

LOT 3

FRONT ELEVATION - SOUTH

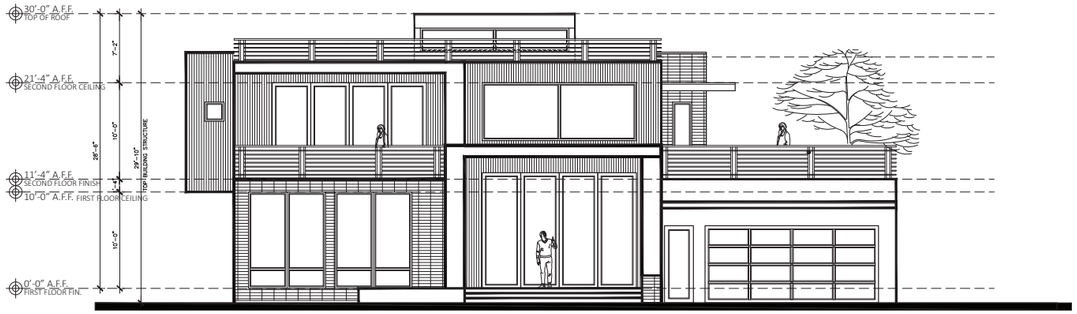
REAR ELEVATION - NORTH



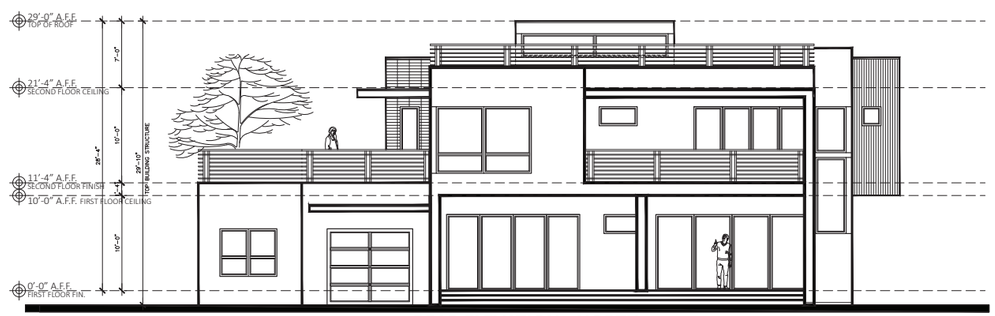
RIGHT ELEVATION - EAST

LEFT ELEVATION - WEST

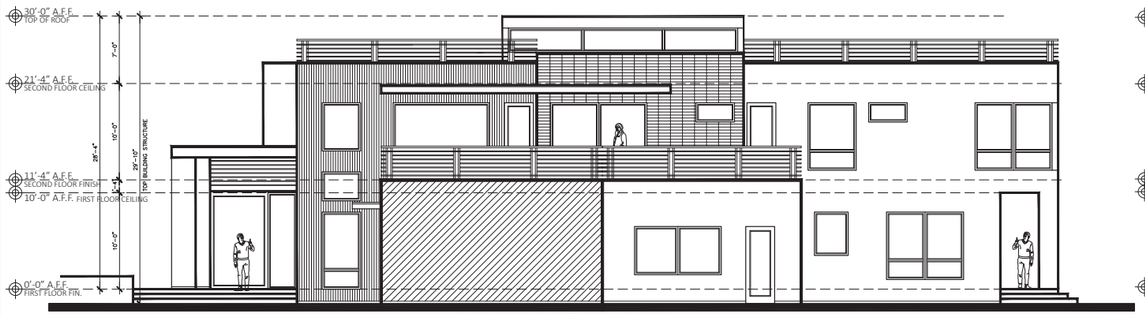
LOT 4



FRONT ELEVATION - SOUTH



REAR ELEVATION - NORTH



RIGHT ELEVATION - EAST

LEFT ELEVATION - WEST

Source: 08 Design Studio, August 18, 2022.

CONCEPTUAL RESIDENCE ELEVATIONS (LOT 3 & 4) | FIGURE 2.1-3

3.2.2 Green Building Measures

The proposed project would incorporate green building measures by including solar photovoltaic panels on the roof of each residence with an electrical output that is equal to or greater than the dwelling's annual electrical usage, low flow fixtures and appliances, energy efficient appliances, and drought-tolerant landscaped areas with high-efficiency irrigation. The project would be constructed in accordance with the latest California Energy Code, California Green Building Code (CALGreen), City's Green Building Ordinance, and City Reach Code to be 100 -percent electric.

3.2.3 Site Access

Access to the project site is currently provided by a private driveway on Ambum Avenue. The project would widen, extend, realign, and convert the existing private driveway to a private street. The entry to the new private street from Ambum Avenue would be approximately 26 feet wide. The private street would extend along the eastern and southern site boundaries. The width of the private street would range from 20 to 26 feet and include turnout areas. The private street would provide access to each residence via separate driveways. Pedestrians would access the site via the sidewalks on Ambum Avenue and the private street.

3.2.4 Utility and Right-of-Way Improvements

The project would include the construction of new domestic water, fire water, storm drain, and sanitary sewer lines on-site. Most of the new lines would be constructed under the proposed private street; however, some would also be installed downslope of the proposed residences and would then connect to the primary utility lines under the private street. These new on-site domestic water, fire water, storm drain, and sanitary sewer lines would connect to the existing water, storm drain, and sanitary sewer mains in Ambum Avenue at the bottom of the private street. Three new fire hydrants have been proposed; one would be a public fire hydrant located on Ambum Avenue while the other two fire hydrants would be located on-site. The project would also include the removal and replacement of the curb, gutter, and sidewalk along Ambum Avenue project frontage to an ADA compliant 8-foot-wide sidewalk section. No natural gas connections are proposed.

The sidewalk along the project frontages on Ambum Avenue would be reconstructed concurrent with the widening of the entrance to the proposed private street. No other improvements in the public right-of-way are proposed.

3.2.5 Landscaping

The proposed project would remove a total of 39 existing trees on-site, including 23 ordinance-size trees and 16 non-ordinance-size trees.[2] The remaining 14 trees on-site do not conflict with the construction of the project improvements and therefore would be preserved on-site. A total of 47, 24-inch box replacement trees would be planted in areas surrounding the residences and perimeter of the site. In addition to the replacement trees, other new landscaping is proposed on-site, including new shrubs and groundcover around the perimeter of the site boundary and proposed residences. The landscaping would incorporate low to moderate water use plants and California native species with high-efficiency irrigation.

3.2.6 Stormwater Treatment

The proposed project would result in an increase of approximately 13,973square feet (or approximately 12 percent) of impervious area on-site and off-site (along the site frontage public right-of-way) compared to existing conditions. The increase in impervious surfaces on-site would be due to the addition of the new residences and extension of the paved private driveway as a private street. The project would include the construction of seven flow-through planters, six of which would be on-site adjacent to the proposed buildings and private street to capture stormwater runoff and promote on-site infiltration, and one would be off-site adjacent to the site entrance and private street to capture stormwater runoff from the public sidewalk. In addition, the project would install pervious pavement throughout the site to reduce the amount of impervious surface area.

3.2.7 Construction

Construction of the project is estimated to take approximately 14 months to complete. Demolition of the existing improvements on-site would be followed by preparation of the site and construction of the residences and other site improvements. It is estimated that these construction phases would occur according to the schedule below.

- Demolition and Site Preparation - One month
- Grading and Excavation - One month
- Trenching and Foundations – Three months
- Building Exteriors – Four months
- Building Interiors – Four months
- Paving – One month

[2] Ordinance-size trees are defined as follows: Single Trunk - 38 inches or more in circumference at 4 1/2 feet above ground, or Multi-trunk - The combined measurements of each trunk circumference, at 4 1/2 feet above ground, add up to 38 inches or more in circumference. Source: City of San José. “Tree Removal Permits.” Accessed July 31, 2023. https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/tree-removal-permits.

The project would excavate to a maximum depth of five feet below ground to excavate 3,200 cubic yards of soil, balance the site with 2,800 cubic yards of soil, and off-haul the remaining 400 cubic yards of soil during the grading phase of the project. Construction materials would be staged on-site near Ambum Avenue, west of the private street. The project would utilize Tier 4 construction equipment or equivalent for all construction equipment used longer than 20 hours or with 25 horsepower or greater.

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

4.1 Aesthetics

4.1.1 Environmental Setting

4.1.1.1 *Regulatory Framework*

State

Senate Bill 743

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

- The project is a residential or mixed-use residential project, or employment center project and
- The project is located on an infill site within a transit priority area.[3]

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

Streets and Highway Code Sections 260 through 263

The California Scenic Highway Program (Streets and Highway Code, Sections 260 through 263) is managed by the California Department of Transportation (Caltrans). The program is intended to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment.

[3] An "infill site" is defined as "a lot located within an urban area that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses." A "transit priority area" is defined as "an area within 0.5 mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program or applicable regional transportation plan." A "major transit stop" means "a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods." Source: California Legislative Information. "Chapter 2.7. Modernization of Transportation Analysis for Transit-Oriented Infill Projects [21099- 21099.]." Accessed August 28, 2023. https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PRC&division=13.&part=&chapter=2.7.&article=.

Local

Envision San José 2040 General Plan

The General Plan includes policies applicable to all development projects in San José. The following policies are specific to visual character and scenic resources and would be applicable to the proposed project.

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-1.13	Use development review to encourage creative, high-quality innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.
CD-1.23	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 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.

In addition to applicable General Plan policies, development of the project would be subject to the following City policies and guidelines:

- San José Outdoor Lighting Policy (City Council Policy 4-3, as revised 6/20/2000)
- San José Residential Design Guidelines

4.1.1.2 *Existing Conditions*

The project site is sloped and accessed via a private, gated driveway on Ambum Avenue. The site is currently developed with one single-family residence and six accessory structures. Landscaping on-site consists of trees and shrubs along the site boundaries and lining the private driveway. Photos of the project site are shown on photographs 1 through 6.

Surrounding Area

The project site is in an urbanized part of east San José and is bound by residential properties on all sides. The surrounding properties on Americus Drive, Mitton Drive, Ambum Avenue, Ruby Avenue, and Myersly Court are developed with two- to three-story, single-family residential structures. The residential properties directly to the south of the project site have long lots that are partially undeveloped due to the steep slope abutting the project site.

Photo 1: View of eastern foothills and Diablo Range from the site driveway, partially obstructed by trees.

Photo 2: View of city skyline and residences north of the site.

PHOTOS 1 & 2

Photo 3: View of the Santa Cruz Mountains from the western facing portion of the site.

Photo 4: View of Santa Teresa Hills from the southern facing portion of the site.

PHOTOS 3 & 4

Scenic Vistas and Resources

The General Plan defines scenic vistas or resources in the City as broad views of the Santa Clara Valley, the hills and mountains surrounding the valley, the urban skyline, and the baylands.[4] 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 identified as key scenic features in the City. Views of the foothills and Diablo Range are visible from the eastern facing portion of the site but are obscured by landscaping (trees and shrubs) surrounding the site. View of the City's skyline is also visible from the project site as it sits elevated from its surrounding area. The baylands are not visible from the project site. The City's General Plan identifies Gateways and Scenic Corridors where preservation and enhancement of views of the natural and man-made environment are crucial. The nearest Scenic Corridor to the project site begins at the intersection of Quimby Road and Murillo Avenue, approximately 0.7-mile southeast of the site. The project site is not distinguishable from this scenic corridor.

State Scenic Highways

The project site is not located along a State-designated scenic highway. The nearest State-designated scenic highway is SR 9, approximately 13 miles southwest of the site. The nearest eligible State scenic highway is Interstate 280 (I-280) (at the Interstate 85 interchange), approximately nine miles west of the site. The designated scenic and eligible State scenic highways are not visible from the project site.

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?[5] If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	☐	☐	☒	☐

[4] City of San José. *Integrated Final Program Environmental Impact Report for the Envision San José 2040 General Plan.* SCH# 2009072096. September 2011. Page 739.

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

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Except as provided in Public Resources Code Section 21099, would the project:				
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 project site is not located along a designated state scenic highway or City scenic rural corridor. As discussed in Section 4.1.1.2, the foothills of the Diablo Range, the Santa Cruz Mountains, and Santa Teresa Hills are visible from the project area. The construction of the four, single-family residences would not obstruct or diminish the existing scenic views from its surrounding because the site is elevated from the surrounding area, and the scale of the proposed single-family buildings would be similar in scale as the existing development on-site. Therefore, the project would not obscure the views of surrounding mountain ranges and would not result in a substantial adverse effect 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?

The nearest state-designated scenic highway to the project site is SR 9, approximately 13 miles southwest of the site. The project site is not visible or distinguishable from SR 9. Therefore, the proposed project would not result in impacts to scenic resources within a state scenic highway corridor. **(No Impact)**

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

The project site is located within an urbanized area and is surrounded by residential land uses. The proposed construction of four new single-family residences is not a significant change from the current single-family residence and its accessory structures on-site. The proposed project would comply with General Plan policies CD-1.1, CD-1.13, and CD-1.23 by going through the City's design review process conducted as part of the development permit review process to ensure that it conforms with all adopted design guidelines and landscaping requirements, Municipal Code development standards (such as maximum building height and setback requirements), and other relevant regulations. For these reasons, the proposed project would not conflict with applicable

General Plan policies, the Municipal Code, 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 result in the construction of four, single-family residences. Tempered glass would be used for the garage doors on all of the single-family residences. No highly reflective construction materials would be used, therefore, there would not be substantial glare. The proposed development includes exterior and interior lighting, which would comply with the City's Outdoor Lighting on Private Development Policy (Policy 4-3) and the City's Single-Family Design Guidelines. As a result, the proposed project would not significantly impact adjacent land uses with increased nighttime light levels or daytime glare from building materials. **(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.[6]

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.[7]

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.[8] 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.[9]

[6] California Department of Conservation. "Farmland Mapping and Monitoring Program." Accessed August 28, 2023. http://www.conservation.ca.gov/dlrp/fmmp/Pages/Index.aspx.
[7] California Department of Conservation. "Williamson Act." http://www.conservation.ca.gov/dlrp/lca.
[8] 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)).
[9] California Department of Forestry and Fire Protection. "Fire and Resource Assessment Program." Accessed August 28, 2023. http://frap.fire.ca.gov/.

4.2.1.2 *Existing Conditions*

The project site is zoned R-1-5 Single Family Residence District. The Santa Clara County Important Farmland 2020 Map designates the project site and its immediate surroundings as Urban Built-Up land.[10] Urban Built-Up Land is defined as land occupied by structures with a building density of at least one unit to 1.5 acres, or approximately six structures to a 10-acre parcel. The site is currently developed with one single-family residence and six accessory structures. There is no forest land located on or adjacent to the project site and the site is not subject to a Williamson Act contract.

4.2.2 Impact Discussion

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

[10] California Department of Conservation. "Santa Clara County Important Farmland 2020 Map." Accessed August 30, 2023. https://maps.conservation.ca.gov/DLRP/CIFF/.

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 4.2.1.2, the project site is designated as "Urban and Built-Up land." Therefore, no Prime Farmland, Unique Farmland, or Farmland of Statewide Importance would be converted to nonagricultural uses as a result of project implementation. **(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 zoned as R-1-5, and requests a rezone to R-1-5 (PD) Planned Development District, which would not conflict with any agricultural zoning. **(No Impact)**

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

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

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

As mentioned above in Section 4.2.1.2, the project site and its surrounding are not zoned as forest land. The project site is located within an urbanized area and would not result in a loss of forest land or convert forest land to non-forest use. **(No Impact)**

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

There are no agriculture or forestry resources on-site or in the project area. The project's development, therefore, would not result in the conversion of forest lands to non-agricultural or non-forest use. **(No Impact)**

4.3 Air Quality

4.3.1 Environmental Setting

4.3.1.1 *Background Information*

Criteria Pollutants

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

Toxic Air Contaminants

Toxic air contaminants (TACs) include airborne chemicals that are known to have short- and long-term adverse health effects. TACs are found in ambient air, especially in urban areas, and are caused by industry, agriculture, diesel fuel combustion, and commercial operations (e.g., dry cleaners). TACs are typically found in low concentrations, even near their source (e.g., diesel particulate matter [DPM] near a freeway). Unlike criteria air pollutants, which have a regional impact, TACs are highly localized and regulated at the individual emissions source level.

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

An overview of the sources of criteria pollutants and TACs, as well as their associated health effects, is provided in Table 4.3-1.

[11] California Air Resources Board. "Overview: Diesel Exhaust and Health." Accessed August 28, 2023. https://ww2.arb.ca.gov/resources/overview-diesel-exhaust-and-health.

Table 4.3-1: Sources and Health Effects of Criteria Air Pollutants and Toxic Air Contaminants

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

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

Sensitive Receptors

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

4.3.1.2 *Regulatory Framework*

Federal and State

Clean Air Act

At the federal level, the EPA is responsible for overseeing implementation of the Clean Air Act and its subsequent amendments. The federal Clean Air Act requires the EPA to set national ambient air quality standards for the six common criteria pollutants (discussed previously): PM, O_3, CO, SO_2, NO_2, and lead.[12]

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.

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

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.

Diesel Risk Reduction Plan

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

Regional

2017 Clean Air Plan

The Bay Area Air Quality Management District (BAAQMD) is the agency primarily responsible for assuring that the federal and state ambient air quality standards are maintained in the San Francisco Bay Area. Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how federal and state air quality standards will be met. BAAQMD's most recently adopted plan is the Bay Area 2017 Clean Air Plan (CAP). The 2017 CAP focuses on the following two related BAAQMD goals and how to achieve them:

- Protect air quality and health at the regional and local scale by attaining all state and national air quality standards and eliminating disparities among Bay Area communities in cancer health risk from TAC; and
- Protect the climate by reducing Bay Area GHG emissions 40 percent below 1990 levels by 2040 and 80 percent below 1990 levels by 2050.[13]

CEQA Air Quality Guidelines

The BAAQMD CEQA Air Quality Guidelines are intended to serve as a guide for those who prepare or evaluate air quality impact analyses for projects and plans in the San Francisco Bay Area. Jurisdictions in the San Francisco Bay Area Air Basin utilize the thresholds and methodology for assessing air quality impacts developed by BAAQMD within their CEQA Air Quality Guidelines. The guidelines include information on legal requirements, BAAQMD rules, methods of analyzing impacts, and recommended mitigation measures. The latest CEQA Air Quality Guidelines are the 2022 CEQA Air Quality Guidelines adopted on April 20, 2023 by the Air District Board of Directors.

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

Local

Envision San José 2040 General Plan

The following General Plan policies related to air quality are applicable to proposed projects in San José:

Policy	Description
MS-10.1	Assess projected air emissions from new development in conformance with the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines and relative to state and federal standards. Identify and implement feasible air emissions reduction measures
MS-10.2	Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.
MS-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-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 San Francisco Bay Area (Bay Area) Air Basin is designated a nonattainment area for the federal O_3 and $PM_{2.5}$ standards and for the state O_3, PM_{10}, and $PM_{2.5}$ standards.[14,15] The area has attained both NAAQS and CAAQS for CO, SO_2, and NO_2. As the regional air district, BAAQMD is responsible for attaining the NAAQS and CAAQS for these pollutants. As part of an effort to attain and maintain ambient air quality standards for O_3, PM_{10}, and $PM_{2.5}$, BAAQMD has established thresholds of significance for these air pollutants and their precursors that apply to both construction period and operational period impacts. Controlling the emissions of these precursor pollutants is the focus of the Bay Area's attempts to reduce O_3 levels. The highest O_3 levels in the Bay Area occur in the eastern and southern inland valleys where temperatures are higher, there is less wind circulation, and sources of the precursor pollutants (ROG and NO_x) are prominent. In the Bay Area, most particulate matter is generated from the following activities: combustion, factories, construction, grading, demolition, agriculture, and motor vehicles. Motor vehicles are currently responsible for about half of particulates in the Bay Area. Elevated concentrations of PM_{10} and $PM_{2.5}$ are the result of both region-wide emissions and localized emissions.

[14] Bay Area Air Quality Management District. "Air Quality Standards and Attainment Status." Last Updated January 5, 2017. Accessed August 28, 2023.

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

The nearest sensitive receptors to the project site are the single-family residences adjacent to the project site.

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?	☐	☐	☒	☐

Note: Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the determinations.

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 April 2023 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 for criteria air pollutants and fugitive dust used in this analysis are identified in Table 4.3-2. Table 4.3-3 below lists the BAAQMD health risk and hazards thresholds for single-source and cumulative-sources.

Table 4.3-2: BAAQMD Air Quality Significance Thresholds

Criteria Air Pollutant	Construction Thresholds*	Operation Thresholds	Operation Thresholds
	Average Daily Emissions (pounds/day)	Average Daily Emissions (pounds/day)	Annual Average Emissions (tons/year)
ROG and 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	

Notes: ROG = reactive organic gases; NO_X = oxides of nitrogen; PM_{10} = respirable particulate matter with an aerodynamic resistance diameter of 10 micrometers or less; $PM_{2.5}$= fine particulate matter with an aerodynamic resistance diameter of 2.5 micrometers or less; CO = carbon monoxide

* The Air District recommends for construction projects that require less than one year to complete, lead agencies should annualize impacts over the scope of actual days that peak impacts would occur rather than over the full year. Additionally, for phased projects that results in concurrent construction and operational emissions. Construction-related exhaust emissions should be combined with operational emissions for all phases where construction and operations overlap.

Source: Bay Area Air Quality Management District. *2022 California Environmental Quality Act Air Quality Guidelines*. April 2023. Pages 3-5 and 3-6.

Table 4.3-3: BAAQMD Health Risks and Hazards Thresholds

Health Risk	Single Source	Combined Cumulative Sources
Cancer Risk	10 per one million	100 per one million
Non-Cancer Hazard Index	1.0	10.0
Annual $PM_{2.5}$ Concentration	0.3 µg/m^3	0.8 µg/m^3 (average)

Notes: µg/m^3 = micrograms per cubic meter; $PM_{2.5}$= fine particulate matter with an aerodynamic resistance diameter of 2.5 micrometers or less

Thresholds are applicable to construction and operational activities.

Source: Bay Area Air Quality Management District. *2022 California Environmental Quality Act Air Quality Guidelines*. April 2023. Pages 3-5 and 3-6.

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

The BAAQMD CEQA Air Quality Guidelines set forth criteria for determining consistency with the CAP. In general, a project is considered consistent if, a) the plan supports the primary goals of the CAP; b) includes relevant control measures; and c) does not interfere with implementation of CAP control measures.

