2470 Alvin Avenue Mixed-Use Development Project

Initial Study – Mitigated Negative Declaration

File No. H23-031 & ER23-235

prepared by

City of San José
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street, 3rd Floor
San José, California 95113

prepared with the assistance of

Rincon Consultants, Inc.
99 South Almaden Boulevard
San José, California 95113

November 2024

RINCON CONSULTANTS, INC. SINCE 1994

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: 2470 Alvin Avenue Mixed-Use Development Project

PROJECT FILE NUMBER: H23-031 and ER23-235

PROJECT DESCRIPTION: Site Development permit to allow the demolition of an existing approximately 13,275-square foot medical building for the construction of an eight-story mixed-use building consisting of 138 multifamily residential units and approximately 4,992 square feet of commercial space on an approximately 0.93-gross acre site.

PROJECT LOCATION: 2470 Alvin Avenue, on the northern corner of the intersection of Alvin Avenue and Burdette Drive, in the City of San José.

ASSESSORS PARCEL NO.: 670-02-021 **COUNCIL DISTRICT: 7**

APPLICANT CONTACT INFORMATION: B3 Commercial LLC (Atten: Cindy Tran); 1661 Burdette Drive, Suite A, San José, California 95121; (408) 893-9388; cindytranre@gmail.com

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: Tree removal or disturbance during the nesting season could impact migratory birds, in violation of the federal Migratory Bird Treaty Act.

MM BIO-1(a): Avoidance. Prior to the issuance of tree removal, grading, building or demolition permits (whichever comes first), the project applicant shall schedule all construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive). Construction activities includes site disturbance such as, but not limited to, tree trimming or removal, demolition, grading, and trenching.

MM BIO-1(b): Nesting Bird Surveys. If construction activities cannot be scheduled between September 1st and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist or biologist to ensure that no active nests shall be disturbed during construction activities. This survey shall be completed no more than 14 days prior to the initiation of construction activities during breeding season (February 1st through August 31st inclusive). During this survey, the ornithologist/ biologist shall inspect all trees and other possible nesting habitats on-site and within 250 feet of the site for nests.

MM BIO-1(c): Buffer Zones. If an active nest is found within 250 feet of the project area to be disturbed by construction, the ornithologist/biologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, (typically 250 feet for raptors and 100 feet for other birds), to ensure that raptor or migratory bird nests shall not be disturbed during project construction.

MM BIO-1(d): Reporting. Prior to tree removal, or issuance of any grading or demolition permits (whichever occurs first), the ornithologist/biologist shall submit a report indicating the results of the survey and designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement or the Director's designee.

E. CULTURAL RESOURCES.

Impact CUL-1: Construction activities would have the potential to encounter buried or subsurface pre-historic resources, or human remains.

MM CUL-1(a): Prior to the issuance of any demolition or grading permits, the project applicant shall submit to the Director of Planning, Building and Code Enforcement or the Director's designee a contract for Contractor Awareness Training which would be held prior to ground disturbance, and archaeological monitoring during ground disturbance activities. The training shall be facilitated by the project archaeologist in coordination with a Native American representative from a California Native American tribe that has consulted on the project, and the Tribe is 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 as described in Public Resources Code Section 21080.3. The contract should include potential dates for training facilitation and a description of services to be rendered.

MM CUL-1(b): Prior to the issuance of any demolition or grading permits, the project applicant shall retain a qualified archaeologist in collaboration with the consulting tribe to prepare a research

design treatment and monitoring plan to address how any inadvertent discovery of resources shall be treated. The research design and treatment plan shall be approved by the Director of Planning, Building and Code Enforcement or the Director's designee prior to issuance of any ground disturbing permits.

MM CUL-1(c): Prior to the issuance of any grading permits, the project applicant shall retain an archaeological monitor and a Native American Tribe registered with the NAHC and that has consulted on the project to be present at the project site during all demolition and ground disturbance activities. Submit a copy of the agreement to the Director of Planning, Building and Code Enforcement or the Director's designee prior to issuance of grading or building permits.

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: Due to the agricultural history from the early 1930s to late 1960s there is a potential for agricultural related pesticides to be present in the shallow soil that could potentially impact future site occupants and construction workers.

MM HAZ-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 pesticide-based 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 Director of Planning, Building and Code Enforcement Department, or Director's designee, 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 shall be provided to the Director of Planning, Building and Code Enforcement, or Director's designee, and the Environmental Compliance Officer in the City of San José Environmental Services Department.

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

K. **LAND USE AND PLANNING** – The project would not have a significant impact on this resource;

therefore, no mitigation is required.

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

M. NOISE.

Impact NOI-1: Construction activities occurring for more than 12 months could result in temporary noise impacts to sensitive receptors in the surrounding area.

MM NOI-1: Construction-Related Noise. Noise minimization measures shall include, but are not limited to, the following:

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

Impact NOI-2: Mechanical equipment associated with project operation is not known at this time and has the potential to exceed 55 dBA DNL at the adjacent property line.

MM NOI-2: Prior to issuance of any building permits and during final building design, the project applicant shall prepare a detailed acoustical study to evaluate the potential noise generated by building mechanical equipment and demonstrate the necessary noise control to meet the City's 55 dBA DNL goal. Noise control features such as sound attenuators, baffles, and barriers shall be identified, if required, and evaluated to demonstrate that mechanical equipment noise would not exceed 55 dBA DNL at noise-sensitive locations around the project site. The noise control features identified by the study shall be incorporated into the project prior to issuance of a building permit. The detailed acoustical study demonstrating that mechanical equipment would not exceed 55 dBA DNL at adjacent sensitive receptors shall be signed by a qualified noise consultant and submitted to the Director of Planning, Building, and Code Enforcement, or Director's designee, prior to the issuance of a building permit.

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 have less than significant impacts on this resource with implementation of MM CUL-1(a) through MM CUL-1(e).

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

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **Friday, December 13, 2024** any person may:

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

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

CHRISTOPHER BURTON, Director
Planning, Building and Code Enforcement

November 19, 2024

Date

Deputy

Environmental Project Manager: Kara Hawkins

Circulation period: November 21, 2024 to December 13, 2024

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November 2024

RINCON CONSULTANTS, INC.
Environmental Scientists | Planners | Engineers
rinconconsultants.com

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Initial Study

1. Project Title

2470 Alvin Avenue Mixed-Use Development Project

2. Lead Agency Name and Address

City of San José
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street, 3rd Floor
San José, California 95113

3. Contact Person and Phone Number

Kara Hawkins, Environmental Planner III
Phone: 408-535-7852
Email: kara.hawkins@sanjoseca.gov

4. Project Location

The project site is located at 2470 Alvin Avenue in San José and consists of a single parcel measuring approximately 0.93 acre. The assessor's parcel number is 670-02-021. The project site is located on the western edge of the East San José neighborhood. The interchange of Highway 101 and Tully Road is approximately 1,200 feet west of the project site. Figure 1 shows the site location in a regional context. Figure 2 shows the location of the site relative to the surrounding area.

5. Project Sponsor's Name and Address

B3 Commercial LLC
1661 Burdette Drive, Suite A
San José, California 95121

6. General Plan Designation and Zoning District

The project site is designated as Neighborhood/Community Commercial (NCC) under the City's Envision San José 2040 General Plan. The project site is in the Commercial General (CG) Zoning District.

7. Surrounding Land Uses and Setting

The project site comprises approximately 0.93 acre and is developed with a one-story office building and surface parking lot, landscaping, utilities, and pedestrian sidewalks. The site is nearly flat with no discernible topographic relief. Landscaping consists primarily of maintained lawn with decorative

shrubs. Alvin Avenue and Burdette Drive both abut the southern boundary of the project site. Two existing driveways on Burdette Drive provide access to the surface parking on the project site.

The project site is in a developed and urbanized area of San José. A US Post Office is located immediately north of and adjacent to the project site. A driveway for the post office continues to the east of the project site, providing ingress and egress to the post office from Burdette Drive. A beauty and barber college is located north of the post office. Small medical office buildings are also located east of the project site, including optometrists and pharmacies. A church is located south of the project site, immediately across Burdette Drive from the project site. A small shopping center with retail is located immediately south of the project site across Alvin Avenue. Similarly, additional retail and restaurant uses are located across Alvin Avenue west of the project site. Table 1 provides a summary of the land use designations, zoning, and land uses surrounding the project site.

Table 1 Land Uses Surrounding the Project Site

Direction from Project Site	General Plan Land Use Designation	Zoning District	Existing Land Use
North	Public/Quasi-Public (PQP)	Public/Quasi-Public (PQP)	U.S. Post Office
East	Neighborhood/Community Commercial (NCC)	Commercial General (CG)	Medical office; pharmacy
South	Public/Quasi-Public (PQP); and, Neighborhood/Community Commercial (NCC)	Public/Quasi-Public (PQP); and, Planned Development (A[PD])	Church; retail; commercial
West	Neighborhood/Community Commercial (NCC)	Commercial General (CG)	Retail; commercial; restaurants

Source: City of San José 2011

Figure 1 Regional Location

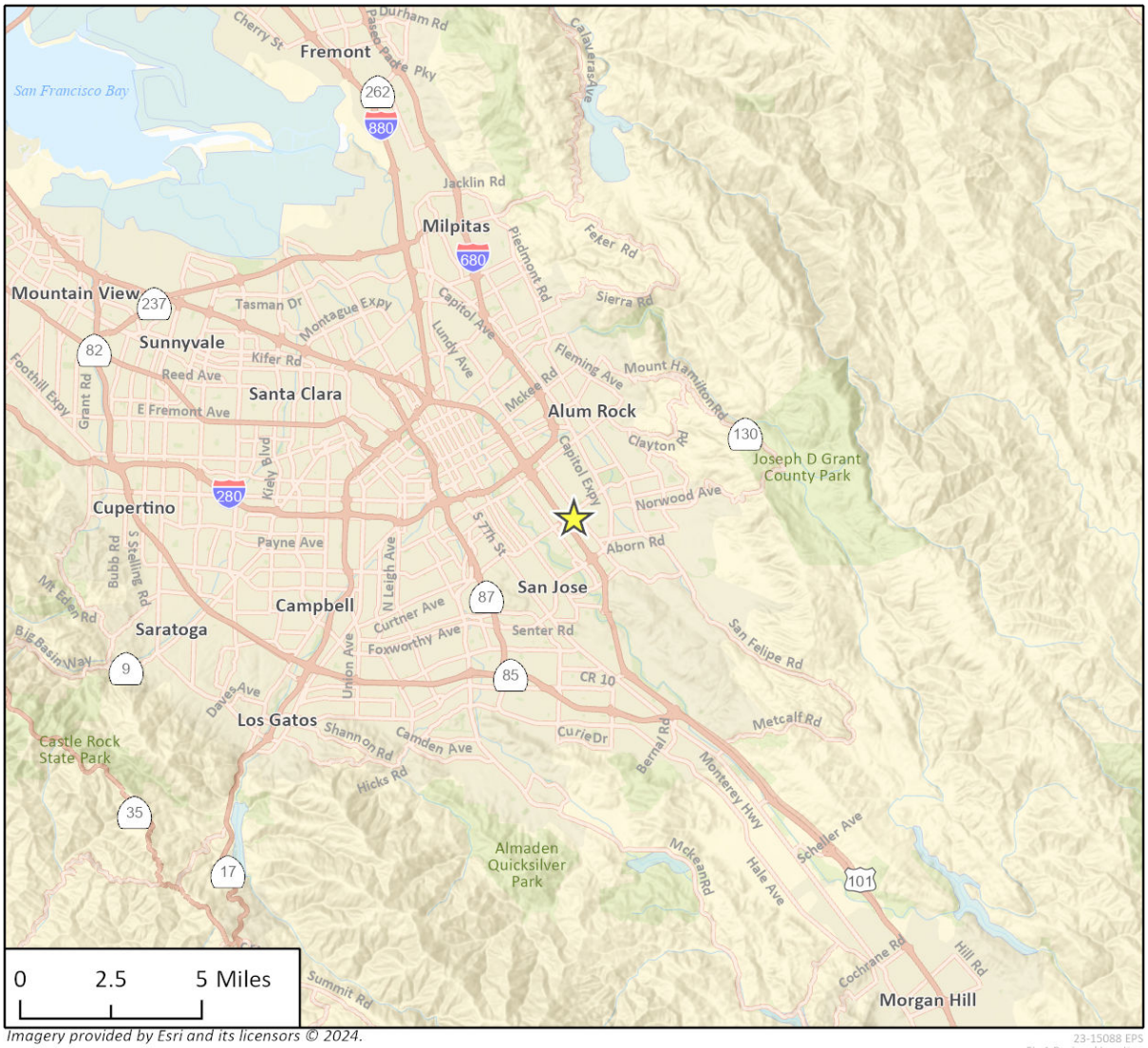

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Fig 1 Regional Location

Project Location

N

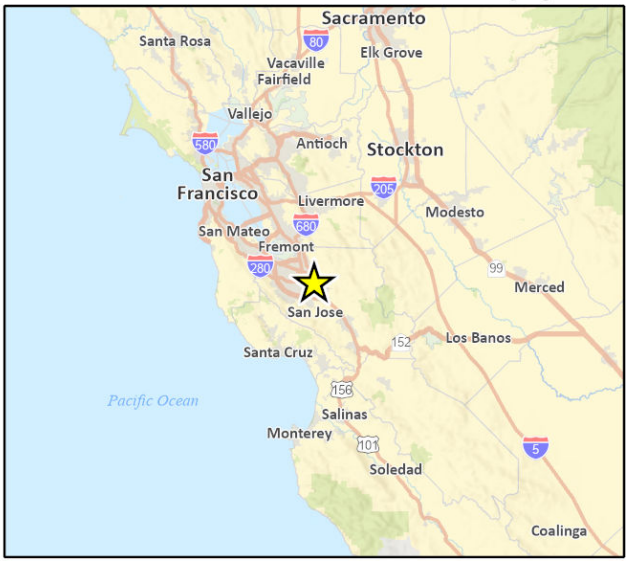

Figure 2 Project Location

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23-15088 EPS
Fig 2 Project Location

Description of Project

The proposed project would include demolition of the existing building on-site and its existing infrastructure and development, such as existing surface parking, utilities, internal pedestrian sidewalks, and landscaping and trees.

Following demolition of existing on-site development, the project applicant would construct an eight-story podium-style building on the project site. The ground floor of the building would contain approximately 4,992 square feet of commercial/retail space and other non-residential spaces, such as a leasing office and lobby, utility and storage rooms, and a trash room. The ground floor would also contain bicycle storage and repair room for building residents. The second floor of the building would contain residential units, as well as an amenity space and restroom for the amenity. The third floor would contain a community game room and additional residential units. The podium-style construction would begin with the fourth floor. Floors four through eight would contain residential units. A total of 138 residential dwelling units would be provided, consisting of a mix of studio, one-bedroom, and two-bedroom units. Twenty-eight of the total 138 dwelling units would be affordable units, which equates to approximately 20.3 percent of the proposed dwelling units.

Approximately 143 parking spaces would be provided on-site, entirely in a garage which would be accessed from Burdette Drive on the ground floor. The garage would continue onto the second and third floors of the building. Loading and service for the building would have access from Alvin Avenue, on the ground floor. In addition to vehicle parking, approximately 72 parking spaces would be provided for bicycles. An additional 11 spaces would be provided for motorcycles, which would also be within the parking garage.

Landscaping would consist of a mix of trees and shrubs in planters on the outdoor deck on the fourth-floor podium level and other minor outdoor decks on upper floors of the building. Additionally, the project would include new street trees along Alvin Avenue and Burdette Drive. Landscaping would be drought tolerant and would conform to the State's Model Water Efficient Landscape Ordinance.

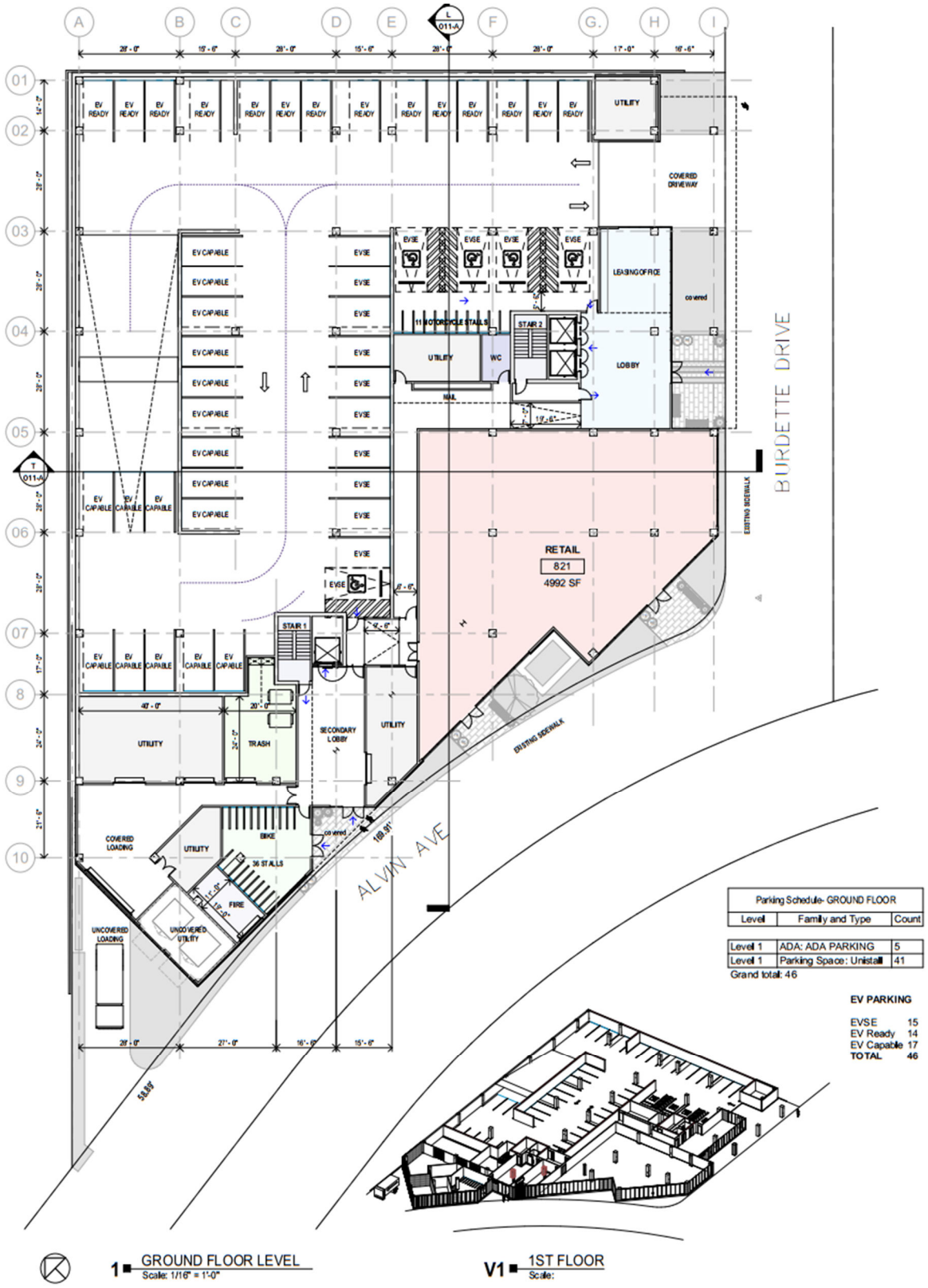
Building Architecture

The maximum height of the proposed building would be eight stories with a height of up to approximately 85.5 feet, including rooftop equipment, such as HVAC equipment. Each story of the building would have its own floor plan except for the fifth through seventh stories, which would share the same floor plan. Figure 3 shows the floor plan for the ground floor.

The proposed building would consist of a contemporary architectural design, with details such as stucco, vertical board and batten siding, decorative metal screens and guardrails, exposed board formed concrete, vertical tongue and groove wood siding, and steel awning elements. The primary frontage along Alvin Avenue would consist of full-height transparent building front, glass doors, and metal paneling. Bird safety glazing would be provided where required, such as large glass panels forming the lobby area of the building. The proposed project would also include lighting on pedestrian walkways from Alvin Avenue to the proposed building entrances and throughout the site.

Figure 4 shows a conceptual visual simulation of the proposed building.

Figure 3 Floor Plan – Ground Floor



Parking Schedule- GROUND FLOOR		
Level	Family and Type	Count
Level 1	ADA: ADA PARKING	5
Level 1	Parking Space: Unistall	41
Grand total: 46		

EV PARKING

EVSE	15
EV Ready	14
EV Capable	17
TOTAL	**46**

Figure 4 Conceptual Visual Simulation of Proposed Project

Utilities

Electricity at the project site would be provided by Pacific Gas & Electric, which is available at the project site. The project would not involve the use of natural gas. The proposed building would include a solar panel array on the rooftop to generate renewable energy on-site.

Stormwater runoff from the project site is treated with an existing storm drain system in the area that is owned and operated by the City of San José. Specifically, the project would connect an existing 24-inch storm drain pipe beneath Alvin Avenue and an existing 30-inch storm drain pipe beneath Burdette Drive. Sanitary sewer service would be provided by the City of San José. The project would connect to an existing 8-inch sanitary sewer main within Alvin Avenue and Burdette Drive.

Water service would be provided by San José Municipal Water. The project would connect to existing water main beneath Alvin Avenue and Burdette Drive. The proposed project would include utility infrastructure to connect to recycled water service if the service becomes available to the area in the future.

Project Construction

Construction activities would occur over approximately 15 months, and pending receipt of project approval and necessary permits, would begin in late 2024. Construction activities would commence with demolition of the existing on-site structure and associated development, such as the surface parking lot and on-site sidewalks. Following demolition and removal of demolished materials, grading of the site would commence. Because the site is nearly flat, project construction would require only limited grading or export of fill material. Based on construction of similar sized buildings in similar topography, excavation would be expected to reach maximum depths of up to 6 feet below existing ground surface. Soil excavated during construction, such as soil excavated from utility trenches, would be stored on-site and used for backfill. The project would require the export of approximately 165 cubic yards of soil. No tree removal would be required for project construction.

The proposed lateral connections to existing utilities within Alvin Avenue and Burdette Drive would involve temporary lane closures. Clear signage (e.g., closure and detour signs) would be provided to ensure vehicles, pedestrians and bicyclists are able to adequately navigate through lane closures and reach their intended destinations safely. Consistent with City standard practice, the project applicant would submit a construction management plan for City approval that addresses the construction schedule, street closures and/or detours, construction staging areas and parking, and the planned truck routes.

Given the temporary nature of construction, local workforce would be expected to fill the temporary construction jobs for the project. Construction workers would park on-site. Construction equipment staging would occur on-site. Construction hours would be 7:00 a.m. to 7:00 p.m., Monday through Friday, pursuant to San José Municipal Code Section 20.100.450.

8. Other Required Approvals

The proposed project would require the following entitlements, permits, and/or approvals:

- Demolition Permit

- Site Development Permit
- Grading Permit
- Building Permit

Implementation of the project may also require clearances from the City's Public Works Department other than the grading permit, such as encroachment permit for driveway reconstruction on Burdette Drive.

The project is proposed under the provisions of California Government Code 65589.5(D)(5), which is commonly referred to as "Builders Remedy." As such, the proposed project does not include rezoning the project site or changes to the General Plan land use designation of the site.

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Environmental Factors Potentially Affected

This project would potentially affect the environmental factors checked below, involving at least one impact that is "Potentially Significant" or "Less than Significant with Mitigation Incorporated" as indicated by the checklist on the following pages.