Clean Air Plan Control Measures

The project supports the goals of the 2017 BAAQMD CAP of protecting public health and protecting the climate and is consistent with BAAQMD CAP transportation, building, natural and working lands, and water control measures by:

- Complying with City's standard permit condition to reduce criteria air pollutant emissions during construction,
- Utilizing Tier 4 construction equipment that would reduce PM_{10} and $PM_{2.5}$ emissions,
- Complying with applicable regulations that would result in energy and water efficiency (e.g., future solar photovoltaic system), including Title 24 and California Green Building Standards Code,
- Complying with the City's Construction and Demolition Diversion program and State waste diversion requirements to reduce the amount of waste in landfills,
- Complying with the City of San José Reach Code that prohibits natural gas infrastructure in all new developments,
- Installing drought tolerant landscaping and irrigation system consistent with the City's landscape water ordinance and the state's model water efficient landscape ordinance, and
- Maintaining the existing sidewalk on Ambum Avenue.

Criteria Air Pollutants

Project construction and operation would generate regional criteria pollutants that would contribute to cumulative regional air quality impacts. In its CEQA Air Quality Guidelines, BAAQMD developed screening criteria to provide a conservative indication of whether a proposed project could result in potentially significant air quality impacts. The land use most applicable to the project is "Single-Family." BAAQMD's construction-related criteria pollutant screening threshold for single-family residential development is 254 dwelling units, and the operational criteria pollutant screening threshold is 421 dwelling units.[16]

Construction

BAAQMD guidance requires a construction criteria pollutant emissions be quantified for all construction projects that require demolition and excavation and/or are above BAAQMD construction screening size criteria. While the project involves demolition of the existing buildings on-site, it would not result in emissions exceeding the criteria air pollutant thresholds shown on Table 4.3-2. For reference, the construction of a 206-unit multi-family residential building on a site of similar size was estimated to result in average daily construction emissions of up to 11.55 pounds/day of ROG, 4.07 pounds/day of NOx, 0.25 pounds per day of PM_{10} exhaust, and 0.17 pounds per day of $PM_{2.5}$ exhaust, which are all below the BAAQMD CEQA thresholds shown on Table 4.3-2. A comparison of the proposed project and the 206-unit project is summarized in Table 4.3-4 below. Since the project is substantially smaller, its construction criteria air pollutant

[16] Bay Area Air Quality Management District. *2022 CEQA Guidelines*. April 2023. Page 4-4.

emissions would be lower than the emissions of the 206-unit multi-family residential project, and also below the BAAQMD CEQA thresholds.

Table 4.3-4: Summary of Proposed Project and Comparison Project

	Proposed Project	Comparison Project*
Project Site Size	2.59 acres	2.22 acres
Demolition Size	4,631 square feet	28,223 square feet
Project Size	4 units totaling 21,150 square feet	206 units totaling 227,859 square feet
Project Excavation	3,200 cubic yards	14,000 cubic yards

* City of San José. *1050 St. Elizabeth Drive Residential Project Initial Study*. January 2023.

Construction activities, 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 soil at the construction site and trucks carrying uncovered loads of soil. 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 (BMPs) are implemented to reduce these emissions. The City requires, as a standard permit condition, the implementation of the following BAAQMD construction BMPs, which are routinely applied to construction projects throughout the Bay Area, to reduce construction air quality impacts:

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 all exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) two times per day.
- Cover all haul trucks transporting soil, sand, or other loose material off-site.
- Remove all visible mud or dirt trackout onto adjacent public roads at least once per day using wet power vacuum street sweepers. The use of dry power sweeping is prohibited.
- Limit all vehicle speeds on unpaved roads to 15 mph.
- Pave all new roadways, driveways, and sidewalks as soon as possible.
- Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- Suspend all excavation, grading, and/or demolition activities when average wind speeds exceed 20 mph.
- Wash off all trucks and equipment, including their tires, prior to leaving the site.
- Treat unpaved roads providing access to sites located 100 feet or further from a paved road with a 6- to 12-inch layer of compacted layer of wood chips, mulch, or gravel.

- Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to no more than 2 minutes (A 5-minute limit is required by the state airborne toxics control measure [Title 13, Sections 2449(d)(3) and 2485 of the California Code of Regulations]). Provide clear signage that posts this requirement for workers at all access points to the site.
- Maintain and properly tune all construction equipment in accordance with the 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 name and phone number of an on-site construction coordinator to contact regarding dust complaints. The on-site construction coordinator shall respond and take corrective action within 48 hours. The sign shall also provide the City's Code Enforcement Complaints email and number and the Air District's General Air Pollution Complaints number to ensure compliance with applicable regulations.

The project, with the implementation of the standard permit condition listed above, would reduce fugitive dust emissions to a less than significant level by controlling dust and exhaust, limiting exposed soil surfaces, and reducing PM_{10} and $PM_{2.5}$ exhaust emissions from construction equipment.

Operation

Operational period criteria pollutant emissions associated with the project would be generated primarily from vehicles driven by future residents. The four, single-family residences proposed would be below BAAQMD's operational criteria pollutant screening threshold of 421 dwelling units.[17] Per BAAQMD, if a project proposes less development than the screening criteria, it can be conservatively assumed the project would not result in a significant air quality impact. Therefore, emissions from project operation would not exceed BAAQMD's operational criteria air pollutant emissions thresholds.

For these reasons, the project would not disrupt or hinder the implementation of the 2017 BAAQMD 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?

As discussed under checklist question a), the project size is below the BAAQMD screening threshold for operational criteria air pollutant emissions, which conservatively means its operational emissions would not exceed BAAQMD's operational criteria air pollutant emissions thresholds. In addition, based on the size of the project and the BAAQMD construction BMPs that would be implemented during construction activities, construction criteria pollutant impacts would also be

[17] Bay Area Air Quality Management District. *2022 CEQA Guidelines*. April 2023. Page 4-4.

below BAAQMD's emission thresholds. Because the project would have less than significant criteria pollutant impacts, it would not result in a cumulatively considerable contribution to any criteria pollutants for which the region is in non-attainment. **(Less than Significant Impact)**

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

Community Health Risk

The project would introduce new sources of toxic air contaminants (TACs) during project construction (i.e., diesel fueled construction equipment and truck hauling emissions). The project does not propose operational sources of TAC, such as a diesel-powered emergency generator, and, therefore, would not result in operational community health risks.

As described in Section 3.0 Project Description, the project would utilize Tier 4 construction equipment or equivalent for all construction equipment used longer than 20 hours or with 25 horsepower or greater. Compared to traditional construction equipment, Tier 4 construction equipment substantially reduces PM_{10} and $PM_{2.5}$ emissions. The project would take approximately 14 months to construct, excavate 3,200 cubic yards of soil, balance the site with 2,800 cubic yards of soil, and off-haul the remaining 400 cubic yards of soil during the grading phase of the project. Based on the project size and type (four, single-family residences) and amount of excavation, utilization of the Tier 4 construction equipment would ensure adjacent sensitive receptors are not exposed to substantial pollutant concentrations.[18] The project would be subject to the following Condition of Approval to ensure implementation of the Tier 4 construction equipment.

Condition of Approval

- Prior to issuance of any grading, and/or building permits (whichever occurs first), the project applicant shall develop a plan demonstrating that all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet U.S. EPA Tier 4 emission standards for particulate matter (PM_{10} and $PM_{2.5}$).
- The plan shall be signed and verified by an air quality specialist and shall be submitted to the Director of Planning, Building, and Code Enforcement or the Director's designee. Construction equipment measures shall be printed on all construction documents, contracts, and project plans.

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

[18] Reyff, James. Principal, Illingworth & Rodkin, Inc. Personal Communication. April 13, 2023.

the 2022 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, like the proposed project (see discussion under checklist questions a) and d), it is assumed to have no adverse health effect. **(Less than Significant Impact)**

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

Odors are generally considered an annoyance rather than a health hazard. Land uses that have the potential to be sources of odors that generate complaints include, but are not limited to, wastewater treatment plants, landfills, composting operations, and food manufacturing facilities. The project would replace the existing single-family residence on-site with four, single-family residences. Construction of the proposed project would generate localized emissions of diesel exhaust during construction equipment operation and truck activity. These emissions may be noticeable from time to time by adjacent receptors; however, diesel exhaust have highly diffusive properties, and the odors would be localized and temporary. During operations, the proposed residential project would not generate objectionable odors. The project would, therefore, not create objectionable odors that would affect the existing residents near the site. **(Less than Significant Impact)**

4.3.1 Non-CEQA Effects

Per California Building Industry Association v. Bay Area Air Quality Management District, 62 Cal. 4th 369 *(BIA v. BAAQMD)*, effects of the environment on the project are not considered CEQA impacts. Since the project proposes to replace an existing single-family residence with four single-family residences on a site surrounding by single-family residential development, the project would not introduce future residences to substantial TAC sources.

The new residences would not be subject to substantial sources of TAC as it is located within an existing single-family residential neighborhood and there are no stationary pollutant sources or high-volume roadways (over 10,000 vehicles per day) within 1,000 feet from the project site.[19,20]

[19] Bay Area Air Quality Management District. "Stationary Source Screening Map." Accessed March 14, 2024. https://www.baaqmd.gov/plans-and-climate/california-environmental-quality-act-ceqa/ceqa-tools/health-risk-screening-and-modeling.
[20] City of San José. "Traffic Volume." Accessed March 14, 2024. https://csj.maps.arcgis.com/apps/webappviewer/index.html?id=067fbd3db8dd44f8a60f48148331b3d7.

4.4 Biological Resources

The following discussion is based in part upon an arborist report prepared by Bay Area Tree Specialists in June 2023. A copy of the arborist report is included in Appendix A of this Initial Study.

4.4.1 Environmental Setting

4.4.1.1 *Regulatory Framework*

Federal and State

Endangered Species Act

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

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

Migratory Bird Treaty Act

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

Private development in the plan area is subject to the Habitat Plan if it meets the following criteria:

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

Envision San José 2040 General Plan

The following General Plan policies related to biological resources are applicable to proposed projects in San José:

Policy	Description
ER-5.1	Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance of activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.
ER-5.2	Require that development projects incorporate measures to avoid impacts to nesting migratory birds.
MS-21.4	Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.
MS-21.5	As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse effect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.
MS-21.6	As a condition of new development, require the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.
CD-1.24	Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse effect on the health and longevity of such trees through design measures, construction, and best maintenance practices. When tree preservation is not feasible include replacement or alternative mitigation measures in the project to maintain and enhance our Community Forest.

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). Per the City's Municipal Code, ordinance-size trees are defined as follows: Single Trunk - 38 inches or more in circumference at 4.5 feet above ground, or Multi-trunk - The combined measurements of each trunk circumference, at 4.5 feet above ground, add up to 38 inches or more in circumference. 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.

4.4.1.2 *Existing Conditions*

The project site is located in an urban area surrounded by existing residential development. The project site is located within the Habitat Plan study area of the Habitat Plan and is designated Urban-Suburban land and a private development area type of "Area 4: Urban Development Equal to

or Greater Than 2 Acres Covered."[21] Urban-Suburban land is comprised of areas where native vegetation has been cleared for residential, commercial, industrial, transportation, or recreational structures, and is defined as areas with one or more structures per 2.5 acres. Habitats primarily associated with Bay Area special-status species, such riparian, wetland, salt marsh, freshwater marsh, and serpentine grassland habitats, are not present on or adjacent to the site. The nearest body of water is Lake Cunningham, which is located approximately 1.3 miles northwest of the project site.

The primary biological resources on-site are trees. The project site currently contains 53 on-site trees, including 34 ordinance-size trees and 19 non-ordinance-size trees. Seven of the existing trees are native species, including coast live oaks and a Monterey pine. The predominant tree species on-site are Chinese juniper trees and coast live oak trees, which comprise a combined 26 percent of the trees on-site. The largest tree is a coast live oak located on the southern border of the project site behind the existing improvements, which has a trunk circumference of approximately 132 inches. See Table 4.4-1 for the existing inventory of trees on-site.

Table 4.4-1: Existing Tree Inventory

Tree Number	Species	Circumference (inches)	Ordinance Sized	Tree Type	Remove?
1	Juglans hindsii	44	Yes	Non-native	No
2	Juglans hindsii	57	Yes	Non-native	No
3	Juglans hindsii	25	Yes	Non-native	No
4	Eucalyptus cinerea	57	Yes	N/A	No
5	Acacia dealbata	38	No	Non-native	No
6	Acacia dealbata	25	No	Non-native	Yes
7	Acacia dealbata	57	Yes	Non-native	No
8	Quercus agrifolia	31	No	Native	Yes
9	Cedrus deodara	75	Yes	Non-native	Yes
10	Quercus agrifolia	38	Yes	Native	No
11	Quercus agrifolia	31	No	Native	No
12	Quercus agrifolia	38	Yes	Native	Yes
13	Prunus ducis	25	No	Non-native	Yes
14	Cedrus deodara	44	Yes	Non-native	Yes
15	Cedrus deodara	38	Yes	Non-native	Yes
16	Quercus agrifolia	31	No	Native	Yes
17	Quercus agrifolia	44	Yes	Native	Yes
18	Quercus agrifolia	44	Yes	Native	Yes

[21] Santa Clara Valley Habitat Agency. "Santa Clara Valley Habitat Agency Geobrowser." Accessed August 30, 2023. http://www.hcpmaps.com/habitat/

Tree Number	Species	Circumference (inches)	Ordinance Sized	Tree Type	Remove?
19	Juniperus chinensis	50	Yes	Non-native	Yes
20	Juniperus chinensis	50	Yes	Non-native	Yes
21	Juniperus chinensis	38	Yes	Non-native	Yes
22	Juniperus chinensis	50	Yes	Non-native	Yes
23	Juniperus chinensis	31	No	Non-native	Yes
24	Acacia melanoxylon	31	No	Non-native	Yes
25	Acacia melanoxylon	38	Yes	Non-native	Yes
26	Juniperus chinensis	62	Yes	Non-native	Yes
27	Acacia melanoxylon	31	No	Non-native	Yes
28	Acacia melanoxylon	38	Yes	Non-native	Yes
29	Juniperus chinensis	57	Yes	Non-native	Yes
30	Juniperus chinensis	44	Yes	Non-native	Yes
31	Trachycarpus fortunei	25	No	N/A	No
32	Prunus persica	47	Yes	Non-native	No
33	Quercus agrifolia	132	Yes	Native	No
34	Schinus molle	53	Yes	Non-native	Yes
35	Yucca rigida	25	No	Non-native	Yes
36	Olea europaea	31	No	Non-native	Yes
37	Juglans hindsii	38	Yes	Non-native	Yes
38	Yucca rigida	31	No	Non-native	Yes
39	Yucca rigida	31	No	Non-native	Yes
40	Olea europaea	22	No	Non-native	Yes
41	Yucca rigida	31	No	Non-native	Yes
42	Quercus agrifolia	82	Yes	Native	Yes
43	Ligustrum lucidum	31	No	Non-native	Yes
44	Yucca rigida	50	Yes	Non-native	Yes
45	Eriobotrya japonica	28	No	Non-native	Yes
46	Olea europaea	38	Yes	Non-native	Yes
47	Juglans hindsii	53	Yes	Non-native	Yes
48	Juglans hindsii	37	No	Non-native	Yes
49	Pinus radiata	75	Yes	Native	Yes
50	Pinus radiata	47	Yes	Native	No
51	Olea europaea	88	Yes	Non-native	No
52	Juglans hindsii	38	Yes	Non-native	No

Tree Number	Species	Circumference (inches)	Ordinance Sized	Tree Type	Remove?
53	Juglans hindsii	75	Yes	Non-native	Yes

N/A is used to indicate that the plans provided and arborist report did not identify if the tree species was native or non-native.

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, impede the use of native wildlife nursery sites?	☐	☐	☐	☒
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☒	☐
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☒	☐

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

Based on the infill, urbanized, and developed nature of the project site, natural communities or

habitats for special-status plant and wildlife species are not present on-site and would not be impacted by the project, with the exception of nesting birds, as discussed further below.

Nesting Birds

Development of the project would result in the removal of a total of 39 existing trees on-site. Trees could provide nesting habitat for birds, including migratory birds. Nesting birds are protected under provisions of the MBTA and CDFW code. Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment, which would constitute a significant impact.

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

Mitigation Measures

MM BIO-1.1: Tree removal and construction shall be scheduled to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1 through August 31, inclusive.

If tree removals and construction cannot be scheduled outside of nesting season, a qualified ornithologist shall complete pre-construction surveys to identify active nests that may be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (February 1 through April 30, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1 through August 31, inclusive), unless a shorter pre-construction survey is determined to be appropriate based on the presence of a species with a shorter nesting period. During this survey, the ornithologist shall inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests. If an active nest is found in an area that would be disturbed by construction, the ornithologist shall designate a construction-free buffer zone to be established around the nest. The buffer would ensure that raptor or migratory bird nests would not be disturbed during project construction.

Prior to the issuance of any grading or building permit for work occurring between February 1 – August 31, the project applicant shall submit a report indicating the results of the pre-construction survey and any designated buffer zones to the satisfaction of the Director of Planning, Building, and Code Enforcement.

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

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

The project site does not contain riparian habitat. Additionally, the project site is identified as Urban-Suburban land in the Habitat Plan and does not contain sensitive natural communities which would be impacted by the proposed project. Therefore, the proposed project would have a less than significant impact on riparian habitat or other sensitive communities identified in local or regional plans, policies, regulations, or by the CDFW or USFWS. **(No Impact)**

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

The project site does not contain wetland areas and is not located near wetland areas which may be impacted indirectly by the proposed project. Therefore, the proposed project would not impact state or federally protected wetlands through direct removal, filling, hydrological interruption, or other means. **(No Impact)**

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

The project site is not an area designated as a wildlife corridor or classified as a native wildlife nursery site for a native resident or migratory fish species. Therefore, the proposed project would not result in impacts to these biological resources. **(No Impact)**

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

Implementation of the proposed project would result in the removal of 39 on-site trees, including 23 ordinance-size trees and 16 non-ordinance-size trees, and planting of 47 24-gallon trees. The project would also preserve 14 on-site trees. As such, the project would be required to conform to the City's standard permit condition related to tree replacement and tree protection requirements consistent with General Plan Policies MS-21.4, MS-21.5, and MS-21.6 and City of San José Tree Ordinance (Municipal Code Section 13.31.010 to 13.32.100). The standard permit condition for tree removal in the City is below.

Standard Permit Condition – Tree Removal

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

Table 4.4-2: Tree Replacement Ratios

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

x:x = tree replacement to tree loss ratio

Notes: Trees greater than or equal to 38-inch circumference measured at 54 inches above natural grade shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For Multi-Family residential, Commercial, and Industrial properties, a permit is required for removal of trees of any size.

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

Single-Family and two-dwelling properties may be mitigated at a 1:1 ratio regardless of tree size

- 39 trees onsite would be removed. 5 trees would be replaced at a 5:1 ratio, 18 trees would be replaced at a 4:1 ratio, 2 trees would be replaced at a 2:1 ratio, and the remaining 14 trees would be replaced at a 1:1 ratio. The total number and size of replacement trees required to be planted on-site is 115 new 15-gallon trees, or 58 new 24-gallon trees.
- If there is insufficient area on the project site to accommodate the required replacement trees, one or more of the following measures shall be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement or Director's designee. Changes to an approved landscape plan requires the issuance of a Permit Adjustment or Permit Amendment
    - The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the project site.
    - 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.
- Prior to the issuance of building permit(s), the permittee shall pay Off-Site Tree Replacement Fee(s) to the City for 21 off-site replacement trees in accordance with the City Council approved Fee Resolution in effect at the time of payment.

Standard Permit Condition – Tree Protection

- **Tree Protection Standards.** The Permittee shall maintain the trees and other vegetation shown to be retained in this project and as noted on the Approved Plan Set. Maintenance shall include pruning and watering as necessary and protection from construction damage. Prior to the removal of any tree on the site, all trees to be preserved shall be permanently identified by metal numbered tags. Prior to issuance of the Grading Permit or removal of any tree, all trees to be saved shall be protected by chain link fencing, or other fencing type approved by the Director of Planning. Said fencing shall be installed at the dripline of the tree in all cases and shall remain during construction. No storage of construction materials, landscape materials, vehicles or construction activities shall occur within the fenced tree protection area. Any root pruning

required for construction purposes shall receive prior review and approval and shall be supervised by the consulting licensed arborist. Fencing and signage shall be maintained by the Permittee to prevent disturbances during the full length of the construction period that could potentially disrupt the habitat or trees.

The proposed project would pay off-site tree replacement fees to the City for the remaining replacement trees in compliance with the standard permit condition. Through compliance with the standard permit condition, to replace trees on-site, pay replacement tree fees for trees that cannot be replaced on-site, and protecting the trees to remain on-site, the proposed project would result in a less than significant impact from loss of trees. **(Less than Significant Impact)**

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

The project site is located within the Habitat Plan area and is mapped with a land cover type of "Urban-Suburban." The proposed project would require discretionary approval by the City and is consistent with the activity described in Section 2.3.2 of the Habitat Plan, proposes activity equal to or greater than two acres, and is located in an area identified as "Urban Development Equal to or Greater than Two Acres is Covered," therefore the project is subject to land cover fees. Consistent with the Habitat Plan, the project applicant shall implement the following standard permit condition.

Standard Permit Condition – Santa Clara Valley Habitat Plan

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

Therefore, through compliance with the above standard permit condition, the proposed project would be consistent with the Habitat Plan. **(Less than Significant Impact)**

4.5 Cultural Resources

The following discussion is based in part upon a Historic Resource Evaluation (HRE) and an Archaeological Sensitivity Assessment prepared by Archaeological/Historical Consultants (A/HC) in May 2024. A copy of the HRE is included in Appendix B of this Initial Study. The Archaeological Sensitivity Assessment is on file at the City of San José Department of Planning 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.[22] A resource must satisfy all the following criteria (A,B, and C) to be eligible for the California Register:

A. A property must be significant at the local, State, or national level, under one or more of the following four "Criteria of Significance" (these are essentially the same as National Register criteria with more emphasis on California history):

- Criterion 1: The resource is associated with events or patterns of events that have made a significant contribution to the broad patterns of local or regional history and cultural heritage of California or the United States.

[22] 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.