☐	Aesthetics	☐	Agriculture and Forestry Resources	☐	Air Quality
■	Biological Resources	■	Cultural Resources	☐	Energy
☐	Geology and Soils	☐	Greenhouse Gas Emissions	■	Hazards and Hazardous Materials
☐	Hydrology and Water Quality	☐	Land Use and Planning	☐	Mineral Resources
■	Noise	☐	Population and Housing	☐	Public Services
☐	Recreation	☐	Transportation	☐	Tribal Cultural Resources
☐	Utilities and Service Systems	☐	Wildfire	☐	Mandatory Findings of Significance

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Environmental Checklist

1 Aesthetics

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

Existing Setting

Scenic Views

The project site is currently developed with a one-story office building that currently has a medical tenant or tenants. In addition to the existing building there is also associated surface parking, landscaping, utilities, and pedestrian sidewalks on the project site. Landscaping consists primarily of maintained lawn, but there are also small decorative shrubs present. Several trees are present along the western boundary of the project site. Alvin Avenue and Burdette Drive both abut the southern boundary of the project site.

Views from Burdette Drive through the project site are to the north-northwest and include primarily urban development, including existing buildings, roadways and surface parking, utility poles and communications towers, and landscaping, including trees. Limited and distance views of the East Bay Hills are visible from Burdette Drive, and these views are in context with the aforementioned urban development in the foreground.

Views from Alvin Avenue through the project site are to the north-northeast and similar to views from Burdette Drive. However, views through the project site of the East Bay Hills are not possible from Alvin Avenue. Instead, limited and distant scenic views of the Santa Cruz Mountains are possible. Similar to distant views from Burdette Drive, distant views of the Santa Cruz Mountains are seen in context with extensive urban development surrounding the project site.

State Scenic Highways

There are no State scenic highways as designated by the California Department of Transportation (Caltrans) in the City of San José. The only designated state scenic highway in Santa Clara County is State Route (SR) 9, which is located between the Town of Los Gatos and the Santa Clara-Santa Cruz County line, west of Los Gatos (Caltrans 2024). The distance between the designated segment of SR 9 and the project site is approximately 10.5 miles.

Other highways in Santa Clara County that are eligible for designation but not yet designated as scenic include: SR 17 from SR 9 to the Santa Cruz County line, SR 35 from SR 9 to the Santa Cruz County line, Interstate 280 from SR 17 to the San Mateo County line, and the entire length of SR 152 within the County (Caltrans 2024). These roadways are generally located in the Santa Cruz Mountains, and the project site is approximately six miles from the nearest of these roadway segments.

Lighting and Glare

Existing sources of light on the project site include exterior auxiliary lights mounted on the existing office building, as well as pole-mounted lights used to illuminate the existing surface parking provided on the site. Light is also present on and around the project site due to adjacent and nearby sources, such as the existing retail buildings south of the project site, streetlights on Alvin Avenue and Burdette Drive, vehicle headlights, as examples.

Sources of glare on and around the project site are generally associated with glass panes used for windows on existing buildings, as well as reflective surfaces of vehicles parked in surface parking lots.

Regulatory Setting

Senate Bill 743

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

- The project is a residential, mixed-use residential, or employment center project, and
- The project is located on an infill site within a transit priority area.[1]

[1] A "transit priority area" is defined as "an area within 0.5 mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program adopted pursuant to Section 450.216 or 450.322 of Title 23 of the Code of Federal Regulations." A "major transit stop" means "a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.

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

California State Scenic Highway Program

The California State Scenic Highway Program requires a local governing body to enact a Corridor Protection Program that protects and enhances the resources along highways of State importance. The State scenic highway designation serves to protect scenic corridors, mitigate activities within scenic corridors, make development more compatible with the environment and preserve views of hillsides.

City of San José Municipal Code

The City's Municipal Code includes several regulations associated with protection of the City's visual character and control of light and glare. The City's Zoning Ordinance (Title 20 of the Municipal Code) includes design standards, maximum building height, and setback requirements.

City Council Outdoor Lighting Policy 4-3

City Council Policy 4-3 contains guidelines for the use of outdoor lighting. The purpose of this policy is to promote energy-efficient outdoor lighting on private development in the City of San José that provides adequate light for nighttime activities while benefiting the continued enjoyment of the night sky and continuing operation of the Lick Observatory by reducing light pollution and sky glow.

Envision San José 2040 General Plan

The Envision San José 2040 General Plan outlines goals and policies to guide planning and development practices within the City. Chapter 4, Quality of Life, outlines the City's design goals and policies. Those included below are applicable to the project (City of San José 2011a).

Goal CD-1: Attractive City. Create a well-designed, unique, and vibrant public realm with appropriate uses and facilities to maximize pedestrian activity; support community interaction; and attract residents, business, and visitors to San José.

Policy CD-1.1: Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.

Policy CD-1.15: Consider the relationship between street design, use of the public right-of-way, and the form and uses of adjoining development. Address this relationship in the Urban Village Planning process, development of new zoning ordinances, and the review of new development proposals in order to promote a well-designed, active, and complete visual street environment.

Impacts Assessment

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

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

The proposed project would involve the demolition of single-story building and redevelopment of the site with an eight-story building with a maximum height of approximately 85.5 feet above ground surface. Although the proposed building would be substantially taller than the existing building, views of the East Bay Hills and Santa Cruz Mountains would remain largely unchanged from existing conditions. Existing views of the East Bay Hills and Santa Cruz Mountains through the project site from Burdette Drive and Alvin Avenue are generally only possible to either side of the existing one-story building on-site. Views of these mountains are not visible over the top of the existing building because the building is close to rights-of-way of the roads, shortening the sight distance. After project construction is complete, views of the East Bay Hills and Santa Cruz Mountains would remain possible to either side of the proposed building. Accordingly, impacts to views through the project site would be less than significant.

The project site is in an area of San José where existing development is characterized by primarily one- to two-story buildings, with some decorative facades extending slight above two stories. Accordingly, the additional building height that would result from a new eight-story building in the area could be visible from scenic viewpoints, such as views of San José and the larger Santa Clara Valley from the summit of Mount Umunhum, south of San José. However, from the scenic vistas surround San José, views of the project site would be in context with the entire city, including the downtown area where many buildings are eight stories or taller. From these viewpoints the proposed building would also be visible in context with taller or more massive structures in cities surrounding San José, such as Levi's Stadium in Santa Clara and Hoover Tower at Stanford University, depending on atmospheric conditions (e.g., fog cover, air pollution, etc.). Given that the proposed building would be seen in context with similar to larger sized buildings from viewpoints surrounding San José, such as Mount Umunhum and Mount Hamilton, impacts would be less than significant.

LESS-THAN-SIGNIFICANT IMPACT

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

As described above in *Existing Setting*, there are no State-designated scenic highways in San José. SR 9, the nearest State-designated scenic highway in Santa Clara County is approximately 10.5 miles southwest of the project site. The site is not within the scenic highway corridor or visible from SR 9. The project site is at least six miles from the nearest roadway segment eligible for State designation (Interstate 280 north of SR17). Because the project site is not within a State scenic highway or visible from such a highway, there would be no impact.

NO IMPACT

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

The project site is in an urbanized area because it is in the City of San José, which is one of the larger cities in the United States, and the city's population far exceeds 100,000, by which urbanized area is defined in CEQA Guidelines Section 15191. The project site is currently zoned Commercial General,

which allows buildings of up to 8 stories with a maximum height of 65 feet. The proposed building would be 8 stories with a total height of approximately 85.5 feet, exceeding the maximum height allowed in the Commercial General zoning district. The project is proposed under the provisions of California Government Code 65589.5(D)(5), which is commonly referred to as "Builders Remedy." In accordance with California Government Code 65589.5(D)(5) the proposed project need not conform to the current zoning requirements.

Regardless of potential zoning conflicts, the proposed project would be subject to the City's Design Guidelines, which pertain largely to the aesthetics of new development. The proposed building already incorporates design features to comply with design guidelines and standards, such as upper stories of the building being set back to break up the façade of the building. The proposed building would also use decorative metal screens and guardrails, exposed board formed concrete, vertical tongue and groove wood siding, and steel awning elements, increasing the aesthetic appeal of the project. Accordingly, the project would not conflict with applicable zoning and other regulations governing scenic quality. Impacts would be less than significant.

LESS-THAN-SIGNIFICANT IMPACT

d. Would the project create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area?

As described above, the site is currently developed with a one-story office building and associated surface parking. Following completion of construction, the project would include new lighting for the proposed development in the form of exterior building lighting, interior lighting visible through windows, car headlights and driveway lights. Although the project would introduce new sources of interior light due to increased building height, the proposed lighting would be similar to surrounding land uses that already contribute to ambient light levels at night in the project area. Furthermore, the proposed interior parking structure would reduce the level of glare compared to the existing surface parking lot. Additionally, the project would be subject to the City of San José Design Guidelines. San José City Council Policy 4-3 requires private developments to use energy-efficient outdoor lighting that is fully shielded and not directed skyward. Exterior lighting would be provided for the project in accordance with City Council Policy 4-3 for outdoor lighting on private developments to ensure that the project would not create a new substantial source of light. The proposed project would introduce new sources of light and glare beyond existing conditions; however, these sources would be consistent with existing uses and would not substantially affect daytime or nighttime views. Therefore, impacts associated with light and glare would be less than significant.

LESS-THAN-SIGNIFICANT IMPACT

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2 Agriculture and Forestry Resources

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than - Significant Impact	No Impact
Would the project:				
a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on 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 the 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?	☐	☐	☐	■

The California Department of Conservation designates the project site as Urban and Built-Up Land (California Department of Conservation 2020). Urban and 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. Urban and Built-Up Land is not Important Farmland. The project site is zoned as Two-Family Residential (R-2). The project site is not zoned or used for agriculture.

CEQA requires the evaluation of forest and timber resources where they are present. The project site is located in a developed urban area. The site does not contain forest land as defined in Public Resources Code section 12220(g), timberland as defined by Public Resources Code section 4526, or property zoned for Timberland Production as defined by Government Code section 51104(g).

Regulatory Setting

Williamson Act

The Williamson Act (California Land Conservation Act of 1965) enables local governments to enter into contracts with private land owners for the purpose of restricting specific parcels of land to agricultural or related open space use. In return, land owners receive property tax assessments which are lower than full market value of the property because they are based on farming and open space uses.

Farmland Mapping and Monitoring Program

The California Natural Resources Agency's Farmland Mapping and Monitoring Program (FMMP) provides maps and data to decision makers to assist them in making informed decisions regarding the planning of the present and future use of California's agricultural land resources.

Forest Land and Timberland

Public Resources Code Section 12220(g) identifies forest land as land that can support a 10 percent native tree cover of any species, including hardwoods, under natural conditions, and that allows for management of one or more forest resources, including timber, aesthetics, fish and wildlife, biodiversity, water quality, recreation, and other public benefit.

Public Resources Code Section 4526 identifies timberland as land, other than land owned by the federal government and land designated by the board as experimental forest land, which is available for, and capable of, growing a crop of trees of a commercial species used to produce lumber and other forest products, including Christmas trees. Commercial species shall be determined by the board on a district basis.

Envision San José 2040 General Plan

The Envision San José 2040 General Plan outlines goals and policies to guide planning and development practices within the City. Chapter 6, Land Use and Transportation outlines the City's framework for identifying appropriate land uses in various areas of the City. Those included below are applicable to agriculture and forestry (City of San José 2011a).

Policy LU-12.3: Protect and preserve the remaining farmlands within San José's sphere of influence that are not planned for urbanization in the timeframe of the Envision General Plan through the following means:

- Limit residential uses in agricultural areas to those which are incidental to agriculture.
- Restrict and discourage subdivision of agricultural lands.
- Encourage contractual protection for agricultural lands, such as Williamson Act contracts, agricultural conservation easements, and transfers of development rights.
- Prohibit land uses within or adjacent to agricultural lands that would compromise the viability of these lands for agricultural uses.
- Strictly maintain the Urban Growth Boundary in accordance with other goals and
policies in this Plan.

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

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

c. Would the project 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. Would the project result in the loss of forest land or conversion of forest land to non-forest use?

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

The project site is in an urbanized and developed area. Neither farmland nor forested lands occur on or adjacent to the project site. The site is not zoned for agriculture, forest land, nor timberland production. The site contains no mapped Important Farmland (California Department of Conservation 2022a) and the site is not subject to a Williamson Act contract (California Department of Conservation 2022b). Accordingly, the proposed project would have no impact on agriculture and forestry resources.

NO IMPACT

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3 Air Quality

	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?	☐	☐	■	☐

This section of the Initial Study is based partially upon project emissions modeling that was completed by Rincon Consultants using The California Emissions Estimator Model (CalEEMod) Version 2022.1.1.21. The CalEEMod report is provided as Appendix A to this Initial Study.

This section also is based upon a Construction Health Risk Assessment prepared by Rincon Consultants in May 2024. The Construction Health Risk Assessment report is included as Appendix B to this Initial Study.

Existing Setting

The project is in Santa Clara County, which is in the San Francisco Bay Area Air Basin. Ambient air quality standards have been established at both the State and federal level. The San Francisco Bay Area Air Basin does not meet State or federal ambient air quality standards for ground-level ozone and fine particulate matter ($PM_{2.5}$) and State standards for respirable particulate matter (PM_{10}). The area is considered in attainment or unclassified for all other pollutants. The Bay Area Air Quality Management District (BAAQMD) is the regional air quality agency with jurisdiction over the San Francisco Bay Area Air Basin. BAAQMD has published California Environmental Quality Act (CEQA) Air Quality Guidelines that are used in this assessment to evaluate air quality impacts of projects (BAAQMD 2022).

Air Pollutants of Concern

High ozone levels are caused by the cumulative emissions of reactive organic gases (ROG) and nitrogen oxides (NO_x). These precursor pollutants react under certain meteorological conditions to form high ozone levels. Controlling the emissions of these precursor pollutants is the focus of the BAAQMD's attempts to reduce ozone levels. The highest ozone levels in the Bay Area occur in the

eastern and southern inland valleys that are downwind of air pollutant sources. High ozone levels aggravate respiratory and cardiovascular diseases, reduced lung function, and increase coughing and chest discomfort.

Particulate matter is another problematic air pollutant of the Bay Area. Particulate matter is assessed and measured in terms of respirable particulate matter or particles that have a diameter of 10 micrometers or less (PM_{10}) and fine particulate matter where particles have a diameter of 2.5 micrometers or less ($PM_{2.5}$). Elevated concentrations of PM_{10} and $PM_{2.5}$ are the result of both region-wide or cumulative emissions and localized emissions. High particulate matter levels aggravate respiratory and cardiovascular diseases, reduce lung function, increase mortality (e.g., lung cancer), and result in reduced lung function growth in children.

Toxic Air Contaminants

Toxic air contaminants (TACs) are a broad class of compounds known to cause morbidity or mortality, usually because they cause cancer. TACs include, but are not limited to, the criteria air pollutants. TACs are found in ambient air, especially in urban areas, and are caused by industry, agriculture, 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). Because chronic exposure can result in adverse health effects, TACs are regulated at the regional, state, and federal level.

Diesel exhaust is the predominant TAC in urban air and is estimated to represent about threequarters of the cancer risk from TACs (based on the Bay Area average). According to the California Air Resources Board (CARB), diesel exhaust is a complex mixture of gases, vapors, and fine particles. This complexity makes the evaluation of health effects of diesel exhaust a complex scientific issue. Some of the chemicals in diesel exhaust, such as benzene and formaldehyde, have been previously identified as TACs by the CARB, and are listed as carcinogens either under the State's Proposition 65 or under the Federal Hazardous Air Pollutants programs.

The San José Envision 2040 General Plan includes goals, policies, and actions to reduce exposure of the City's sensitive population to exposure of air pollution and toxic air contaminants or TACs. General Plan policies applicable to the proposed project are listed below in the *Regulatory Setting* discussion.

Sensitive Receptors

There are groups of people more affected by air pollution than others. BAAQMD defines sensitive receptors as facilities or land uses that include members of the population that are particularly sensitive to the effects of air pollutants, such as children, the elderly, and people with illnesses. Examples of uses with these types of populations include schools, hospitals and residential areas (BAAQMD 2022). The closest sensitive receptor to the project site is a nursing home approximately 290 feet south of the project site.

Odors

Substantial sources of offending odors are typically identified based on complaint histories received and compiled by BAAQMD. Typical large sources of odors that result in complaints are wastewater treatment facilities, landfills including composting operations, food processing facilities, and chemical plants. Other sources, such as restaurants, paint or body shops, and coffee roasters

typically result in localized sources of odors. The site is currently developed with an office building that does not generate odors.

Regulatory Setting

Federal

CLEAN AIR ACT

The Clean Air Act (CAA) of 1970 is the comprehensive federal law that regulates air emissions from stationary and mobile sources. The CAA authorizes the USEPA to establish National Ambient Air Quality Standards (NAAQS) to protect public health and public welfare and to regulate emissions of hazardous air pollutants. In 1977, Congress again added several provisions, including non-attainment requirements for areas not meeting NAAQS and the Prevention of Significant Deterioration program. The 1990 federal CAA amendments represent the latest in a series of federal efforts to regulate air quality in the United States. The federal CAA allows states to adopt more stringent standards or to include additional pollution species.

TITLE III OF THE FEDERAL CLEAN AIR ACT

The CAA was amended in 1990 to better address hazardous air pollutants (HAPs) (Title III). Title III offers a comprehensive plan for achieving significant reductions in emissions of HAPs from major sources. It includes a list of 189 toxic air pollutants of which emissions must be reduced. The USEPA maintains and updates a list of source categories including (1) major sources emitting 10 tons per year of a single pollutant, or 25 tons per year of a combination of those pollutants; and (2) area sources (smaller sources, such as dry cleaners). As required by Title III, the USEPA developed Maximum Achievable Control Technology (MACT) standards. MACT standards use the HAP emissions of the best-performing industry sources to set the "MACT floor", which becomes the minimum standard that an industry must at least meet in order to comply with the CAA.

State

CALIFORNIA CLEAN AIR ACT AND CALIFORNIA AMBIENT AIR QUALITY STANDARDS

As a part of the California Environmental Protection Agency, CARB is responsible for the coordination and administration of both federal and state air pollution control programs in California. The federal CAA allows states to adopt ambient air quality standards and other regulations provided that they are at least as stringent as federal standards. The California Clean Air Act became effective in 1989 and requires all areas of the state to attain the state ambient air quality standards at the earliest practicable date. To that end, California has adopted the California Ambient Air Quality Standards that are equal to or stricter than the federal standards for six criteria air pollutants. The California Ambient Air Quality Standards are listed in the Table of Standards in Section 70200 of Title 17 of the California Code of Regulations. Similar to the federal CAA, areas have been designated as attainment, nonattainment, or unclassified with respect to the state ambient air quality standards.

RISK REDUCTION PLAN TO REDUCE PARTICULATE MATTER EMISSIONS FROM DIESEL-FUELED ENGINES AND VEHICLES

In September 2000, CARB approved the Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles (CARB 2000). The plan outlines a comprehensive and

ambitious program that includes the development of numerous control measures aimed at substantially reducing emissions from new and existing on-road vehicles (e.g., heavy-duty trucks and buses), off-road equipment (e.g., graders, tractors, forklifts, sweepers, and boats), portable equipment (e.g., pumps), and stationary engines (e.g., stand-by power generators). CARB has adopted several regulations that will reduce diesel emissions from in-use vehicles and engines throughout California. In some cases, the particulate matter reduction strategies also reduce smog-forming emissions such as NO_X. As an ongoing process, CARB reviews air contaminants and identifies those that are classified as TACs. CARB also continues to establish new programs and regulations for the control of TACs, including diesel particulate matter, as appropriate.

Regional

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

BAAQMD is the regional, government agency that regulates sources of air pollution within the nine San Francisco Bay Area counties. BAAQMD and other agencies prepare clean air plans as required under the state and federal CAAs. The Bay Area 2017 Clean Air Plan (2017 CAP) focuses on two related BAAQMD goals: protecting public health and protecting the climate. The 2017 CAP lays the groundwork for the BAAQMD's long-term effort to reduce Bay Area greenhouse gas (GHG) emissions 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050. The 2017 CAP includes a wide range of control measures designed to decrease 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.

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. As discussed in the CEQA Air Quality Guidelines, the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. The City of San José and other jurisdictions in the San Francisco Bay Area Air Basin often utilize the thresholds and methodology for GHG emissions developed by the BAAQMD. The CEQA Air Quality Guidelines include information on legal requirements, BAAQMD rules, plans and procedures, methods of analyzing GHG emissions, mitigation measures, and background information.

BAAQMD SIGNIFICANCE THRESHOLDS

The City of San José uses the thresholds of significance established by the BAAQMD to assess air quality impacts of proposed development. In June 2010, BAAQMD adopted thresholds of significance to assist in the review of projects under CEQA and these significance thresholds were contained in the BAAQMD's 2011 CEQA Air Quality Guidelines. These thresholds were designed to establish the level at which BAAQMD believed air pollution emissions would cause significant environmental impacts under CEQA. The thresholds underwent a series of court challenges and were mostly upheld. BAAQMD most recently updated the CEQA Air Quality Guidelines in 2022 to include the latest significance thresholds, which were used in this analysis and are summarized in Table 2.

Table 2 Air Quality Thresholds of Significance

Pollutant/ Precursor	Construction Average Daily Emissions (lbs/day)	Operational Average Daily Emissions (lbs/day)	Operational Annual Average Emissions (tons/year)
ROG	54	54	10
NO_X	54	54	10
PM_{10}	85 (exhaust)	82	15
$PM_{2.5}$	54 (exhaust)	54	10

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

Source: Table 3-1, Bay Area Air Quality Management District, CEQA Air Quality Guidelines, 2022.

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the Lead Agency and must be based to the extent possible on scientific and factual data. These thresholds were designed to establish the level at which the BAAQMD believes air pollution emissions would cause significant environmental impacts. The City of San José has carefully considered the thresholds updated by BAAQMD in 2022 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 fine particulate matter (i.e., PM_{10} and $PM_{2.5}$).

Local

ENVISION SAN JOSÉ 2040 GENERAL PLAN

The Envision San José 2040 General Plan outlines goals and policies to guide planning and development practices within the City. Chapter 3, Environmental Leadership, outlines the City's air quality goals and policies (below) that are applicable to the project (City of San José 2011a).

Policy MS-1.2: Continually increase the number and proportion of buildings within San José that make use of green building practices by incorporating those practices into both new construction and retrofit of existing structures.

Policy MS-2.11: Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g. design to maximize cross ventilation and interior daylight) and through site design techniques (e.g. orienting buildings on sites to maximize the effectiveness of passive solar design).

Goal MS-10: Air Pollutant Emission Reduction. Minimize air pollutant emissions from new and existing development.

Policy MS-10.1: Assess projected air emissions from new development in conformance with the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines and relative

to state and federal standards. Identify and implement feasible air emission reduction measures.

Policy MS-10.2: Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.

Policy MS-10.7: Encourage regional and statewide air pollutant emission reduction through energy conservation to improve air quality.

Policy MS-10.10: Actively enforce the City's ozone-depleting compound ordinance and supporting policy to ban the use of chlorofluorocarbon compounds (CFCs) in packaging and in building construction and remodeling. The City may consider adopting other policies or ordinances to reinforce this effort to help reduce damage to the global atmospheric ozone layer.

Goal MS-11: Toxic Air Contaminants. Minimize exposure of people to air pollution and toxic air contaminants such as ozone, carbon monoxide, lead, and particulate matter.

Policy MS-11.2: For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.

Policy MS-11.3: Review projects generating significant heavy duty truck traffic to designate truck routes that minimize exposure of sensitive receptors to TACs and particulate matter.

Policy MS-11.7: Consult with BAAQMD to identify stationary and mobile TAC sources and determine the need for and requirements of a health risk assessment for proposed developments.

Goal MS-13: Construction Air Emissions. Minimize air pollutant emissions during demolition and construction activities.

Policy MS-13.1: Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.

Policy MS-14.4: Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.

Impacts Assessment

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

BAAQMD's most recent adopted air quality plan is the 2017 Clean Air Plan (CAP). Emissions projections are based on population, vehicles, and land use trends developed by the BAAQMD, Metropolitan Transportation Commission (MTC), and Association of Bay Area Governments (ABAG). Determining consistency with the 2017 CAP involves assessing whether applicable control measures contained in the 2017 CAP are implemented and whether a project would alter the population and/or employment estimates in the CAP. Implementation of control measures improves air quality and protects health, according to the 2017 CAP. These control measures are organized into nine categories: stationary sources, transportation, energy, buildings, agriculture, natural and working lands, waste management, water, and short-lived climate pollutants (BAAQMD 2017).

Given that the project is residential development, the 2017 CAP control measure categories relevant to the project would include those related to buildings, waste management and water control. The project would be required to comply with the Title 24 Energy Efficiency Standards and CALGreen standards, consistent with Building Control Measure BL1 (Green Buildings). Compliance with CALGreen standards would also include measures for water use and wastewater reduction and recycling non-hazardous construction debris, as further described in Section 19, *Utilities and Service Systems*, consistent with Waste Management Control Measure WA4 (Recycling and Waste Reduction) and Water Control Measure WR2 (Support Water Conservation).

A project would conflict with or obstruct implementation of the CAP if it would be inconsistent with the regional growth assumptions in terms of population, employment, or regional growth in vehicle miles traveled (VMT). The emission strategies in the CAP were developed, in part, on regional population, housing, and employment projections prepared by ABAG. The project site is within the Central South Santa Clara County Superdistrict, which ABAG has developed population growth projections for. ABAG's Plan Bay Area 2050 estimates that approximately 18,000 households will be added to this Superdistrict by 2050 (ABAG 2021). The 138 residential units that would be constructed in the Superdistrict as a result of the project would represent approximately 0.75 percent of the household growth projected through 2050 by ABAG.[2] Therefore, by correlation, the 395 people residing in the 138 project residences would be a similar negligible percentage of the population growth that would result from 18,000 new households in the Superdistrict forecasted by ABAG. As described in Section 17, *Transportation*, the project would not result in substantial increases in VMT and VMT impacts would be less than significant. Development of the project would not conflict with population and VMT projections used to develop the 2017 CAP projections. In addition, the project would not exceed BAAQMD thresholds for operational criteria air pollutant emissions, as discussed below. The project would not conflict with or obstruct implementation of the 2017 CAP, and the impact would therefore be less than significant.

LESS-THAN-SIGNIFICANT IMPACT

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

The California Emissions Estimator Model (CalEEMod) Version 2022.1.1.21 was used to estimate emissions from construction and operation of the site assuming full build-out of the project. The

2 138 households/18,000 households X 100 percent = 0.75 percent (rounded to nearest tenth decimal)

project land use types and size, and anticipated construction schedule were input to CalEEMod. The model output from CalEEMod is included in Appendix A.

Construction-Period Emissions

CalEEMod provided annual emissions for construction. CalEEMod provides emission estimates for both on-site and off-site construction activities. On-site activities are primarily made up of construction equipment emissions, while off-site activity includes worker, hauling, and vendor traffic. Detailed CalEEMod inputs are provided in Appendix A. The inputs are based on a combination of CalEEMod defaults and project-specific details provided by the applicant. Examples of project-specific inputs used in the analysis include the tentative construction period and duration and the expected about of material that would be hauled on-site during construction.

Table 3 shows maximum daily construction emissions of ROG, NO_x, PM_{10} exhaust, and $PM_{2.5}$ exhaust during construction of the project. As indicated in Table 3, predicted construction-period average daily emissions would not exceed the BAAQMD significance thresholds.

Table 3 Construction Emissions (pounds/day)

Pollutant	Maximum Daily Emissions (lbs/day)	Significance Threshold (lbs/day)	Significant Impact?
ROG	38	54	No
NO_x	36	54	No
CO	34	n/a	No
SO_x	<0.1	n/a	No
PM_{10}	7	85 (exhaust)	No
$PM_{2.5}$	4	54 (exhaust)	No

See Appendix A for CalEEMod worksheets, Table 2.1 (maximum daily emissions provided per summer and winter estimates).

Additionally, construction of the proposed project would be subject to the following City of San José Standard Permit Conditions.

Standard Permit Conditions

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

a. Water all exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) two times per day.

b. Cover all trucks transporting soil, sand, and other loose materials off-site.

c. Remove all visible mud or dirt track-out onto adjacent public roads at least once per day using wet power vacuum street sweepers. The use of dry power sweeping is prohibited.

d. Limit all vehicle speeds on unpaved roads to 15 mph.

e. Pave all new roadways, driveways, and sidewalks as soon as possible.

f. Lay building pads as soon as possible after grading unless seeding or soil binders are used.
g. Suspend all excavation, grading, and/or demolition activities when average wind speeds exceed 20 mph.
h. Wash off all trucks and equipment, including their tires, prior to leaving the site.
i. 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 times either by shutting off equipment when not in use or reducing the maximum idling time to no more than 2 minutes (A 5-minute limit is required by state Airborne Toxics Control Measures [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.
j. Maintain and property tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
k. Post a publicly visible sign with the telephone 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 Bay Area Air Quality Management District's General Air Pollution Complaints number to ensure compliance with applicable regulations.

Operation-Period Emissions

Operational air emissions from the project would be generated primarily from the vehicle trips generated by residents of the proposed residences and their visitors. Other less substantial sources of operational emissions include evaporative emissions from architectural coatings and maintenance products (classified as consumer products). CalEEMod was used to estimate emissions from operation of the proposed project assuming full build-out.

Emissions associated with vehicle travel depend on the year of analysis because emission control technology requirements are phased in over time. Therefore, the earlier the year analyzed in the model, the higher the emission rates utilized by CalEEMod. See Appendix A for a detailed description of CalEEMod inputs, including trip generation rates, off-road equipment, energy, and other inputs. Table 4 and Table 5 provide the project's estimated operational emissions.

Table 4 Operational Average Daily Emissions

Pollutant	Estimated Project Emissions (pounds/day)	Significance Threshold (pounds/day)	Significant Impact?
ROG	4.4	54	No
NO_x	0.5	54	No
CO	6.3	n/a	No
SO_x	<0.1	n/a	No
PM_{10}	<0.1	85	No
$PM_{2.5}$	<0.1	54	No

See Appendix A for CalEEMod worksheets.

Note: Table values rounded to the nearest tenth decimal.

Table 5 Operational Annual Average Emissions

Pollutant	Proposed Project Emissions	Significance Threshold	Significant Impact?
ROG	0.8	10	No
NO_x	0.1	10	No
CO	1.2	n/a	No
SO_x	<0.1	n/a	No
PM_{10}	<0.1	15	No
$PM_{2.5}$	<0.1	10	No

See Appendix A for CalEEMod worksheets.

Note: Table values rounded to the nearest tenth decimal.

As shown in Table 4 and Table 5, operational emissions would not exceed the BAAQMD significance thresholds; as such, operational emissions of the project would be less than significant.

LESS-THAN-SIGNIFICANT IMPACT

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

Project impacts related to increased community risk can occur either by introducing a new sensitive receptor, such as a residential use, in proximity to an existing source of TACs or by introducing a new source of TACs with the potential to adversely affect existing sensitive receptors in the project vicinity.

When the project construction health risk is combined with the health risks from existing major roads and highways and existing stationary sources, the Woodside Apartments south of the project site on Alvin Avenue is the maximally exposed individual resident (MEIR). The MEIR is the modeled receptor experiencing the highest incremental excess cancer risk under the total exposure duration. There is a nursing home located between the project site and Woodside Apartments, and nursing homes are considered sensitive receptors. However, the way the air dispersion occurs, concentrations would be highest at the northern edges of the property and are higher at the northern most apartments on the Woodside Apartments site than they would be at the nursing home building which is located at the southern portion of the site with a large parking lot between the building an Alvin Avenue. Accordingly, the Woodside Apartments are the MEIR rather than the nursing home. The maximally exposed worker receptor is located at the Tafatolu Christian Church located southwest of the project site, directly across Burdette Drive.

Construction

Construction equipment and associated heavy-duty truck traffic generates diesel exhaust, which is a known TAC. A health risk assessment of the project construction activities was completed that evaluated potential health effects to the closest sensitive receptors from construction emissions of DPM and $PM_{2.5}$ (Appendix B). The closest sensitive receptor is located at the Woodside Apartments, approximately 480 feet south of the project site. The CalEEMod model was used which provides total annual PM_{10} exhaust emissions for off-road construction equipment and on-road vehicles (see Appendix A). The U.S. EPA AERMOD dispersion model was used to predict construction-related DPM and $PM_{2.5}$ concentrations at existing sensitive receptors in the vicinity of the project site. Maximum

cancer risks at Woodside Apartments are presented in Table 6. In addition, Table 6 also presents the maximally exposed worker receptor located at the Tafatolu Christian Church located southwest of the project site, directly across Burdette Drive.

Table 6 Unmitigated Health Risks Associated with Construction Activity

Scenario	Excess Cancer Risk (per million)	Chronic Health Risk[1]	$PM_{2.5}$ µg/m^3 annual average
Woodside Apartments	5.29	0.057	0.04
BAAQMD Significance Threshold	>10	>1	>0.3
Threshold Exceeded?	**No**	**No**	**No**
Maximally Exposed Worker Receptor	1.26	0.603	0.296
BAAQMD Significance Threshold	>10	>1	>0.3
Threshold Exceeded?	**No**	**No**	**No**

µg/m^3 = micrograms per cubic meter; BAAQMD = Bay Area Air Quality Management District

[1]Noncancer health impacts are determined by dividing the airborne concentration at the receptor by the appropriate Reference Exposure Level (REL) for that substance. A REL is defined as the concentration at which no adverse noncancer health effects are anticipated. Because noncancer health impacts are assessed as the ratio of airborne concentration versus the REL, the resulting hazard index is unitless.

For model outputs, see Appendix B.

As shown in Table 6, incremental excess cancer risks resulting from construction activities would not exceed BAAQMD thresholds at Woodside Apartments, the nearest sensitive receptor. Additionally, as shown in Table 6, the chronic hazard index at the maximally exposed worker would not exceed BAAQMD thresholds.

The project construction-related health risk, as well as health risk from existing major roadways and highways and stationary sources within 1,000 feet of the MEIR, and maximally exposed worker receptor, are summarized in Table 7.

Table 7 Cumulative Health Risks Associated with Unmitigated Construction Activity

Source	Excess Cancer Risk (per million)	Chronic Health Risk[1]	$PM_{2.5}$ µg/m^3 Annual Average
Maximally Exposed Individual Receptor			
Unmitigated Project Construction	5.29	0.057	0.04
Highway/Roadways (101 Freeway and Tully Street)[2]	58.99	0.16	1.14
Verizon Wireless (Tully Road)	0.05	0.00	0.00
Reco Gas and Minimart	0.15	0.00	0.00
Tully Valero	0.26	0.00	0.00
Vo Gas Station	0.27	0.00	0.00
King Tully Shell #135986	0.45	0.00	0.00
Cumulative Total	65.47	0.22	1.18
BAAQMD Significance Threshold	>100	>10	>0.8
Threshold Exceeded?	**No**	**No**	**Yes**

Source	Excess Cancer Risk (per million)	Chronic Health Risk[1]	$PM_{2.5}$ µg/m³ Annual Average
Maximally Exposed Worker Receptor			
Unmitigated Project Construction	1.26	0.603	0.296
Highway/Roadways (101 Freeway and Tully Street)[2]	58.99	0.16	1.14
Verizon Wireless (Tully Road)	0.14	0.00	0.00
Reco Gas and Minimart	0.20	0.00	0.00
Tully Valero	0.44	0.00	0.00
Vo Gas Station	0.32	0.00	0.00
King Tully Shell #135986	1.26	0.01	0.00
Cumulative Total	62.61	0.77	1.44
BAAQMD Significance Threshold	>100	>10	>0.8
Threshold Exceeded?	**No**	**No**	**Yes**

[1]Noncancer health impacts are determined by dividing the airborne concentration at the receptor by the appropriate Reference Exposure Level (REL) for that substance. A REL is defined as the concentration at which no adverse noncancer health effects are anticipated. Because noncancer health impacts are assessed as the ratio of airborne concentration versus the REL, the resulting hazard index is unitless.

[2]Based on health risk screening data for Highways/Roadways provided by BAAQMD (BAAQMD 2022).

For model outputs, see Appendix B.

As shown in Table 7, cumulative sources of TACs would result in an exceedance of annual $PM_{2.5}$ concentrations for the cumulative receptor at both the MEIR and maximally exposed work receptor. However, the background $PM_{2.5}$ concentrations are above the cumulative threshold without the addition of the project health risks and emissions, and the project's additional impacts are minor and incremental in nature. As shown in Table 7, the $PM_{2.5}$ emissions of the project at the MEIR would be approximately 0.04 µg/m³, which is approximately 5 percent of the cumulative significance threshold of 0.8 µg/m³. While the cumulative contribution of project emissions would increase at the maximally exposed worker receptor, the contribution of the project would be approximately 26 percent of existing $PM_{2.5}$ emissions and approximately 37 percent of the cumulative threshold. For this reason and because the risk from the project activities itself is below the project thresholds, the project impact would not be cumulatively considerable. Accordingly, construction health risks would be less than significant, and mitigation is not required.

Operational

The proposed project would generate new vehicle trips. Because the project driveways for residents and service vehicles would be on Burdette Drive and Alvin Avenue, respectively, the trips generated by the project would begin (or end) on Burdette Drive and Alvin Avenue before being distributed onto other area roadways, depending on the specific trip destination. According to the Local Transportation Analysis prepared for the project, the proposed project would result in a net increase of approximately 141 vehicle trips (Appendix C). This is below the 10,000 annual average daily trip rate, which is the BAAQMD screening criteria of significance. Additionally, given that the project is residential, most trips generated by the project would be in traditionally gasoline-powered engines and not diesel engines, which typically have more adverse health effects than exhaust from gasoline engines. Therefore, operational impacts from health risks would be less than significant.

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?

According to the 2022 BAAQMD CEQA Guidelines, examples of land uses that have the potential to generate considerable odors include, but are not limited to: wastewater treatment plants, landfills, confined animal facilities, composting stations, food manufacturing plants, refineries, and chemical plants. The proposed project would not create new sources of odors. During construction, use of diesel-powered vehicles and equipment could temporarily generate localized odors, which would cease upon project completion. The proposed project would result in the development of new residential units along Alvin Avenue and would not include activities, such as wastewater treatment, waste disposal, or food processing, that are typically associated with the generation of operational odors. Therefore, impacts related to odors would be less than significant.

LESS-THAN-SIGNIFICANT IMPACT

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4 Biological Resources

	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 or U.S. Fish and Wildlife Service?	☐	■	☐	☐
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	☐	☐	☐	■
c. Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	■
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☐	■
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	■
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	■	☐

Existing Setting

The project site is located within an urbanized area of San José. Within the city, the urban forest as a whole is considered an important biological resource because most trees provide some nesting, cover, and foraging habitat for birds and mammals that are tolerant of humans, as well as providing necessary habitat for beneficial insects. While the urban forest is not as favorable an environment for native wildlife as extensive tracts of native vegetation, trees in the urban forest are often the best commonly or locally available habitat within urban areas.

According to the Envision San José 2040 General Plan EIR, 13 special-status plants (p. 427) and over 50 special-status animals (p. 436) have the potential to occur in the City. The project site is currently developed with a one-story office building that currently has medical tenants. In addition, the existing building there is also associated surface parking, landscaping, utilities, and pedestrian sidewalks on the project site. Due to the disturbed condition of the site and the lack of continuous or contiguous vegetation cover on-site, the project site has a relatively low habitat value. The project site also has low habitat value because the properties adjacent to the project site are developed with commercial uses, roadways and other medical facilities. Due to the lack of native, sensitive, and wetland habitats on the project site, special-status plant and animal species and sensitive habitats do not occur on the project site other than the trees which could be used by nesting migratory birds.

The project site is located within the boundaries of the Santa Clara Valley Habitat Plan (SCVHP), a habitat conservation plan/natural community conservation plan (HCP/NCCP) that was developed through a partnership between Santa Clara County; the cities of San José, Morgan Hill, and Gilroy; Santa Clara Valley Water District; Santa Clara Valley Transportation Authority; the United States Fish and Wildlife Service (USFWS); and California Department of Fish and Wildlife (CDFW). The SCVHP is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County. The SCVHP utilizes a variety of private and public development-based fees to fund mitigation that will offset losses of land cover types, covered species habitat, and other biological values. These one-time fees pay for the full cost of mitigating project effects on covered species and natural communities (Santa Clara Valley Habitat Agency 2013).

Private development activities that require ground disturbance are subject to the SCVHP if the activity is equal to or greater than two acres, and is located in an area identified as “Urban Development Equal to or Greater than 2 Acres is Covered.” As shown on Figure 2-5 (Private Development Areas Subject to the Plan) of the SCVHP, the project site is located in an area subject to the SCVHP, as it is mapped within the area identified as “Urban Development Equal to or Greater than 2 Acres is Covered.” The project site is previously disturbed, and no natural communities are located on the site, as shown on Figure 3-9 (Santa Clara Valley Habitat Plan Natural Communities) of the SCVHP. The SCVHP’s land cover classification for the site, shown on Figure 3-10 (Santa Clara Valley Habitat Plan Land Cover) of the SCVHP, is Urban-Suburban and the project is within the City’s urban growth boundary. The SCVHP defines Urban-Suburban land cover as areas where native vegetation has been cleared for residential, commercial, industrial, transportation, or recreational structures, with one or more structures per 2.5 acres (Santa Clara Valley Habitat Agency 2013). The project site is in the “Urban Areas” land cover fee zone. As such, the project site is subject to the SCVHP, despite being developed and having an Urban-Suburban land cover type.

The SCVHP additionally addresses nitrogen deposition, requiring payment of nitrogen deposition fees for all covered projects that generate net new vehicle trips. Nitrogen deposition is known to

adversely affect many of the native serpentine plants in the SCVHP study area, including the host plants that support the federally threatened Bay checkerspot butterfly (*Euphydryas editha bayensis*). All major remaining populations of the Bay checkerspot butterfly and many of the sensitive serpentine plant populations occur in areas subject to air pollution from vehicle exhaust and other sources throughout the Bay Area, including the project area. Because serpentine soils are nutrient poor, and nitrogen deposition artificially fertilizes serpentine soils, nitrogen deposition facilitates the spread of invasive plant species, resulting in the displacement of native species. This decline of native species, including the Bay checkerspot butterfly and its larval host plants, has been documented on Coyote Ridge in central Santa Clara County (approximately 12 miles east of the project site). Nitrogen tends to be efficiently recycled by the plants and microbes in infertile soils such as those derived from serpentine, so that fertilization impacts could persist for years and result in cumulative habitat degradation. Mitigation for the impacts of nitrogen deposition upon serpentine habitat and the Bay checkerspot butterfly can be correlated to the amount of new vehicle trips that a project is expected to generate. The SCVHP requires payment for nitrogen deposition fees for all covered projects that generate new net daily vehicle trips or develop new residential units; fees collected under the SCVHP for new daily vehicle trips are used to purchase and manage conservation land for the Bay checkerspot butterfly (Santa Clara Valley Habitat Agency 2013).

Regulatory Setting

Federal and State

SPECIAL-STATUS SPECIES

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 USFWS and the 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" said 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, Section 15380(b) and (c) of the CEQA Guidelines provide that all potential rare or sensitive species, or habitats capable of supporting rare species, are considered for environmental review pursuant to the CEQA Guidelines. These may include plant species of concern in California listed by the California Native Plant Society and CDFW listed "Species of Special Concern."

MIGRATORY BIRD TREATY ACT

The Migratory Bird Treaty Act makes it illegal to take, possess, import, export, transport, sell, purchase, barter, or offer for sale, purchase, or barter, a migratory bird or migratory birds, or the parts, nests, or eggs of such a bird except under the terms of a valid Federal permit (USFWS 2017).

SENSITIVE HABITATS

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, protection, or consideration by the U.S. 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. U.S. EPA regulations, called for under Section 402 of the Clean Water Act, also include the National Pollutant Discharge Elimination System (NPDES) permit program, which controls sources that discharge into waters of the United States (e.g., streams, lakes, bays, etc.).

Local

Regulatory authority over biological resources is shared by state and local authorities under a variety of statutes and guidelines. Primary authority for biological resources lies within the land use control and planning authority of local jurisdictions, in this case the City of San José.

CITY OF SAN JOSÉ MUNICIPAL CODE

The City of San José Municipal Code (Title 13) regulates the removal of trees, including live or dead woody perennial plant, having a main stem or trunk 38 inches or more in circumference (12 inches in diameter) at a height of 4.5 feet above ground. On multifamily, commercial, or industrial lots, a permit is required to remove a tree of any size. In addition, City-designated heritage trees are considered sensitive resources. A heritage tree is a tree located on private property, which because of factors including (but not limited to) history, girth, height, species, or unique quality has been found by the City Council to have special significance to the community. It is unlawful to vandalize, mutilate, remove, or destroy heritage trees.

ENVISION SAN JOSÉ 2040 GENERAL PLAN

The Envision San José 2040 General Plan outlines goals and policies to guide planning and development practices within the City. Chapter 3, Environmental Leadership, and Chapter 4, Quality of Life, outlines the City's design goals and policies. Those included (below) are applicable to biological resources and to the project (City of San José 2011a).

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

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

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

Policy CD-1.22: Include adequate, drought-tolerant landscaped areas in development and require provisions for ongoing landscape maintenance.

Policy CD-1.23: Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private

property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.

SANTA CLARA VALLEY HABITAT PLAN

As discussed above in *Existing Setting*, the project site is within the boundaries of the SCVHP, which is a 50-year regional plan to protect endangered species and natural resources while allowing for future development in Santa Clara County. In addition to strengthening local control over land use and species protection, the Plan provides a more efficient process for protecting natural resources by creating new large-scale habitat reserves that are more ecologically valuable and easier to manage than the individual mitigation sites created under the current approach (Santa Clara Valley Habitat Agency 2013).

Impacts Assessment

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 California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

The project site is in a developed, urban area and does not contain special-status species habitat (USFWS 2024). Accordingly, construction of the project would not impact special-status plants or wildlife, with the exception of potential effects on migratory nesting birds. While the project site does not contain trees and the project would not require the removal of trees, there are trees immediately adjacent to the project site. During project construction, increased human activity and construction noise could result in migratory birds abandoning active nests in the trees, if present. The damage or destruction of active nest sites of migratory birds and to the migratory birds themselves would be a potentially significant impact. Implementation of mitigation measures BIO-1 a through d would reduce impacts to less than significant levels.

Impact BIO-1: Tree removal or disturbance during the nesting season could impact migratory birds, in violation of the federal Migratory Bird Treaty Act.

Mitigation Measures

MM BIO-1(a): Avoidance. Prior to the issuance of tree removal, grading, building or demolition permits (whichever comes first), the project applicant shall schedule all construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive). Construction activities includes site disturbance such as, but not limited to, tree trimming or removal, demolition, grading, and trenching.

MM BIO-1(b): Nesting Bird Surveys. If construction activities cannot be scheduled between September 1st and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist or biologist to ensure that no active nests shall be disturbed during construction activities. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st

inclusive). During this survey, the ornithologist/ biologist shall inspect all trees and other possible nesting habitats on-site and within 250 feet of the site for nests.

MM BIO-1(c): Buffer Zones. If an active nest is found within 250 feet of the project area to be disturbed by construction, the ornithologist/biologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, (typically 250 feet for raptors and 100 feet for other birds), to ensure that raptor or migratory bird nests shall not be disturbed during project construction.

MM BIO-1(d): Reporting. Prior to tree removal, or issuance of any grading or demolition permits (whichever occurs first), the ornithologist/biologist shall submit a report indicating the results of the survey and designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement or the Director's designee.