- Criterion 2: The resource is associated with the lives of persons important to the nation or to California's past.
- Criterion 3: The resource embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of a master, or possesses high artistic values.
- Criterion 4: The resource has the potential to yield information important to the prehistory or history of the State or the nation (criterion 4 applies primarily to archaeological sites and not historic buildings).

B. The resource retains historic integrity; and,

C. It is 50 years old or older (except for rare cases of structures of exceptional significance).

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

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

California Native American Historical, Cultural, and Sacred Sites Act

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

Public Resources Code Sections 5097 and 5097.98

Section 15064.5 of the CEQA Guidelines specifies procedures to be used in the event of an unexpected discovery of Native American human remains on non-federal land. These procedures are outlined in Public Resources Code Sections 5097 and 5097.98. These codes protect such remains from disturbance, vandalism, and inadvertent destruction, establish procedures to be implemented if Native American skeletal remains are discovered during construction of a project, and establish the Native American Heritage Commission (NAHC) as the authority to resolve disputes regarding disposition of such remains.

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

Local

Historic Preservation Ordinance

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

The City of San José maintains a list of City Landmarks designated by the City's Historic Landmarks Commission. Properties may be nominated for designation as a City Landmark by the City Council, the Historic Landmarks Commission, or the property owner. In order to qualify for nomination, the property should possess "historical, architectural, cultural, aesthetic, or engineering interest or value of an historical nature." In evaluating a proposed Landmark, the Historic Landmarks Commission may consider the following factors.

1. Its character, interest, or value as part of the local, regional, state, or national history, heritage, or culture;
2. Its location as a site of significant historic event;
3. Its identification with a person or persons who significantly contributed to the local, regional, state, or national culture and history;
4. Its exemplification of the cultural, economic, social, or historic heritage of the City of San José;
5. Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;
6. Its embodiment of distinguishing characteristics of an architectural type or specimen;
7. Its identification as the work of an architect or master builder whose individual work has influenced the development of the City of San José;
8. Its embodiment of elements of architectural or engineering design, detail, material, or craftsmanship which represents a significant architectural innovation or which is unique.

San José Historic Resources Inventory

Consistent with the City's Historic Preservation Ordinance, in 1975, the City developed an inventory of historically and architecturally significant structures. The inventory now includes approximately 4,000 properties.

Envision San José 2040 General Plan

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

Policy	Description
LU-13.15	Implement City, state, and federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.
LU-14.4	Discourage demolition of any buildings or structures listed on or eligible for the Historic Resources Inventory as a Structure of Merit by pursuing the alternatives of rehabilitation re-use on the subject site and/or relocation of the resource.
LU-14.6	Consider preservation of Structures of Merit and Contributing Structures in Conservation Areas as a key consideration in the development review process. As development proposals are submitted, evaluate the significance of structures, complete non-Historic American Buildings Survey level of documentation, list qualifying structures on the Historic Resources Inventory, and consider the feasibility of incorporating structures into the development proposal, particularly those structures that contribute to the fabric of Conservation areas.
EC-2.3	Require new development to minimize vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, a vibration limit of 0.08 inches/second (in/sec) PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction.
ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, requiring investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into project design.
ER-10.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.
ER-10.3	Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources to ensure that adequate protection of historic and pre-historic resources.

4.5.1.2 *Existing Conditions*

Archaeological Resources

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. The Ohlone

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

Archaeological sites are most often found in flat locations with access to a perennial source of fresh water. Soils deposited during the Holocene era (since 11,700 years ago), especially young alluvium from the last 2,000 to 3,000 years, are more likely to contain buried archaeological deposits. In Santa Clara County, Native American sites are most often found within 0.5-mile of major and 0.25-mile of minor watercourses. The project parcel is located on the north end of a bedrock ridge covered in shallow soils eroded from the underlying rock. Site soils belong to the Alo-Altamont complex, a shallow clay to silty clay soil that is two to 2.5 feet thick. The historic course of Norwood Creek, a seasonal drainage feature, ran along the northern boundary of the project area at the base of the hill, and another small, unnamed creek was present approximately 1,000 feet south of the project area. The two creeks in the project vicinity were small and would not have provided easily accessible freshwater for most of the year. The shallow soils and proximity of bedrock under the site make it unlikely that buried, prehistoric archaeological deposits are present on-site.

In addition, the literature search completed for the project site did not identify any recorded archaeological resources on or within 0.25-mile of the project site. No resources were identified on-site during site reconnaissance. Based on these factors, and as discussed in the project-specific archaeological sensitivity assessment prepared for the Cultural Resources Evaluation, the project site has a low sensitivity for buried prehistoric Native American resources.

As discussed in additional detail below, the project site was formerly part of ranch lands that were used for livestock grazing and eventually agriculture. The existing residence was constructed in 1956 amongst the orchards that were still active at the bottom of the hill. By 1956, most unused and unwanted items would likely have been disposed of through the municipal waste system rather than being buried on the property. The project site, therefore, has a low sensitivity for buried historic-era archaeological resources.

Historic Resources

Site Context

The project area was part of Rancho Yerba Buena o Socayre, which consisted of 25,000 acres of land south of Pueblo of San José lands. The land was exhaustive, reaching Santa Theresa in the west and the Evergreen foothills to the east. This land was given to Antonio Chaboya, who had come from Mexico, in 1833 by Governor José Figueroa. While part of this land eventually went on to become the settlement of Evergreen, Choboya used the land to raise livestock, particularly cattle and horses.

The Treaty of Guadalupe Hidalgo allowed Choboya to file a claim for his land in 1852, but it was granted years later in 1859. During this waiting period, people began to settle on Choboya's land as many locals did not believe the land was Choboya's. Over 1,000 locals and squatters rebelled when Santa Clara Sherriff John Murphy attempted to evict the squatters in 1861 per Choboya's request. This uprising became known as the Settler's War of 1861. Following the Settler's War of 1861, the land stayed in the Choboya family for several decades. By 1885, the project area had been sold and was part of a 290-acre parcel and was used for agricultural purposes and raising livestock.

During the 1850s and 1860s small farms were popular as Santa Clara Valley's economy was based upon wheat production. Yet, orchards began to dominate the area in the 1970s as the introduction of the transcontinental railroad allowed produce to be transported over long distances. With World War II the defense industry became popular, paving the way for Silicon Valley to emerge leading to an increased population. The changes within the economy account for the project site's land use changes over time.

The existing single-family residence on-site was built in 1956 amongst the orchards that were still active at the bottom of the hill. The original address for the site was 3490 Norwood Ave and was not changed to 3464 Ambum Ave until 1980.

The project site is not located within a Historic Area or District, and there are no historic resources adjacent to the project site. The nearest historic resource to the project site is a residence at 2901 Tolliver Drive, approximately one mile southwest of the project site.[23]

CRHR Evaluation

The existing single-family residence on the project site constructed in 1956 was evaluated for historical significance against the CRHR criteria. The evaluation found that the building at 3464 Ambum Avenue does not appear to be a historical resource under CEQA because no significant events, patterns of history, or important figures in history are associated with the site. Therefore, the site is ineligible under Criterion 1 and Criterion 2. The architecture of the residence does not possess high artistic value, as documented in the Cultural Resources Evaluation prepared by A/HC, because although the design is reminiscent of the Ranch style, the fixtures, materials, and design are inconsistent and aesthetically unsuccessful. Therefore, it would be ineligible under Criterion 3. The property is also ineligible under Criterion 4 as it has a low sensitivity for prehistoric and historic archaeological resources. Therefore, the site is not eligible for the California Register as it does not meet Criteria 1, 2, 3, and 4.

City of San José City Landmark Evaluation

The existing primary residence and the accessory structures on-site were evaluated for historical significance against each of the eight City of San José Landmark Designation criterion. The

[23] City of San José. "City Landmarks." Accessed September 5, 2023. https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/historic-resources/city-landmarks.

evaluation found that the structures on-site are not associated with significant themes of its period such as postwar residential development and suburbanization, do not exemplify distinct aspects of San José's cultural, economic, social, or historic heritage during the postwar period, nor do they portray the environment of a group of people through a distinctive architectural style. In addition, as described above in the discussion regarding CRHR criteria, the structures are not a distinguished example of a 1950s Ranch house in the San José area and the building does not have distinctive, significant, or important architectural qualities. Historical research did not discover any significant historic events occurring at the residence at the house. The architect and builder of the residence are unknown, and the original owners of the residence were not important contributors to local, state, or national culture or history. Based on this discussion, the structures on-site are not eligible for listing as a City of San José Landmark on the City's Historic Resources Inventory because they do not possess sufficient historical, architectural, cultural, aesthetic, or engineering interest or value to be designated as a City Landmark.

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 as 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?

As described in Section 4.5.1.2 Existing Conditions, none of the buildings on-site are eligible as historic resources for listing on the CRHR, or in the San José Historic Resource Inventory as a Candidate City Landmark and is not adjacent to any listed historical resources. Therefore, demolition of the buildings on-site would not impact historical resources 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?

Although the site is not expected to have subsurface archeological resources due to the site's low archaeological sensitivity, the proposed project would have the potential to uncover unrecorded resources during ground disturbance activities. In accordance with General Plan policy ER-10.3, the proposed project would implement the following standard permit condition to reduce or avoid impacts to subsurface cultural resources.

Standard Permit Condition – Archaeological Resources

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

In addition, as further discussed in Section 4.18 Tribal Cultural Resources, the project's construction crew would be required to complete sensitivity training by a qualified Native American representative.

Therefore, the proposed project would have a less than significant impact on subsurface resources by completing sensitivity training, stopping work 50 feet around the find, having the find examined by a qualified archaeologist in consultation with a Native American Tribal representative, and implementing recommendations of the qualified archaeologist to preserve the resource. **(Less than Significant Impact)**

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

While the site is not expected to contain human remains, implementation of the proposed project would have the potential to uncover human remains during ground disturbance activities.

Consistent with General Plan policy ER-10.2, the proposed project would be required to comply with the following standard permit condition.

Standard Permit Condition – Human Remains

- If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site, or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner shall make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner shall contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC shall then designate a Most Likely Descendant (MLD). The MLD shall inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:
    - The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
    - The MLD identified fails to make a recommendation; or
    - The landowner or his authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.

Therefore, the proposed project would have a less than significant impact to human remains by notifying the PBCE and qualified archaeologist in the event of a find and following the protocol outlined in the standard permit condition, which includes the Coroner contacting the NAHC if the remains are believed to be Native American, and reinterring the remains and associated grave goods with appropriate dignity. **(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.

Energy Independence and Security Act

The Energy Independence and Security Act (EISA) of 2007 was established to improve vehicle fuel economy and reduce U.S. dependence on petroleum. The EISA includes provisions to increase the supply of renewable alternative fuel sources by setting a mandatory Renewable Fuel Standard, sets the Corporate Average Fuel Economy standard at 35 miles per gallon for passenger cars and light trucks by the year 2020, and includes grant programs to encourage the development of cellulosic biofuels, plug-in hybrid electric vehicles, and other emerging electric vehicle technologies.[24]

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

[24] United States Department of Energy. "Energy Independence & Security Act of 2007." Accessed August 30, 2023. http://www.afdc.energy.gov/laws/eisa.

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 (California Energy Code), 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.[25] Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.[26]

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. The 2022 CALGreen standards require deployment of additional EV chargers in various building types, including multi-family residential, hotel, and non-residential land uses. They include requirements for both EV capable parking spaces and the installation of EV supply equipment for multi-family residential and nonresidential buildings. The 2022 CALGreen standards also include requirements for both EV readiness and the actual installation of EV chargers. The 2022 CALGreen standards include both mandatory requirements and more aggressive voluntary Tier 1 and Tier 2 provisions.

- CALGreen Tier 1 standards require multi-family developments and hotels with less than 20 units to have 35 percent of the total number of parking spaces EV ready; if there are more than 20 units, 10 percent of the parking spaces must be provided with EV supply equipment. These standards also require 30 percent of total parking spaces to be EV capable and 33 percent of parking spaces to be EV capable with EV supply equipment for non-residential and non-hotel uses.
- CALGreen Tier 2 standards require multi-family developments and hotels with less than 20 units to have 40 percent of the total number of parking spaces EV ready; if there are more than 20 units, 15 percent of the parking spaces must be provided with EV supply equipment. For non-residential and non-hotel uses, 45 percent of total parking spaces require EV capable spaces and 33 percent of parking spaces require EV capable spaces provided with EV supply equipment.

[25] California Building Standards Commission. "California Building Standards Code." Accessed August 30, 2023. https://www.dgs.ca.gov/BSC/Codes#@ViewBag.JumpTo.
[26] California Energy Commission (CEC). "2022 Building Energy Efficiency Standards." Accessed August 30, 2023. https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2022-building-energy-efficiency

CALGreen also requires new construction and demolition projects to have a diversion of at least 65 percent of the construction waste generated. CALGreen also allows a disposal reduction option that can be met when the project's disposal rate is 2.0 pounds per square foot or less for non-residential and high-rise residential construction or 3.4 pounds per square foot or less for low-rise residential construction.

Advanced Clean Cars Program

CARB adopted the Advanced Clean Cars II program in 2022 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 2026 through 2035. The program promotes development of environmentally superior passenger cars and other vehicles, as well as saving the consumer money through fuel savings.[27]

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)
- San José Clean Energy (SJCE) will provide 100-percent carbon-free base power by 2021
- One gigawatt of solar power will be installed in San José by 2040
- 61 percent of passenger vehicles will be powered by electricity by 2030

Sustainable City Strategy

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

City of San José Reach Building Code

In 2019, the San José City Council approved Ordinance No. 30311 and adopted the Reach Code Ordinance (Reach Code) to reduce energy related GHG emissions consistent with the goals of Climate Smart San José. The Reach Code applies to new construction projects in San José. It requires

[27] California Air Resources Board. "Advanced Clean Cars II." Accessed August 30, 2023. https://ww2.arb.ca.gov/our-work/programs/advanced-clean-cars-program/advanced-clean-cars-ii

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 Rating and be electrification ready. In addition, the Reach Code requires EV charging infrastructure for all building types (above current mandatory CalGreen requirements), and solar readiness for non-residential buildings.

Municipal Code

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

Envision San José 2040 General Plan

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

Policy	Description
MS-1.1	Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City's Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into design and construction.
MS-2.3	Utilize solar orientation, (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer installed residential development unless for recreation or other area functions.
MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
MS-6.5	Reduce the amount of waste disposed in landfills through waste prevention, reuse, and recycling of materials at venues, facilities, and special events.
MS-6.8	Maximize reuse, recycling, and composting citywide.
MS-14.2	Enhance existing neighborhoods by adding a mix of uses that facilitate biking, walking, or transit ridership through improved access to shopping, employment, community services, and gathering places.
MS-14.3	Consistent with the California Public Utilities Commission's California Long Term Energy Efficiency Strategy Plan, as revised and when technological advances make it feasible, require all new residential and commercial construction to be designed for zero net energy use.
MS-14.4	Implement the City's Green Building Policies (see Green Building Section) so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, and passive solar building design and planting of trees and other landscape materials to reduce energy consumption.

Policy	Description
MS-17.2	Ensure that development within San José is planned and built in a manner consistent with fiscally and environmentally sustainable use of current and future water supplies by encouraging sustainable development practices, including low-impact development, water-efficient development, and green building techniques. Support the location of new development within the vicinity of the recycled water system and promote expansion of the South Bay Water Recycling (SBWR) system to areas planned for new development. Residential development outside of the Urban Service Area can be approved only at minimal levels and only allowed to use non-recycled water at urban intensities. For residential development outside of the Urban Service Area, restrict water usage to well water, rainwater collection, or other similar sustainable practice. Non-residential development may use the same sources and potentially make use of recycled water, provided that its use will not result in conflicts with other 2040 General Plan policies, including geologic or habitat impacts. To maximize the efficient and environmentally beneficial use of water, outside of the Urban Service Area, limit water consumption for new development so that it does not diminish the water supply available for projected development in areas planned for urban uses within San José or other surrounding communities.
MS-18.5	Reduce citywide per capita water consumption by 25 percent by 2040 from a baseline established using the 2010 Urban Water Management Plans of water retailers in San José.
MS-18.6	Achieve by 2040, 50 million gallons per day of water conservation savings in San José, by reducing water use and increasing water use efficiency.
IN-5.3	Use solid waste reduction techniques, including source reduction, reuse, recycling, source separation, composting, energy recovery and transformation of solid waste to extend the life span of existing landfills and to reduce the need for future landfill facilities and to achieve the City's Zero Waste goals.
TR-1.4	Through the entitlement process for new development, fund needed transportation improvements for all modes, giving first consideration to improvement of bicycling, walking, and transit facilities. Encourage investments that reduce vehicle travel demand.
TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.

4.6.1.2 *Existing Conditions*

Total energy usage in California was approximately 6,278.7 trillion British thermal units (Btu) in the year 2021, the most recent year for which this data was available.[28] Out of the 50 states, California is ranked second in total energy consumption and 49th in energy consumption per capita. The breakdown by sector was approximately 20 percent (14,732.2 trillion Btu) for residential uses, 19 percent (1,396.7 trillion Btu) for commercial uses, 23.2 percent (1,704.4 trillion Btu) for industrial uses, and 37.8 percent (2,785 trillion Btu) for transportation.[29] This energy is primarily supplied in the form of natural gas, petroleum, nuclear electric power, and hydroelectric power.

[28] United States Energy Information Administration. "State Profile and Energy Estimates, 2020." Accessed August 30, 2023. https://www.eia.gov/state/?sid=CA#tabs-2.
[29] United States Energy Information Administration. "State Profile and Energy Estimates, 2020." Accessed August 30, 2023. https://www.eia.gov/state/?sid=CA#tabs-2.

Electricity

Electricity in Santa Clara County in 2021 was consumed primarily by the non-residential sector (74 percent), followed by the residential sector consuming 23 percent. In 2021, a total of approximately 16,904 gigawatt hours (GWh) of electricity was consumed in Santa Clara County.[30]

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

Electricity demand on-site is generated by the existing residence and accessory structures.

Natural Gas

PG&E provides natural gas services within the City of San José. In 2022, California's natural gas supply came from a combination of in-state production and imported supplies from other western states and Canada.[31] In 2021 residential and commercial customers in California used 33 percent of the state's natural gas, power plants used 0.01 percent, the industrial sector used 33 percent.[32] In 2021, Santa Clara County used less than one percent of the state's total consumption of natural gas.[33]

Natural gas demand on-site is generated by appliances in the existing residence.

Fuel for Motor Vehicles

In 2022, California produced 124 million barrels of crude oil and in 2019, 15.4 billion gallons of gasoline were sold in California. [34, 35] 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

[30] California Energy Commission. Energy Consumption Data Management System. "Electricity Consumption by County." Accessed August 30, 2023. http://ecdms.energy.ca.gov/elecbycounty.aspx.
[31] California Gas and Electric Utilities. "2022 California Gas Report." Accessed August 30, 2023. https://www.socalgas.com/sites/default/files/Joint_Utility_Biennial_Comprehensive_California_Gas_Report_2022.pdf.
[32] United States Energy Information Administration. "Natural Gas Consumption by End Use. 2021." Accessed August 30, 2023. https://www.eia.gov/state/?sid=CA#tabs-2.
[33] California Energy Commission. "Natural Gas Consumption by County." Accessed August 30, 2023. http://ecdms.energy.ca.gov/gasbycounty.aspx.
[34] U.S. Energy Information Administration. "Petroleum & Other Liquids, California Field Production of Crude Oil." February 28, 2023. https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=pet&s=mcrfpca1&f=a
[35] California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed August 30, 2023. https://www.cdtfa.ca.gov/dataportal/dataset.htm?url=VehicleTaxableFuelDist.

miles per gallon (mpg) in the mid-1970s to 25.4 mpg in 2021.[36] 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 April 2022 to require all cars and light duty trucks achieve an overall industry average fuel economy of 49 mpg by model year 2026. [37, 38]

The demand for motor vehicle fuel on-site is generated by residents and visitors of the current structures.

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?

Construction

The proposed project would be constructed over a period of 14 months. Construction activities would include demolition, site preparation, grading, trenching, paving, architectural coating, and building construction. The overall construction schedule and process is already designed to be efficient in order to avoid excess monetary costs. That is, equipment and fuel would not be used wastefully on the site because of the added expense associated with renting the equipment, maintaining it, and fueling it. Therefore, the opportunities for future efficiency gains during construction are limited. In addition, the project would include the use of Tier 4 construction equipment and would be subject to the City's construction-related air quality standard permit

[36] United States Environmental Protection Agency. "The 2022 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." December 2022. https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P1010U68.pdf

[37] United States Department of Energy. "Energy Independence & Security Act of 2007." Accessed August 30, 2023. http://www.afdc.energy.gov/laws/eisa.

[38] United States Department of Transportation. "USDOT Announces New Vehicle Fuel Economy Standards for Model Year 2024-2026." Accessed August 30, 2023. https://www.nhtsa.gov/press-releases/usdot-announces-new-vehicle-fuel-economy-standards-model-year-2024-2026

condition, which would restrict equipment idling times to five minutes or less and require the applicant to post signs on the project site reminding workers to shut off idle equipment and ensure construction equipment are properly maintained and tuned in accordance with manufacturer's specifications. Therefore, construction of the proposed project would not consume energy in a manner that is wasteful, inefficient, or unnecessary. **(Less than Significant Impact)**

Operation

The proposed project would use approximately 24,740 kwh/year of electricity and would meet the City's Reach Code of being all-electric. The project, therefore, would not use natural gas. The project would provide solar photovoltaic system with an electrical output that is equal to or greater than the dwelling's annual electrical usage, install low-flow fixtures and appliances, comply with the state's Model Water Efficient Landscape Ordinance and City's Water Efficient Landscape Ordinance, and be constructed in accordance with the current energy efficient regulations including the California Energy Code, CALGreen, and City's Green Building Ordinance for single-family residential development. In addition, the project is located in an infill location already served by existing infrastructure. Therefore, the proposed project would not consume energy in a manner that is wasteful, inefficient, or unnecessary. **(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 result in marginal changes to energy consumption for the City. As discussed above, the proposed project would provide solar photovoltaic system (consistent with Climate Smart San José), install low-flow fixtures and appliances (consistent with CALGreen and the CBC), comply with the state's Model Water Efficient Landscape Ordinance and City's Water Efficient Landscape Ordinance by planting drought-tolerant landscaping and installing high-efficiency irrigation, and be constructed in accordance with the current energy efficient regulations including the California Energy Code, CALGreen, and City's Green Building Ordinance for single-family residential development. For these reasons, the project would not conflict with or obstruct state or local plans for renewable energy or energy efficiency. **(Less than Significant Impact)**

4.7 Geology and Soils

The following discussion is based on a Geotechnical Engineering Report and Limited Geologic Evaluation prepared by Earth Systems Pacific dated August 17, 2022. A copy of this report is included in Appendix C of this Initial Study.