LESS THAN SIGNIFICANT 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, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

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

The project site is in an urban area and has been previously disturbed, as evident by the existing development and general absence of non-native vegetation cover. The project site does not contain riparian habitats, other sensitive natural communities, or wetlands, and none are located on or adjacent to the site (USFWS 2024a; 2024b). Therefore, the project would have no impact on riparian habitats, other sensitive natural communities, or protected wetlands.

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?

Wildlife corridors are pathways or habitat linkages that connect discrete areas of natural open space otherwise separated or fragmented by topography, changes in vegetation, other natural obstacles, or manmade obstacles such as urban development and roadways. The project site is vacant and disturbed, surrounded by development, and does not connect areas of natural open space. The project site is not part of a wildlife movement corridor, and the project would not impede the use of native wildlife nursery sites. Therefore, the project would have no impact on wildlife movement or native wildlife nursery sites.

NO IMPACT

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

There are no trees within the project site. There are six trees located on the project site's northern boundary within the adjacent property. The project would involve protecting these trees in place and would not require tree removal. Therefore, the project would not conflict with local policies or ordinances protecting biological resources such as trees, and there would be no impact.

NO 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 would not be covered activity under the SCVHP, as the project site is less than two acres. According to the SCVHP, the project site is located within the "Urban Areas" land cover fee zone, which is a land cover fee zone that has no applicable land cover fee (Santa Clara Valley Habitat Agency 2013). Consistent with the SCVHP, the project applicant must comply with the following City of San José standard permit condition.

Standard Permit Condition

The project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant would be required to submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of Planning, Building and Code Enforcement (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.

With implementation of the City of San José Standard Permit Condition listed above, development of the proposed project would not conflict with the Santa Clara Valley Habitat Plan. Impacts would be less than significant.

LESS-THAN-SIGNIFICANT IMPACT

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5 Cultural Resources

	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 §15064.5?	☐	☐	☐	■
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	☐	■	☐	☐
c. Disturb any human remains, including those interred outside of formal cemeteries?	☐	■	☐	☐

Existing Setting

The Envision San José 2040 General Plan EIR reports that most archaeological resources occur near water bodies such as creeks and springs, in valleys and near freshwater marshes, at the base of hills, and along historic north-south Native American trails. The South Planning Area, in which the project site is located, is considered to have high archaeological sensitivity at depth, which varies geographically (City of San José 2011b). However, according to the City's Public GIS Viewer, the project site is not located within an area of archaeological sensitivity (City of San José 2024). As such, archaeological sensitivity is considered low at the project site.

The San José Historic Resources Inventory (HRI) contains over 4,000 properties listed under 16 different classifications on the local, state and national levels some of which are designated or determined eligible and some of which need further research and evaluation. The closest listed property to the project site is Magic Village/Chuck E. Cheese, which is classified as an Identified Structure and a potential historic resource that could qualify under one or more of the HRI classifications pending further evaluation and survey work. The structure, approximately 525 feet west of the project site, was built in 1972 and is currently occupied by Chuck E. Cheese , a pizza and arcade business. There is one existing commercial building on the project site that was constructed circa 1980 (building permit #79016472 issued May 4, 1979 to construct the shell of a medical office building)

Regulatory Setting

Federal

NATIONAL REGISTER OF HISTORIC PLACES

The National Historic Preservation Act of 1966 (54 USC 300202 et seq.) enabled the U.S. Department of the Interior's National Park Service (NPS) to coordinate and support public and private efforts to

identify, evaluate, and protect America's historic and archaeological places (NPS 2019). The NPS is responsible for the designation, documentation, and physical preservation of historic sites.

State

CALIFORNIA REGISTER OF HISTORIC PLACES

The California Register of Historic Places, under the Office of Historic Preservation (OHP), is the State's authoritative guide to significant historical and archeological resources. The California Register program encourages public recognition and protection of resources of architectural, historical, archeological and cultural significance, identifies historical resources for state and local planning purposes, determines eligibility for state historic preservation grant funding and affords certain protections under the California Environmental Quality Act (OHP 2019).

Local

ENVISION SAN JOSÉ 2040 GENERAL PLAN

The Envision San José 2040 General Plan outlines goals and policies to guide planning and development practices within the City. Several Subsections within the General Plan outline the City's land use goals and policies as they pertain to the preservation and conservation of archaeological, paleontological, historical, and cultural resources. Those included (below) are applicable to the project (City of San José 2011a).

Goal ER-10: Archaeology and Paleontology. Preserve and conserve archaeologically significant structures, sites, districts and artifacts in order to promote a greater sense of historic awareness and community identity.

Policy ER-10.2: Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.

Policy ER-10.3: Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and prehistoric resources.

Policy IP-12.3: Use the Environmental Clearance process to identify potential impacts and to develop and incorporate environmentally beneficial actions, particularly those dealing with the avoidance of natural and human-made hazards and the preservation of natural, historical, archaeological, and cultural resources.

Goal LU-13: Landmarks and Districts. Preserve and enhance historic landmarks and districts in order to promote a greater sense of historic awareness and community identity and contribute toward a sense of place.

Policy LU-13.15: Implement City, State, and Federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.

Impacts Assessment

a. Would the project cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5?

The project site is currently developed with a commercial office building constructed circa 1980, based on review of historic aerial photography and building permits. Therefore, the building is approximately 44 years old, which is less than the 45-year threshold that generally triggers the need for a historical resource evaluation pursuant to guidance of the California Office of Historic Preservation and is not considered a historical resource under CEQA. According to maps prepared by the City of San José, the project site is not adjacent to any historical resources (City of San José 2021a). The closest potential historical resource is the Magic Village/Chuck E. Cheese, located at 2445 Fontaine Road, approximately 600 feet to the west of the project site. Existing intervening development, including Alvin Avenue, separates the two sites. Indirect vibration resulting from project construction equipment would not damage the foundation of this potential historic resource, as discussed in Section 12, *Noise*, of this Initial Study. Accordingly, the proposed project would have no impact on historical resources pursuant to *CEQA Guidelines* §15064.5.

NO IMPACT

b. Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?

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

As described above in the *Existing Setting*, archaeological sensitivity at the project site is considered low. While the potential to encounter human remains on-site would also be low due to past disturbance of soil layers and because grading and excavation would be limited in depth to that necessary for building foundations and utility trenching, there is always a possibility of encountering unrecorded archaeological resources or human remains when conducting subsurface earthwork activities.

Construction of the proposed project would require ground disturbance, such as grading and excavation. Construction activities would have the potential to encounter buried or subsurface pre-historic resources, as well as human remains. Damage or destruction of archaeological resources and human remains, if present, would be a potentially significant impact. Mitigation measures CUL-1(a) through CUL-1(c) and City Standard Permit Conditions would be required to ensure that no significant impacts occur to buried archaeological resources and human remains during construction.

Impact CUL-1: Construction activities would have the potential to encounter buried or subsurface pre-historic resources, or human remains.

Mitigation Measures

MM CUL-1(a): Prior to the issuance of any demolition or grading permits, the project applicant shall submit to the Director of Planning, Building and Code Enforcement or the Director's designee a contract for Contractor Awareness Training which would be held prior to ground disturbance, and archaeological monitoring during ground disturbance activities. The training shall be facilitated by the project archaeologist in coordination with a Native American

representative from a California Native American tribe that has consulted on the project, and the Tribe is 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 as described in Public Resources Code Section 21080.3. The contract should include potential dates for training facilitation and a description of services to be rendered.

MM CUL-1(b): Prior to the issuance of any demolition or grading permits, the project applicant shall retain a qualified archaeologist in collaboration with the consulting tribe to prepare a research design treatment and monitoring plan to address how any inadvertent discovery of resources shall be treated. The research design and treatment plan shall be approved by the Director of Planning, Building and Code Enforcement or the Director's designee prior to issuance of any ground disturbing permits.

MM CUL-1(c): Prior to the issuance of any grading permits, the project applicant shall retain an archaeological monitor and a Native American Tribe registered with the NAHC and that has consulted on the project to be present at the project site during all demolition and ground disturbance activities. Submit a copy of the agreement to the Director of Planning, Building and Code Enforcement or the Director's designee prior to issuance of grading or building permits.

Standard Permit Conditions

Subsurface Cultural Resources. If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist in consultation with a consulting Native American Tribe 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.

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 pursuant to Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his

authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

i. 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.

ii. The MLD identified fails to make a recommendation; or

iii. 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.

Compliance with the mitigation measures and standard permit conditions above would ensure that potential project impacts to cultural resources would be less than significant.

LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED

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6 Energy

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

Existing Setting

In 2022, California's total statewide electricity consumption was approximately 287,826 gigawatt-hours (GWh) (California Energy Commission [CEC] 2022a). Approximately 17,101 GWh of electricity were consumed in Santa Clara County, of which approximately 12,851 GWh (75 percent) were consumed by the non-residential sector (CEC 2022b). Total natural gas consumption in 2022 was approximately 11.71 billion therms statewide, and 424 million therms in Santa Clara County (CEC 2022c). Natural gas consumption for the non-residential sector in Santa Clara County comprised approximately 190 million therms (approximately 45 percent of the County's gas consumption; CEC 2022d).

The CEC provides full forecasts for electricity, natural gas, and fuel every two years as part of the Integrated Energy Policy Report Process. In 2030, it is estimated that Californians will consume up to 321,300 GWh of electricity and 13.241 billion therms of natural gas (CEC 2023). Gasoline demand is projected to decline each year through 2030 due to greater numbers of zero-emission vehicles and increasing fuel economy, with forecasted 2030 gasoline demand of up to 12.6 billion gallons; diesel demand is projected to increase modestly, following economic growth, to approximately 4.0 billion gallons in 2030 (CEC 2023).

California's electric grid relies increasingly on clean sources of energy such as solar, wind, geothermal, hydroelectricity, and biomass. As this transition advances, the grid is also expanding to serve new sectors including electric vehicles, rail, and space and water heating. California has installed more renewable energy than any other U.S. state with 22,250 megawatts (MW) of utility-scale systems operational today (CEC 2023). California's Renewables Portfolio Standard (RPS) is among the most ambitious energy policies in the nation, requiring utilities to produce 33 percent of their retail electricity from clean, renewable sources by 2020 and 50 percent by 2030. Increasing California's renewable supplies will diminish the state's dependence on fossil fuels for electric power generation.

Pacific Gas and Electric Company (PG&E) transmits and delivers electricity and natural gas to residents and businesses in the City of San José, including the project site. The San José City Council created San José Clean Energy (SJCE), which provides clean electricity to the city; however, residents

and businesses may opt out and continue to receive electricity from PG&E. PG&E's 2021 power mix included 48 percent from renewable sources, 39 percent from nuclear, 9 percent from natural gas and other fuels, and 4 percent from large hydropower plants (PG&E 2021). Existing energy consumption on the project site includes consumption of fossil fuels in operation of the existing building and fuel use associated with vehicles traveling to and from the site.

Regulatory Setting

State

CALIFORNIA CODE OF REGULATIONS

At the state level, the Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6, of the California Code of Regulations (CCR), promote efficient energy use in new buildings constructed in California. The standards regulate energy consumed for heating, cooling, ventilation, water heating, and lighting.

THE CALIFORNIA GREEN BUILDING STANDARDS CODE

The California Green Building Standards Code (CALGreen) establishes mandatory green building standards for new construction (new buildings and expansions) in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resource efficiency, and indoor environmental quality. These standards include a mandatory set of minimum guidelines, as well as more rigorous voluntary measures, for new construction projects to achieve specific green building performance levels. Building Energy Efficiency Standards and CALGreen standards are enforced through the local building permit process.

CALIFORNIA PUBLIC UTILITIES COMMISSION'S CALIFORNIA LONG TERM ENERGY EFFICIENCY STRATEGIC PLAN

The California Public Utilities Commission's (CPUC's) Long Term Energy Efficiency Strategic Plan presents a single roadmap to achieve maximum energy savings across all major groups and sectors in California. This comprehensive Plan for 2009 to 2020 is the state's first integrated framework of goals and strategies for saving energy, covering government, utility, and private sector actions, and holds energy efficiency to its role as the highest priority resource in meeting California's energy needs (CPUC 2011).

Local

ENVISION SAN JOSÉ 2040 GENERAL PLAN

The Envision San José 2040 General Plan outlines goals and policies to guide planning and development practices within the City. Several Subsections within the General Plan outline the City's energy goals and policies as they pertain to the sustainable utilization of energy resources within the City. Those included (below) are applicable to the project (City of San José 2011a).

Goal MS-2: Energy Conservation and Renewable Energy Use. Maximize the use of green building practices in new and existing development to maximize energy efficiency and conservation and to maximize the use of renewable energy sources.

Policy MS-2.2: Encourage maximized use of on-site generation of renewable energy for all new and existing buildings.

Policy MS-2.3: Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.

Policy MS-2.4: Promote energy efficient construction industry practices.

Policy MS-2.11: Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize the effectiveness of passive solar design).

Policy MS-3.2: Promote use of green building technology or techniques that can help reduce the depletion of the City's potable water supply, as building codes permit. For example, promote the use of captured rainwater, graywater, or recycled water as the preferred source for non-potable water needs such as irrigation and building cooling, consistent with Building Codes or other regulations.

Policy MS-3.3: Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.

Goal MS-14: Reduce Consumption and Increase Efficiency. Reduce per capita energy consumption by at least 50% compared to 2008 levels by 2022 and maintain or reduce net aggregate energy consumption levels equivalent to the 2022 (Green Vision) level through 2040.

Policy MS-14.3: Consistent with the California Public Utilities Commission's California Long Term Energy Efficiency Strategic Plan, as revised, and when technological advances make it feasible, require all new residential and commercial construction to be designed for zero net energy use.

Policy 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, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.

Policy CD-5.6: Design lighting locations and levels to enhance the public realm, promote safety and comfort, and create engaging public spaces. Seek to balance minimum energy use of outdoor lighting with goal of providing safe and pleasing well-lit spaces. Consider the City's outdoor lighting policies in development review processes.

CITY OF SAN JOSÉ MUNICIPAL CODE

The San José 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), and a Construction

and Demolition Diversion Deposit Program that fosters recycling of construction and demolition materials (Chapter 9.10).

CITY OF SAN JOSÉ PRIVATE SECTOR GREEN BUILDING POLICY (6-32)

In October 2008, the City adopted the Private Sector Green Building Policy (6-32) that establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. This policy requires that applicable projects achieve minimum green building performance levels using the Council adopted standards. The green building standards required by this policy are intended to advance greenhouse gas reduction by reducing per capita energy use, providing energy from renewable sources, diverting waste from landfills, using less water, and encouraging the use of recycled wastewater. For commercial/industrial buildings greater than or equal to 25,000 square feet, Council Policy 6-32 requires a deposit fee that is refunded to the project applicant or developer if LEED Silver certification is obtained (City of San José 2020a).

CLIMATE SMART SAN JOSÉ

Climate Smart San José is a plan to reduce air pollution, save water, and create a stronger and healthier community while continuing to foster the City's projected growth (City of San José 2018). The Climate Smart San José plan includes three "pillars" or goals:

Create a sustainable and climate smart city by:

- Transitioning to renewable energy
- Embracing the Californian climate

Create a vibrant city of connected and focused growth by:

- Densifying the City to accommodate growth
- Making homes more efficient and affordable for families
- Creating clean, personalized mobility choices
- Developing integrated, accessible public transportation infrastructure

Create an economically inclusive city of opportunity by:

- Creating local jobs to reduce VMT
- Improving commercial building stock
- Making commercial goods movement clean and efficient

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

Construction of the project would require consumption of nonrenewable energy resources, primarily in the form of fossil fuels (including fuel oil, natural gas, and gasoline) for automobiles and construction equipment, and other resources including, but not limited to, lumber, sand, gravel, asphalt, metals, and water. Construction would include energy used by construction equipment and other activities at the project site (e.g., grading, building construction, paving), in addition to the energy used to manufacture the equipment, materials, and supplies and transport them to the project site.

Total project consumption of gasoline and diesel fuel during project construction was estimated using the assumptions and factors from CalEEMod (Appendix A). Table 8 summarizes the estimated construction energy consumption for the project. Project construction, including construction equipment operation, hauling trips, and vendor trips, would consume an estimated 40,110 gallons of diesel over the project construction period. Worker trips would consume an estimated 14,990 gallons of petroleum fuel during project construction. Energy consumption calculations are provided in Appendix D.

Table 8 Estimated Fuel Consumption during Construction

Fuel Type	Gallons of Fuel	MMBtu[4]
Diesel Fuel (Construction Equipment)[1]	33,668	4,292
Diesel Fuel (Hauling & Vendor Trips)[2]	6,414	818
Other Petroleum Fuel (Worker Trips)[3]	14,990	1,646
Total	**--**	**6,756**

[1] Fuel demand rate for construction equipment is derived from the total hours of operation, the equipment's horse power, the equipment's load factor, and the equipment's fuel usage per horse power per hour of operation, which are all taken from CalEEMod outputs (see Appendix A), and from compression-ignition engine brake-specific fuel consumptions factors for engines between 0 to 100 horsepower and greater than 100 horsepower (USEPA 2018). Fuel consumed for all construction equipment is assumed to be diesel fuel.

[2] Fuel demand rate for hauling and vendor trips (cut material imports) is derived from hauling and vendor trip number, hauling and vendor trip length, and hauling and vendor vehicle class from "Trips and VMT" Table contained in Section 3.0, *Construction Detail*, of the CalEEMod results (see Appendix A). The fuel economy for hauling and vendor trip vehicles is derived from the United States Department of Transportation (USDOT 2018). Fuel consumed for all hauling trucks is assumed to be diesel fuel.

[3] The fuel economy for worker trip vehicles is derived from USDOT National Transportation Statistics (24.4 miles per gallon) (USDOT 2018). Fuel consumed for all worker trips is assumed to be gasoline fuel.

[4] CaRFG CA-GREET 2.0 fuel specification of 109,786 British thermal units per gallon used to identify conversion rate for fuel energy consumption for worker trips specified above (CARB 2015). Low-sulfur Diesel CA-GREET 2.0 fuel specification of 127,464 British thermal units per gallon used to identify conversion rate for fuel energy consumption for construction equipment specified above (CARB 2015). Totals may not add up due to rounding.

Source: Appendix D

Construction activity and associated fuel consumption and energy use would be temporary and typical for construction sites. It is also reasonable to assume that contractors would avoid wasteful, inefficient, and unnecessary fuel consumption during construction to reduce construction costs. In addition, energy demand associated with project construction would be temporary and typical of similar residential projects. Therefore, the project would not involve the inefficient, wasteful, and unnecessary use of energy during construction, and construction-related energy impacts would be less than significant.

Operation

Project operation would increase energy demand in the form of gasoline consumption and electricity. The project would not increase demand for natural gas. Increased gasoline consumption would be associated with new vehicle trips generated from the project. The estimated of number of daily trips that would be generated by the project is based on the Local Transportation Analysis for the project (Appendix C) and was used to calculate operational gasoline consumption. In addition, there would be indirect electricity usage associated with the conveyance of water supplied to the project and wastewater produced by the project. Table 9 shows the estimated total annual energy consumption associated with operation of the project.

Table 9 Estimated Annual Operational Energy Consumption

Energy Source	Consumption	Consumption in MMBtu
Gasoline Fuel	26,323 gallons	2,889
Diesel Fuel	3,940 gallons	502
Natural Gas	0 kBtu	0
Electricity	712,876 kilowatt-hours	2,432
Total	**--**	**5,823**

Notes: Totals may not add up due to rounding.
Source: Appendix D

As shown in Table 9, vehicles associated with the operation of the project would consume approximately 26,323 gallons of gasoline and 3,940 gallons of diesel fuel, or approximately 3,391 MMBtu, each year. The fuel consumed by the project would be typical of mixed-use projects.

In addition to transportation energy use, project operation would require permanent grid connections for electricity. The project would include 3,097 square feet of rooftop solar panels, which would reduce its need for electricity; however, approximately 712,876 kilowatt-hours of electricity per year would be required from SJCE and PG&E and would be used for lighting, appliance usage, and heating. As discussed under *Existing Setting*, annual electricity use in Santa Clara County in 2022 was approximately 17,101 GWh. The approximately 712,876 kilowatt hours per year of electricity consumed by the proposed project would be less than 0.1 percent of the total energy use in Santa Clara County. Therefore, the electricity use of the proposed project would not be excessive or wasteful and would be typical of new residential development in San José.

The project would be required to comply with standards set in California Building Code (CBC) Title 24, which would minimize the wasteful, inefficient, or unnecessary consumption of energy resources during operation**.** California's Green Building Standards Code (CALGreen; California Code of Regulations, Title 24, Part 11) requires implementation of energy efficient light fixtures and building materials into the design of new construction projects. These standards ensure new construction does not result in wasteful, inefficient, or unnecessary consumption of energy.

Overall, project operation would result in consumption of fuels from primarily from vehicle trips and electricity. Project energy consumed would represent an incremental increase in energy usage compared to existing conditions, but the project would be required to implement energy-efficient components to reduce energy demand consistent with the San José Municipal Code and Green Building Policy. Therefore, operational energy impacts would be less than significant.

LESS-THAN-SIGNIFICANT IMPACT

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

Climate Smart San José, the City's climate action plan adopted in 2018, outlines the City's plan to transition to a renewable energy future through community choice energy programs and local generation of renewable energy. Further, the Envision San José 2040 General Plan contains goals and policies related to energy conservation and efficiently. Table 10 and Table 11 include applicable

goals and policies and describes project consistency with Climate Smart San José and the General Plan.

Table 10 Project Consistency with Climate Smart San José

Goal/Policy	Consistency
Transition to renewable energy.	**Consistent.** The project would include 3,097 square feet of rooftop solar panels and would provide 48 electric vehicle parking spaces.
Densifying the City to accommodate growth.	**Consistent**. The project would involve construction of 138 residential units on a parcel that is not currently utilized for residential development.
Making homes more efficient and affordable for families.	**Consistent.** The project is designed and would be constructed in compliance with state and local Green Building Codes, and would include energy efficient appliances, low-flow water fixtures, and other green features to meet applicable requirements. Twenty-eight of the 138 dwelling units are planned to be affordable housing units.

Source: City of San José 2018

Table 11 Project Consistency with the Envision San José 2040 General Plan

Goal/Policy	Consistency
Policy MS-14.1. 1 Promote job and housing growth in areas served by public transit and that have community amenities within a 20-minute walking distance.	**Consistent.** The project site is served by bus Routes 26 and 77 operated by Valley Transit Authority (VTA) at several bus stops proximate to the project site on Tully Road and South King Road. The project site is within 0.5 mile of several commercial and retail centers. See Section 17, *Transportation,* for further information.
Policy 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, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.	**Consistent**. The project is designed and would be constructed in compliance with state and local Green Building Codes, and would include energy efficient appliances, low-flow water fixtures, and other green features to meet applicable requirements. The project would also include 3,097 square feet of solar panels and 48 electric vehicle parking spaces, which would reduce energy consumption.
Policy MS-16.5. Establish minimum requirements for energy efficiency measures and onsite renewable energy generation capacity on all new housing developments.	**Consistent.** Pursuant to State and local Green Building Codes, the project would include the installation of energy efficient appliances, low-flow water fixtures, and would include 3,097 square feet of solar panels.

Source: City of San José 2011a

As shown in Table 10 and Table 11, the proposed project would not conflict with the energy-related policies of the City's 2040 General Plan. The proposed project would also be required to comply with the energy standards in the California Building Energy Efficiency Standards. Compliance with these regulations would avoid potential conflicts with adopted energy conservation plans. Therefore, the project would have a less than significant impact.

LESS-THAN-SIGNIFICANT IMPACT

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7 Geology and Soils

	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:				
1. 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?	☐	☐	☐	■
2. Strong seismic ground shaking?	☐	☐	■	☐
3. Seismic-related ground failure, including liquefaction?	☐	☐	■	☐
4. Landslides?	☐	☐	☐	■
b. Result in substantial soil erosion or the loss of topsoil?	☐	☐	■	☐
c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	☐	☐	■	☐
d. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), 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 geologic feature?	☐	☐	■	☐

Existing Setting

Regional Geology

The project site is located in the Santa Clara Valley, an alluvial basin in the Coast Ranges geomorphic province between the Santa Cruz Mountains to the southwest and the Diablo Range to the northeast. The Coast Ranges are comprised of northwesterly trending mountain ranges and structural valleys formed by tectonic processes commonly found around the Circum-Pacific belt. The rocks that underlie the basins and form the surrounding mountains are primarily marine sediments and metamorphic and igneous rocks, all of which are Mesozoic age but locally include rocks of the Cenozoic age.

The project site is located within the San Francisco Bay Area, one of the most seismically active regions in the country, transected by a series of subparallel faults that together accommodate the relative motion between the Pacific and North American plates. The nearest faults to the project site are the Hayward fault and Calaveras fault, located approximately 4 miles and 6.5 miles east of the project site, respectively.

On-Site Soils and Geology

Based on information obtained from the United States Department of Agriculture, Natural Resources Conservation Service Web Soil Survey online database (United States Department of Agriculture [USDA] 2024), the project site is mapped as Urban land-Elpaloalto complex, 0 to 2 percent slopes. The Urban land series consists of disturbed and human-transported material. The Elpaloalto series consists of very deep, well-drained soils formed in alluvium from mixed rock sources (USDA 2015).

The surface of the site is covered by impervious surfaces and maintained landscaping. The site is relatively level, with no major changes in grade.

Liquefaction occurs when loose sand and silt behaves like a liquid and loses its ability to support structures; it is caused by a complete loss of strength when the effective stress of soil particles drops to zero. The project site is located within an area identified as having susceptibility to liquefaction (California Department of Conservation 2022c). The project site is not near earthquake-induced landslide zones (California Department of Conservation 2024).

According to Appendix J of the Envision San José General Plan EIR, the project site is located in an area with high paleontological sensitivity at depth; thus, geologic formations known to contain fossils are not found close to the ground surface on the site (City of San José 2011b).

Regulatory Setting

State

CALIFORNIA BUILDING CODE

The California Building Code (CBC) provides the standards for building design by providing the minimum design criteria for building with respect to seismic safety. The California Division of Occupational Safety and Health (Cal/OSHA) regulations specify additional safety standards for excavation, shoring, and trenching (Title 8 of the California Code of Regulations).

ALQUIST-PRIOLO EARTHQUAKE FAULT ZONING ACT

The main purpose of the Alquist-Priolo Earthquake Fault Zoning Act's is to prevent the construction of buildings used for human occupancy on the surface trace of active faults. The Act only addresses the hazard of surface fault rupture and requires the State Geologist to establish regulatory zones (known as Earthquake Fault Zones) around the surface traces of active faults and to issue appropriate maps. The maps are distributed to all affected cities, counties, and state agencies for their use in planning and controlling new or renewed construction. Regulation of development projects within the zones is the responsibility of the local agencies (California Department of Conservation 2019a).

SEISMIC HAZARDS MAPPING ACT

The Seismic Hazards Mapping Act of 1990 requires that seismic hazard zones are identified and mapped in order to assist cities and counties in fulfilling their responsibilities for protecting the public health and safety from the effects of strong ground shaking, liquefaction, landslides, or other ground failure and other seismic hazards caused by earthquakes (California Department of Conservation 2019b).

Local

ENVISION SAN JOSÉ 2040 GENERAL PLAN

The Envision San José 2040 General Plan outlines goals and policies to guide planning and development practices within the City. The General Plan outlines the City's design goals and policies as they pertain to environmental hazards and considerations. Those included (below) are applicable to the project's geology and soils (City of San José 2011a).

Goal EC-3: Seismic Hazards. Minimize the risk of injury, loss of life, property damage, and community disruption from seismic shaking, fault rupture, ground failure (liquefaction and lateral spreading), earthquake-induced landslides, and other earthquake-induced ground deformation.

Policy 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.

Policy EC-3.2: Within seismic hazard zones identified under the Alquist-Priolo Fault Zoning Act, California Seismic Hazards Mapping Act and/or by the City of San José, complete geotechnical and geological investigations and approve development proposals only when the severity of seismic hazards have been evaluated and appropriate mitigation measures are provided as reviewed and approved by the City of San José Geologist. State guidelines for evaluating and mitigating seismic hazards and the City-adopted California Building Code will be followed.

Goal EC-4: Geologic and Soil Hazards. Minimize the risk of injury, loss of life, and property damage from soil and slope instability including landslides, differential settlement, and accelerated erosion.

Policy EC-4.1: Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as

amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.

Policy EC-4.2: Approve development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.

Policy EC-4.4: Require all new development to conform to the City of San José's Geologic Hazard Ordinance.

Policy EC-4.5: Ensure that any development activity that requires grading does not impact adjacent properties, local creeks and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, are adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 15 and April 15.

Policy 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.

Policy EC-4.12: Require review and approval of grading plans and erosion control plans (if applicable) prior to issuance of a grading permit by the Director of Public Works.

Impacts Assessment

a.1. 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?

The project site is not located within the boundaries of an Earthquake Fault Zone for fault rupture hazard as defined by the Alquist-Priolo Earthquake Fault Zoning Act and no faults are known to pass through the site. As discussed above in Existing Setting, the nearest mapped Alquist-Priolo Earthquake Fault Zone to the project site is the Hayward Fault Zone, approximately 4 miles to the east of the project site. Therefore, no impact related to fault rupture would occur as a result of the project.

NO IMPACT

a.2. Would the project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving strong seismic ground shaking?

a.3. Would the project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving seismic-related ground failure, including liquefaction?

Due to its location in a seismically active region, the project would be highly likely to experience strong ground shaking from seismic events on local and regional faults. Strong ground shaking poses a risk to the proposed development. Furthermore, the project site is located within a State of California liquefaction hazard zone. The potential for differential settlement as a result of seismic ground shaking or liquefaction could weaken the structural integrity of the proposed project, thereby creating risk of loss, injury, or death; however, the proposed project would be subject to the following City of San José Standard Permit Condition, which would serve to minimize this risk. Adherence to the standard permit condition would reduce impacts involving risk of loss, injury, or death from strong seismic ground shaking or seismic-related ground failure to a less than significant level.

Standard Permit Condition

i. A Geotechnical Report shall be submitted, reviewed, and approved by the City Geologist. The Geotechnical Report shall determine the site-specific soil conditions and identify the appropriate design and construction techniques to minimize risks to people and structures, including but not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with State of California guidelines for the preparation of seismic hazard evaluation reports (CGS Special Publication 117A, 2008, and the Southern California Earthquake Center report, SCEC, 1999). A recommended minimum depth of 50 feet should be explored and evaluated in the investigation. The City Geologist will review the Geotechnical Report and issue a Geologic Clearance. All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.

ii. Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.

iii. Ditches shall be installed to divert runoff around excavations and graded areas if necessary.

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

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

LESS-THAN-SIGNIFICANT IMPACT

a.4. Would the project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving landslides?

The project site is not located within a State of California landslide hazard zone. The topography of the project site is relatively flat, and no steep slopes are located on or near the site. Thus, the project site is not susceptible to landslides, and no impact would occur.

NO IMPACT

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

The project site is developed and generally level, which limits the potential for substantial soil erosion. The grading and excavation phase, when soils are exposed, has the highest potential for erosion. Project construction would include ground disturbance and excavation, which would potentially result in short-term soil erosion. Long-term impacts of the project would not result in substantial erosion, as the soils would be covered by buildings, pavement, vegetation, and landscaping. Additionally, the project would be required to implement the Standard Permit Condition, as shown in thresholds a.2 and a.3, for avoiding and reducing construction-related erosion impacts. For example, the State Permit Condition requires covering construction stockpiles, which would prevent wind or precipitation from eroding loose soils. With implementation of the Standard Permit Condition project impacts related to erosion would be less than significant.

LESS-THAN-SIGNIFICANT IMPACT

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

The project site is not located near steep slopes which would be susceptible to landslides. Standard permit conditions would ensure the proposed project would be constructed in a way that would not be substantially affected by potential liquefaction of project site soils, as described under threshold a.2 and a.3. Lateral spreading is commonly associated with liquefaction and occurs when a continuous layer of soil liquefies at depth and the soil layers above move toward an unsupported face. Lateral spreading would not be expected to occur due to the site's relatively flat topography and due to the less than significant liquefaction-related impacts. Thus, the project site is not located on a geologic unit or soil that is unstable or would become unstable as a result of the project. Moreover, compliance with the CBC and applicable City ordinances, as well as adherence to the recommendations provided in the geotechnical engineering investigation, would further reduce potential risks related to soil stability. Therefore, associated impacts would be less than significant.

LESS-THAN-SIGNIFICANT IMPACT

d. Would the project be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?

Expansive soils can undergo substantial volume change with changes in moisture content; they shrink and harden when dried and expand and soften when wetted. Much of the soil that underlies San José is moderately to highly expansive, and expansive soils are more likely to be encountered in the flat portions of Santa Clara Valley (City of San José 2011b). Construction of the proposed project atop expansive soils could result in reduced structural integrity, leading to risks to life or property. However, the proposed project would be required to implement the Standard Permit Condition, as shown in threshold a.2 and a.3. Implementation of this standard permit condition would minimize impacts associated with expansive soils, as the permit condition would require proper grading and construction, in combination with the permit condition for thresholds (a.2) and (a.3). With compliance of standard permit conditions impacts regarding expansive soils would be less than significant.

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?

Sanitary discharges on the project site would be directed into the municipal sanitary sewer system operated by the City of San José. The project would not include septic tanks or alternative wastewater disposal systems. Therefore, no impact related to septic tanks or alternative wastewater disposal systems would occur.

NO IMPACT

f. Would the project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

Paleontological resources include the fossilized remains, traces, or imprints of organisms preserved in or on the earth's crust. Paleontological sensitivity is defined based on the underlying geologic formation. Areas with the highest sensitivity are those where geologic formations known to contain fossils are found close to the ground surface. Geologic formations known to contain fossils are not found close to the ground surface on the project site (City of San José 2011b), and the proposed project would not involve or require deep excavation. Nevertheless, there always exists a possibility of encountering paleontological resources when conducting subsurface earthwork activities for the project, such as shallow excavation for installation of utilities. Adherence to the City of San José standard permit condition below would reduce impacts associated with disturbance to buried paleontological resources, if encountered, to a less than significant level.

Standard Permit Conditions

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

LESS THAN SIGNIFICANT IMPACT

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8 Greenhouse Gas Emissions

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than - Significant Impact	No Impact
Would the project:				
a. Generate greenhouse gas 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 greenhouse gases?	☐	☐	■	☐

Existing Setting

Various gases in the atmosphere, classified as atmospheric greenhouse gases (GHGs), play a critical role in determining the earth's surface temperature. Solar radiation enters the atmosphere from space and a portion of the radiation is absorbed by the earth's surface. The earth emits this radiation back toward space, but the properties of the radiation change from high-frequency solar radiation to lower-frequency infrared radiation. GHGs, which are transparent to solar radiation, are effective in absorbing infrared radiation. As a result, this radiation that otherwise would have escaped back into space is retained, resulting in a warming of the atmosphere. This phenomenon is known as the greenhouse effect. Among the prominent GHGs contributing to the greenhouse effect, or climate change, are carbon dioxide (CO_2), methane (CH_4), ozone (O_3), water vapor, nitrous oxide (N_2O), and chlorofluorocarbons (CFCs). Human-caused emissions of these GHGs in excess of natural ambient concentrations are responsible for enhancing the greenhouse effect. In California, the transportation sector is the largest emitter of GHGs, followed by electricity generation.

The project site is currently developed and has some existing GHG emissions sources, generally from electric consumption used in associated with the medical offices located on the project site, and emissions from vehicles travelling to and from the project site.

Regulatory Setting

Federal and State

Clean Air Act

The U.S. Environmental Protection Agency (EPA) is the federal agency responsible for implementing the Clean Air Act (CAA). The United States Supreme Court in its 2007 decision in Massachusetts et al. v. Environmental Protection Agency et al. ruled that carbon dioxide (CO_2) is an air pollutant as defined under the CAA, and that EPA has the authority to regulate emissions of GHGs. Following the court decision, EPA has taken actions to regulate, monitor, and potentially reduce GHG emissions (primarily mobile emissions).

EXECUTIVE ORDER S-3-05

In 2005, the governor issued Executive Order (EO) S-3-05, establishing statewide GHG emissions reduction targets. EO S-3-05 provides that by 2010, emissions shall be reduced to 2000 levels; by 2020, emissions shall be reduced to 1990 levels; and by 2050, emissions shall be reduced to 80 percent below 1990 levels (CARB 2017). In response to EO S-3-05, CalEPA created the Climate Action Team (CAT), which in March 2006 published the Climate Action Team Report (the "2006 CAT Report"). The 2006 CAT Report identified a recommended list of strategies that the state could pursue to reduce GHG emissions.

These are strategies that could be implemented by various state agencies to ensure that the emission reduction targets in EO S-3-05 are met and can be met with existing authority of the state agencies. The strategies include the reduction of passenger and light duty truck emissions, the reduction of idling times for diesel trucks, an overhaul of shipping technology/infrastructure, increased use of alternative fuels, increased recycling, and landfill methane capture, etc. In April 2015, the governor issued EO B-30-15, calling for a new target of 40 percent below 1990 levels by 2030.

ASSEMBLY BILL 32

California's major initiative for reducing GHG emissions is outlined in AB 32, the "California Global Warming Solutions Act of 2006," signed into law in 2006. AB 32 codifies the statewide goal of reducing GHG emissions to 1990 levels by 2020 and requires CARB to prepare a Scoping Plan that outlines the main State strategies for reducing GHGs to meet the 2020 deadline. In addition, AB 32 requires CARB to adopt regulations to require reporting and verification of statewide GHG emissions. Based on this guidance, CARB approved a 1990 statewide GHG level and 2020 limit of 427 million metric tons CO_2e. The Scoping Plan was approved by CARB on December 11, 2008 and included measures to address GHG emission reduction strategies related to energy efficiency, water use, and recycling and solid waste, among other measures.

Many of the GHG reduction measures included in the Scoping Plan (e.g., Low Carbon Fuel Standard, Advanced Clean Car standards, and Cap-and-Trade) have been adopted since approval of the Scoping Plan.

In May 2014, CARB approved the first update to the AB 32 Scoping Plan. The 2013 Scoping Plan update defines CARB's climate change priorities for the next five years and sets the groundwork to reach post-2020 statewide goals. The update highlights California's progress toward meeting the "near-term" 2020 GHG emission reduction goals defined in the original Scoping Plan. It also evaluates how to align the State's longer-term GHG reduction strategies with other State policy priorities, such as for water, waste, natural resources, clean energy and transportation, and land use (CARB 2017).

SENATE BILL 32

On September 8, 2016, the governor signed SB 32 into law, extending AB 32 by requiring the further reduction of GHGs statewide to 40 percent below 1990 levels by 2030 (the other provisions of AB 32 remain unchanged). On December 14, 2017, CARB adopted the 2017 Scoping Plan, which provides a framework for achieving the 2030 target. The 2017 Scoping Plan relies on the continuation and expansion of existing policies and regulations, such as the Cap-and-Trade Program, as well as implementation of recently adopted policies and policies, such as SB 350 and SB 1383 (see below). The 2017 Scoping Plan also puts an increased emphasis on innovation, adoption of existing

technology, and strategic investment to support its strategies. As with the 2013 Scoping Plan Update, the 2017 Scoping Plan does not provide project-level thresholds for land use development. Instead, it recommends that local governments adopt policies and locally-appropriate quantitative thresholds consistent with a statewide per capita goal of six metric tons (MT) CO_2e by 2030 and two MT CO_2e by 2050 (CARB 2017). As stated in the 2017 Scoping Plan, these goals may be appropriate for plan-level analyses (city, county, subregional, or regional level), but not for specific individual projects because they include all emissions sectors in the State (CARB 2017).

EXECUTIVE ORDER B-55-18

On September 10, 2018, the governor issued Executive Order B-55-18, which established a new statewide goal of achieving carbon neutrality by 2045 and maintaining net negative emissions thereafter. This goal is in addition to the existing statewide GHG reduction targets established by SB 375, SB 32, SB 1383, and SB 100.

Regional

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

BAAQMD is the regional, government agency that regulates sources of air pollution within the nine San Francisco Bay Area counties. BAAQMD and other agencies prepare clean air plans as required under the state and federal CAAs. The Bay Area 2017 Clean Air Plan (2017 CAP) focuses on two closely related BAAQMD goals: protecting public health and protecting the climate. The 2017 CAP lays the groundwork for the BAAQMD's long-term effort to reduce Bay Area GHG emissions 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050. The 2017 CAP includes a wide range of control measures designed to decrease 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.

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. As discussed in the CEQA Air Quality Guidelines, the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. The City of San José and other jurisdictions in the San Francisco Bay Area Air Basin often utilize the thresholds and methodology for GHG emissions developed by BAAQMD. The CEQA Air Quality Guidelines include information on legal requirements, BAAQMD rules, plans and procedures, methods of analyzing GHG emissions, mitigation measures, and background information.

Local

CITY OF SAN JOSÉ GREENHOUSE GAS REDUCTION STRATEGY

The GHG Reduction Strategy is intended to meet the mandates outlined in the CEQA Air Quality Guidelines, as well as the BAAQMD requirements for Qualified GHG Reduction Strategies. The Envision San José 2040 General Plan includes strategies, policies, and action items that are incorporated in the City's GHG Reduction Strategy to help reduce GHG emissions. Multiple policies and actions in the General Plan have GHG implications, including land use, housing, transportation, water usage, solid waste generation and recycling, and reuse of historic buildings.

On December 15, 2015, the San José City Council certified a Supplemental Program Environmental Impact Report to the Envision San José 2040 Final Program Environmental Impact Report and re-adopted the City's GHG Reduction Strategy in the General Plan. The City updated its GHG Reduced Strategy and adopted the *City of San José 2030 Greenhouse Gas Reduction Strategy* in August 2020. The City's 2030 Greenhouse Gas Reduction Strategy (2030 GHG Reduction Strategy) is a comprehensive update to the city's original GHG Reduction Strategy and reflects the plans, policies, and codes as approved by the City Council. The 2030 GHG Reduction Strategy provides a set of strategies and additional actions for achieving the 2030 target established by SB 32. The 2030 GHG Reduction Strategy serves as a Qualified Climate Action Plan for purposes of tiering and streamlining under CEQA. The City included a Development Compliance Checklist in the 2030 GHG Reduction Strategy that serves to apply the relevant General Plan and 2030 GHG Reduction Strategy policies through a streamlined review process for proposed new development projects that are subject to discretionary review and that trigger environmental review under CEQA.

ENVISION SAN JOSÉ 2040 GENERAL PLAN

The Envision San José 2040 General Plan includes strategies, policies, and action items that are incorporated in the City's GHG Reduction Strategy to help reduce GHG emissions (City of San José 2011a). Multiple policies and actions in the General Plan have GHG implications, including land use, housing, transportation, water usage, solid waste generation and recycling, and reuse of historic buildings. The following General Plan policies are related to GHG emissions and are applicable to the proposed project.

Policy MS-1.2: Continually increase the number and proportion of buildings within San José that make use of green building practices by incorporating those practices into both new construction and retrofit of existing structures.

Policy MS-2.11: Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g. design to maximize cross ventilation and interior daylight) and through site design techniques (e.g. orienting buildings on sites to maximize the effectiveness of passive solar design).

Goal MS-10: Air Pollutant Emission Reduction. Minimize air pollutant emissions from new and existing development.

Policy MS-10.1: Assess projected air emissions from new development in conformance with the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines and relative to state and federal standards. Identify and implement feasible air emission reduction measures.

Policy MS-10.2: Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.

Policy MS-10.7: Encourage regional and statewide air pollutant emission reduction through energy conservation to improve air quality.

Policy MS-10.10: Actively enforce the City's ozone-depleting compound ordinance and supporting policy to ban the use of chlorofluorocarbon compounds (CFCs) in

packaging and in building construction and remodeling. The City may consider adopting other policies or ordinances to reinforce this effort to help reduce damage to the global atmospheric ozone layer.

Goal MS-13: Construction Air Emissions. Minimize air pollutant emissions during demolition and construction activities.

Policy MS-13.1: Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.

Policy MS-14.4: Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.

CITY OF SAN JOSÉ MUNICIPAL CODE

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

- Green Building Ordinance (Chapter 17.84)
- Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.10)
- Construction and Demolition Diversion Deposit Program (Chapter 9.10)
- Wood Burning Ordinance (Chapter 9.10)

CITY OF SAN JOSÉ PRIVATE SECTOR GREEN BUILDING POLICY (6-32)

In October 2008, the City adopted the Private Sector Green Building Policy (6-32) that establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. This policy requires that applicable projects achieve minimum green building performance levels using the Council adopted standards. The green building standards required by this policy are intended to advance GHG reduction by reducing per capita energy use, providing energy from renewable sources, diverting waste from landfills, using less water, and encouraging the use of recycled wastewater.

Significance Thresholds

The 2022 BAAQMD CEQA *Guidelines* document contains two approaches for determining significance of GHGs (BAAQMD 2022). The two approaches are as follows:

1. Projects must include, at a minimum, the following project design elements:

   Buildings

   - The project will not include natural gas appliances or natural gas plumbing (in both residential and nonresidential development).

- 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.

Transportation

- 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:
  - Residential projects: 15 percent below the existing VMT per capita
  - Office projects: 15 percent below the existing VMT per employee
  - Retail projects: no net increase in existing VMT
- Achieve compliance with off-street electric vehicle requirements in the most recently adopted version of CALGreen Tier 2.

2. Projects must be consistent with a local GHG reduction strategy that meets the criteria under State CEQA Guidelines Section 15183.5(b).
   - According to the BAAQMD CEQA Thresholds for Evaluating the Significance of Climate Impacts From Land Use Projects and Plans, a qualified GHG reduction strategy must:
   - Quantify GHG emissions, both existing and projected over a specified period, resulting from activities in a defined geographic area
   - Establish a level, based on substantial evidence, below which the contribution to GHG emissions from activities covered by the plan would not be cumulatively considerable
   - Identify and analyze the GHG emissions resulting from specific actions or categories of actions anticipated in the geographic area
   - Specify measures or a group of measures, including performance standards, that substantial evidence demonstrates, if implemented on a project-by-project basis, would collectively achieve the specified emissions level
   - Establish a mechanism to monitor the plan's progress toward achieving the level and to require amendment if the plan is not achieving specified levels
   - Be adopted in a public process following environmental review

The City's 2030 GHG Reduction Strategy serves as a Qualified Climate Action Plan for purposes of tiering and streamlining under CEQA, consistent with criterion '2' of the BAAQMD significance criteria, above.

Impacts Assessment

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

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

Project construction would generate temporary short-term GHG emissions through travel to and from the worksite and from the operation of construction equipment such as graders, backhoes,

and generators. Excavation and grading typically generate the greatest amount of emissions due to the use of grading equipment and soil hauling. The project developer would be required to comply with all BAAQMD rules and regulations regarding emission control measures, including the Basic Construction Measures, which include reducing idling time and imposing speed limit for construction equipment, and Regulation 8, Rule 3, which requires the use of low volatile organic compound containing paints, which reduces GHG emissions during the architectural coating phase. In addition, the construction contractor would be required to use of off-road construction equipment with CARB compliant engines and emissions systems. Additionally, construction emissions would be temporary and not contribute to ongoing or long-term global emissions of GHGs.