4.7.1 Environmental Setting

4.7.1.1 *Regulatory Framework*

State

Alquist-Priolo Earthquake Fault Zoning Act

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

Seismic Hazards Mapping Act

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

California Building Standards Code

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

California Division of Occupational Safety and Health Regulations

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

Public Resources Code Section 5097.5

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. They range from mammoth and dinosaur bones to impressions of ancient animals and plants, trace remains, and microfossils. These 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 the following policies that are specific to geology and soils and applicable to the proposed project.

Policy	Description
EC-3.1	Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.
EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended
EC-4.2	Development in areas subject to soils and geologic hazards, including engineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjacent properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.
EC-4.4	Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
EC-4.5	Ensure that any development activity that requires grading does not impact adjacent properties, local creeks, and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any new grading occurring between October 15 and April 15.

Policy	Description
EC-4.11	Require the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards and require review and implementation of mitigation measures as part of the project approval process.
EC-4.12	Require review and approval of grading plans and erosion control plans (if applicable) prior to issuance of grading permits by the Director of Public Works.
ES-4.9	Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.

Municipal Code

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

4.7.1.2 *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 west, and the Diablo Range to the east. 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 Geology

Topography and Soils

The project site is located on a hill with slopes ranging from 16 to 38 degrees on the sides of the hill. The hilltop on-site is generally graded flat for the existing structures. Elevations on-site range from 308 feet above mean sea level (amsl) at the bottom of the slope and 358 feet amsl at the top of the hill. The project site is generally underlain by sandy lean clay and clayey sand colluvial soils over weathered bedrock of the Panoche Formation (Kpc). The layers of colluvial soils ranged from one to five feet thick and are generally very stiff to hard with a moderate expansion potential. Soils beneath this layer consisted of clayey sand, sandy clay, and clayey gravel. Soils below the ground surface were tested for plasticity and expansion potential. The near surface soils underneath the project site were found to have a Plasticity Index of ranging from 20 to 23 and a moderate to high shrinkage/swelling potential.[39]

[39] Earth Systems Pacific. *Geotechnical Engineering Report and Limited Geologic Evaluation Proposed Four-Lot Subdivision 3464 Ambum Avenue*. August 17, 2022. Page 11.

Groundwater

The subsurface investigation completed as part of the geotechnical study prepared for the project site did not encounter any groundwater. The investigation reached depths of approximately 25 feet below ground surface (bgs). However, historic high depth to groundwater level is reported to be approximately 10 to 20 feet bgs within the vicinity of the project site. Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall, underground patterns, and other factors.

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 severe ground shaking is expected to occur at the project site during a major earthquake.

The project area is not located within the Alquist-Priolo Earthquake Fault Zone and no active faults have been mapped on-site; therefore, the risk of rupture is low.[40] The nearest active fault to the project site is the Evergreen fault, which is considered part of the Hayward fault, and is located approximately 0.3-mile southwest of the site.

Liquefaction

Liquefaction occurs when water-saturated soils lose structural integrity due to seismic activity. Soils that are most susceptible to liquefaction are loose to moderately dense, saturated granular soils with poor drainage. The project site is not located within a state- or county-designated liquefaction hazard zone.[41]

Lateral Spreading

Lateral spreading is a type of ground failure related to liquefaction. It consists of the horizontal displacement of flat-lying alluvial material toward an open area, such as a steep bank of a stream channel. Areas of San José most prone to lateral spreading include lands adjacent to the steep banks of Guadalupe River and Coyote Creek.[42] The project site is not located near any waterways with steeply sloping banks where there is potential for lateral spreading.

[40] California Department of Conservation. "Earthquake Zones of Required Investigation." Accessed October 22, 2023. https://maps.conservation.ca.gov/cgs/EQZApp/app/.
[41] Ibid.
[42] City of San José. *Integrated Final Program Environmental Impact Report for the Envision San José 2040 General Plan.* SCH# 2009072096. September 2011. Page 518.

Landslides

Landslides occur when the stability of a slope changes from a stable to an unstable condition. The site is within a state- and county-designated landslide hazard zone. However, there have been no recorded landslides on or near the site on the State Landslide Inventory Map for the San José East Quadrangle.[43] In addition, the site reconnaissance on July 1, 2022, completed as part of the geotechnical engineering report did not observe signs of landslide or slope instability.

Paleontological Resources

Most of the site is underlain by the Upper Cretaceous Panoche Formation conglomerate. The Upper Cretaceous period has undetermined sensitivity for paleontological resources.[44]

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 will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☒	☐

[43] Earth Systems Pacific. *Geotechnical Engineering Report and Limited Geologic Evaluation Proposed Four-Lot Subdivision 3464 Ambum Avenue*. August 17, 2022. Page 4.
[44] City of San José. *Integrated Final Program Environmental Impact Report for the Envision San José 2040 General Plan.* SCH# 2009072096. September 2011. Appendix J-3.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
d) Be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property?	☐	☐	☒	☐
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒
f) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?	☐	☐	☒	☐

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

Fault Rupture

As discussed in Section 4.7.1.2, the project site is not located within an Alquist-Priolo Earthquake Fault Zone or a Santa Clara County Fault Rupture Hazard Zone, making fault rupture at the site unlikely. While existing faults are located within three miles of the site (e.g., Evergreen Fault), the project site is outside of the fault zone. As a result, significant impacts from fault ruptures are not anticipated to occur. **(Less than Significant Impact)**

Seismic Ground Shaking

In accordance with the City's General Plan and Municipal Code, and to avoid or minimize potential damage from seismic shaking, the proposed development would be built using standard engineering and seismic safety design techniques. The building foundation design would incorporate liquefaction control measures. The project shall implement the following standard permit condition as a condition of approval for the project.

Standard Permit Condition – Seismic Safety Design

- To avoid or minimize potential damage from seismic shaking, the project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed

and approved by the City of San José Department of Public Works as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.

With implementation of the identified standard permit condition, the proposed project would not expose people or structures to substantial adverse effects due to ground shaking nor would the project exacerbate existing geological hazards on the project site such that it would impact (or worsen) off-site geological and soil conditions, because the project would be built using standard engineering and seismic safety design techniques and recommendations from a site-specific geotechnical investigation would be implemented. **(Less than Significant Impact)**

Liquefaction

The project site is not located in a State Seismic Hazard Zone for Liquefaction. As such, the risk of liquefaction at the site is low and implementation of the proposed project would have a less than significant impact. **(Less than Significant Impact)**

Landslides

As discussed under Section 4.7.1.2, the site is within a state- and county-designated seismic hazard zone for earthquake-induced landslides. For this reason, limited geologic evaluation of the site and quantitative slope stability analysis across the eastern portion of the project was completed as part of the geotechnical engineering report. The analysis found that while the site is in a landslide hazard zone, no landslides were mapped or observed on or adjacent to the project site, the site lies on a dense bedrock-supported topographic knoll, and the design slopes would be stable under static and seismic conditions. Refer to Appendix C for further details on the slope stability analysis. As discussed above, the geotechnical engineering report prepared for the project shall be reviewed and approved by the City Department of Public Works and the project shall be constructed using standard engineering and seismic safety design techniques and build to current building and fire codes. With implementation of the above standard permit condition, and conformance to building and fire codes, the proposed project would not expose people or structures to adverse effects due to naturally occurring or earthquake-induced landslides. **(Less than Significant Impact)**

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

Ground disturbance from the proposed project would occur during excavation and grading of the site, potentially resulting in an increased exposure of soil to wind and water erosion. General Plan Action EC-4.5 requires an Erosion Control Plan for 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. The proposed development would disturb one acre or more of soil and is located on a hillside,

therefore, it would be required to complete and implement an Erosion Control Plan in conformance with the General Plan Policy EC-4.5.

The 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.[45] 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 – Construction Related Erosion

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

Conformance with applicable policies and permit requirements would ensure that the project is designed to properly account for soils-related hazards on the site. And would not substantially increase soil erosion on-site or contribute to the loss of topsoil. **(Less than Significant Impact)**

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

Lateral spreading typically occurs as a form of horizontal displacement of relatively flat-lying soil toward an open or "free" face such as an open body of water, channel, or excavation. This movement is often associated with liquefaction and commonly occurs on gentle slopes in seismically active regions. Lateral spreading presents a significant hazard to the integrity of buildings and other structures. As mentioned previously, the project site is located within a State Seismic Hazard Zone for Landslides and the potential for liquefaction is low as the site is not within a seismic zone for earthquake-induced liquification. The proposed project would be required to use standard engineering and seismic safety design techniques during project construction. Additionally, the project would be required to comply with the standard permit condition identified above, which requires the project to be constructed in conformance with a site-specific geotechnical investigation. As a result, the proposed project would not be located on a geologic unit or soil that is unstable or would become unstable as a result of the project. **(Less than Significant Impact)**

[45] City of San José. *Integrated Final Program Environmental Impact Report for the Envision San José 2040 General Plan.* SCH# 2009072096. September 2011. Page 529.

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?

As discussed in Section 4.7.1.2, the soils on-site have moderate to high shrinkage/swelling potential. Expansive soils are soils that expand when water is added and shrink when dried out, a characteristic of soil that is defined as its "shrink-swell potential." This continuous change in soil volume can lead to long-term foundation problems in buildings as the soil is exposed to moisture over the course of many years. While the soils at the project site are expansive, conformance to the current building and fire codes would ensure that foundation design adequately addresses the potential hazards posed by expansive soils on-site. Therefore, the project would not create substantial risks to life and property due to 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 project would connect to the City of San José's sewer system for disposal of all on-site wastewater. There is an existing six-inch sanitary sewer line located in Ambum Avenue that currently serves the project site and adjacent residential uses. The proposed project would make lateral connections to the existing sewer infrastructure. No septic tanks or alternative wastewater disposal systems are included as a part of the project; therefore, disposal of wastewater would not be significantly impacted by the soils on-site. **(No Impact)**

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

The project site has unknown sensitivity for paleontological resources. Construction of the project would excavate up to five feet bgs. As such, construction activities may result in the destruction or disturbance of paleontological resources, which could convey important cultural/historical information. The following standard permit condition is included in the project to reduce and avoid impacts to as yet unidentified paleontological resources during grading and excavation activities.

Standard Permit Condition – Paleontological Resources

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

A report of all findings shall be submitted to the Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement.

With implementation of the standard permit condition above, the proposed project would result in a less than significant impact to paleontological resources by stopping if vertebrate fossils are found, attain a qualified paleontologist to assess the find, and implement the recommendations of the qualified paleontologist to preserve the resource. **(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 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. The first Scoping Plan was approved by CARB in 2008 and must be updated at least every five years. Since 2008, there have been two updates to the Scoping Plan.

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 $MMTCO_2e$.

2022 Scoping Plan

On December 15, 2022, CARB approved the 2022 Scoping Plan. The 2022 Scoping Plan provides a sector-by-sector guide on how to reduce man-made (i.e., anthropogenic) GHG emissions by 85 percent below 1990 levels and achieve carbon neutrality by 2045 over a 25-year horizon.[46] The primary focus of the 2022 Scoping Plan is to reduce the usage of fossil fuels by electricizing the transportation sector, procuring electricity from renewable resources, phasing out natural gas in land use developments, and building transit-oriented communities that encourage multi-modal transportation. If implemented successfully, the 2022 Scoping Plan would not only reduce GHG emissions but also reduce smog-forming air pollution (NO_x) by 71 percent and reduce fossil fuel demand by 94 percent. The 2022 Scoping Plan also details natural carbon capture and storage process along with mechanical carbon capture programs to address the remaining 15 of anthropogenic GHG emissions that will remain post-2045. To meet these goals, CARB also includes a revised goal of reducing state GHG emissions 48 percent below 1990 levels by 2030.

Senate Bill 375 and Plan Bay Area 2050

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 Bay Area include a seven percent reduction by 2020 and a 15 percent reduction by 2035.

[46] CARB. *2022 Scoping Plan for Achieving Carbon Neutrality*. November 16, 2022. Page 5.

Consistent with the requirements of SB 375, the Metropolitan Transportation Commission (MTC) partnered with the Association of Bay Area Governments (ABAG), BAAQMD, and the Bay Conservation and Development Commission to prepare the region's Sustainable Communities Strategy (SCS) as part of the Regional Transportation Plan process. The SCS is referred to as Plan Bay Area 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.[47]

Play Bay Area 2050 includes a goal to increase the number of households that live within 0.5 mile of frequent transit by 2050. Plan Bay Area 2050 promotes strategies that support active and shared modes, combined with a transit-supportive land use patterns, which together are forecasted to lower the share of Bay Area residents that drive to work alone from 50 percent in 2015 to 33 percent in 2050, resulting in a decrease in GHG emissions. Plan Bay Area 2050 also includes goals to expand TDM initiatives that support and augment employers' commute programs, providing a path to emissions reductions.

SB 100

SB 100, known as The 100 Precent Clean Energy Act of 2018, was adopted on September 10, 2018. The overall goal is to have all retail electricity sold in California be procured from 100 percent renewable and zero-carbon resources by the year 2045. SB 100 also modified the renewables portfolio standard to 50 percent by 2025 and 60 percent by 2030.

Executive Order B-55-18 and Assembly Bill 1279

Executive Order B-55-18 was issued in September 2018. It ordered a new statewide goal of achieving carbon neutrality no later than 2045 and to maintain net negative emissions thereafter.

Assembly Bill 1279, also known as the California Climate Crisis Act, was approved on September 16, 2022 and codifies the statewide goal set by Executive Order B-55-18 of achieving net zero GHG emissions no later than the year 2045 and maintaining net negative emissions thereafter. In addition, this bill has a statewide goal of reducing anthropogenic GHG emissions by 85 percent below the 1990 levels by the year 2045. The bill requires CARB to work with relevant state agencies to ensure that updates to the scoping plan identify and recommend measures to achieve these policy goals and strategies that enable CO_2 removal solutions and carbon capture, utilization, and storage technologies in California are implemented. The bill requires CARB to submit an annual report.

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

Advanced Clean Cars II Regulation

To continue reducing air pollutants and GHG emissions in the transportation sector, CARB adopted the Advanced Clean Cars II Regulations (Resolution 22-12) on August 25, 2022. The new regulation requires that by 2035 all new passenger cars, trucks, and SUVs sold in California will be zero emissions. This regulation bans the sale of new gasoline or diesel passenger cars, trucks, and SUVs in California from automakers. Beginning in the 2026, 35 percent of new vehicle sales must be zero-emission vehicles and plug-in hybrid electric vehicles and that percentage will increase per year. By 2030, 70 percent of new vehicle sales will be zero-emissions vehicles and by the 2035 model year 100 percent of new vehicle sales will be zero-emissions. CARB will limit the use of plug-in hybrid electric vehicles in the percentage requirements to keep the manufacturing of zero-emissions as the primary goal. Existing gasoline cars can continue to be driven and sold as used cars beyond 2035. CARB is required to track and report on the zero-emissions vehicle market development annually.

California Building Standards Code – Title 24 Part 11 and Part 6

The CALGreen Code is part of the California Building Standards Code under Title 24, Part 11.[48] The CALGreen Code encourages sustainable construction standards that incorporate planning/design, energy efficiency, water efficiency resource efficiency, and environmental quality. These green building standard codes are mandatory statewide and are applicable to residential and non-residential developments. The most recent CALGreen Code (2022 CALGreen Code) was effective as of January 1, 2023.

The California Building Energy Efficiency Standards (California Energy Code) is under Title 24, Part 6 and is overseen by the CEC. This code includes design requirements to conserve energy in new residential and non-residential developments. The California Energy Code is enforced and verified by cities during the planning and building permit process. The 2022 Energy Code replaced the 2019 Energy Code as of January 1, 2023. There are new 2022 standards for single-family residences, multi-family residences, and non-residential uses.[49,50,51] Major changes include electric-ready single-family and multi-family residence and solar photovoltaic systems and energy storage systems for residential and commercial developments.

Requirements for electric vehicle (EV) charging infrastructure are set forth in Title 24 of the California Code of Regulations and are regularly updated on a three-year cycle. The CALGreen standards consist of a set of mandatory standards required for new development, as well as two

[48] California Building Standards Commission. "CALGreen." Accessed October 30, 2023. https://www.dgs.ca.gov/BSC/CALGreen.
[49] California Energy Commission. "2022 Building Energy Efficiency Standards What's New for Single-Family Residential." Revised July 15, 2022. Accessed August 30, 2023. https://www.energy.ca.gov/sites/default/files/2022-08/2022_Single-family_Whats_New_Summary_ADA.pdf.
[50] California Energy Commission. "2022 Building Energy Efficiency Standards What's New for Multifamily." Revised August 4, 2022. Accessed August 30, 2023. https://www.energy.ca.gov/sites/default/files/2022-08/2022_Multifamily_Whats_new_Summary_ADA.pdf.
[51] California Energy Commission. "2022 Building Energy Efficiency Standards What's New for Nonresidential." Revised August 4, 2022. Accessed August 30, 2023. https://www.energy.ca.gov/sites/default/files/2022-08/2022_Nonresidential_Whats_New_Summary_ADA.pdf.

more voluntary standards known as Tier 1 and Tier 2. The 2022 CALGreen standards require deployment of additional EV chargers in various building types, including multi-family residential, hotel, and non-residential land uses. They include requirements for both EV capable parking spaces and the installation of EV supply equipment for multi-family residential and nonresidential buildings. The 2022 CALGreen standards also include requirements for both EV readiness and the actual installation of EV chargers. The 2022 CALGreen standards include both mandatory requirements and more aggressive voluntary Tier 1 and Tier 2 provisions:

- CALGreen Tier 1 standards require multi-family developments and hotels with less than 20 units to have 35 percent of the total number of parking spaces EV ready; if there are more than 20 units, 10 percent of the parking spaces must be provided with EV supply equipment. These standards also require 30 percent of total parking spaces to be EV capable and 33 percent of parking spaces to be EV capable with EV supply equipment for non-residential and non-hotel uses.
- CALGreen Tier 2 standards require multi-family developments and hotels with less than 20 units to have 40 percent of the total number of parking spaces EV ready; if there are more than 20 units, 15 percent of the parking spaces must be provided with EV supply equipment. For non-residential and non-hotel uses, 45 percent of total parking spaces require EV capable spaces and 33 percent of parking spaces require EV capable spaces provided with EV supply equipment.

CALGreen also requires new construction and demolition projects to have a diversion of at least 65 percent of the construction waste generated. CALGreen also allows a disposal reduction option that can be met when the project's disposal rate is 2.0 pounds per square foot or less for non-residential and high-rise residential construction or 3.4 pounds per square foot or less for low-rise residential construction.

Regional and Local

2017 Clean Air Plan

To protect the climate, the 2017 Clean Air Plan 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.

BAAQMD CEQA Thresholds for Evaluating Climate Impacts from Land Use Projects and Plans

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 will have a significant impact on climate change and provides the substantial evidence to support these thresholds. The April 2022 GHG thresholds are reflected in the 2022 CEQA Air Quality Guidelines and represent what is required of new land use development projects and plans to achieve California's long-term climate goal of carbon neutrality by 2045.

Envision San José 2040 General Plan

The General Plan includes the following GHG policies applicable to the proposed project.

Policy	Description
MS-2.11	Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize the effectiveness of passive solar design).
MS-14.4	Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy system, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.
CD-3.2	Prioritize pedestrian and bicycle connections to transit, community facilities (including schools), commercial areas, and other areas serving daily needs. Ensure that the design of new facilities can accommodate significant anticipated future increases in bicycle and pedestrian activity.

City of San José Reach Building Code

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

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)
- San José Clean Energy (SJCE) will provide 100-percent carbon-free base power by 2021
- One gigawatt of solar power will be installed in San José by 2040
- 61 percent of passenger vehicles will be powered by electricity by 2030

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 SB 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, multi-modal 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.

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.

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?	☐	☐	☒	☐

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?

Global climate change is by its very nature a cumulative impact. BAAQMD adopted GHG thresholds of significance to assist in the review of projects under CEQA. These thresholds were designed to establish the level at which BAAQMD has determined that GHG emissions would cause significant environmental impacts and achieve the state's emission reduction target. The GHG emission thresholds identified by BAAQMD are qualitative thresholds with the project either incorporating specific project design features or demonstrating compliance with a qualified GHG reduction strategy. The City's 2030 GHGRS is a qualified GHG reduction strategy that is designed to meet statewide GHG reduction targets for 2030 set by SB 32. Therefore, the latter BAAQMD threshold is used. Projects that comply with the policies and strategies outlined in the 2030 GHGRS would have less than significant GHG impacts 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. These strategies include 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 discussed below.

The proposed project is consistent with the Land Use/Transportation Diagram designation of General Plan. The proposed project also incorporates all applicable mandatory measures of the GHGRS. The project would be required to have a solar photovoltaic system with an electrical output that is equal to or greater than the dwelling's annual electrical usage. The proposed project would comply 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). Additionally, the project would include low-flow fixtures and energy-efficient appliances. Lastly, the project would be constructed in accordance with the latest California Energy Code, CALGreen, and the City's Green Building Ordinance for single-family residential developments. Refer to Appendix D for a copy of the GHGRS compliance checklist for the project.

Since the project would comply with the GHGRS checklist, the project would not result in a significant impact to GHG emissions. Therefore, the project would not result in a cumulatively considerable contribution to a significant cumulative GHG emissions impact. **(Less than Significant Impact)**

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

Envision San José 2040 General Plan

The project is consistent with General Plan policies MS-2.11, MS-14.4, and CD-3.2 to reduce GHG emissions by constructing the project in accordance with the current California Energy Code, CALGreen, San José Green Building Ordinance, and state and local water-efficient landscaping ordinance requirements. The project would comply with these regulations by installing water-efficient fixtures and energy-efficient appliances, including solar photovoltaic panels on the roof of each residence, and planting drought-tolerant landscaped areas with high-efficiency irrigation. In addition, the project would maintain the existing sidewalk on Ambum Avenue which would maintain existing pedestrian connections in the neighborhood. **(Less than Significant Impact)**

GHGRS

See checklist question a) above for project's consistency with the GHGRS. **(Less than Significant Impact)**

Climate Smart San José

The proposed four, single-family residences would increase development on a site in an existing developed residential neighborhood. The project would be required to have a solar photovoltaic system with an electrical output that is equal to or greater than the dwelling's annual electrical usage. The proposed project would comply 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) Additionally, the project would include low-flow fixtures and energy-efficient appliances. Lastly, the project would be constructed in accordance with the latest California Energy Code, CALGreen, and the City's Green Building Ordinance for single-family residential developments. For these reasons, the project would be consistent with the Climate Smart San José. **(Less than Significant Impact)**

4.9 Hazards and Hazardous Materials

The following discussion is based on a Phase I Environmental Site Assessment (ESA) prepared by Silicon Valley Environmental Group, Inc. dated October 30, 2022. A copy of the report is included as Appendix E of this Initial Study.

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 most enforcement authority over federal hazardous materials regulations to the California Environmental Protection Agency (CalEPA). In turn, local agencies have been granted responsibility for implementation and enforcement of many hazardous materials regulations under the Certified Unified Program Agency (CUPA) program.

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

Federal and State

Federal Aviation Regulations Part 77

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

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.[52]

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

[52] United States Environmental Protection Agency. "Superfund: CERCLA Overview." Accessed August 30, 2023. https://www.epa.gov/superfund/superfund-cercla-overview.

authority for the EPA, more stringent hazardous waste management standards, and a comprehensive underground storage tank program.[53]

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).[54]

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

[53] United States Environmental Protection Agency. "Summary of the Resource Conservation and Recovery Act." Accessed August 30, 2023. https://www.epa.gov/laws-regulations/summary-resource-conservation-and-recovery-act.
[54] California Environmental Protection Agency. "Cortese List Data Resources." Accessed August 30, 2023. https://calepa.ca.gov/sitecleanup/corteselist/.

uses of asbestos products.[55] The EPA is currently considering a proposed ban on on-going use of asbestos.[56] National Emission Standards for Hazardous Air Pollutants (NESHAP) guidelines require that potentially friable ACMs be removed prior to building demolition or remodeling that may disturb the ACMs.

CCR Title 8, Section 1532.1

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

Regional and Local

Municipal Regional Permit Provision C.12.f

Polychlorinated biphenyls (PCBs) were produced in the United States between 1955 and 1978 and used in hundreds of industrial and commercial applications, including building and structure materials such as plasticizers, paints, sealants, caulk, and wood floor finishes. In 1979, the EPA banned the production and use of PCBs due to their potential harmful health effects and persistence in the environment. PCBs can still be released to the environment today during demolition of buildings that contain legacy caulks, sealants, or other PCB-containing materials.

With the adoption of the San Francisco Bay Region Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit (MRP) by the San Francisco Bay Regional Water Quality Control Board on November 19, 2015, Provision C.12.f requires that permittees develop an assessment methodology for applicable structures planned for demolition to ensure PCBs do not enter municipal storm drain systems.[57] Municipalities throughout the Bay Area are currently modifying demolition permit processes and implementing PCB screening protocols to comply with Provision C.12.f. Buildings constructed between 1950 and 1980 that are proposed for demolition must be screened for the presence of PCBs prior to the issuance of a demolition permit. Single-family residences and wood-frame structures are exempt from these requirements.

[55] United States Environmental Protection Agency. "EPA Actions to Protect the Public from Exposure to Asbestos." Accessed August 30, 2023. https://www.epa.gov/asbestos/epa-actions-protect-public-exposure-asbestos

[56] Ibid.

[57] California Regional Water Quality Control Board. *San Francisco Bay Region Municipal Regional Stormwater NPDES Permit.* November 2015.

Envision San José 2040 General Plan

The General Plan includes the following hazards and hazardous materials policies applicable to the proposed project.

Policy	Description
EC-7.1	For development and redevelopment projects, require evaluation of the proposed site's historical and present use 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 ground water contamination shall be designed to avoid adverse human health and environmental risk, in conformance with regional, state, and federal laws, regulations, guidelines and standards.
EC-7.5	In development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and State requirements.
EC-7.8	When an environmental review process identifies the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce impacts to human health and safety and to the environment are required of or incorporated into the projects. This applies to hazardous materials found in the soil, groundwater, soil vapor, or in existing structures.
EC-7.9	Ensure coordination with the County of Santa Clara Department of Environmental Health, Regional Water Quality Control Board, Department of Toxic Substances Control or other applicable regulatory agencies, as appropriate, on projects with contaminated soils and/or groundwater or where historical or active regulatory oversight exits.
EC-7.10	Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation of dispersion of dust and sediment runoff.
EC-7.11	Require sampling for residual agricultural chemicals, based on the history of land use, on sites to be used for any new development or redevelopment to account for worker and community safety during construction. Mitigation to meet appropriate end use such as residential or commercial/industrial shall be provided.
TR-14.2	Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards navigation.

City of San José Emergency Operations Plan

The City of San José Emergency Operations Plan (EOP) was adopted in February 2019. The EOP identifies emergency response policies, describes the response and recovery organization, and assigns specific roles and responsibilities to City departments, agencies, and community partners in a way that allows the EOP to be used for all emergencies that could occur within the City.

4.9.1.2 *Existing Conditions*

The site is currently developed with a one single-family residence, six accessory structures, and landscaping, and is surrounded by single-family residential development. Prior to the existing use, the land in the surrounding area was used for agricultural production and single-family residences. The current residential use on-site includes typical residential activities, such as the use and storage of household cleaning supplies and maintenance chemicals in small quantities.

Historic Uses of the Project Site

Review of aerial photographs, maps, and title documents indicate that the project site and immediate vicinity were mostly undeveloped with sparse residential buildings in outer-lying areas through the end of the 19th century and beginning of the 20th century. Most of the property was likely used as livestock grazing pasture until the 1940s, when orchards were planted on portions of the site and surrounding properties. The main residential building on-site was constructed in 1956, and agricultural uses continued on-site and in the vicinity through the 1980s. The remaining accessory structures on-site were constructed during the 1980s and 1990s. There are no records of hazardous materials being used in substantial quantities on-site and there are no indications of spills or unlawful disposal of hazards materials by previous residents.

On-Site Sources of Contamination

Hazardous Materials Storage and Use

The Phase I ESA prepared for the proposed project, which included a site reconnaissance, 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.

Asbestos Containing Materials and Lead-Based Paint

Due to the age of the existing single-family residence on-site, ACMs and lead-based paint (LBP) may be present in the building materials on-site. Because the accessory structures on-site were constructed during the 1980s and 1990s, it is unlikely that they contain any ACMs or LBP.

Organochlorine Pesticides

Organochlorine pesticides (OCPs) are chlorinated hydrocarbons that were used extensively for agriculture and mosquito control between the 1940s and 1976 until they were fully banned in 1987. Based on the previous use of the project site for commercial agriculture, there is potential for residual agricultural chemicals to be present in the soil (i.e., pesticides and fertilizers). The Phase I ESA identified this as a Potential Environmental Concern (PEC).

Cortese List

The project site and adjacent properties are not located on the Cortese List, as documented in the Phase I ESA.[58]

Off-Site Sources of Contamination

Two school sites within a mile of the project site were listed previously as DTSC Cleanup Cases. Both cases are listed as Closed/No Further Action which indicates that they were previously investigated and/or remediated. Therefore, neither property would represent an environmental concern to the project site. There are no leaking underground storage tank cases within a half-mile of the project site, and there are no properties with database listings within a quarter-mile of the site that would represent significant environmental concern or liability to the project site.

Other Hazards

Airports

The nearest public airport is the Reid-Hillview County Airport. The project site is approximately 1.75 miles east of the airport. Due to the distance from the airport, the project site is not within the airport influence area, aircraft noise contours, FAR Part 77 surface zones, or the airport safety zones for the Reid-Hillview County Airport.[59]

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).[60]

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?	☐	☐	☒	☐

[58] California Environmental Protection Agency. "Cortese List Data Resources." Accessed September 6, 2023. https://calepa.ca.gov/sitecleanup/corteselist/.
[59] Santa Clara County Airport Land Use Commission. *Comprehensive Land Use Plan Reid-Hillview County Airport*. Amended November 18, 2020. Figures 5, 6, 7, and 8.
[60] California Department of Forestry and Fire Protection. "Fire Hazard Severity Zones Maps." Accessed September 6, 2023. https://egis.fire.ca.gov/FHSZ/

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

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

The proposed project would replace the existing single-family residence and accessory structures on-site with four, single-family residences. The proposed project, similar to existing conditions, would likely include the use and storage of household cleaning supplies and maintenance chemicals in small quantities. The small quantities of chemicals used on-site would not pose a risk to adjacent land uses. The proposed project would not result in the transport, use, or disposal of hazardous materials or waste during construction or its operation. **(Less than Significant Impact)**

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

As discussed in Section 4.9.1.2, there is potential for soils on-site to contain elevated levels of pesticide from the historic agricultural use and the buildings are likely to contain LBPs and ACMs based on the age of the buildings. Construction activities and demolition on-site, therefore, could expose construction workers and/or nearby residences to pesticide-contaminated soil, LBPs, and ACMs due to the agricultural uses of the site and age of the buildings.

Impact HAZ-1: Construction activities associated with the proposed project could expose construction workers and/or nearby residents to contaminated soils from previous agricultural operations.

Mitigation Measure:

MM HAZ-1.1: Prior to the issuance of any demolition or grading permit, the project applicant shall retain an environmental professional to collect shallow soil samples on the project site to determine whether organochlorine pesticides and metals (e.g., arsenic and lead) from pervious agricultural operations are present on-site at concentrations above established residential environmental screening levels (ESLs). The results of soil sampling and testing shall be provided to the City's Supervising Planner of the Planning, Building and Code Enforcement Department and the Municipal Compliance Officer of the City of San José Environmental Services Department for review.

If pesticide contaminated soils are found in concentrations above regulatory ESLs, the applicant shall obtain regulatory oversight from Santa Clara County Department of Environmental Health (SCCDEH) or the Department of Toxic Substances Control (DTSC) under their Site Cleanup Plan (SCP). In addition, a Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document shall be prepared by a qualified hazardous materials consultant. The plan shall establish remedial measures and/or soil management practices to ensure construction worker safety and the health of future workers and visitors. The plan and evidence of regulatory oversight (as well as the results of the soil sampling and testing) shall be provided to the Supervising Environmental Planner of the City of San José Planning, Building and Code Enforcement and the Environmental Compliance Officer in the City of San José Environmental Services Department.

To address the LBPs and AMCs in the existing buildings, the following standard permit condition shall be implemented:

Standard Permit Condition – Asbestos-Containing Materials and Lead-Based Paint

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

With implementation of the identified mitigation measure and standard permit condition, the proposed project would not expose construction workers, nearby residences, and future residences to elevated levels of soil contamination by testing the soil on-site, implementing a SMP if necessary, and testing for ACM and LBP prior to demolishing structures on-site. **(Less than Significant Impact with Mitigation Incorporated)**

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

The nearest school is Evergreen Valley High school, located approximately 0.3 miles south of the site. The proposed project would not emit hazardous materials in sufficient quantities to pose a health risk to nearby schools with the implementation of mitigation measure MM HAZ-1.1 and the standard permit conditions identified under checklist question b). Therefore, the existing school would be unaffected by the construction and operation activities of the proposed project. **(Less than Significant Impact)**

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

The proposed project is not located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.44.[61] Therefore, the project would have a less than significant impact to the public and/or environment. **(Less than Significant Impact)**

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

Reid-Hillview County Airport is the nearest airport to the project site and is located approximately 1.75 miles west of the site. While the project site is within two miles of the airport, it is not within the airport influence area for the Reid-Hillview County Airport as aforementioned in Section 4.9.1.2. Therefore, the proposed project would not result in a safety hazard for people residing in the area. **(No Impact)**

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

Development of the project would not physically interfere with an adopted emergency response or evacuation plan. The proposed project proposes fire safety measures, including three new fire hydrants and a fire lane, in compliance with the requirements of the California Fire Code Section 503, and would be subject to approval by the Fire and Public Works Departments of the City of San José. The project would not interfere with any established evacuation routes or administrative responsibilities outlined in the City's EOP. **(Less than Significant Impact)**

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

The proposed project is not located in a Very High Fire Hazard Severity Zone.[62] The project site is not located within a Wildland-Urban Interface (WUI) Fire Area as determined by the San José Fire Department (SJFD).[63] The project would be constructed to meet current building and fire code. For these reasons, the project would not expose people or structures to a significant risk of loss, injury, or death involving wildfires. **(No Impact)**

[61] California Environmental Protection Agency. "Cortese List Data Resources." Accessed October 4, 2023. https://calepa.ca.gov/sitecleanup/corteselist/.
[62] CAL FIRE. *Very High Fire Hazard Severity Zones in LRA: San José.* October 2008. Accessed October 5, 2023. https://osfm.fire.ca.gov/media/5935/san_jose.pdf.
[63] San José Fire Department. *Wildland Urban Interface (WUI) Fire Conformance Policy.* January 2017

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.[64]

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

[64] 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 August 30, 2023. https://www.waterboards.ca.gov/water_issues/programs/water_quality_assessment/2020_2022_integrated_report.html.

includes requirements for training, inspections, record keeping, and, for projects of certain risk levels, monitoring. The general purpose of the requirements is to minimize the discharge of pollutants and to protect beneficial uses and receiving waters from the adverse effects of construction-related storm water discharges.

Regional 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.[65] 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

[65] 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.

(3) the project is located in a catchment or subwatershed that is highly developed (i.e., that is 70 percent or more impervious).[66]

Municipal Regional Permit Provision C.12.f

Provision C.12.f of the MRP requires co-permittee agencies to implement a control program for PCBs that reduces PCB loads by a specified amount during the term of the permit, thereby making substantial progress toward achieving the urban runoff PCBs wasteload allocation in the Basin Plan by March 2030.[67] Programs must include focused implementation of PCB control measures, such as source control, treatment control, and pollution prevention strategies. Municipalities throughout the Bay Area are updating their demolition permit processes to incorporate the management of PCBs in demolition building materials to ensure PCBs are not discharged to storm drains during demolition. Buildings constructed between 1950 and 1980 that are proposed for demolition must be screened for the presence of PCBs prior to the issuance of a demolition permit. Single-family residential and wood frame structures are exempt.

Water Resources Protection Ordinance and District Well Ordinance

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

2021 Groundwater Management Plan

The 2021 Groundwater Management Plan (GWMP) describes 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.

[66] 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.

[67] 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.

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.[68]

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

The City of San José's Policy No. 6-29 implements the stormwater treatment requirements of Provision C.3 of the MRP. City Council Policy No. 6-29 requires new development and redevelopment projects to implement post-construction Best Management Practices (BMPs) and Treatment Control Measures (TCMs). This policy also established specific design standards for post-construction TCMs for projects that create or replace 5,000 square feet or more of impervious surfaces.

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

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

Envision San José 2040 General Plan

The General Plan includes the following hydrology and water quality policies applicable to the proposed project.

Policy	Description
ER-8.1	Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
ER-8.3	Ensure that private development in San José includes adequate measures to treat stormwater runoff.
ER-8.5	Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff on-site.
ER-10.5	Protect groundwater recharge areas, particularly creeks and riparian corridors.

[68] Santa Clara Valley Water District. 2021 Groundwater Management Plan. Accessed September 6, 2023. https://s3.us-west-2.amazonaws.com/assets.valleywater.org/2021_GWMP_web_version.pdf.

Policy	Description
EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and stormwater controls.
EC-5.7	Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.
EC-5.16	Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.
EC-7.10	Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.
IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.

4.10.1.2 *Existing Conditions*

Storm Drainage and Water Quality

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

The project site is located within the Coyote Watershed.[69] Runoff from the project site flows into a 12-inch storm drain line in Ambum Avenue and enters the City's storm drainage system at the base of the hill before eventually discharging via outfall to Thompson Creek. The creek flows north and merges with the Coyote Creek, which carries runoff from the storm drains into the San Francisco Bay. Stormwater runoff often contains contaminants such as oil and grease, plant and animal debris (e.g., leaves, dust, and animal feces), pesticides, litter, and heavy metals.

The project currently consists of approximately 28,510 square feet of impervious area on-site and 800 square feet of impervious area-off site for a total of 29,310 square feet (or approximately 26 percent) of impervious area for the project The remaining approximately 84,608 square feet (or 75 percent) of the site consists of pervious area, which is comprised of landscaping and other permeable surfaces. Approximately 83,914 square feet of the total 84,608 square feet of pervious area is on site and the remainder 692 square feet of pervious area is off-site.

[69] City of San José. "Watershed Maps." Accessed September 6, 2023. https://www.sanjoseca.gov/your-government/departments-offices/environmental-services/our-creeks-rivers-bay/watershed-maps.

Flooding

Based on the FEMA Flood Insurance Rate Maps, the project site is located in Flood Zone D.[70] Flood Zone D indicates areas where there is possible but undetermined flood hazards, as no analysis of the flood hazards has been conducted.[71] There are no City flood plain requirements for Flood Zone D.

Seiches and Tsunamis

A seiche is the oscillation of a body of water, typically caused by changes in atmospheric pressure, strong winds, earthquakes, tsunamis, or tidal movements. Seiches occur most frequently in enclosed or semi-enclosed basins such as lakes, bays, or harbors. The project site is not located near a body of water such that it would be subject to inundation by a seiche or tsunami.

Groundwater

As noted in Section 4.7.1.2, although the geotechnical study prepared for the project site did not encounter any groundwater during the subsurface investigation (which reached depths of approximately 25 feet bgs), the historic high depth to groundwater level is reported to be approximately 10 to 20 feet bgs. Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall, underground patterns, and other factors.

The City of San José is located within the Santa Clara Groundwater Basin (DWR Basin 2-9.02).[72] Hydrologically, the groundwater basin is separated into recharge and confined zones. Geological conditions in the recharge areas allow precipitation, stream flow, and water diverted into percolation areas to recharge the deeper aquifers. The confined zones include areas of the valley where low permeability clays and silts overlie the major groundwater aquifers which impedes the vertical flow of groundwater into the deeper aquifers. The project site is within the Santa Clara Plain Recharge Area. [73]

Hydromodification

Based on the Santa Cara Valley Urban Runoff Prevention Program watershed map for the City of San José, the project site is located in a subwatershed less than 65 percent impervious.[74]

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[70] Federal Emergency Management Agency. Flood Insurance Rate Map, Community Panel No. 06085C0259H. Effective Date May 18, 2009.
[71] Federal Emergency Management Agency. "Fact Sheet for Stakeholders, Unmapped Areas on Flood Hazard Maps, Understanding Zone D." Accessed September 6, 2023. https://www.fema.gov/sites/default/files/2020-08/fema_understanding-zone-D-levees.pdf.
[72] United States Geological Survey. "Groundwater Quality in the San Francisco Bay Groundwater Basins, California." March 2013. Accessed September 6, 2023. https://pubs.usgs.gov/fs/2012/3111/pdf/fs20123111.pdf.
[73] Santa Clara Valley Water District. 2021 Groundwater Management Plan. Accessed September 6, 2023. https://s3.us-west-2.amazonaws.com/assets.valleywater.org/2021_GWMP_web_version.pdf.
[74] Santa Clara Valley Urban Runoff Pollution Prevention Program. "Hydromodification Management Applicability Maps." Accessed October 30, 2023. https://scvurppp.org/hmp-maps/.

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

Implementation of the proposed project would require excavation and grading activities on-site. Ground-disturbing activities would temporarily increase the amount of debris on-site. Grading could also increase pollutants in runoff. The project site is approximately 2.59 acres in size and 1.89 acres of it would be disturbed. Therefore, the project would be required to obtain an NPDES General Permit for Construction Activities and prepare a SWPPP. All development projects in the City are required to comply with the City of San José's Grading Ordinance to help protect water quality. 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 – Construction Erosion and Runoff Prevention

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

With implementation of the identified standard permit conditions, construction of the proposed project would have a less than significant impact on water quality because measures would be implemented during construction to prevent water and wind from carrying soil off of the project site in a manner that could impact water and air quality. **(Less than Significant Impact)**

Post-Construction Impacts

Under existing conditions, the project site is covered with 29,310square feet of impervious surface area. Upon completion of the proposed project, the site would be covered with approximately 43,283 square feet of impervious surfaces leading to a 47.6 percent increase in impervious surfaces compared to existing conditions. Construction of the project would result in the replacement of more than 5,000 square feet of impervious surface area; hence, the project would be required to comply with the City of San José's Post-Construction Urban Runoff Policy 6-29 and the MRP.

The MRP requires all post-construction stormwater runoff to be treated by numerically sized LID treatment controls. To treat stormwater runoff, the project would construct six flow-through planters with concrete lining and underdrains and two self-treating areas.

With compliance with the MRP the proposed project would have a less than significant post-construction water quality impact. **(Less than Significant Impact)**

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

Groundwater recharge occurs when surface water percolates through the soil to recharge groundwater aquifers. As discussed in Section 4.10.1.2, the project site is located within the recharge area of the Santa Clara Subbasin. The proposed project would increase on-site impervious surfaces by approximately 15,029 square feet compared to existing conditions. However, the project would construct two self-treating areas to promote on-site infiltration, in compliance with Provision C.3 of the MRP. In addition, the project would plant drought-tolerant landscaping and install high-efficiency irrigation equipment, which would reduce the amount of water use on-site. Implementation of the project would not require pumping of groundwater underneath the project site, nor would it interfere with any recharge facilities operated by Valley Water. Based on this discussion, the project would not substantially decrease groundwater supplies or interfere substantially with groundwater recharge. **(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?

As described above, 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. While the project site is located in an area subject to the MRP's hydromodification requirements, the project would create and replace 43,283 square feet of impervious surface on-site, which is just less than one acre. Therefore, the project would not be subject to the hydromodification requirements.