For operational emissions, as described above in *Regulatory Setting*, the City's 2030 GHG Reduction Strategy serves as a Qualified Climate Action Plan for purposes of tiering and streamlining under CEQA. The City included a Development Compliance Checklist in the 2030 GHG Reduction Strategy that serves to apply the relevant General Plan and 2030 GHG Reduction Strategy policies through a streamlined review process for proposed new development projects that are subject to discretionary review and that trigger environmental review under CEQA. General compliance with the Development Compliance Checklist indicates that a proposed project is consistent with helping the City to meet the 2030 GHG reduction targets established by SB 32. The Development Compliance Checklist completed for the proposed project is included as Appendix E to the Initial Study. The General Plan Consistency portion of the Compliance Checklist is also provided below in Table 12.

Table 12 City of San José General Plan Consistency Checklist

Checklist Item	Consistent?	Explanation
Consistency with the Land Use/Transportation Diagram (Land Use and Density)		
Is the proposed project consistent with the Land Use/Transportation Diagram?	No	The project site is designated Neighborhood/Community Commercial (NCC) in the City's General Plan. The project is proposed under the provisions of California Government Code 65589.5(D)(5), which is commonly referred to as "Builders Remedy." As such, the proposed project does not include amendments to the General Plan land use designation of the site. The NCC land use designation supports mostly commercial and retail uses that serve the community and residential projects that are 100 percent deed-restricted affordable housing. Buildings up to 5 stories in height are allowed in the NCC land use designation. The proposed project would be an eight-story building, not 100 percent deed-restricted affordable housing, and provide only approximately 4,992 square feet of retail space. Twenty-eight of the total 138 dwelling units would be affordable units, which equates to approximately 20.3 percent of the proposed dwelling units. The additional height of the proposed project allowing for more residential units combined with market-rate pricing of most of these units, would generate more GHG emissions than if the site were developed with 100 percent deed restricted affordable housing, which tends to generate fewer
If not, and the proposed project includes a General Plan Amendment, does the proposed amendment decrease GHG emissions (in absolute terms or per capita, per employee, per service population) below the level assumed in the GHG Reduction Strategy based on the existing planned land use? (The project could have a higher density, mix of uses, or other features that would reduce GHG emissions compared to the planned land use).	No	
If not, would the proposed project and the General Plan Amendment increase GHG emissions (in absolute terms or per capita, per employee, per service population)? Project is not consistent with GHG Reduction Strategy and further modeling will be required to determine if additional mitigation measures are necessary.	Yes	

Checklist Item	Consistent?	Explanation
		vehicle trips. However, if the site were developed with commercial uses allowed in NCC, that development could generate more GHG emissions than the proposed project, depending on the specific type of commercial tenant(s). The proposed project would also likely generate more GHG emissions than existing on-site uses, given that the proposed project would result in 141 more vehicle trips per day compared to existing conditions (see Appendix C). Accordingly, more modeling and analysis of GHG impacts of the project is provided following this table.
Implementation of Green Building Measures		
MS-2.2: Encourage maximized use of on-site generation of renewable energy for all new and existing buildings.	Yes	The proposed building would include a solar panel array on the rooftop to generate renewable energy on-site.
MS-2.3: Encourage consideration of solar orientation, including building placement, landscaping, design and construction techniques for new construction to minimize energy consumption.	Yes	The proposed building would include a solar panel array on the rooftop to generate renewable energy on-site. Many of the units would be south and west facing and include windows, which is optimal solar orientation to reduce energy consumption for heating during winter months.
MS-2.7: Encourage the installation of solar panels or other clean energy power generation sources over parking areas.	Not applicable	The proposed project does not include parking lots of expansive surface parking. The project is a residential project and parking would be provided in a parking garage in lower floors of the proposed building. The project would include solar panels on the rooftop of the building.
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).	Yes	The project must and would comply with the City's Green Building Ordinance.
MS-16.2: Promote neighborhood-based distributed clean/renewable energy generation to improve local energy security and to reduce the amount of energy wasted in transmitting electricity over long distances.	Not applicable	The project is a private mixed-use development with residential and commercial space in an urbanized area of San José where electricity utility exists and would be provided for the project.
Pedestrian, Bicycle, and Transit Site Design Measures		
CD-2.1: Promote the Circulation Goals and Policies in the Envision San José 2040 General Plan. Create streets that promote pedestrian and bicycle transportation by following applicable goals and policies in the Circulation section of the Envision San José 2040 General Plan:		The project is a mixed-use development on private property with no proposed internal roadway network. Vehicles would enter directly into a parking garage from existing Burdette Drive.

Checklist Item	Consistent?	Explanation
Design the street network for its safe shared use by pedestrians, bicyclists, and vehicles. Include elements that increase driver awareness. Create a comfortable and safe pedestrian environment by implementing wider sidewalks, shade structures, attractive street furniture, street trees, reduced traffic speeds, pedestrian-oriented lighting, mid-block pedestrian crossings, pedestrian-activated crossing lights, bulb-outs and curb extensions at intersections, and on-street parking that buffers pedestrians from vehicles. Consider support for reduced parking requirements, alternative parking arrangements, and Transportation Demand Management strategies to reduce area dedicated to parking and increase area dedicated to employment, housing, parks, public art, or other amenities. Encourage de-coupled parking to ensure that the value and cost of parking are considered in real estate And business transactions.	Not applicable Not applicable Yes	The proposed project would not include modifications to travel patterns on Alvin Avenue or Burdette Drive. Existing development on the site includes a single driveway on Burdette Drive, and the proposed project would include a single driveway on Burdette Drive, in approximately the same location as the existing driveway. Alvin Avenue has existing Class III bicycle lanes, and the proposed project would not remove or modify Alvin Avenue, including the bicycle lanes. Likewise, pedestrian sidewalk exists on both sides of Alvin Avenue and Burdette Drive. Temporary closure of the sidewalks along the project frontage would be required during project construction, but the sidewalks would be restored and reopened consistent with existing conditions following construction. The proposed project would include reduced off-street parking, given the proximity of the site to neighborhood-serving commercial uses nearby. For example, under the existing zoning for the site, approximately 197 parking spaces would be required for the proposed project. The proposed project includes a total of 143 parking spaces, a reduction compared to the requirement.
CD-2.5: Integrate Green Building Goals and Policies of the Envision San José 2040 General Plan into site design to create healthful environments. Consider factors such as shaded parking areas, pedestrian connections, minimization of impervious surfaces, incorporation of stormwater treatment measures, appropriate building orientations, etc.	Yes	Parking would be provided in a garage, which would therefore be shaded parking. Residents of the proposed building, as well as patrons of the ground-floor retail space, would be able to exit or enter the building directly from existing sidewalks on Alvin Avenue and Burdette Drive, providing a direct pedestrian connection to the larger sidewalk network in the project area. Stormwater runoff would be treated onsite within a series of bioretention areas before discharge into the existing storm drain system.
CD-2.11: Within the Downtown and Urban Village Overlay areas, consistent with the minimum density requirements of the pertaining Land Use/Transportation Diagram designation, avoid the construction of surface parking lots except as an interim use, so that long-term development of the site will result in a cohesive urban form. In these areas, whenever possible, use structured parking, rather than surface parking, to fulfill parking requirements. Encourage the incorporation of alternative uses, such as parks, above parking structures.	Yes	The proposed project is in the Tully Road/S. King Road Urban Village. The proposed project would provide all parking within a garage. No surface parking lots would be provided. The proposed podium-style design of the building would place an open space area for building residents above the parking garage.
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.	Yes	The project is at the intersection of Alvin Avenue and Burdette Drive. Alvin Avenue has an existing bicycle lane that connects to other existing bike lanes in the area, including bicycle lanes on Tully Road, which is a commercial corridor. Tully Road also has transit stops, which would be accessible from existing bicycle lanes. The bicycle lanes on Alvin Avenue also

Checklist Item	Consistent?	Explanation
		provide bicycle connections to nearby schools, such as OB Whaley Elementary School, south of the project site. Similarly, Alvin Avenue and Burdette Drive both have pedestrian sidewalks that connect to the larger sidewalk network in the project area, including the commercial corridor along Tully Road.
CD-3.4: Encourage pedestrian cross-access connections between adjacent properties and require pedestrian and bicycle connections to streets and other public spaces, with particular attention and priority given to providing convenient access to transit facilities. Provide pedestrian and vehicular connections with cross-access easements within and between new and existing developments to encourage walking and minimize interruptions by parking areas and curb cuts.	Yes	The project is at the intersection of Alvin Avenue and Burdette Drive. Alvin Avenue and Burdette Drive both have pedestrian sidewalks that connect to the larger sidewalk network in the project area, including the commercial corridor along Tully Road. Transit stops exist along this segment of Tully Road. The existing sidewalk network in the area provides access to public spaces as well, such as Welch Park, less than 0.5 mile northeast of the project site.
LU-3.5: Balance the need for parking to support a thriving Downtown with the need to minimize the impacts of parking upon a vibrant pedestrian and transit oriented urban environment. Provide for the needs of bicyclists and pedestrians, including adequate bicycle parking areas and design measures to promote bicyclist and pedestrian safety.	Not applicable	This measure is not applicable because the project is not located in the downtown area of San José.
TR-2.8: Require new development 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.	Yes	The proposed project would provide 72 parking spaces for bicycles. Each residential unit would contain a shower. Residents with bicycles would be able to access existing Class III bicycle lanes on Alvin Avenue, which connect to larger bicycle lane network in the area, including bicycle lanes on Tully Road providing access to commercial services and transit. The project site is a corner lot measuring less than one acre in size. Sidewalks exist along the entire road frontage of the site, and bicycle lanes exist along its frontage with Alvin Avenue. Adjacent properties are separated from the project site by fences. Therefore, it would not be practical to construct bicycle lanes on the project site.
TR-7.1: Require large employers to develop TDM programs to reduce the vehicle trips and vehicle miles generated by their employees through the use of shuttles, provision for car-sharing, bicycle sharing, carpool, parking strategies, transit incentives and other measures.	Not applicable	The proposed project consists of a mixed-used development that is mostly residential with only 4,992 square feet of retail space. As such, the proposed project would not be occupied by a large employer, such as a new office tower or employment campus.
TR-8.5: Promote participation in car share programs to minimize the need for parking spaces in new and existing development.	Not applicable	The project is not an employment project with opportunity for car share or carpooling. However, the project site is served by Uber, Lyft, and other rideshares.

Checklist Item	Consistent?	Explanation
Water Conservation and Urban Forestry Measures		
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.	Yes	The project includes landscaping that would be drought tolerant and conforms to the State's Model Water Efficient Landscape Ordinance.
MS-3.2: Promote the use of green building technology or techniques that can help reduce the depletion of the City's potable water supply, as building codes permit. For example, promote the use of captured rainwater, graywater, or recycled water as the preferred source for non-potable water needs such as irrigation and building cooling, consistent with Building Codes or other regulations.	Yes	The proposed project includes drought tolerant landscaping that would not require substantial irrigation. The project must and would be constructed to comply with the City's Green Building Code.
MS-19.4: Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.	Yes	The proposed project would include the utility infrastructure to connect to recycled water service if the service becomes available to the area in the future.
MS-21.3: Ensure that San José's Community Forest is comprised of species that have low water requirements and are well adapted to its Mediterranean climate. Select and plant diverse species to prevent monocultures that are vulnerable to pest invasions. Furthermore, consider the appropriate placement of tree species and their lifespan to ensure the perpetuation of the Community Forest.	Yes	Landscaping would consist of a mix of trees and shrubs in planters on the outdoor deck on the fourth-floor podium level and other minor outdoor decks on upper floors of the building. Additionally, the project would include new street trees along Alvin Avenue and Burdette Drive. Native, drought-tolerant plant species would be used for landscaping.
MS-26.1: 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.	Yes	Landscaping would consist of a mix of trees and shrubs in planters on the outdoor deck on the fourth-floor podium level and other minor outdoor decks on upper floors of the building. Additionally, the project would include new street trees along Alvin Avenue and Burdette Drive. Tree coverage would and must meet all City requirements and regulations. Native, drought-tolerant plant species would be used for landscaping.
ER-8.7: Encourage stormwater reuse for beneficial uses in existing infrastructure and future development through the installation of rain barrels, cisterns, or other water storage and reuse facilities.	Yes	The project would involve very little landscaping or lawn areas that would otherwise require irrigation or water consumption. Therefore, there would not be a substantial enough demand on-site to capture and reuse stormwater. Additionally, the project would not substantially change stormwater runoff compared to existing conditions because the project site is already mostly developed with impervious surfaces. The proposed project would include bioretention areas within the sidewalk areas outside of the building to catch and treat runoff.

Source: Appendix E

As shown in Table 12, the proposed project would be consistent with the relevant 2030 GHG Reduction Strategy policies but would not be consistent with the underlying General Plan land use designation of the site. Accordingly, the GHG impacts of the project have also been evaluated using BAAQMD criterion "1," described above in "*Significance Thresholds*." The proposed project would not include natural gas appliances or natural gas plumbing. Additionally, as described in Section 6, Energy, the proposed project would not result in the wasteful, inefficient, or unnecessary use of energy. Accordingly, the proposed project would include the design elements required for buildings in BAAQMD significance criterion "1." As shown on Figure 3 of the Local Transportation Analysis (Appendix C), the project site is in an area where VMT would be below the VMT threshold, which is 15 percent below existing VMT per capita. The proposed project also would include off-street electric vehicle parking consistent with CalGreen Tier 2 requirements. Accordingly, the proposed project would include the design elements required for buildings in BAAQMD significance criterion "1." The proposed project would be below significance thresholds for GHG impacts using BAAQMD thresholds.

As shown in Table 12, the project would not conflict with applicable plans, policies, or regulations adopted for the purpose of reducing the emissions of GHGs, as it would not substantially increase GHG emissions and is consistent with the City's 2030 GHG Reduction Strategy or the Climate Smart San José Plan to reduce GHG emissions. Although the project would be a different use than envisioned in the General Plan for the project site, the project would not include the long-term sources of emissions identified in the BAAQMD thresholds, such as natural gas or increased VMT. Accordingly, the GHG emissions of the proposed project would be less than significant. The project would not conflict with applicable plans, policies, or regulations adopted for the purpose of reducing the emissions of GHGs. Impacts would be less than significant.

While the 2022 BAAQMD CEQA Guidelines do not provide a quantified or numerical threshold of significance for GHG emissions, the potential GHG emissions of the proposed project were estimated using CalEEMod (see Section 3, *Air Quality*). Table 13 below presents the estimated operational GHG emissions of the project for informational purposes. Table 13 does not present GHG emissions from project construction because these emissions occur once during construction and do not occur annually. The emissions estimates are not presented to evaluate the potential GHG impacts of the project pursuant to CEQA and for informational purposes only.

Table 13 Estimated Operational GHG Emissions of the Project

Emission Source	Annual Emissions (CO_2e) in MTs
Area	2.62
Energy	131
Solid Waste	33.5
Water	10.4
Mobile	4.61
Total	**183**

See Appendix A for CalEEMod worksheets.

LESS-THAN-SIGNIFICANT IMPACT

9 Hazards and Hazardous Materials

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than - Significant Impact	No Impact
Would the project:				
a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	■	☐	☐
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	■	☐
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within 0.25 mile of an existing or proposed school?	☐	☐	☐	■
d. Be located on a site that is included on a list of hazardous material sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	■	☐
e. For a project located in 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?	☐	☐	☐	■
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?	☐	☐	☐	■

Existing Setting

A Phase I Environmental Site Assessment (ESA) was prepared for the project site by eScreenLogic in September 2020 (Appendix F). The analysis below relies upon the findings of the Phase I ESA as well as reviews of federal and state databases. As discussed within the Phase I ESA, the subject site was part of a large agriculturally farmed property from as early as 1931 to at least 1968. Agricultural activities are considered of environmental interest due to the potential for pesticide use. The project site was developed with a commercial building and parking hardscape by 1982.

As such, it was determined that the site does not contain existing structures that could contain hazardous materials in building materials. The project site is a developed parcel in an urban area and is not known to contain or be contaminated with hazardous materials or hazardous waste. The determination that the site is not known to contain hazardous materials or hazardous contamination is based on a review of federal and state records and databases. Specifically, the project site was queried on March 6, 2024, in the following record sets and databases compiled pursuant to Government Code Section 65962.5:

- Department of Toxic Substances Control (DTSC) Online Cortese List of Hazardous Waste and Substances Sites (DTSC 2024; CalEPA 2021a, 2021b)
- California State Water Resources Control Board (SWRCB) GeoTracker (SWRCB 2024)
- Geologic Energy Management Division (CalGEM) Well Finder online Map Viewer (Department of Conservation 2022d)
- US Department of Transportation (USDOT) National Pipeline Mapping System (NPMS) online Public Map Viewer (USDOT 2022)
- California Department of Resources Recycling and Recovery (CalRecycle)
- Solid Waste Information System (SWIS) (CalRecycle 2019a)

A search of the above listed government databases and environmental records compiled pursuant to Government Code Section 65962.5 did not reveal known hazardous materials sites on or adjacent to the project site. However, one site was identified as being under “Voluntary Cleanup” by the DTSC Envirostor database at 2511 South King Road, approximately 620 feet east of the project site. In 2015, the Queen Cleaners site was determined to have concentrations of Tetrachloroethene, trichloroethylene, cis-1,2-dichloroethene, and vinyl chloride that impacted soil, soil vapor media. The case was reported as closed with land-use restrictions on August 3, 2018.

Additionally, the Phase I ESA identified that the project site was listed on HAZNET as having “other hazardous waste activities.” In December of 1992, the site was occupied by Thinh V Nguyen MD Inc which was listed as a hazardous waste identification (HAZNET) and was listed as inactive in June of 2012. In November 2010, the site was occupied by East Valley Community Clinic and was listed for hazardous waste identification and was listed as inactive in June of 2011. There is one manifested listing of an ultra-small quantity of "laboratory waste chemicals" being disposed of off-site. The Phase I ESA determined that medical-related facilities produce biological wastes, small quantities of photographic wastes, stale pharma, and/or disinfection related wastes associated with their operation and the site is not considered a Recognized Environmental Condition or vapor intrusion concern to the subject site at this time. This potential contamination is not recognized on a list compiled pursuant to Government Code Section 65962.5.

Several businesses have leased space in the existing on-site building since the preparation of the Phase I ESA in September 2020. These businesses include a sales and service company, a tax and immigration service company, and a chiropractic practice. These types of businesses do not use or store substantial amounts of hazardous materials.

The closest airports to the project site are the Reid-Hillview County Airport and the Norman Y. Mineta San José International Airport. The Reid-Hillview County Airport is approximately 0.8 mile northeast of the project site, and the Norman Y. Mineta San José International Airport is about 5.3 miles to the northwest. The project site is located within the Reid-Hillview County Airport Comprehensive Land Use Plan Airport Influence Area and Safety Zone (Santa Clara County Airport Land Use Commission 2020). Additionally, the project site is within an area subject to Federal Aviation Regulations, Part 77, surfaces, which pertains to building height limitations.

The closest school to the project site is the OB Whaley Elementary School, which is located approximately 0.1 mile southeast.

Regulatory Setting

Federal

THE FEDERAL TOXIC SUBSTANCES CONTROL ACT AND THE RESOURCE CONSERVATION RECOVERY ACT

The Federal Toxic Substances Control Act and the Resource Conservation Recovery Act (RCRA) were administered by the United States Environmental Protection Agency (EPA) in 1976 to streamline regulations pertaining to the generation, transportation, treatment, storage, and disposal of hazardous waste (EPA 2020a).

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT

The Comprehensive Environmental Response, Compensation, and Liability Act provides a Federal "Superfund" to clean up uncontrolled or abandoned hazardous-waste sites as well as accidents, spills, and other emergency releases of pollutants and contaminants into the environment. Through Comprehensive Environmental Response, Compensation, and Liability Act, the EPA was given power to seek out those parties responsible for release and assure their cooperation in the cleanup. The Superfund Amendments and Reauthorization Act of 1986 reauthorized Comprehensive Environmental Response, Compensation, and Liability Act to continue cleanup activities around the country (EPA 2020b).

HAZARDOUS MATERIALS TRANSPORTATION ACT

Under the Hazardous Materials Transportation Act the transportation of hazardous materials is regulated by the Secretary of the Department of Transportation (DOT). In 1990, Congress enacted the Hazardous Materials Transportation Uniform Safety Act to clarify the maze of conflicting state, local, and federal regulations. Like the Hazardous Materials Transportation Act, the Hazardous Materials Transportation Uniform Safety Act requires the Secretary of Transportation to promulgate regulations for the safe transport of hazardous material in intrastate, interstate, and foreign commerce. The Secretary also retains authority to designate materials as hazardous when they pose unreasonable risks to health, safety, or property.

The statute includes provisions to encourage uniformity among different state and local highway routing regulations, to develop criteria for the issuance of federal permits to motor carriers of hazardous materials, and to regulate the transport of radioactive materials (OSHA 2020).

State

THE DEPARTMENT OF TOXIC SUBSTANCES CONTROL

The Department of Toxic Substances Control (DTSC) is a department operating under the EPA that is responsible for regulating hazardous waste in California. Management and staff of the DTSC protect Californians and their environment from exposure to hazardous wastes by enforcing hazardous waste laws and regulations. The department takes enforcement action against violators; oversees cleanup of hazardous wastes on contaminated properties; makes decisions on permit applications from companies that want to store, treat or dispose of hazardous waste; and protects consumers against toxic ingredients in everyday products.

REGIONAL WATER QUALITY CONTROL BOARD

The San Francisco Bay RWQCB oversees cases involving groundwater contamination within the Bay Area from Spills, Leaks, Incidents and Clean-up (SLIC) cases while the County of Santa Clara's Department of Environmental Health would oversee most leaking underground storage tank (LUST) cases. In the incidence of a spill at a project site, the applicant would notify the County of Santa Clara and a lead regulator (County, RWQCB or DTSC) would be determined.

GOVERNMENT CODE §65962.5 (CORTESE LIST)

Section 65962.5 of the Government Code requires the California Environmental Protection Agency (CalEPA) to develop and annually 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 DTSC and the State Water Resources Control Board (SWRCB).

Local

CITY OF SAN JOSÉ EMERGENCY OPERATIONS PLAN

An Emergency Operations Plan (EOP) is required for each local government in California. The guidelines for the plan come from the Federal Emergency Management Agency (FEMA), and are modified by the State Office of Emergency Services (OES) for California needs and issues. The purpose of the plan is to provide a legal framework for the management of emergencies and guidance for the conduct of business in the Emergency Operations Center (EOC). The EOP provides guidance for City response to extraordinary emergency situations associated with natural disasters, technological incidents, and nuclear defense operations—both war and peacetime (City of San José 2019).

ENVISION SAN JOSÉ 2040 GENERAL PLAN

The Envision San José 2040 General Plan outlines goals and policies to guide planning and development practices within the City. The General Plan outlines the City's design goals and policies as they pertain to environmental hazards and considerations. Those included (below) are applicable to the project (City of San José 2011a).

Policy EC-6.1: Require all users and producers of hazardous materials and wastes to clearly identify and inventory the hazardous materials that they store, use or transport in conformance with local, state and federal laws, regulations and guidelines.

Policy EC-6.2: Require proper storage and use of hazardous materials and wastes to prevent leakage, potential explosions, fires, or the escape of harmful gases, and to prevent individually innocuous materials from combining to form hazardous substances, especially at the time of disposal by businesses and residences. Require proper disposal of hazardous materials and wastes at licensed facilities.

Policy EC-7.1: For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.

Policy EC-7.1: Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.

Policy EC-7.4: On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-paint and asbestos-containing materials, shall be implemented in accordance with state and federal laws and regulations.

Policy EC-7.5: On development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and state requirements.

Policy EC-7.9: Ensure coordination with the County of Santa Clara Department of Environmental Health, Regional Water Quality Control Board, Department of Toxic Substances Control or other applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists.

Policy EC-7.10: 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.

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

Impacts Assessment

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

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?