The existing drainage pattern of the site would not be substantially altered by the project through the alteration of any waterway. Consistent with General Plan Policy EC-4.5, an Erosion Control Plan would be prepared for the proposed project. In addition, the project would comply with the MRP and City of San José Policy 6-29 through post-construction treatment control measures. The existing storm drain infrastructure in the area has sufficient capacity to accommodate runoff from the site and no off-site flooding would occur as a result of the project. Therefore, the project would not substantially increase erosion or increase the rate or amount of stormwater runoff. **(Less than Significant Impact)**

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

The project site is not located in the vicinity of any large bodies of water, or within a designated tsunami inundation zone. Hence, the project would not be subject to inundation by seiche or tsunami. The project site is located in Flood Zone D, an area of undetermined but possible flood hazard that is outside the 100-year floodplain. There are no floodplain requirements for Zone D. In addition, the project would not store substantial amounts of hazardous materials or other pollutants on-site. Therefore, the project would not release pollutants due to project inundation in flood hazard, tsunami, or seiche zones. **(Less than Significant Impact)**

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

The project is located in a Hydromodification Management (HM) area; however, the project would not create and/or replace one acre or more of impervious surface. Therefore, the project is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14). The proposed project would be required to comply with the City of San José's Post-Construction Urban Runoff Policy 6-29 and the MRP; therefore, implementation of the project would not significantly impact water quality. Consistent with the San Francisco Basin Plan, the proposed project would comply with the MRP requirement to install LID treatment controls to treat stormwater runoff. In addition, the project would not require any dewatering during construction, would be designed to promote on-site water infiltration where feasible, and would include drought-tolerant landscaping and high-efficiency irrigation to limit water use. Therefore, the project would not interfere with implementation of the 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*

Envision San José 2040 General Plan

The General Plan includes the following land use policies applicable to the proposed project.

Policy	Description
IP-1.8	Use standard Zoning Districts to promote consistent development patterns when implementing new land use entitlements. Limit use of the Planned Development Zoning process to unique types of development or land uses which cannot be implemented through standard Zoning Districts, or to sites with unusual physical characteristics that require special consideration due to those constraints.
IP-1.9	Consider and address potential land use compatibility issues, the form of surrounding development, and the availability and timing of infrastructure to support the proposed land use when reviewing rezoning or prezoning proposals.
LU-9.5	Require that new residential development be designed to protect residents from potential conflicts with adjacent land uses.

Zoning Ordinance

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

4.11.1.2 *Existing Conditions*

The project site is located in the Evergreen neighborhood in east San José. The site is designated Residential Neighborhood in the General Plan and is zoned R-1-5 Single Family Residence District. The Residential Neighborhood land use designation allows for infill residential projects with a typical density of eight dwelling units per acre (or matching existing neighborhood density). A Floor Area Ratio (FAR) up to 0.7 is allowed, and buildings can range from one to two and a half stories. The R-1-5 Single Family Residence District is intended to support residential development with a density up to five dwelling units per acre.

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?

Examples of projects that have the potential to physically divide an established community include new freeways and highways, major arterial streets, and railroad lines. The project would include replacement of a single-family residence with four, single-family residences in an existing residential neighborhood. The proposed private street would be on the same footprint as the existing driveway on-site and would not divide or prohibit access to the surrounding residences. For these reasons, implementation of the project would not physically divide an established community. **(No 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 Residential Neighborhood General Plan land use designation for the site is intended to preserve the character of existing neighborhoods and strictly limits new development to infill projects which closely conform to the prevailing existing neighborhood character. New infill development should improve and/or enhance existing neighborhood conditions by conforming with the character of the surrounding neighborhood and integrating into the existing neighborhood pattern. The density allowed is typically eight dwelling units per acre (or matching existing neighborhood density). A Floor Area Ratio (FAR) up to 0.7 is allowed, and buildings can range from one to two and a half stories.

The project would have a density of 1.54 dwelling units per acre (du/ac), which is similar and not greater than the current density in the existing neighborhood of 3.43 du/ac. The proposed density is more consistent with the neighborhood density of the existing development on-site. The FAR for the site would be 0.22 and the proposed residences would be two-stories tall. Therefore, the proposed project would be consistent with the current General Plan land use designation for the site. The project would require a rezoning from R-1-5 Single Family Residence District to R-1-5 (PD) Planned Development Zoning District to allow the proposed development of four single-family residences on-site, which would also be consistent with the General Plan land use designation. The R-1-5 (PD) Planned Development Zoning District sets specific development standards for the

project, including modified setbacks and minimum lot size requirements.
Furthermore, with the implementation of applicable General Plan policies, mitigation measures, and Standard Permit Conditions identified throughout this Initial Study, the project would not result in a significant environmental effect due to a conflict with a land use plan or policy. **(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.

4.12.1.2 *Existing Conditions*

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.[75] The project site is located approximately 4.7 miles northeast of Communications Hill. 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.

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

[75] City of San José. *Envision San José 2040 General Plan*. Adopted November 1, 2011. As Amended on December 14, 2021. Page 36. Accessed April 28, 2022. https://www.sanjoseca.gov/home/showpublisheddocument/22359/637841721973600000

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

The site is not located in an area containing known mineral resources as discussed in Section 4.12.1.2. Implementation of the project would not result in the loss of availability of any known resources. **(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?

In the City of San José, the only identified mineral resources are located the Communications Hill area. As aforementioned in Section 4.12.1.2, the project site is approximately 4.7 miles northeast of Communications Hill. Therefore, the proposed project would not result in the loss of availability of a locally important mineral resource. **(No Impact)**

4.13 Noise

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.[76] 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.

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

4.13.1.2 *Regulatory Framework*

State and Local

California Building Standards Code

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

Envision San José 2040 General Plan

The City's General Plan noise and land use compatibility guidelines are shown in Table 4.13-1, below. The City's General Plan establishes an acceptable exterior noise level of 60 dBA DNL or less for residential and most institutional land uses, including schools.

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.

The General Plan includes the following noise policies applicable to the proposed project.

Policies	Description
EC-1.1	Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, State and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include: <u>Interior Noise Levels</u> • The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected *Envision General Plan* traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan. <u>Exterior Noise Levels</u> • 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. - For single family residential uses, use a standard of 60 dBA DNL for exterior noise in private usable outdoor activity areas, such as backyards
EC-1.2	Minimize the noise impacts of new development on land uses sensitive to increased noise levels [Land Use Categories 1, 2, 3 and 6 in Table EC-1 in the General Plan or Table 4.13-1 in this Initial Study] by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would: • Cause the DNL at noise sensitive receptors to increase by 5 dBA DNL or more where the noise levels would remain "Normally Acceptable"; or • Cause the DNL at noise sensitive receptors to increase by 3 dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.
EC-1.7	Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would: • 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.

Policies	Description
	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.

Municipal Code

Chapter 20.100.450 of the Municipal Code establishes allowable hours of construction within 500 feet of a residential unit between 7:00 AM to 7:00 PM on Monday through Friday, unless otherwise expressly allowed in a Development Permit or other planning approval. The Municipal Code does not establish quantitative noise limits for demolition or construction activities occurring in the City.

4.13.1.3 *Existing Conditions*

The project site is located on Ambum Avenue in the Evergreen neighborhood in east San José. The site is surrounded on all sides by residential uses. The existing noise environment in project vicinity results primarily from vehicular traffic along roadways. Based on the General Plan EIR, the existing ambient noise levels at the project site is less than 55 dBA DNL.[77]

The project site is approximately 1.75 miles east of the Reid-Hillview County Airport but is located outside the airport's 65 dBA CNEL noise contour.

[77] City of San José. *Integrated Final Program Environmental Impact Report for the Envision San José 2040 General Plan.* SCH# 2009072096. September 2011. Figure 3.3-1.

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?	☐	☐	☒	☐

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

Construction activities associated with implementation of the proposed project would temporarily increase noise levels in the project area. Construction noise impacts depend on the noise generated by various pieces of construction equipment, the timing and duration of noise-generating activities, and the distance between construction noise sources and noise sensitive receptors. As described in Section 3.0 Project Description, project construction would take approximately 14 months to complete. The project would involve up to nine months of heavy noise generation from the building demolition phase though the project building exterior phase. Since the project construction activities involving heavy noise generating activities would be less than 12 months, construction

noise impacts would be less than significant. The City also has the following standard permit condition to reduce construction noise impacts that the project would be required to implement:

Standard Permit Condition – Construction-Related Noise

- Pile Driving is prohibited.
- Limit construction to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential use.
- Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Prohibit unnecessary idling of internal combustion engines.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.
- If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
- Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

Compliance with the City's standard permit conditions would reduce construction noise impacts to a less than significant level by limiting construction activities to daytime hours, constructing temporary noise barriers around the site, and designating a disturbance coordinator to respond to

any complaints from neighboring properties regarding excessive construction noise. **(Less than Significant Impact)**

Operational Noise

According to Policy EC-1.2 of the City's General Plan, a permanent noise increase would be considered significant if the project would substantially increase noise levels at existing sensitive receptors in the project vicinity. A substantial increase would occur if a) the noise level increase is five dBA DNL or greater, with a future noise level of less than 60 dBA DNL at residences, or b) the noise level increase is three dBA DNL or greater with a future noise level of 60 dBA DNL or greater at residences. Noise levels are less than 55 dBA DNL in the project vicinity. Therefore, a significant impact would occur if operational noise or traffic resulting from the proposed project would permanently increase ambient levels by five dBA DNL.

Traffic Noise

A project that generates substantial daily trips could increase ambient noise levels in the project vicinity by increasing traffic volumes on nearby roadways. Based on the trip generation rate of 10 trips per unit for a "Single-Family Residence" land use provided in the Institute of Transportation Engineers (ITE) *Trip Generation Manual, 11th Edition*, the proposed four, single-family residences would generate approximately 40 trips per day.[78] The project site is within an existing residential neighborhood, and the project would not double the amount of development in the area, therefore, the project would not double traffic volumes on Ambum Avenue (which is the threshold where traffic would result in a three dBA noise increase). For these reasons, the operational noise levels produced by project generated traffic would not substantially increase the ambient noise environment at the nearest noise-sensitive receptors.

Mechanical Equipment Noise

The project would include equipment for heating, ventilation, and air conditioning. General Plan Policy EC-1.3 requires noise levels from building equipment to be limited to 55 dBA DNL at the property line of noise-sensitive land uses.

The exact type, location, and operation of the project mechanical equipment are not known at this time. Therefore, operation of mechanical equipment associated with the proposed project could exceed the City's Municipal Code thresholds.

Impact NOI-1: The mechanical equipment for the project has the potential to exceed 55 dBA DNL at adjacent single-family residences.

[78] Project trips were estimated using the Institute of Transportation Engineers (ITE) trip generation rates of 10 daily trips per dwelling unit (Single-Family Detached Housing Land Use 210). Source: Institute of Transportation Engineers. *ITE Trip Generation Manual, 11th Edition*. 2021.

Mitigation Measure:

MM NOI-1.1: Prior to issuance of building permits, mechanical equipment shall be selected and designed to meet the City's 55 dBA DNL noise level requirements at the property line of nearby noise sensitive land uses. The applicant shall retain a qualified acoustical consultant to review the mechanical noise equipment to determine specific noise reduction measures needed to reduce equipment noise to comply with the City's noise levels requirements. Noise reduction measures could include, but are not limited to, selection of equipment that emits low noise levels and installation of noise barriers, such as enclosures and parapet walls, to block the line-of-sight between the noise source and the nearest receptors. Other alternate measures include locating equipment in less noise-sensitive areas (such as along the building facades farthest from the nearest residences) where feasible. The findings and recommendations from the acoustical consultant for noise reduction measures shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee for review and approval prior to the issuance of any building permits.

As discussed above, project-generated traffic would not result in a substantial increase in ambient noise levels. With implementation of NOI-1.1, the project would have a less than significant operational noise impact from mechanical equipment because the mechanical equipment would be reviewed in advance by a qualified acoustical consultant who would determine whether any noise-reduction measures would be required to achieve acceptable noise levels at surrounding sensitive receptors. **(Less than Significant Impact with Mitigation Incorporated)**

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

Construction of the 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 demolition, site preparation, grading, excavation, trenching and foundation work, construction of building exteriors and interiors, and paving. 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 discussed in Section 4.5 Cultural Resources, the nearest historic resource is approximately one mile southwest of the project site. There would be no risk of damage to any historic buildings resulting from project construction.

However, construction activities such as drilling, the use of jackhammers (approximately 0.035 in/sec PPV at 25 feet), rock drills and other high-power or vibratory tools (approximately 0.09 in/sec PPV at 25 feet), and rolling stock equipment such as tracked vehicles, and compactors. (approximately 0.89 in/sec PPV at 25 feet) may generate substantial vibration in the immediate site vicinity. Therefore, construction of the project could exceed the vibration limit of 0.2 in/sec PPV for normal and conventional structures.

Impact NOI-2: Construction of the project could exceed the vibration limit of 0.2 in/sec PPV at adjacent single-family residences.

Mitigation Measure:

MM NOI-2.1: Prior to the issuance of any demolition, grading, tree removal, or building permits (whichever occurs first), a qualified noise consultant shall review the final construction equipment list for the project to ensure the construction equipment would not exceed the 0.2 in/sec PPV thresholds for conventional construction buildings at the nearby properties. A project-specific vibration plan shall be prepared and include the project's planned vibration-generating construction activities (e.g., demolition, vibratory compaction), the potential project-specific vibration levels (given project-specific equipment and soil conditions, if known) at specific building locations that may be impacted by the vibration-generating work activities (generally buildings within 50 feet of the work area), and identify any necessary vibration control measures to reduce levels to 0.2 in/sec PPV or below. The project applicant shall submit a copy of the project-specific vibration plan to the Director of Planning, Building and Code Enforcement or Director's designee for review and approval.

Implementation of the mitigation measure MM NOI-2.1 would reduce construction related vibration impacts to a less than significant level by preparing a project-specific vibration plan and implementing any necessary vibration control measures to reduce vibration levels to 0.2 in/sec PPV or below. **(Less than Significant Impact with Mitigation Incorporated)**

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

As discussed in Section 4.13.1.3 Existing Conditions, the project site is approximately 1.75 miles east of the Reid-Hillview County Airport, however, is located outside the airport's 65 dBA CNEL noise contour. As a result, the project would not expose people residing or working in the project area to excessive noise levels. **(Less than Significant Impact)**

4.13.3 Non-CEQA Effects

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

The City's "normally acceptable" threshold for residential outdoor noise levels is 60 dBA DNL, and 45 dBA DNL for indoor noise levels. As discussed above, the existing noise levels in the project area is less than 55 dBA DNL, therefore, the outdoor noise levels would meet the City's standard. Standard residential construction provides 15 dBA of exterior-to-interior noise reduction, assuming the windows are partially open for ventilation. Standard construction with windows closed provides approximately 20 to 25 dBA of noise reduction in interior spaces. Therefore, the interior noise levels of the proposed residential buildings would meet the 45 dBA DNL standard.

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.[79] The City of San José Housing Element and related land use policies were last updated in June 2023.

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.[80]

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.

[79] California Department of Housing and Community Development. "Regional Housing Needs Allocation" Accessed August 30, 2023. https://www.hcd.ca.gov/planning-and-community-development/regional-housing-needs-allocation.
[80] 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 959,256 in January 2023, and it is estimated that there are an average of 3.12 persons per household.[81] The City currently has approximately 345,798 housing units.[82]

The site is currently developed with one single-family residence and six accessory structures.

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)?

A project can induce substantial population growth through a variety of means, such as by proposing new housing beyond projected or planned development levels.

Assuming 3.12 persons per household, the four proposed residences would house about 13 people.[83] The project is consistent with the existing General Plan land use designation and, therefore, is consistent with the growth planned in the General Plan. The project, therefore, would not create unplanned population growth. Moreover, the project does not propose extending existing public infrastructure or utilities that would induce unplanned growth. For these reasons, the project would not result in unplanned residential growth. **(Less than Significant Impact)**

[81] 1) State of California, Department of Finance. *E-5 Population and Housing Estimates for Cities and Counties, and the State, 2021-2023, with 2020 Benchmark*. May 2023.
2) City of San Jose. 2023-2031 Housing Element. Adopted June 20, 2023. Appendix A, Page A-53.
[82] State of California, Department of Finance. E-5 Population and Housing Estimates for Cities and Counties, and the State, 2021-2023, with 2020 Benchmark. May 2023.
[83] Using a rate of 3.12 persons per household, the project would house approximately 13 residents.
Source: City of San Jose. 2023-2031 Housing Element. Adopted June 20, 2023. Appendix A, Page A-53

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

The project would replace one existing, unoccupied single-family dwelling with four single-family dwelling units. The construction of replacement housing is not proposed or required for the project. For these reasons, the project would not displace substantial numbers of people, necessitating the construction of replacement housing elsewhere. **(Less than Significant Impact)**

4.15 Public Services

4.15.1 Environmental Setting

4.15.1.1 *Regulatory Framework*

State

Government Code Section 66477

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

Government Code Section 65995 through 65998

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

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

Regional and Local

Countywide Trails Master Plan

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

Envision San José 2040 General Plan

The following General Plan policies are specific to public services and are applicable to the proposed project.

Policies	Description
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.
ES-3.10	Incorporate universal design measures in new construction, and retrofit existing development to include design measures and equipment that support public safety for people with diverse abilities and needs. Work in partnership with appropriate agencies to incorporate technology in public and private development to increase public and personal safety.
ES-3.23	Engage public safety personnel in the land use entitlement process for new development projects.
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.

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. The acreage of parkland required is based on the minimum acreage dedication formula outlined in the PDO.

Greenprint

The Greenprint is a strategic plan to guide the City's expansion of parks, recreation facilities, and community services. The plan was first adopted by City Council in 2000 then updated in 2009.[84] The Greenprint contains strategies to support the overall mission of providing healthy communities through people, parks, and programs. The Greenprint identifies areas of the City that are underserved by park and recreation facilities and includes policies and strategies to correct those deficiencies. The General Plan incorporated the Greenprint 2009 strategies.

ActivateSJ Strategic Plan (2020-2040)

The ActivateSJ Strategic Plan is the latest 20-year strategic plan for the City of San José's Department of Parks, Recreation, and Neighborhood Services.[85] This plan does not replace the Greenprint 2009 update but instead is a complement to the Greenprint document and focuses more on the daily operations of the Department of Parks, Recreation, and Neighborhood Services. ActivateSJ includes key plan outcomes to support the following guiding principles: stewardship, nature, equity and access, identify, and public life. These guiding principles also align with the specific goals and policies of the General Plan.

4.15.1.2 *Existing Conditions*

Fire Protection Services

Fire protection services for the project site are provided by the SJFD. The SJFD responds to all fires, hazardous materials spills, and medical emergencies (including injury accidents) in the City.[86] The closest station to the project site is Station 31 located at 3100 Ruby Avenue, approximately one mile southeast of the project site.[87]

[84] City of San José. "Greenprint 2009 Update." December 8, 2009. Accessed September 7, 2023. https://www.sanjoseca.gov/your-government/departments-offices/parks-recreation-neighborhood-services/general-information/policies-reports/residents
[85] City of San José. "ACTIVATESJ Strategic Plan (2020-2040)." 2020. Accessed September 7, 2023. https://www.sanjoseca.gov/home/showpublisheddocument/43503/637178743945470000
[86] City of San José. "About SJFD." Accessed September 7, 2023. https://www.sanjoseca.gov/your-government/departments-offices/fire-department/about-sjfd.
[87] City of San José. "Fire Stations." Accessed September 7, 2023. https://www.sanjoseca.gov/your-government/departments-offices/fire-department/fire-stations.

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 4.3-miles northeast of the project site. SJPD is divided into four geographic divisions: Central, Western, Foothill, and Southern. The project site is served by the SJPD Foothill Division.[88] The Foothill Division includes four police patrol districts that cover approximately 42 square miles.[89]

Schools

The project site is located in the Evergreen Elementary School District and East Side Union High School District. The Evergreen Elementary School District is a transitional-kindergarten through eighth grade school district that provides services to the Evergreen neighborhood in east San José. The district includes 13 elementary schools and three middle schools that serve approximately 9,000 students.[90] East Side Union High School District includes 11 traditional high schools, five alternative high schools, 12 charter schools, and one adult education school that serve a total of approximately 24,500 students.[91]

The project site is within the Norwood Creek Elementary School, Quimby Oak Middle School, and Evergreen Valley High School attendance boundaries. Table 4.15-1 shows the recent enrollment data at Norwood Creek Elementary School, Quimby Oak Middle School, and Evergreen Valley High School.

Table 4.15-1: School Enrollment

School	2022 to 2023 Enrollment[1]
Norwood Creek Elementary School	558
Quimby Oak Middle School	827
Evergreen Valley High School	2,767

Note: Capacity for individual school sites within Evergreen Elementary School District are not available.

[1] California Department of Education. "Data Quest." Accessed September 7, 2023. https://www.cde.ca.gov/ds/ad/dataquest.asp

Per the Evergreen Elementary School District Developer Fee Justification Study, future residential developments planned within the Evergreen Elementary School District attendance boundaries

[88] San José Police Department. "Bureau of Field Operations." Accessed September 7, 2023. https://www.sjpd.org/about-us/organization/bureau-of-field-operations

[89] San José Police Department. "Foothill Division." Accessed September 7, 2023. https://www.sjpd.org/about-us/organization/bureau-of-field-operations/foothill-division.

[90] California Department of Education. "Data Quest." Accessed September 7, 2023. https://www.cde.ca.gov/ds/ad/dataquest.asp.

[91] East Side Union High School District. "School Information." Accessed November 3, 2023. https://www.esuhsd.org/Schools/index.html.

would result in the generation of a total of 128 elementary school students and 25 middle school students. The elementary schools in the Evergreen Elementary School District have capacity to accommodate the 128 anticipated elementary school students, but the middle schools in the Evergreen Elementary School District do not have capacity. To accommodate the projected number of middle school students, approximately seven additional permanent middle school classrooms would need to be constructed to meet new enrollment needs.[92]

Based on the number of projected residential developments within the East Side Union School District attendance boundaries, a total of 5,076 high school students would be generated. The East Side Union School District estimated that due to a decline in enrollment, it would have a remaining capacity of 7,557 students and would be able to accommodate the students generated by future residential development.[93]

Parks

The City of San José, Parks, Recreation and Neighborhood Services Department currently oversees operates ten regional parks, 202 neighborhood parks, 46 community centers, and almost 65 miles of trail.[94] Groesbeck Hill Park, a 27.2-acre neighborhood park, is located approximately 0.3-mile north of the project site.[95]

Libraries

The City of San José is served by the San José Public Library System. The San José Public Library System has a total of 25 facilities that serve a population of about one million persons.[96] 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 Village Square Branch Library at 4001 Evergreen Village Square, approximately 1.2 miles southeast of the project site. The Evergreen Branch Library at 2635 Aborn Road is also near the project site, and is located approximately 1.4-miles southwest of the site.

[92] Evergreen Elementary School District. *Evergreen Elementary School District, Developer Fee Justification Study*. April 2023. Page 6.
[93] East Side Union High School District. *School Fee Justification Study*. June 12, 2020. Page 9.
[94] City of San José. "Annual Report on City Services FY 2022-23." Accessed January 30, 2024. https://www.sanjoseca.gov/home/showpublisheddocument/107904/638411671291470000.
[95] City of San José. "San José Parks Finder." Accessed September 7, 2023. https://csj.maps.arcgis.com/apps/webappviewer/index.html?id=93ae7909fe8f4b758daa5a73baa895c3
[96] San José Public Library. "Facts and Awards." Accessed September 7, 2023. https://www.sjpl.org/facts

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, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
a) Fire Protection?	☐	☐	☒	☐
b) Police Protection?	☐	☐	☒	☐
c) Schools?	☐	☐	☒	☐
d) Parks?	☐	☐	☒	☐
e) Other Public Facilities?	☐	☐	☒	☐

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

The General Plan EIR concluded that buildout of the General Plan would result in an increase in calls for fire protection services but is not anticipated to result in the need for construction of fire stations in excess of those currently planned.[97]

The proposed project is consistent with the General Plan land use designation for the site, therefore, it would not result in new or substantially more severe fire services impacts than what was identified in the General Plan EIR. The project would be consistent with General Plan policies ES-3.9, ES-3.10, and ES-3.11 by constructing the buildings in accordance with current building and fire codes, providing adequate access for emergency response vehicles, and installing three new fire hydrants and a fire lane on-site. For these reasons, the proposed project would not result in the need for new or expanded fire protections services in excess of those currently planned by the City. **(Less than Significant Impact)**

[97] City of San José. *Integrated Final Program Environmental Impact Report for the Envision San José 2040 General Plan.* SCH# 2009072096. September 2011. Page 629.

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 General Plan EIR concluded that buildout of the General Plan would result in an increase in calls for service and may require the need for expansion of existing police facilities or the location of new facilities within planned growth areas, but the construction of which would require supplemental environmental review and is not anticipated to have significant adverse environmental impacts.[98]

The proposed project is consistent with the General Plan land use designation for the site; therefore, it would not result in new or substantially more severe police services impacts than what was identified in the General Plan EIR. The project would be consistent with General Plan policies ES-3.8, ES-3.9, and ES-3.23 by intensifying development on-site that would increase visibility, activity, and access throughout the day, constructing the buildings in accordance with current building and fire codes, and reviewing the project design by SJPD to ensure it promotes public safety. The net increase of three residential units on-site would occur in the existing service area and would not alone require the need for a new or expanded police facility. **(Less than Significant Impact)**

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

Based on the student generation rate of 0.5 elementary students per residential dwelling unit and 0.1 middle school students per residential dwelling unit from the Evergreen Elementary School District, the project would generate a net increase of approximately two elementary students and one middle school student that would attend Norwood Creek Elementary School and Quimby Oak Middle School, respectively.[99] Based on the student generation rate of 0.19 students per single-family residence from the East Side Union High School District, the project would generate approximately one high school student that would attend Evergreen Valley High School.[100]

Per California Government Code Section 65996, certain construction projects require payment of a development fee to the school district associated with the project location. The applicant would be responsible for the payment of development fees to the districts to offset the demand placed on

[98] Ibid. Page 630.
[99] Evergreen Elementary School District. *Evergreen Elementary School District, Developer Fee Justification Study*. April 2023. Page 16.
[100] East Side Union High School District. *East Side Union High School District School Fee Justification Study*. June 12, 2020. Page 9.

school facilities by the project during the Building Permit stage, pursuant to Government Code Section 65996.

According to Government Code Section 65996 (3)(h), payment of such fees constitutes full mitigation of any school impacts under CEQA. Therefore, impacts from the increase in school enrollment would be offset by the required payment of development fees. Pursuant to state law, with implementation of the above standard permit condition, the project would have a less than significant impact on school facilities or services and would not, by itself, require new school facilities to be constructed**. (Less than Significant Impact)**

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

The General Plan EIR concluded that buildout of the General Plan would involve the construction or expansion of recreational facilities, which may have adverse physical impacts on the environment. The actual siting and construction of new recreational facilities to serve future residents would require supplemental environmental review on a case-by-case basis, but construction and/or expansion of parks and recreational facilities that are fully consistent with proposed policies and existing regulations would reduce any physical impacts from development or expansion of these facilities to a less than significant level.[101] Furthermore, pursuant to the Quimby Act, payment of dedication of parkland and/or payment of fees in lieu of parkland dedication would reduce a project's park impacts to a less than significant level.

The proposed project is consistent with the General Plan land use designation for the site, therefore, it would not result in new or substantially more severe park impacts than what was identified in the General Plan EIR. Residents of the proposed development may utilize nearby parks, including Groesbeck Hill Park which is 0.3-mile from the project site, which would incrementally increase park demand. However, with payment of the PDO/PIO fees, the proposed project's park impacts would be reduced to a less than significant level. **(Less than Significant Impact)**

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

The General Plan EIR concluded that buildout of the General Plan would be served by adequate existing and planned library facilities, and that in the event additional library facilities are

[101] Ibid. Page 636.

determined to be necessary, implementation of the General Plan policies ES-2.2, ES-2.12, and ES-2.13 would reduce the physical impacts from development of these facilities to a less than significant level.[102]

Future residents of the proposed project would marginally increase the use of other public facilities, including libraries, in the project area. The proposed project is consistent with the General Plan land use designation for the site, therefore, it would not result in new or substantially more severe library impacts than what was identified in the General Plan EIR. Given the nominal increase in demand on libraries from the project, the existing library facilities can accommodate the demand from project residents and the project alone would not require the construction of new or expanded library facilities. **(Less than Significant Impact)**

[102] Ibid. Page 637.

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.

Envision San José 2040 General Plan

The following General Plan policies are specific to recreational resources and are applicable to the proposed project.

Policy	Description
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 SF 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 and Park Impact Ordinance fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a ¾ mile radius of the project site that generates the funds.
PR-2.5	Spend, as appropriate, PDO/PIO fees for community serving elements (Such as soccer fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.

Greenprint

The Greenprint is a strategic plan to guide the City's expansion of parks, recreation facilities, and community services. The plan was first adopted by City Council in 2000 then updated in 2009.[103] The Greenprint contains strategies to support the overall mission of providing healthy communities through people, parks, and programs. The Greenprint identifies areas of the City that are underserved by park and recreation facilities and includes policies and strategies to correct those deficiencies. The General Plan incorporated the Greenprint 2009 strategies.

ActivateSJ Strategic Plan (2020-2040)

The ActivateSJ Strategic Plan is the latest 20-year strategic plan for the City of San José's Department of Parks, Recreation, and Neighborhood Services.[104] This plan does not replace the Greenprint 2009 update but instead is a complement to the Greenprint document and focuses more on the daily operations of the Department of Parks, Recreation, and Neighborhood Services. ActivateSJ includes key plan outcomes to support the following guiding principles: stewardship, nature, equity and access, identify, and public life. These guiding principles also align with the specific goals and policies of the General Plan.

4.16.1.2 *Existing Conditions*

The nearest public park to the project site is Groesbeck Hill Park, which is a 27.2-acre neighborhood park located approximately 0.3-mile north of the project site.[105] The park includes a youth playground, non-reservable picnic areas, and walking trails. Evergreen Community Center, which includes programmed sports, community event space, and after-school programs, is located at 4860 San Felipe Road approximately 2.25 miles south of the project site.

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 will occur or be accelerated?	☐	☐	☒	☐

[103] City of San José. "Greenprint 2009 Update." December 8, 2009. Accessed September 7, 2023. https://www.sanjoseca.gov/your-government/departments-offices/parks-recreation-neighborhood-services/general-information/policies-reports/residents

[104] City of San José. "ACTIVATESJ Strategic Plan (2020-2040)." 2020. Accessed September 7, 2023. https://www.sanjoseca.gov/home/showpublisheddocument/43503/637178743945470000

[105] City of San José. "San José Parks Finder." Accessed September 7, 2023. https://csj.maps.arcgis.com/apps/webappviewer/index.html?id=93ae7909fe8f4b758daa5a73baa895c3

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

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

As discussed in Section 4.15, the proposed project is consistent with the General Plan land use designation for the site, therefore, would not result in new or substantially more severe park impacts than what was identified in General Plan EIR. The project, with payment of the PDO/PIO fees, would reduce its park impacts to a less than significant level. **(Less than Significant Impact)**

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

The project does not propose recreational facilities, and as discussed above, no park facilities would need to be constructed or expanded due to the proposed project. As discussed above, the project with payment of the PDO/PIO fees, would reduce its park and recreational facility impacts to a less than significant level. **(Less than Significant Impact)**

4.17 Transportation

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

Senate Bill 743

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

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

Regional and Local

Congestion Management Program

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

Envision San José 2040 General Plan

The General Plan includes the following transportation policies applicable to the proposed project.

Policy	Description
TR-1.1	Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and VMT.
TR-1.2	Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.
TR-1.6	Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.
TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
CD-3.3	Within new development, create a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.

Transportation Analysis Policy (City Council Policy 5-1)

As established in City Council Policy 5-1, Transportation Analysis Policy, the City of San José uses VMT as the metric to assess transportation impacts from new development. According to the policy, a residential project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average citywide VMT per capita. 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.

San José Better Bike Plan 2025

The San José Better Bike Plan 2025 defines the City's vision to make bicycling safe and convenient for all ages and abilities in San José. The plan is organized around three primary goals: 1) increasing safety for bicyclists in the City, 2) increasing the number of trips made by bike in San José, and 3) ensuring that the plan serves historically underserved communities. [106] The plan outlines existing conditions, describes the planned bicycle network, and offers details on the implementation strategy required to realize the planned network. The Better Bike Plan 2025 defines clear goals to build off of the successes of Bike Plan 2020.

4.17.1.2 *Existing Conditions*

Roadway Network

Local access to the site is provided by Tully Road, Norwood Avenue, Quimby Road, Ruby Avenue, Milton Drive, and Ambum Avenue. These roadways are described below.

Tully Road is a divided four-lane east-west roadway in the vicinity of the project site. It extends from Monterey Highway in the south to Ruby Avenue in the north. Access to the project site from Tully Road is provided via Ruby Avenue and Ambum Avenue.

Norwood Avenue is a two-lane east-west roadway in the vicinity of the project site. Norwood Avenue extends from South White Road in the west to before coming to a dead-end east of Murillo Avenue in the foothills east of the project site. Access to the project site from Norwood Avenue is provided via Ruby Avenue and Ambum Avenue.

Quimby Road is a divided four-lane east-west roadway in the vicinity of the project site. It extends from its terminus at Mt. Hamilton Road in the east to its terminus north of Tully Road in the west. Access to the project site from Quimby Road is provided via Ruby Avenue and Ambum Avenue.

Ruby Avenue is a two-lane north-south roadway in the vicinity of the project site that extends from Falls Creek Drive in the south before becoming Mt. Pleasant Road in the north. Access to the project site from Ruby Avenue is provided via Ambum Avenue.

Ambum Avenue is a short, two-lane east-west roadway adjacent to the project site. It extends between Ruby Avenue and Milton Drive. Access to the project site from Ambum Avenue is provided via the private driveway on-site.

Milton Drive is a two-lane north-south roadway in the vicinity of the project site. It extends between Norwood Avenue and Springbrook Avenue. Access to the project site from Milton Drive is provided via Ambum Avenue.

[106] City of San José. San José Better Bike Plan 2025. October 2020. Accessed September 7, 2023. https://www.sanjoseca.gov/home/showpublisheddocument/68962/637477999451470000.

Existing Pedestrian Facilities

Pedestrian facilities in the project area consist of sidewalks along all the surrounding streets, including the project frontage along Ambum Avenue. There are no dedicated pedestrian pathways to the project site from Ambum Avenue, just the private driveway.

Existing Bicycle Facilities

Class II bikeways are striped bike lanes on roadways that are marked by signage and pavement markings. Within the vicinity of the project site, striped bike lanes are present on the Quimby Road, Norwood Avenue, and Ruby Avenue. Class III shared bike paths are present along Norwood Avenue.

Existing Transit Facilities

Existing transit services in the project area are provided by the Valley Transportation Authority (VTA). The closest bus stops to the project site are located along Quimby Road at Ruby Avenue, approximately 0.5-mile walking distance from the project site. These stops are served by a single bus line, Local Route 39, which has commute hour headways of approximately one hour.

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 land uses (e.g., farm equipment)?	☐	☐	☒	☐
d) Result in inadequate emergency access?	☐	☐	☒	☐

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

Construction of four, single-family residences on the site would neither prevent the installation of planned public transportation, pedestrian, and bicycle facilities nor interfere with the operation of existing or proposed public transportation, pedestrian, and bicycle facilities in the project area. Consistent with General Plan Policies TR-1.6 and CD-3.3, the project would create a pedestrian-friendly environment and provide safe access for motorists and pedestrians along the project frontage by maintaining adequate sight lines at the driveway entrance and constructing a sidewalk to maintain continuous pedestrian facilities along Ambum Avenue and the new private street. Therefore, the proposed project would not create a significant public transportation, pedestrian, and bicycle facilities impact. **(Less than Significant Impact)**

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

The project would not conflict or be inconsistent with CEQA Guidelines Section 15064.3 subdivision (b). City Council Policy 5-1 has set forth project screening criteria which exempts certain projects from undergoing detailed VMT analysis due to a determination that the project would not result in significant transportation impacts and would advance City goals and policies related to transportation. According to this policy, small infill projects with 15 dwelling units or less for single-family detached residential projects are exempt from detailed VMT analysis. The proposed project is a subdivision with four, single-family residences. Therefore, the project meets the screening criteria and is assumed to result in a less than significant VMT impact. **(Less than Significant Impact)**

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

The proposed project would be designed to comply with ordinances and policies related to pedestrians and vehicles access and movement. Section 20.90.130 of the City's Municipal Code provides specific design requirements for driveways that provide access to a main street. The allowable width for the driveway onto Ambum Avenue would be 20 feet. The project would include a 26-foot wide driveway entrance to the private street, consistent with the City's Municipal Code. In addition, consistent with Section 23.02.1160 of the Municipal Code, no signs or obstructions would be installed adjacent to the driveway entrance, therefore, a clear line of sight would be provided to vehicles exiting the site.

The project would construct single-family residences and does not propose a new use or a use that is incompatible with the existing mix of uses in the project area. For these reasons, the project would not substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment). **(Less than Significant Impact)**

d) Would the project result in inadequate emergency access?

The proposed private street would provide access to the site, including access for emergency vehicles. The design of the project's private street and driveways are required to conform to City of San José design standards and guidelines. That is, the design of the street and driveways must include adequate turn radii, driveway width, and drive aisle width. For this reason, the proposed project would have a less than significant emergency vehicle access impact. **(Less than Significant Impact)**

4.18 Tribal Cultural Resources

4.18.1 Environmental Setting

4.18.1.1 *Regulatory Framework*

State

Assembly Bill 52

AB 52, effective July 2015, established a new category of resources for consideration by public agencies called Tribal Cultural Resources (TCRs). AB 52 requires lead agencies to provide notice of projects to tribes that are traditionally and culturally affiliated with the geographic area if they have requested to be notified. Where a project may have a significant impact on a 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 General Plan includes the following policies related to TCRs that are applicable to the proposed project.

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.

Policy	Description
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*

There are no known TCRs on-site. A records search of the Native American Heritage Commission (NAHC) Sacred Lands File was completed in August 2023 for the site and the results were negative. The NAHC provided a Native American Contact List with tribes that are traditionally and culturally affiliated with the geographic area, including the project site, and the City reached out to the appropriate tribal contacts on November 16, 2023 and December 4, 2023. A response was received from one tribe, the Indian Canyon Mutsun Band of Costanoan-Ohlone People, who requested consultation regarding the project. A consultation meeting between tribal representatives and the City occurred on February 23, 2024.

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 discussed in Section 4.5 Cultural Resources, while the project site has low sensitivity for cultural resources, it has the potential to encounter unknown archaeological resources during project excavation and grading activities. The City has provided notice of the project to culturally-affiliated tribes on November 16, 2023 and December 4, 2023.

As discussed in Section 4.18.1.2 Existing Conditions, one tribe, the Indian Canyon Mutsun Band of Costanoan-Ohlone People, requested consultation regarding the project and a consultation meeting between tribal representatives and the City occurred on February 23, 2024. As a result of the consultation meeting, it was determined that because the site has a low sensitivity for TCRs, cultural sensitivity training by an affiliated Native American monitor would be a sufficient measure to further reduce the risk of potential impacts to TCRs.

Condition of Approval

- A qualified Native American representative, 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, would provide sensitivity training to construction crew prior to the initial ground-breaking activities.

Furthermore, 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 by stopping work 50 feet around the find, contacting PBCE, having the find examined by a qualified archaeologist in consultation with a Native American Tribal representative, and implementing recommendations of the qualified archaeologist to preserve the resource. 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. If human remains found are believed to be Native American, the NAHC and MLD would be contacted for recommendation. These conditions would be applicable to TCRs to avoid impacts to such resources if they are discovered on-site. Therefore, the proposed project would not cause a substantial adverse change in the significance of a TCR. **(Less than Significant Impact)**

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 its consultant could nonetheless determine resources uncovered during construction to be significant. The proposed project would be required to implement the standard permit conditions identified in Section 4.5 which address disturbance of any unknown cultural resources and set forth the appropriate procedure to be followed in the event of discovery. Implementation of these conditions 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 because they require having the find examined by a qualified archaeologist in consultation with a Native American Tribal representative and implementing recommendations of the qualified archaeologist to preserve the resource. Therefore, the impact would be less than significant. **(Less than Significant Impact)**

4.19 Utilities and Service Systems

4.19.1 Environmental Setting

4.19.1.1 *Regulatory Framework*

State

State Water Code

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

Assembly Bill 939

The California Integrated Waste Management Act of 1989, or AB 939, established the Integrated Waste Management Board, required the implementation of integrated waste management plans, and mandated that local jurisdictions divert at least 50 percent of solid waste generated (from 1990 levels), beginning January 1, 2000. Projects that would have an adverse effect on waste diversion goals are required to include waste diversion mitigation measures.

Assembly Bill 341

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

Assembly Bill 1826

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

Senate Bill 1383

SB 1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025. The bill grants CalRecycle the regulatory authority required to achieve the organic waste disposal reduction targets and establishes an additional target that at least 20 percent of currently disposed edible food is

recovered for human consumption by 2025. 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.[107]

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

In January 2023, the State of California adopted the most recent version of the California Green Building Standards Code ("CALGreen"), establishing mandatory green building standards for all new and qualifying remodeled structures 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;
- Providing readily accessible areas for recycling by occupants.

Local

Envision San José 2040 General Plan

The General Plan contains the following policies which are specific to utilities and service systems and applicable to the proposed project.

Policy	Description
IN-3.3	Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.
IN-3.5	Require development which will have the potential to reduce downstream LOS to lower than "D", or development which would be served by downstream lines already operating at a LOS lower than "D", to provide mitigation measures to improve the LOS to "D" or better, either acting independently or jointly with other developments in the same area or in coordination with the City's Sanitary Sewer Capital Improvement Program.
IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.

[107] CalRecycle. "Analysis of the Progress Toward the SB 1383 Organic Wase Reduction Goals." August 18, 2020. Accessed October 26, 2023. 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.

Policy	Description
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.
MS-17.2	Ensure that development within San José is planned and built in a manner consistent with fiscally and environmentally sustainable use of current and future water supplies by encouraging sustainable development practices, including low-impact development, water-efficient development and green building techniques. Support the location of new development within the vicinity of the recycled water system and promote expansion of the South Bay Water Recycling (SBWR) system to areas planned for new development. Residential development outside of the Urban Service Area can be approved only at minimal levels and only allowed to use non-recycled water at urban intensities. For residential development outside of the Urban Service Area, restrict water to well water, rainwater collection, or other similar environmentally sustainable practice. Non-residential development may use the same sources and potentially make use of recycled water, provided that its use will not result in conflicts with other General Plan policies, including geologic or habitat impacts. To maximize the efficient and environmentally beneficial use of water outside of the Urban Service Area, limit water consumption for new development so that it does not diminish the water supply available for projected development in areas planned for urban uses within San José or other surrounding communities.
MS-3.7	Update the Green Building Ordinance to require installation of water efficient fixtures and appliances that are WaterSense certified, Energy Star rated, or equivalent during construction or renovation of bathrooms, kitchens, laundry areas, and/or other areas with water fixtures/appliances that are proposed to be replaced.
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.

San José Zero Waste Strategic Plan/Climate Smart San José

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

San José Sewer System Management Plan

The purpose of the Sewer System Management Plan (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.

Construction and Demolition Diversion Deposit Program

The Construction and Demolition Diversion Deposit Program (CDDD) requires projects to divert at least 50 percent of total projected project waste to be refunded the deposit. Permit holders pay this fully refundable deposit upon application for the construction permit with the City if the project is a demolition, alteration, renovation, or a certain type of tenant improvement. The deposit is fully refundable if C&D materials were reused, donated, or recycled at a City-certified processing facility. The minimum project valuation for a deposit is $2,000 for an alteration-renovation residential project and $5,000 for a non-residential project. There is no minimum valuation for a demolition project and no square footage limit for the deposit applicability. Reuse and donation require acceptable documentation, such as photos, estimated weight quantities, and receipts from donations centers stating materials and quantities. Though not a requirement, the permit holder may want to consider conducting an inventory of the existing building(s), determining the material types and quantities to recover, and salvaging materials during deconstruction.