Construction

Project construction would include the temporary transport, storage, use, or disposal of potentially hazardous materials including fuels, lubricating fluids, cleaners, solvents, or soils assumed to be contaminated from pesticides due to wide-spread agricultural practices in San José. If spilled, these substances could pose a risk to the environment and to human health. However, the transport, storage, use, or disposal of hazardous materials is subject to various federal, state, and local regulations designed to reduce risks associated with hazardous materials, including potential risks associated with upset or accident conditions. Hazardous materials would be required to be transported under U.S. Department of Transportation (DOT) regulations (U.S. DOT Hazardous Materials Transport Act, 49 Code of Federal Regulations), which stipulate the types of containers, labeling, and other restrictions to be used in the movement of such material on interstate highways. In addition, the use, storage, and disposal of hazardous materials are regulated through the Resources Conservation and Recovery Act (RCRA). The California Department of Toxic Substances Control (DTSC) is responsible for implementing the RCRA program, as well as California's own hazardous waste laws. DTSC regulates hazardous waste, cleans up existing contamination, and looks for ways to control and reduce the hazardous waste produced in California. It does this primarily under the authority of RCRA and in accordance with the California Hazardous Waste Control Law (California H&SC Division 20, Chapter 6.5) and the Hazardous Waste Control Regulations (Title 22, California Code of Regulations, Divisions 4 and 4.5). DTSC also oversees permitting, inspection, compliance, and corrective action programs to ensure that hazardous waste managers follow federal and state requirements and other laws that affect hazardous waste specific to handling, storage, transportation, disposal, treatment, reduction, cleanup, and emergency planning. Compliance with existing regulations would reduce the risk of potential release of hazardous materials from spills and transport during construction. However, while on-site, there would be potential for project construction workers to directly contact soils contaminated with pesticides and other hazardous substances associated with former agricultural uses that occurred on-site. Implementation of the mitigation measures listed below would be required to reduce this impact to a less than significant level.

Impact HAZ-1: Due to the agricultural history from the early 1930s to late 1960s there is a potential for agricultural related pesticides to be present in the shallow soil that could potentially impact future site occupants and construction workers.

> **MM HAZ-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 pesticide-based 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 Director of Planning, Building and Code Enforcement Department, or Director's designee, 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 shall be provided to the Director of Planning, Building and Code Enforcement, or Director's designee, and the Environmental Compliance Officer in the City of San José Environmental Services Department.

The Phase I ESA for the project determined that medical-related facilities produce biological wastes, small quantities of photographic wastes, stale pharma, and/or disinfection related wastes associated with their operation, but that this former use at the site is not considered a Recognized Environmental Condition. However, given the age of the existing structure, there would be potential for construction workers to encounter materials containing asbestos during demolition. Demolition conducted in conformance with federal, state, and local regulations would avoid significant exposure of construction workers and/or the public to asbestos-containing materials (ACMs), as set forth in the standard permit conditions below.

Standard Permit Conditions

- In conformance with State and local laws, a visual inspection/predemolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building(s) to determine the presence of asbestos-containing materials (ACMs) and/or lead-based paint (LBP).
- During demolition activities, all building materials containing lead-based paint 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 asbestos containing materials (ACMs) shall be removed in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines prior to demolition or renovation activities that may disturb ACMs. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, 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.
- Based on Cal/OSHA rules and regulations, the following conditions are required to limit impacts to construction workers.

    a) Prior to commencement of demolition activities, a building survey, including sampling and testing, shall be completed to identify and quantify building materials containing lead-based paint.
    b) During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, CCR, Section 1532.1, including employee training, employee air monitoring and dust control.

c) Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of waste being disposed.

Compliance with the above standard permit conditions would ensure that ACMs are identified and disposed of in such a manner as to ensure that demolition would not 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. Implementation of Mitigation Measure HAZ-1, above, would ensure construction workers are not exposed to hazardous soils during project construction. As such, this construction impact would be less than significant with mitigation.

Operation

Residential buildings typically do not use or store large quantities of hazardous materials other than those typically used for household cleaning, maintenance, and landscaping. For example, households may contain one or several gallons of paint for touching up interior architectural features, such as baseboards along walls. The retail space that would be provided on the ground floor would be less than 5,000 square feet and not suitable for businesses that use or store large quantities of hazardous materials, such as hardware stores or home improvement stores. Therefore, project operation would not involve the use, storage, transportation, or disposal of substantial quantities of hazardous materials and would not result in the release of such materials into the environment. Impacts from project operation would be less than significant.

LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED

c. Would the project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within 0.25 mile of an existing or proposed school?

Children are particularly susceptible to long-term effects from exposure to hazardous materials. Locations where children spend extended periods of time, such as schools, are considered sensitive to hazardous air emissions and accidental release associated with the handling of extremely hazardous materials, substances, or wastes. The OB Whaley Elementary School is located approximately 0.1 mile southeast of the project site.

As discussed above, project operation would not involve the use or storage of hazardous materials other than minor household chemicals in household quantities. Though potentially hazardous materials such as fuels, lubricants, solvents, and oils could be used during project construction, the transport, use and storage of hazardous materials would be conducted in accordance with applicable State and federal laws, such as the Hazardous Materials Transportation Act, Resource Conservation and Recovery Act, the California Hazardous Material Management Act, and the CCR, Title 22. Licensed hazardous materials transporters leaving the project site would take the shortest direct route. Therefore, it is unlikely transporters would be required to drive past the school while carrying hazardous materials. Therefore, impacts related to hazardous materials to the school would be less than significant.

LESS-THAN-SIGNIFICANT IMPACT

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

As described in the Existing Setting above, a review of regulatory agency databases revealed that the project site is not listed as a hazardous waste and substances site and is not within 1,000 feet of such a site. There are no active cleanup sites within 0.25 mile of the project site; one closed site is within 0.25 mile of the project site. There are no sites on or near the project site listed pursuant to Section 65962.5(c)(2), and no active CDO or CAO sites within 0.25 mile of the project site pursuant to Section 65962.5(c)(3) (CalEPA 2021a). Additionally, there are no sites listed pursuant to Section 65962.5(a) that are within 0.25 mile of the project site (CalEPA, 2021b). Accordingly, construction and operation of the project would not occur on a list of hazardous material sites compiled pursuant to Government Code Section 65962.5 and, as a result, would create no significant hazard to the public or the environment. The proposed project would have no impact.

NO IMPACT

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, would the project result in a safety hazard or excessive noise for people residing or working in the project area?

The project site is located approximately 0.8 mile from the Reid-Hillview County Airport and is located within the Reid-Hillview County Airport Comprehensive Land Use Plan's Airport Influence Area and Safety Zone (City of San José 2024). The project site is within an area subject to Federal Aviation Regulations, Part 77, surfaces, which pertains to building height limitations. According to Section 77.9, any construction or alteration of a building that is more than 200 from ground level is subject to review and approval of the Federal Aviation Administration (Federal Aviation Administration 2024). Further, as shown in Figure 6 of the Reid-Hillview County Airport Comprehensive Land Use Plan, the project site is located in an area where the maximum structure height is 283 feet (Santa Clara County Airport Land Use Commission 2020). The maximum height of the proposed building would be eight stories with a height of up to approximately 85.5 feet, including rooftop equipment, such as HVAC equipment. As such, the project would meet Reid-Hillview County Airport Comprehensive Land Use Plan requirements and would not be subject to Federal Airport Administration review. While the project site is within the Airport Influence Area, it is outside of the Community Noise Equivalent Level (CNEL) noise contour (Santa Clara County Airport Land Use Commission 2020). As such, the project would not result in significant noise hazard impacts for people residing or working at the project site. Therefore, the proposed project would not present a safety hazard to people residing or working in the area, and impacts would be less than significant.

LESS-THAN-SIGNIFICANT IMPACT

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

The proposed project would be constructed on private property that is not part of an emergency response plan or emergency evacuation plan. The project is located on the north end of Alvin Avenue which is a two-lane road that is accessible by Highway 101 via Tully Road. Highway 101, a main roadway for evacuation, is located roughly 1,000 feet west of the project site. The project would not involve closures of Highway 101, Tully Road, or Alvin Avenue during construction or operation. As such, Highway 101 would remain open to be used for evacuation or emergency response. Accordingly, there would be no impact.

NO IMPACT

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

The project site is in a developed, urbanized area surrounded by residential, commercial development, parks, and roadways. There are no adjacent wildlands or densely vegetated areas that would represent a significant fire hazard. Additionally, the project site is not within a High Fire Hazard Severity Zone or Very High Fire Hazard Severity Zone fore wildland fires (CAL FIRE 2007). Therefore, the project would not expose people or structures to significant hazards related to wildland fires and there would be no impacts.

NO IMPACT

10 Hydrology and Water Quality

	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:				
(i) Result in substantial erosion or siltation on- or off-site;	☐	☐	■	☐
(ii) Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;	☐	☐	■	☐
(iii) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or	☐	☐	■	☐
(iv) Impede or redirect flood flows?	☐	☐	■	☐
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?	☐	☐	■	☐

Existing Setting

There are no waterways present on the project site or immediate vicinity. According to the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM), the project site is located in Zone D, an area where flood hazards are undetermined but possible (FEMA 2009). The site is not located within the 100-year floodplain. The City does not have floodplain restrictions for development in Zone D.

The project site is underlain by the Santa Clara Valley Groundwater Basin, Santa Clara Subbasin. The project site is within the Evergreen service area of the San José Municipal Water System. The Evergreen service area water source supply includes local and imported surface water from Valley Water, groundwater from the Santa Clara groundwater basin, and recycled water from the SBWR Program. Groundwater provides about half of the County's water supply for potable use through pumping by retail water agencies or individual well owners. Valley Water acts as the Groundwater Sustainability Agency for Santa Clara County and prepared an alternative plan to a groundwater sustainability plan in 2016 to meet the Sustainable Groundwater Management Act of 2014 requirements. The project site is not located in a groundwater recharge area (SCVWD 2016). The project site is within the water service area of the San José Water Company (SJWC). Groundwater comprises approximately 40 percent of SJWC's water supply (SJWC 2020).

Over 100 wells pump water from the major water-bearing aquifers of the Santa Clara Subbasin. These aquifers are recharged naturally by rainfall and artificially by a system of local reservoirs, percolation ponds, and injection wells operated by the Santa Clara Valley Water District (SCVWD 2016). Groundwater levels have been steadily on the rise since the mid-1960s and overdraft of the groundwater basin is not projected.

The nearest surface water in the vicinity of the project site is Coyote Creek, located approximately 1.2 miles to the east at its closest point. Stormwater is removed from the site through existing drainage features within the parking lot and through percolation into the existing lawn and landscaping and ultimately into the City's existing stormwater management system along Alvin Avenue and Burdette Drive.

Regulatory Setting

Federal

CLEAN WATER ACT

The EPA implements pollution control programs through the Clean Water Act (CWA). The CWA was officially recognized by congress in 1972 and made it unlawful to discharge a pollutant or pollutants from a point source into navigable waters (see 33 CFR Part 329), unless a permit was obtained. EPA's NPDES permit program controls discharges with the main goal of restoring and maintaining the chemical, physical, and biological integrity of the Nation's waters (EPA 2002).

State

STATE WATER RESOURCES CONTROL BOARD CONSTRUCTION GENERAL PERMIT

Any construction or demolition activity that results in land disturbance equal to or greater than 1 acre must comply with the Construction General Permit (CGP), administered by SWRCB. The CGP

requires the installation and maintenance of BMPs to protect water quality until the site is stabilized.

SUSTAINABLE GROUNDWATER MANAGEMENT ACT

The Sustainable Groundwater Management Act (SGMA) of 2014 is intended to provide for sustainable management of groundwater basins and to locally manage groundwater basins while minimizing state intervention to only when necessary. The SGMA requires the creation of Groundwater Sustainability Agencies (GSAs) to implement the SGMA. The Santa Clara Valley Water District is the GSA for the Santa Clara Subbasin. The 2016 Groundwater Management Plan (GWMP) for the Santa Clara and Llagas Subbasins describes the district's groundwater sustainability goals, and the strategies, programs, and activities that support those goals. The 2016 GWMP identifies the following sustainability goals:

- Groundwater supplies are managed to optimize water supply reliability and minimize land subsidence; and
- Groundwater is protected from contamination, including saltwater intrusion.

To achieve these goals, the 2016 GWMP includes four strategies:

- Manage groundwater in conjunction with surface water.
- Implement programs to protect and promote groundwater quality.
- Maintain and develop adequate groundwater models and monitoring networks.
- Work with regulatory and land use agencies to protect recharge areas, promote natural recharge, and prevent groundwater contamination.

Local and Regional

WATER QUALITY CONTROL PLAN FOR THE SAN FRANCISCO BAY BASIN

The Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) is the San Francisco Bay RWQCB master water quality control planning document (San Francisco Bay RWQCB 2019). The Basin Plan designates beneficial uses and water quality objectives for waters of the State, including surface waters and groundwater. Chapter 2 of the Basin Plan identifies a range of beneficial uses for waters of the State, such as agricultural uses, uses for wildlife habitat, groundwater recharge, municipal water supply, and recreation, as examples. Chapter 3 of the Basin Plan identifies the water quality objectives for waters of the State, such as bacterial objectives, water-color objectives, dissolved oxygen objectives, pH, water temperature objectives, and salinity. The Basin Plan also includes programs of implementation to achieve water quality objectives. The Basin Plan has been adopted and approved by the State Water Resources Control Board, U.S. EPA, and the Office of Administrative Law.

ENVISION SAN JOSÉ 2040 GENERAL PLAN

The Envision San José 2040 General Plan contains goals, policies and actions pertaining to stormwater discharges into the City's storm drain system. The following policies are applicable to the project:

Policy IN-3.7: Design new projects to minimize potential damage due to storm waters and flooding to the site and other properties.

Policy IN-3.9: Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards.

Policy MS-3.4: Promote the use of green roofs (i.e., roofs with vegetated cover), landscape based treatment measures, pervious materials for hardscape, and other stormwater management practices to reduce water pollution.

Goal ER-8: Stormwater. Minimize the adverse effects on ground and surface water quality and protect property and natural resources from stormwater runoff generated in the City of San José.

Policy ER-8.1: Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.

Policy ER-8.2: Coordinate with regional and local agencies and private landowners to plan, finance, construct, and maintain regional stormwater management facilities.

Policy ER-8.3: Ensure that private development in San José includes adequate measure treat stormwater runoff.

Policy ER-8.4: Assess the potential for surface water and groundwater contamination and require appropriate preventative measures when new development is proposed in areas where storm runoff will be directed into creeks upstream from groundwater recharge facilities.

Policy ER-8.5: Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite.

Goal EC-5: Flooding Hazards. Protect the community from flooding and inundation and preserve the natural attributes of local floodplains and floodways.

Policy EC-5.1: The City shall require evaluation of flood hazards prior to approval of development projects within a Federal Emergency Management Agency (FEMA) designated floodplain. Review new development and substantial improvements to existing structures to ensure it is designed to provide protection from flooding with a one percent annual chance of occurrence, commonly referred to as the "100-year" flood or whatever designated benchmark FEMA may adopt in the future. New development should also provide protection for less frequent flood events when required by the State.

Policy EC-5.7: Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.

Action 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.

Action EC-5.17: Implement the Hydromodification Management requirements of the City's Municipal NPDES Permit to manage runoff flow and volume from project sites.

GRADING ORDINANCE

All development projects, regardless of whether they are subject to the CGP, must comply with the City of San José's Grading Ordinance pursuant to Section 17.04.310 of the City's Municipal Code, which requires the use of erosion and sediment controls to protect water quality while the site is under construction. Prior to the issuance of a permit for grading activity occurring during the rainy

season, the project would submit an Erosion Control Plan detailing BMPs that would prevent the discharge of stormwater pollutants to the City Director of Public Works.

MUNICIPAL STORMWATER NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM PERMIT

The City of San José is required to operate under a NPDES Permit to discharge stormwater from the City's storm drain system to surface waters. The San Francisco Bay RWQCB has adopted the San Francisco Bay Region Municipal Regional Stormwater NPDES Permit (MRP) for 76 Bay Area municipalities, including the City of San José. The MRP (NPDES Permit No. CAS612008) mandates that the City of San José use its planning and development review authority to require that stormwater management measures are included in new and redevelopment projects to minimize and properly treat stormwater runoff. Provision C.3 of the MRP regulates the following types of development projects:

- Projects that create or replace 10,000 square feet or more of impervious surface.
- Special Land Use Categories that create or replace 5,000 square feet or more of impervious surface.

The MRP requires regulated projects to include Low Impact Development (LID) practices, such as pollutant source control measures and stormwater treatment features aimed to maintain or restore the site's natural hydrologic functions. The MRP requires that stormwater treatment measures are properly installed, operated, and maintained. The project would be required to comply with the LID stormwater management requirements of Provision C.3 of the MRP.

POST CONSTRUCTION URBAN RUNOFF MANAGEMENT POLICY AND HYDROMODIFICATION MANAGEMENT POLICY

The City has developed policies that implement Provision C.3, consistent with the MRP. The City's Post-Construction Urban Runoff Management Policy (City Council Policy 6-29) establishes specific requirements to minimize and treat stormwater runoff from new and redevelopment projects. The City's Post-Construction Hydromodification Management Policy (City Council Policy 8-14) establishes an implementation framework for incorporating measures to control hydromodification impacts from development projects.

The MRP also requires regulated projects to include measures to control hydromodification impacts where the project would otherwise cause increased erosion, silt pollutant generation, or other adverse impacts to local rivers and creeks. Development projects that create and/or replace 1 acre or more of impervious surface and are located in a subwatershed or catchment that is less than 65 percent impervious must manage increases in runoff flow and volume so that post-project runoff does not exceed estimated pre-project rates and durations. Based on the project site's location in a subwatershed or catchment with greater than or equal to 65 percent impervious area (Santa Clara Valley Urban Runoff Pollution Prevention Program 2009), the project would not be required to comply with the hydromodification requirements of Provision C.3.

Impacts Assessment

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

Construction of the project would result in short-term soil-disturbing activities that could lead to increased erosion and sedimentation, which would decrease water quality and be a potential

violation of water quality standards. The project would disturb less than one acre and would not be required to obtain an NDPES General Construction Permit. However, all development projects in the City of San José are required to comply with the City's Grading Ordinance whether or not the project is required to obtain an NDPES General Construction Permit. Prior to the issuance of a permit for grading activity occurring during the rainy season (October 1st to April 30th), the applicant must submit an Erosion Control Plan (projects 1 acre or more) or submit grading plans that include Clean Bay Blueprint (projects less than 1 acre) to the Director of Public Works for review and approval (City of San José 2023b). Clean Bay Blueprint includes BMPs that would be implemented to prevent the discharge of stormwater pollutants. Furthermore, the project would be subject to the City of San José's standard permit condition, below.

Standard Permit Conditions

The following project-specific measures, based on RWQCB BMPs, must been included in the project to reduce construction and development-related water quality impacts. BMPs would be implemented prior to and during earthmoving activities on site and would continue until the construction is complete and during the post-construction period as appropriate.

- 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 truck tires prior to entering City streets. A tire wash system shall be employed if requested by the City.
- The project permittee 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.

As listed in the standard permit condition, compliance with the City of San José's Grading Ordinance, which requires the use of erosion and sediment controls to protect water quality while the site is under construction, would be required. This would prevent project construction from adversely impacting water quality or violating water quality standards.

During project operation the potential for on-site erosion would be negligible because the project site would be developed with impervious surfaces such as the mixed use building and sidewalk, or landscaped areas. Impervious surface and landscaping would cover soils and prevent erosion. Impervious surfaces prevent the infiltration of water and other fluids, such as motor oil that may collect on parking surface over time. During project operation, on-site vehicles would be stored or parked within the ground, second, and third floor parking garages. Because vehicles would be parked in garages and not on driveways, there would be little potential for vehicle fluids, such as

minor oil leaks, to infiltrate and impact groundwater quality, or to flow overland into surface water or storm drains. Stormwater runoff from impervious exterior surfaces, such as the rooftop of the building, would be directed toward bioretention areas that would be constructed within the sidewalks of Alvin Avenue and Burdette Drive. The bioretention areas would allow stormwater runoff to collect and be treated through biofiltration before discharge into the existing storm drain system. This treatment process involves infiltration of stormwater through soils, which slows the velocity of the stormwater runoff and releases treated stormwater into the existing storm drain system gradually.

The retail and residential uses on-site during operation would not involve activities with potential for substantial impacts to water quality. Small quantities of household chemicals, such as cleaners or paint, could be stored on-site, but would be stored within the interior of the dwelling units or within the retail space. Existing law prohibits improper use and disposal of these substances, such as by pouring down sink drains or onto lawn areas. Additionally, the project would be subject City Council Policies 6-29 and 8-14, requiring measures to minimize and treat post-construction runoff. Therefore, there would be no potential for these substances to be discharged to groundwater or surface water.

In summary, compliance with the Construction General Permit, City of San José's standard permit conditions, and applicable City Council Policies 6-29 and 8-14 would minimize water quality impacts during project construction and operation, such that impacts would be less than significant.

LESS-THAN-SIGNIFICANT IMPACT

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

The project site is currently utilized as medical offices with a surface parking lot and contains existing impervious surfaces. Once project construction is complete, the project site would be nearly all impervious surface. Precipitation falling on the impervious surfaces of the project, such as the proposed mixed-use building, would be unable to infiltrate the ground surface and instead flow overland to bioretention areas installed in the sidewalk planters along Alvin Avenue. The bioretention areas are where stormwater would collect and be treated before discharge. This treatment process involves infiltration of stormwater through soils, which slows the velocity of the stormwater runoff and allow some infiltration instead of all runoff going into the existing storm drain system. Stormwater that does flow through the bioretention areas and into existing stormwater drains, would eventually outfall in the San Francisco Bay. Although the project would increase impervious surface on-site, the project site is not located in a groundwater recharge area (SCVWD 2016). Because the project site is not in a groundwater recharge area, the proposed project would not interfere substantially with groundwater recharge.

The project would connect to the San José Water Company (SJWC) existing water supply system. The project would not involve new groundwater wells or extraction of groundwater. The project's incremental increase in water use would not result in substantial depletion of the aquifer. Therefore, the project's impact on groundwater supplies and recharge would be less than significant.

LESS-THAN-SIGNIFICANT IMPACT

c.(i) Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on- or off-site?

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

There are no natural drainage features on or near the project site. Construction activities would entail grading, excavation, and other ground-disturbing activities which could temporarily alter surface drainage patterns on-site and increase the potential for erosion and siltation. However, the project would be required to comply with the City's Grading Ordinance, which would require implementation of BMPs and erosion control measures, thereby reducing the potential for construction activities to result in soil erosion and siltation of waters. During project operation the potential for on-site erosion would be negligible because the project site would be developed with impervious surfaces such as the proposed building and sidewalk, or landscaped areas. Impervious surface and landscaping would cover soils and prevent soil erosion and siltation of waters.

The project site currently developed with medical office and an associated surface parking lot, and contains existing impervious surfaces. Once project construction is complete, the project site would be mostly impervious. Therefore, the proposed project would result in an increase of impervious surface area on the site compared to existing conditions. As described above, the project would be required to comply with the LID stormwater management requirements of Provision C.3 of the MRP. Further, to adequately manage stormwater on the project site, project plans include bioretention areas in the tree planters that would constructed in the sidewalk along Alvin Avenue. Stormwater not captured by these retention areas would flow onto Alvin Avenue or Burdette Drive and into existing stormwater drains, which eventually outfall in the San Francisco Bay. The bioretention areas would adequately capture increased stormwater runoff from the project site and prevent flooding. Therefore, flooding and siltation impacts resulting from the project's effects on drainage patterns would be less than significant.

LESS-THAN-SIGNIFICANT IMPACT

c.(iii) 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 that would 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?

The site would contain approximately 39,399 square feet of impervious surfaces upon project completion. Because the project site is currently undeveloped, this would slightly alter the existing drainage pattern of the site. However, the project would not create or contribute runoff water that would exceed the capacity of existing stormwater drainage systems. The project would be required to implement LID treatment controls on site to treat and capture runoff, in accordance with Provision C.3 of the MRP, as well as City Council Policies 6-29 and 8-14. For this reason, the project would not create a significant new source of stormwater runoff which would exceed the capacity of existing or planned stormwater drainage system or contribute substantial amounts of polluted

runoff. Therefore, the project's impact on stormwater drainage systems would be less than significant.