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

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

4.19.1.2 *Existing Conditions*

Water Services

Water service to the project area is provided by the San José Municipal Water System (SJMWS). The service area covers both residential and commercial land uses, and approximately 132,000

residents receive their water service through SJMWS.[108] SJMWS obtains its water supply from a combination of groundwater sources, purchased water from its two wholesale water suppliers, Valley Water and San Francisco Public Utilities Commission, and recycled water. Based on SJMWS's actual 2020 water usage, residential per capita water demand is approximately 118 gallons per day.[109] There are currently no recycled water lines in the immediate site vicinity. The nearest recycled water pipelines are south of Quimby Road.[110] The project site is currently developed with a single-family residence. The estimated water use for the site is 368 gpd.[111]

Sanitary Sewer/Wastewater Treatment

Wastewater from the City is treated at the San José/ Santa Clara Regional Wastewater Facility (RWF), which is administered and operated by the City Department of Environmental Services. The RWF provides primary, secondary, and tertiary treatment of wastewater and has the capacity to treat 167 million gpd of wastewater. The RWF treats an average of approximately 84 mgd of wastewater and serves 1.4 million residents and 17,000 businesses in eight cities and four sanitation districts.[112, 113] Based on this average treatment amount, the RWF has approximately 83 mgd of available treatment capacity. The RWF is currently operating under a 120 million gpd dry weather effluent flow constraint and, in 2022, the average dry weather effluent flow was 60.6 million gpd.[114]

Approximately 10 percent of the plant's effluent is recycled for non-potable uses. The remainder is discharged into the San Francisco Bay after treatment. For the purposes of this Initial Study, wastewater flow rates are assumed to be 95 percent of the total indoor water use on-site.[115] The estimated wastewater generated for the site is 245 gpd. The project site currently connects to an existing six-inch sanitary sewer line in Ambum Avenue.

[108] City of San José. *2020 Urban Water Management Plan*. June 2021. Page ES-1.
[109] City of San José. *2020 Urban Water Management Plan*. June 2021. Page ES-3.
[110] City of San José. "Recycled Water Pipeline System." December 22, 2022. https://www.sanjoseca.gov/home/showpublisheddocument/522/638089592815200000.
[111] Based on the average household size in San José of approximately 3.12 residents. 118 gallons per capita per day x 3.12 persons = 368 gallons per day.
[112] City of San José. "San José-Santa Clara Regional Wastewater Facility." Accessed September 7, 2023. https://www.sanjoseca.gov/your-government/departments-offices/environmental-services/water-utilities/regional-wastewater-facility.
[113] San José-Santa Clara Regional Wastewater Facility. "2022 Annual Pollution Prevention Report." August 2020. Page 4. https://www.sanjoseca.gov/home/showpublisheddocument/99424/638224377363630000
[114] San José-Santa Clara Regional Wastewater Facility. "2022 Annual Self-Monitoring Report." Accessed September 7, 2023. https://www.sanjoseca.gov/home/showpublisheddocument/94789/638124181781530000.
[115] It is estimated that 70 percent of demand occurs indoors and 30 percent occurs outdoors. Source: United States Environmental Protection Agency. "How We Use Water." Accessed November 14, 2023. https://www.epa.gov/watersense/how-we-use-water.
Site water use = 368 gpd, 368 x 0.7 = 258 gallons of indoor water use, 258 gallons x 0.95 = 245 gallons of wastewater per day.

Stormwater Drainage

The project site is located in a developed area served by the City's existing storm drainage systems. The project site currently contains a single-family residence, accessory structures, paved driveways, and landscaping, with 28,510 square feet of impervious surfaces (or 25 percent of the total site area). Storm drainage lines in the project area are owned and maintained by the City of San José.

As discussed in Section 4.10.1.2, runoff from the project site flows into a 12-inch storm drain line in Ambum Avenue and enters the City's storm drainage system at the base of the hill before eventually discharging via outfall to Thompson Creek. The creek flows north and merges with the Coyote Creek, which ultimately flows into the San Francisco Bay.

Solid Waste

The City of San José generates approximately 1.7 million tons of solid waste annually.[116] Most of that waste (approximately 60 percent) is diverted and disposed of at recycling facilities and composting facilities. The remaining municipal solid waste generated in San José is processed at various approved facilities and residuals are disposed at local landfills including Newby Island Sanitary Landfill (NISL)

The estimated annual historic solid waste generated on-site is 0.81 tons (or 0.88 cubic yards).[117]

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?	☐	☐	☒	☐

[116] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report*. SCH: 2009072096. September 2011. Page 650.

[117] Based on the default CalEEMod assumption of 0.26 tons per resident, per year for Single Family Housing residents. Cubic yards based on a compaction rate of 1,850 pounds per cubic yard.

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

a) Would the project require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

Water Facilities

The project would result in a water demand of 1,473 gpd.[118] Lateral connections would be made to the existing water main on Ambum Avenue to service the four new residences on-site. The proposed development is consistent with the planned buildout of the General Plan and would not require the construction or expansion of water delivery systems or the expansion of the boundaries of the SJWC service area. The City's Fire Department has confirmed the water pressure and fire flow in the water system would meet the City's performance standards with implementation of the project. Therefore, the project would not result in significant environmental effects related to the relocation or construction of new or expanded water facilities. **(Less than Significant Impact)**

Sanitary Sewer/Wastewater Treatment

The site's wastewater flow rates are assumed to be 95 percent of the total indoor water use on-site, which would result in 980 gpd[119] of wastewater generation, an increase of 735 gpd compared to existing conditions. Lateral connections would be made to the existing sewer main in Ambum Avenue. The sanitary sewer mains are operated by the City. The City's Department of Public Works requires the applicant to submit plans and profile of the sewer mains with lateral locations for final

[118] Based on the average household size in San José of approximately 3.12 residents. 118 gallons per capita per day x 3.12 persons x 4 households = 1,473 gpd.

[119] Sewer flow= 95 percent of the project indoor water use (see above footnote). 1,473 gpd x 0.7 = 1,031 gallons of indoor water use per day. 1,031 x 0.95 = 980 gallons of sewer flow per day.

review prior to project construction to ensure that there would be sufficient capacity in the sanitary sewer main downstream of the site with the implementation of the project. Therefore, the project would not require improvements (e.g., increasing capacity) to the sanitary sewer system.

As discussed in Section 4.19.1.2, the RWF has approximately 83 mgd of available treatment capacity. The RWF is currently operating under a 120 million gpd dry weather effluent flow constraint and, in 2022, the average dry weather effluent flow was 60.6 million gpd. Therefore, new or expanded wastewater treatment facilities would not need to be constructed to accommodate the 980 gpd of sewage generated 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. **(Less than Significant Impact)**

Storm Drainage

Construction of the project would increase the impervious surfaces on-site from 28,510 square feet to 42,371 square feet, an increase in 13,861square feet. As discussed in Section 4.10 Hydrology and Water Quality, future redevelopment of the site would comply with the MRP C.3 and City Council Policy No. 6-29, which require regulated projects to include post-construction Low Impact Development (LID) practice to treat post-construction stormwater runoff to maximize infiltration and evapotranspiration. The project proposes to comply with these regulations by installing six flow-through planters on-site. Stormwater lateral connections and associated manholes would be installed on-site to convey stormwater from these flow-through planters to the existing 12-inch stormwater main in Ambum Avenue. The construction of these on-site improvements are part of the project and the environmental impacts of which are discussed throughout this Initial Study.

As discussed under Section 4.10.1.2, the project site is located in an area not subject to hydromodification requirements of the MRP and City Council Policy No. 8-14.

Furthermore, the City Department of Public Works has confirmed development of the project would not exceed the capacity of the existing storm drainage system serving the project site, and would not require expansion of the stormwater system.

For these reasons, no new storm water facilities would need to be constructed to accommodate the proposed project. **(Less than Significant Impact)**

Electric Power, Natural Gas, and Telecommunications

The project would utilize existing infrastructure for electrical and telecommunication services. Although the project would incrementally 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. No natural gas use is proposed. As a result, the proposed project would have a less than significant impact on these facilities. **(Less than Significant Impact)**

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

The proposed project would connect to the existing water infrastructure provided by SJMWS. The project would result in a water demand of about 1,473 gpd, an increase of about 1,105 gpd compared to existing conditions.

The General Plan EIR concluded that the water demand from the buildout of the General Plan would not exceed the projected water supply during normal, dry, and multiple dry years with implementation of the General Plan policies (including Policy MS-3.1, MS-3.2, MS-3.3, MS-3.7, and MS-17.2) related to water efficiency. The proposed development is consistent with the planned buildout of the General Plan and the project would be consistent with General Plan policies by constructing to meet the current Title 24, CalGreen, and City standards related to water efficiency, such as installing drought tolerant landscaping and irrigation system consistent with the City's landscape water ordinance and the state's model water efficient landscape ordinance.

For these reasons, there would be sufficient water supply available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years. The proposed project would result in less than significant impact on water resources. **(Less than Significant Impact)**

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

As discussed under checklist question a), the project would increase wastewater generation on-site by approximately 735 gpd, and there is sufficient available treatment capacity at the RWF to serve the project. **(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?

As aforementioned in Section 4.19.1.2, NISL had approximately 12.4 million cubic yards of capacity remaining, and Kirby Canyon Landfill has approximately 13.8 million cubic yards of capacity remaining. The project would generate approximately 3.38 tons (or approximately 3.67 cubic yards)[120] of solid waste per year that can be accommodated by local landfills. In addition, the project would be required to conform to City plans and policies to reduce solid waste generation, including diverting 75 percent of nonhazardous construction and demolition debris from landfills,

[120] Assuming a compaction rate of approximately 0.925 tons per cubic yard. Source: North, Daniel. General Manager, Republic Services. Personal Communication. November 21, 2019.

salvaging materials for new construction when feasible, and participating in the City's composting and recycling collection service.

In addition, the General Plan EIR concluded that buildout of the General Plan would not generate waste in excess of the capacity of existing landfills serving the City.[121] The proposed development is consistent with the buildout of the General Plan, therefore, the project would result in the same impact as disclosed in the General Plan EIR.

For the above reasons, the proposed project would not exceed the capacity of existing landfills or solid waste disposal infrastructure, nor would it impair the attainment of solid waste reduction goals. **(Less than Significant Impact)**

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

The proposed project would be required to provide on-site recycling facilities, develop a construction waste management plan, salvage at least 75 percent of nonhazardous construction/demolition debris (by weight), and implement other waste reduction measures as per CALGreen requirements. Additionally, the estimated increases 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. Ultimately, the proposed project would comply with federal, state, and local management and reduction statutes and regulations related to solid waste. **(Less than Significant Impact)**

[121] City of San José. *Integrated Final Program Environmental Impact Report for the Envision San José 2040 General Plan.* SCH# 2009072096. September 2011. Page 687.

4.20 Wildfire

4.20.1 Environmental Setting

4.20.1.1 *Regulatory Framework*

State

Fire Hazard Severity Zones

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

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 adjacent to State responsibility areas or lands classified as very high fire hazard severity zones.[122] The nearest State responsibility area is approximately 0.46 miles east of the site, and the nearest very high fire hazard severity zone is approximately 3.6 miles south of the site.[123]

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?	☐	☐	☐	☒

[122] California Department of Forestry & Fire Protection. *Santa Clara County Very High Fire Hazard Severity Zones.* October 8, 2008. Accessed September 7, 2023. https://egis.fire.ca.gov/FHSZ/.
[123] Ibid.

	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:				
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 permit conditions and mitigation measures. The project would implement mitigation measures MM BIO-1.1 to reduce potential disturbance to nesting birds and raptors (see Section 4.4 Biological Resources) and standard permit conditions to reduce potential impacts to buried cultural and tribal cultural resources (see Section 4.5 Cultural Resources and Section 4.18 Tribal Cultural Resources). **(Less than Significant Impact with Mitigation Incorporated)**

b) Does the project have impacts that are individually limited, but cumulatively considerable?

Under Section 15065(a)(3) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has potential environmental effects "that are individually limited, but cumulatively considerable." As defined in Section 15065(a)(3) of the CEQA Guidelines, cumulatively considerable means "that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." In addition, under Section 15152(f) of the CEQA Guidelines, where a lead agency has determined that a cumulative effect has been adequately addressed in a prior EIR, the effect is not treated as significant for purposes of later environmental review and need not be discussed in detail.

The project would not impact agricultural or forestry resources or mineral resources, therefore, the project would have no contribution to cumulative impacts to these resources. Nor would the project contribute to any cumulative impacts associated with wildfire risk, as the project site is not located in or near a state responsibility area or lands classified as very high fire hazard severity zones.

The geographic area for cumulative aesthetic impacts for the project is the immediate surrounding area. There are no other projects adjacent to the site in which the project would contribute towards a cumulative aesthetic impact. For this reason, the project would not contribute to a significant cumulative aesthetic impact.

In general, an individual project's impact on air quality, energy, GHGs, and VMT are evaluated at a cumulative level. That is, if a project results in a significant impact to air quality (specifically criteria air pollutants), energy, GHGs, and VMT, the project would be considered to have a significant cumulative impact to those resources. In addition, the BAAQMD thresholds used by the City of San José were developed such that a project-level impact would also be a cumulatively considerable impact. The project would not result in a significant emissions of criteria air pollutants or GHG emissions under BAAQMD thresholds and, therefore, would not make a substantial contribution to cumulative air quality or GHG emissions impacts (see sections 4.3 Air Quality and 4.8 Greenhouse Gas Emissions). The project's consumption of electricity and gasoline was assessed in comparison with consumption at the state and county level (see Section 4.6 Energy) and was found to result in less than significant impacts with adherence to local, state, and federal policies. Therefore, the proposed project would not make a substantial contribution to cumulative energy use impacts. As discussed in Section 4.17 Transportation, the project meets the City's screening criteria for VMT analysis and is assumed to result in a less than significant VMT impact. Therefore, the project would not contribute to cumulative VMT impacts.

The General Plan EIR concluded that buildout of the General Plan would result in less than significant cumulative impacts to public services (including recreational facilities) with future development complying with the City's PDO/PIO, state law requiring the payment of school impact

fees, and applicable General Plan policies.[124] The project is consistent with the General Plan and would pay the applicable PDO/PIO fees required by the City and school impact fees required by California Government Code Section 65996, and compliance with General Plan Policies ES-3.9, ES-3.10, ES-3.11, and ES-3.23 pertaining to public and property safety design and adequate fire suppression infrastructure. For this reason, the project would result in the same less than significant cumulative public services and recreation impacts identified in the General Plan EIR.

Land uses in the City are primarily regulated through the City's General Plan and Municipal Code. As discussed in Sections 4.11 Land Use and 4.14 Population and Housing, the project is consistent with the General Plan designation for the site, would comply with the Municipal Code, and comply with applicable General Plan policies, mitigation measures and standard permit conditions described throughout this Initial Study to reduce environmental impacts to a less than significant level. Furthermore, the project would not contribute to unexpected levels of population/housing growth beyond what is planned in the General Plan and, therefore, would not increase the severity of the previously identified significant cumulative and unavoidable population and housing impact in the General Plan EIR.[125] The project is consistent with the General Plan and, therefore, the project's utility demand is accounted for in the General Plan EIR. As such, the project in compliance with General Plan policies MS-3.1, MS-3.2, MS-3.3, MS-3.7, and MS-17.2 pertaining to water efficiency, City's Zero Waste Strategic Plan and CALGreen pertaining to waste reduction, and the City Council Policy No. 6-29 and MRP C.3 pertaining to maximizing infiltration, would result in the same less than significant cumulative utility impact as identified in the General Plan EIR.[126]

The geographic area for cumulative biology, cultural resources, tribal cultural resources, geology and soils, hazards and hazardous materials, and hydrology and water quality impacts is generally the surrounding area of the project site because it would affect common resources and impacts would be limited to the immediate vicinity. The General Plan EIR concluded that future development, such as the proposed project, would comply with the existing state, regional, and local regulations including the MBTA, Fish and Game Code, City Tree Ordinance, NHPA, CRHR, California Native American Historical, Cultural, and Sacred Sites Act, PRC Sections 5097 and 5097.98, CBC, MRP provisions, PCB/ACM/LBP regulatory screening requirements, NPDES permit requirements, General Plan policies, and Municipal Code regulations identified in Section 4.4 Biological Resources, Section 4.5 Cultural Resources, 4.7 Geology and Soils, 4.9 Hazards and Hazardous Materials, and 4.10 Hydrology and Water Quality of this document to reduce impacts to biology, cultural resources, tribal cultural resources, geology and soils, hazards and hazardous materials, and hydrology and water quality to a less than significant level. The project would comply with the same regulations identified in the General Plan EIR, as well as implement City standard permit conditions and project-specific mitigation measures (such as BIO-1.1 and HAZ-1.1). For this

[124] City of San José. *Integrated Final Program Environmental Impact Report for the Envision San José 2040 General Plan.* SCH# 2009072096. September 2011. Page 868.
[125] City of San José. *Integrated Final Program Environmental Impact Report for the Envision San José 2040 General Plan.* SCH# 2009072096. September 2011. Page 873.
[126] City of San José. *Integrated Final Program Environmental Impact Report for the Envision San José 2040 General Plan.* SCH# 2009072096. September 2011. Pages 870-871.

reason, the project would not result in new or substantially more severe significant cumulative impacts than disclosed in the General Plan EIR for these resources.[127,128,129,130,131]

There are no pending or approved projects within 1,000 feet of the project site, which is the effective area for localized construction-related air quality (TACs) and noise/vibration impacts. Therefore, the project would not contribute to cumulatively significant construction-related TAC or noise/vibration impacts.

Given the above discussion, the proposed project would not result in cumulatively considerable contributions to significant cumulative impacts. **(Less than Significant Cumulative 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 hazardous materials, construction TACs, and noise. However, as explained in Sections 4.3 Air Quality, 4.9 Hazards and Hazardous Materials, and 4.13 Noise, the project's implementation of the standard permit conditions, condition of approval, mitigation measures MM HAZ-1.1, MM NOI-1.1, and MM NOI-2.1 identified in those sections would reduce these impacts to a less than significant level. **(Less than Significant Impact with Mitigation Incorporated)**

[127] City of San José. *Integrated Final Program Environmental Impact Report for the Envision San José 2040 General Plan.* SCH# 2009072096. September 2011. Page 866.
[128] City of San José. *Integrated Final Program Environmental Impact Report for the Envision San José 2040 General Plan.* SCH# 2009072096. September 2011. Pages 871-872.
[129] City of San José. *Integrated Final Program Environmental Impact Report for the Envision San José 2040 General Plan.* SCH# 2009072096. September 2011. Page 866.
[130] City of San José. *Integrated Final Program Environmental Impact Report for the Envision San José 2040 General Plan.* SCH# 2009072096. September 2011. Page 867.
[131] City of San José. *Integrated Final Program Environmental Impact Report for the Envision San José 2040 General Plan.* SCH# 2009072096. September 2011. Pages 866-867.

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, Planner I

6.2 Consultants

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Environmental Consultants and Planners
Kristy Weis, Principal Project Manager
Amy Wang, Project Manager
Nick Towstopiat, Project Manager
Kish Rai, Researcher

Archaeological/Historical Consultants
Archaeological and Historic Consultants
Daniel Shoup, Principal
Jennifer Ho, Senior Historian
William Kostura, Architectural Historian
Molly Fierer-Donaldson, Archaeologist

Bay Area Tree Specialists
Arborist Consultants
Larry Van Groningen, Certified Arborist

Earth Systems Pacific
Geotechnical Consultants
Ajay Singh, GE, Principal Engineer
Javad Shahmoradi, Staff Engineer

Silicon Valley Environmental Group, Inc.
Hazardous Materials Consultants
Stuart G. Solomon, Senior Assessor

Section 7.0 Acronyms and Abbreviations

AB	Assembly Bill
ABAG	Association of Bay Area Governments
ACM	Asbestos-Containing Material
ALUC	Airport Land Use Commission
APN	Assessor's Parcel Number
BAAQMD	Bay Area Air Quality Management District
Bay Area	San Francisco Bay Area
Bgs	Below ground surface
BMP	Best Management Practices
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
CFC	Chlorofluorocarbon
CFR	Code of Federal Regulations
CGS	California Geological Survey
CH_4	Methane
CLUP	Comprehensive Land Use Plan
CMP	Congestion Management Program
CNEL	Community Noise Equivalent Level

CO	Carbon Monoxide
CO_2	Carbon Dioxide
CO_2e	Carbon Dioxide Equivalents
CRHR	California Register of Historical Resources
CUPA	Certified Unified Program Agency
dBA	A-weighted decibel
DNL	Day/Night Average Sound Level
DPM	Diesel Particulate Matter
DTSC	Department of Toxic Substances Control
EIR	Environmental Impact Report
EO	Executive Order
EPA	Environmental Protection Agency
ESA	Environmental Site Assessment
FAA	Federal Aviation Administration
FAR	Federal Aviation Regulations
FAR	Floor Area Ratio
FEMA	Federal Emergency Management Agency
FHSZ	Fire Hazard Severity Zone
FMMP	Farmland Mapping and Monitoring Program
GHG	Greenhouse Gases
GHGRS	Greenhouse Gas Reduction Strategy
GPD	Gallons Per Day
GWh	Gigawatt Hour
GWP	Global Warming Potential
Habitat Plan	Santa Clara Valley Habitat Plan
HFC	Hydrofluorocarbons
HMP	Hydromodification Management Plan
HSWA	Hazardous and Solid Waste Amendments
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
MLD	Most Likely Descendant
$MMTCO_2e$	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
NHPA	National Historic Preservation Act of 1966
NISL	Newby Island Sanitary Landfill
NO_2	Nitrogen Dioxide
NOA	Naturally Occurring Asbestos
NOD	Notice of Determination
NO_x	Nitrogen Oxides
NPDES	National Pollutant Discharge Elimination System
NRHP	National Register of Historic Places
O_3	Ozone
PCB	Polychlorinated Biphenyls
PCBE	Planning, Building and Code Enforcement
PDA	Priority Development Areas
PFC	Perfluorocarbon
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
RFW	San José/ Santa Clara Regional Wastewater Facility
RHNA	Regional Housing Need Allocation
ROG	Reactive Organic Gases
RTP	Regional Transportation Plan
RWQCB	Regional Water Quality Control Board
SB	State Bill
SCS	Sustainable Communities Strategy
SF_6	Sulfur Hexafluoride
SJCE	San José Clean Energy
SJFD	San José Fire Department
SFHA	Special Flood Hazard Areas
SHMA	Seismic Hazards Mapping Act
SMARA	Surface Mining and Reclamation Act
SMGB	State Mining and Geology Board
SMP	Site Management Plan
SO_2	sulfur dioxide
SO_x	Sulfur Oxides
SR	State Route
SRA	State Responsibility Area
SWRCB	State Water Resources Control Board
SWPP	Storm Water Pollution Prevention Plan
TAC	Toxic Air Contaminants
TCM	Treatment Control Measures
TCR	Tribal Cultural Resources
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

UWMP	Urban Water Management Plan
Valley Water	Santa Clara Valley Water District
VMT	Vehicle Miles Traveled
VTA	Santa Clara Valley Transportation Authority
Williamson Act	California Land Conservation Act
WSA	Water Supply Assessment
WUI	Wildland-Urban Interface
ZNE	Zero Net Carbon Emission