LESS-THAN-SIGNIFICANT IMPACT

c.(iv) 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 impede or redirect flood flows?

The project site is located within Zone D of the Special Flood Hazard Areas (SFHA) map and is not located within a 100-year floodplain as mapped by FEMA. Therefore, no housing or structures or other project components would be placed within a 100-year flood hazard area. The project would increase impervious surface area on the project site compared to existing conditions; however, the project includes on-site stormwater management facilities, such as bioretention areas, where stormwater would collect and be treated before discharge. This treatment process involves infiltration of stormwater through soils, which slows the velocity of the stormwater runoff and releases treated stormwater into the existing storm drain system gradually. Consequently, impacts related to impeding or redirecting flood flows would be less than significant.

LESS-THAN-SIGNIFICANT IMPACT

d. In flood hazard, tsunami, or seiche zones, would the project risk release of pollutants due to project inundation?

Tsunamis are sea waves that are generated in response to large-magnitude earthquakes. When these waves reach shorelines, they sometimes produce coastal flooding. Seiches are the oscillation of large bodies of standing water, such as lakes, that can occur in response to ground shaking. In addition, mudflows are large, rapid masses of mud formed by loose earth and water, primarily affecting hillsides and slopes of unconsolidated material.

Tsunamis and seiches do not pose hazards due to the inland location of the project site and lack of nearby bodies of standing water. No steep slopes that would be subject to mudflows are located on or near the project site. The project site is also not located within a dam failure inundation area (City of San José 2011b). The nearest levee is the Anderson Lake Dam, approximately 13 miles from the site. Additionally, because the project is residential, it would not involve the use and storage of large quantities of pollutants on-site. For example, households may keep up to a few gallons of paint to touch up walls, baseboards and so forth, or household cleaning products, which typically come in containers of less than a gallon. Therefore, even if the site were to be inundated, there would be no risk of release of pollutants from the proposed residential units which have substantial effects on the environment. The commercial/retail space that would be provided on the ground floor of the building would be less than 5,000 square feet. This would not be a suitable size for business that carry large quantities of hazardous materials, such as hardware stores or home improvement stores. Therefore, no impact related to the release of pollutants from inundation from tsunamis, seiches or otherwise would occur.

NO IMPACT

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

As described above for item (b), the project site is not located in a groundwater recharge area and project water demand would not substantially deplete groundwater supplies such that there would

be a net deficit in aquifer volume or a lowering of the local groundwater table level. Furthermore, the project would be required to comply with the LID stormwater management requirements of Provision C.3, the Construction General Permit, and applicable City ordinances and policies, including Standard Permit Conditions, to control erosion and protect water quality. As discussed above for item (a), the project would not violate water quality standards. The project would also not conflict with beneficial uses of water described in the Basin Plan, such as agricultural uses or industrial uses. Therefore, the project would have a less than significant impact related to conflicts with water quality control plans or sustainable groundwater management plans.

LESS-THAN-SIGNIFICANT IMPACT

11 Land Use and Planning

	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?	☐	☐	■	☐

Existing Setting

The project site is located at 2470 Alvin Avenue in San José and consists of a single parcel that measures approximately 0.93 acre. The project site is designated as Neighborhood/Community Commercial (NCC) under the City's Envision San José 2040 General Plan. The project site is in the Commercial General (CG) Zoning District.

The site is currently developed with a one-story office building that currently has a medical tenant or tenants. In addition, the existing building there is also associated surface parking, landscaping, utilities, and pedestrian sidewalks on the project site. Landscaping consists primarily of maintained lawn, but there are also small decorative shrubs present. Alvin Avenue and Burdette Drive both abut the southern boundary of the project site. Two existing driveways on Burdette Drive provide access to surface parking on the project site.

The project site is in a developed and urbanized area of San José. A U.S. Post Office is located immediately north of and adjacent to the project site. A driveway for the post office continues to the east of the project site, providing ingress and egress to the post office from Burdette Drive. A beauty and barber college is located north of the post office. Small medical office buildings are also located east of the project site, including optometrists and pharmacies. A church is located south of the project site, immediately across Burdette Drive from the project site. A small shopping center with retail is located immediately south of the project site across Alvin Avenue. Similarly, additional retail and restaurant uses are located across Alvin Avenue west of the project site.

Regulatory Setting

Local

ENVISION SAN JOSÉ 2040 GENERAL PLAN

The project site is designated as Neighborhood/Community Commercial (NCC) under the City's Envision San José 2040 General Plan. This designation supports a broad range of commercial activity, including commercial uses that serve the communities in neighboring areas, such as

neighborhood serving retail and services and commercial/professional office development. This designation allows a FAR up to 3.5 (1 to 5 stories) .

CITY OF SAN JOSÉ ZONING ORDINANCE

The City's Zoning Ordinance (Title 20 of San José Municipal Code) designated the project site as Commercial General (CG) Zoning District. This zone allows for mixed use residential/commercial development only on parcels designated on the land use/transportation diagram of the General Plan with a designation that allows residential use, or through a General Plan Policy that allows mixed-use development on a non-residential parcel (San José Municipal Code Section 20.40.100).

Impacts Assessment

a. Would the project physically divide an established community?

The project site is currently developed with a one-story office building and surface parking lot. The project site is located within an urbanized area and surrounded by other urban land uses. The project would involve development of the site into approximately 4,992 square feet of commercial/retail space and other non-residential spaces and a total of 138 dwelling units. The project would not include the construction of barriers such as roadways or other dividing or linear features that could physically divide an established community. Therefore, the proposed project would have no impact.

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 project site is designated as Neighborhood/Community Commercial (NCC) under the City's Envision San José 2040 General Plan. Residential development is consistent with this land use designation. The project site is in the Commercial General (CG) Zoning District. The project is proposed under the provisions of California Government Code 65589.5(D)(5), which is commonly referred to as "Builders Remedy." As such, the proposed project does not include rezoning the project site or changes to the General Plan land use designation of the site. While the project's inconsistency with the permitted use and density of the Commercial General (GC) Zoning District may be considered a conflict with the Zoning Code, CEQA asks first whether such use and density standards have the purpose of avoiding or mitigating an environmental effect, which they do not in this case. CEQA next asks whether the conflict would cause a significant environmental impact. As discussed in other sections of this CEQA document, the project would not cause such impacts due to its conflict with the permitted density of the Commercial General (CG) Zoning District.

Relevant goals and policies adopted for the purpose of avoiding or mitigating an environmental effect in the Envision San José 2040 General Plan that are applicable to the proposed project are listed in the regulatory settings in Sections 1 through 20 of this Initial Study. Mitigation identified for nesting birds would ensure that the project would not conflict with General Plan policies related to biological resources. Mitigation identified for potential cultural resources impacts would ensure that the project would not conflict with the General Plan policies related to cultural resources. Mitigation identified for potential hazards and hazardous materials impacts (see Section 9, *Hazards and Hazardous Materials*) would ensure that the project would not expose construction workers or future residents to environmental hazards. As described in Section 4, *Biological Resources*, the

project would be compliant with the Santa Clara Valley Habitat Plan (SCVHP). As such, the proposed project would not conflict with applicable land use plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect, and impacts would be less than significant.

LESS-THAN-SIGNIFICANT IMPACT

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12 Mineral Resources

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

Existing Setting

The California Geological Survey is responsible for classifying land into Mineral Resource Zones under the Surface Mining Control and Reclamation Act (SMARA) based on the known or inferred mineral resource potential of that land. As described in the General Plan, under the SMARA, the State Mining and Geology Board has designated only the Communications Hill area of San José as containing mineral deposits of regional significance for construction aggregate materials (City of San José 2011a). Communications Hill is approximately 2.2 miles southwest of the project site. Neither the State Geologist nor the State Mining and Geology Board has classified other areas in San José as containing mineral deposits which are either of statewide significance or the significance of which requires further evaluation.

Regulatory Setting

Local

ENVISION SAN JOSÉ 2040 GENERAL PLAN

The Envision San José 2040 General Plan establishes sustainability goals for the City through 2040. The Environmental Resources subsection discusses the goals, policies, and actions related to mineral resources. Those included below are applicable to the project.

Goal ER-11: Extractive Resources. Conserve and make prudent use of commercially usable extractive resources.

Policy ER-11.1: When urban development is proposed on lands which have been identified as containing commercially usable extractive resources, consider the value of those resources.

Policy ER-11.2: Encourage the conservation and development of SMARA-designated mineral deposits wherever economically feasible.

Policy ER-11.3: When making land use decisions involving areas which have a SMARA designation of regional significance, balance mineral values against alternative land uses and consider the importance of these minerals to their market region as a whole and not just their importance to San José.

Policy ER-11.4: Carefully regulate the quarrying of commercially usable resources, including sand and gravel, to mitigate potential environmental effects such as dust, noise and erosion.

Policy ER-11.5: When approving quarrying operations, require the preparation and implementation of reclamation plans for the contouring and revegetation of sites after quarrying activities cease.

Impacts Assessment

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

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

The project site is currently vacant and surrounded by existing urban development in San José. The project site is located outside the Communications Hill area—the only area in San José containing mineral deposits subject to SMARA; therefore, the project would have no impact on the loss of availability of a known mineral resource.

NO IMPACT

13 Noise

	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?	☐	☐	☐	■

This section of the Initial Study is based on a Noise and Vibration Study prepared for the proposed project by Rincon Consultants. The Noise and Vibration Study, dated April 2024, is included as Appendix G to this Initial Study.

Noise Setting

The unit of measurement used to describe a noise level is the decibel (dB). However, the human ear is not equally sensitive to all frequencies within the sound spectrum. Therefore, a method called "A-weighting" is used to filter noise frequencies that are not audible to the human ear. A-weighting approximates the frequency response of the average young ear when listening to most ordinary everyday sounds. When people make relative judgments of the loudness or annoyance of a sound, their judgments correlate well with the "A-weighted" levels of those sounds. Therefore, the A-weighted noise scale is used for measurements and standards involving the human perception of noise. In this analysis, all noise levels are A-weighted, and the abbreviation "dBA" is understood to identify the A weighted decibel.

Decibels are measured on a logarithmic scale that quantifies sound intensity in a manner similar to the Richter scale used for earthquake magnitudes. A 10 dB increase represents a 10-fold increase in sound intensity, a 20 dB increase is a 100-fold intensity increase, a 30 dB increase is a 1,000-fold intensity increase, etc. Similarly, a doubling of a noise source, such as doubling of traffic volume, would increase the noise level by 3 dB; a halving of the noise source would result in a 3 dB decrease.

Human perception of noise has no simple correlation with acoustical energy. The perception of noise is not linear in terms of dBA or in terms of acoustical energy. Two equivalent noise sources combined do not sound twice as loud as one source. It is widely accepted that the average healthy ear can barely perceive changes of 3 dBA (increase or decrease); that a change of 5 dBA is readily perceptible; and that an increase (or decrease) of 10 dBA sounds twice (half) as loud (California Department of Transportation [Caltrans] 2013).

Descriptors

The impact of noise is not a function of loudness alone. The time of day when noise occurs, and the duration of the noise are also important. In addition, most noise that lasts for more than a few seconds is variable in its intensity. Consequently, a variety of noise descriptors has been developed. The noise descriptors used for this analysis are the one-hour equivalent noise level (L_{eq}) and the community noise equivalent level (CNEL). The L_{max} is the maximum noise level reached during a single noise event.

The L_{eq} is the level of a steady sound that, in a specific time period and at a specific location, has the same A-weighted sound energy as the time-varying sound. For example, $L_{eq(1h)}$ is the equivalent noise level over a 1-hour period and $L_{eq(8h)}$ is the equivalent noise level over an 8-hour period. $L_{eq(1h)}$ is a common metric for limiting nuisance noise, whereas $L_{eq(8h)}$ is a common metric for evaluating construction noise.

The CNEL is a 24-hour equivalent sound level. The CNEL calculation applies an additional 5 dBA penalty to noise occurring during evening hours (between 7:00 p.m. and 10:00 p.m.) and an additional 10 dBA penalty to noise occurring during the night (between 10:00 p.m. and 7:00 a.m.). These increases for certain times are intended to account for the added sensitivity of humans to noise during the evening and night (Crocker 2007).

Propagation

Sound from a small, localized source (approximating a “point” source) radiates uniformly outward as it travels away from the source in a spherical pattern, known as geometric spreading. The sound level decreases or drops off at a rate of 6 dBA for each doubling of distance.

Traffic noise is not a single, stationary point source of sound. Over some time interval, the movement of vehicles makes the source of the sound appear to emanate from a line (line source) rather than a point. The drop-off rate for a line source is 3 dBA for each doubling of distance. (Crocker 2007).

Vibration

Groundborne vibration of concern in environmental analysis consists of the oscillatory waves that move from a source through the ground to adjacent structures. The number of cycles per second of oscillation makes up the vibration frequency, described in terms of hertz (Hz). The frequency of a vibrating object describes how rapidly it oscillates. The normal frequency range of most groundborne vibration that can be felt by the human body is from a low of less than 1 Hz up to a high of about 200 Hz (Crocker 2007).

While people have varying sensitivities to vibrations at different frequencies, in general they are most sensitive to low-frequency vibration. Vibration in buildings, such as from nearby construction activities, may cause windows, items on shelves, and pictures on walls to rattle. Vibration of building components can also take the form of an audible low-frequency rumbling noise, referred to as

groundborne noise. Groundborne noise may result in adverse effects, such as building damage, when the originating vibration spectrum is dominated by frequencies in the upper end of the range (60 to 200 Hz). Vibration may also damage infrastructure when foundations or utilities, such as sewer and water pipes, physically connect the structure and the vibration source (Federal Transit Administration [FTA] 2018). Although groundborne vibration is sometimes noticeable in outdoor environments, it is almost never annoying to people who are outdoors. The primary concern from vibration is that it can be intrusive and annoying to building occupants and vibration-sensitive land uses.

Descriptors

Vibration amplitudes are usually expressed in peak particle velocity (PPV) or root mean square (RMS) vibration velocity. Particle velocity is the velocity at which the ground moves. The PPV and RMS velocity are normally described in inches per second (in/sec). PPV is defined as the greatest magnitude of particle velocity associated with a vibration event. PPV is often used in monitoring of blasting vibration because it is related to the stresses that are experienced by buildings (Caltrans 2020).

Although PPV is appropriate for evaluating the potential for building damage, it is not always suitable for evaluating human response. It takes some time for the human body to respond to vibration signals. As with airborne sound, the RMS velocity is often expressed in decibel notation as vibration decibels (VdB), which serves to compress the range of numbers required to describe vibration (FTA 2018). Vibration significance ranges from approximately 50 VdB (the typical background vibration-velocity level) to 100 VdB, the general threshold where minor damage can occur in fragile buildings (FTA 2018). The general human response to different levels of groundborne vibration velocity levels is described in Table 14.

Table 14 Human Response to Different Levels of Groundborne Vibration

Vibration Velocity Level	Human Reaction
65 VdB	Approximate threshold of perception for many people
75 VdB	Approximate dividing line between barely perceptible and distinctly perceptible. Many people find that transportation-related vibration at this level is unacceptable
85 VdB	Vibration acceptable only if there are an infrequent number of events per day

Source: FTA 2018

Damage to structures occurs when vibration levels range from 2 to 6 in/sec PPV. One half this minimum threshold, or 1 in/sec PPV is considered a safe criterion that would protect against structural damage (Caltrans 2020).

Propagation

Vibration energy spreads out as it travels through the ground, causing the vibration level to diminish with distance away from the source. Variability in the soil strata can also cause diffractions or channeling effects that affect the propagation of vibration over long distances (Caltrans 2020). When a building is impacted by vibration, a ground-to-foundation coupling loss (the loss that occurs when energy is transferred from one medium to another) will usually reduce the overall vibration level. However, under rare circumstances, the ground-to-foundation coupling may actually amplify the vibration level due to structural resonances of the floors and walls.

Ambient Noise Levels

The most prominent source of noise in the project site vicinity is vehicular traffic on Alvin Avenue, Burdette Drive, Tully Road, and US 101. To characterize ambient noise levels in the project vicinity, Rincon conducted two short-term (15-minute) and one long-term (24-hour) noise level measurements on February 8 and February 9, 2024. Short-term noise measurement (ST) 1 was conducted at the southeastern corner of the project boundary near the intersection of Alvin Avenue and Burdette Drive to capture noise levels attributable to these roadways, while ST 2 was conducted at the northwestern corner of the project site to determine general ambient noise levels at this location. Long-term noise measurement (LT) 1 was conducted at the southwestern project boundary to capture noise levels attributable to Alvin Avenue. The noise measurement locations are shown on Figure 4 of the Noise and Vibration Study (Appendix G). Table 15 and Table 16 summarize the results of the short-term and long-term noise measurements, respectively.

Table 15 Short-Term Noise Level Measurement Results

Measurement Location	Measurement Location	Sample Times[1]	Approximate Distance to Primary Noise Source	L_{eq} (dBA)	L_{min} (dBA)	L_{max} (dBA)
ST 1	Southeastern corner of project site, near the intersection of Alvin Avenue and Burdette Drive	12:21 – 12:36 a.m.	Approximately 40 feet to Burdette Drive centerline	60.7	50.4	75.4
ST 2	Northwestern corner of project site	12:38 – 12:53 p.m.	Approximately 190 feet to Burdette Drive centerline	55.7	45.8	66.6

Note: dBA = A-weighted decibels; L_{eq} = equivalent noise level; L_{min} = minimum noise level, L_{max} = maximum noise level
[1] All short-term noise measurements were collected on February 8, 2024.

Table 16 Long-Term Noise Level Measurement Results

Sample Time	dBA L_{eq}	Sample Time	dBA L_{eq}
24-hour Measurement – February 8–9, 2024			
1:00 PM	63	1:00 AM	57
2:00 PM	67	2:00 AM	58
3:00 PM	67	3:00 AM	60
4:00 PM	65	4:00 AM	64
5:00 PM	65	5:00 AM	64
6:00 PM	64	6:00 AM	66
7:00 PM	64	7:00 AM	66
8:00 PM	64	8:00 AM	65
9:00 PM	62	9:00 AM	66
10:00 PM	63	10:00 AM	64
11:00 PM	61	11:00 AM	63
12:00 AM	59	12:00 PM	79
24-hour Noise Level (dBA DNL)			**70.2**

Sample Time	dBA L_{eq}	Sample Time	dBA L_{eq}

dBA = A-weighted decibels; L_{eq} = equivalent noise level; DNL = day-night equivalent noise level

See Figure 4 in the Noise and Vibration Study for approximate noise measurement locations; see Appendix G for graphical measurement results.

Additionally, the site is located approximately 60 feet from an existing church. There is potential for noise levels to be increased during events at the church, such as sermons that routinely occur on Sunday mornings . However, these would be temporary in nature and generally associated with brief periods of increased traffic immediately before and after sermons.

Sensitive Receptors

Noise exposure goals for various types of land uses reflect the varying noise sensitivities associated with those uses. The Envision San José 2040 General Plan defines noise-sensitive land uses as residential, hotels, motels, hospitals, residential care, outdoor sports and recreation, neighborhood parks and playgrounds, schools, libraries, museums, meeting halls, churches, public and quasi-public auditoriums, concert halls, and amphitheaters (City of San José 2011a). Vibration-sensitive receptors are similar to noise sensitive receptors, however, also include buildings where vibrations may interfere with vibration-sensitive equipment such as laboratories or medical facilities.

Sensitive receptors near the site include the Tafatolu Congregational Church to the southeast and the Mission de la Casa Nursing and Rehabilitation Center to the south of the project site.

Regulatory Setting

Local

ENVISION SAN JOSÉ 2040 GENERAL PLAN

The Envision San José 2040 General Plan establishes interior and exterior noise standards and thresholds under CEQA for different land uses within the City as well as vibration thresholds during demolition and construction activities. The following goals and policies are applicable to the project:

Goal EC-1: Community Noise Levels and Land Use Compatibility. Minimize the impact of noise on people through noise reduction and suppression techniques, and through appropriate land use policies.

Policy EC-1.1: Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include:

- Interior Noise Levels: The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected Envision

General Plan traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan.

- Exterior Noise Levels: The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (Table EC-1). The acceptable exterior noise level objective is established for the City, except in the environs of the 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.

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

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

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

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

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

  For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will

be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.

Policy EC-1.9: Require noise studies for land use proposals where known or suspected loud intermittent noise sources occur which may impact adjacent existing or planned land uses. For new residential development affected by noise from heavy rail, light rail, BART or other single-event noise sources, implement mitigation so that recurring maximum instantaneous noise levels do not exceed 50 dBA L_{max} in bedrooms and 55 dBA L_{max} in other rooms.

Policy EC-2.3: Require new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, including ruins and ancient monuments or 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.

CITY OF SAN JOSÉ MUNICIPAL CODE

The City's noise environment for development review is regulated by the Zoning Ordinance (Title 20 of the Municipal Code). Table 20-135 of the Zoning Ordinance outlines the maximum sound pressure level thresholds as measured at the receiving property lines. For all adjacent properties used or zoned for industrial purposes, noise levels generated at the project site shall not exceed 70 dBA L_{max} at the shared property lines. For adjacent properties used or zoned for commercial purposes, noise levels generated at the project site shall not exceed 60 dBA L_{max} at the shared property line. For all residential land uses, noise levels generated at the project site shall not exceed 55 dBA L_{max} at the shared property lines. The Municipal Code does not establish quantitative noise limits for demolition or construction activities occurring in the City.

Impacts Assessment

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

Project construction noise was estimated using the FHWA Roadway Construction Noise Model (RCNM) (FHWA 2006). RCNM predicts construction noise levels for a variety of construction operations based on empirical data and the application of acoustical propagation formulas. Using RCNM, construction noise levels were estimated at noise-sensitive receptors near the project site. RCNM provides reference noise levels for standard construction equipment, with an attenuation rate of 6 dBA per doubling of distance for stationary equipment. A detailed list of construction equipment was not available at the time of this analysis; therefore, the construction equipment list was based on the California Emissions Estimator Model (CalEEMod) default values for a project of this type and size, developed as part of the analysis of air quality impacts for the project (Appendix A). The FTA *Transit Noise and Vibration Impact Assessment* (FTA 2018) document recommends evaluating construction noise impacts from the center of the construction site. In accordance with FTA recommendations, construction noise for all phases was analyzed from the center of the site.

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

For informational purposes, Table 17 presents the expected noise levels at the closest sensitive receptors from construction activity occurring at the center of the project site based on the conservatively assumed combined use of all construction equipment during each phase of construction. As shown in Table 17, construction noise would range between 55 dBA L_{eq} (8-hour) and 78 dBA L_{eq} (8-hour).

Table 17 Estimated Noise Levels at Sensitive Receptors by Construction Phase

	dBA L_{eq} (8-hour)						
Construction Phase	**Dental Office to the north**	**USPS building to the northwest**	**Doctors' Offices to the northeast**	**Tafatolu Congregational Church to the southeast**	**Dental Office to the south**	**Mission de la Casa Nursing and Rehabilitation Center to the south**	**Woodside Apartments to the southeast**
Distance (feet)	*400*	*150*	*240*	*165*	*165*	*290*	*590*
Demolition	70	78	74	77	77	72	66
Site Preparation	68	76	72	76	76	71	64
Grading	68	76	72	76	76	71	64
Building Construction	67	75	71	75	75	70	63
Paving	69	78	73	77	77	72	66
Architectural Coating	58	66	62	66	66	61	55

Notes:
[1] Distances to each sensitive receptor were assumed to be from the center of the construction site, pursuant to FTA guidance on construction noise calculations (FTA 2018).
Source: Roadway Construction Noise Model (RCNM). See Appendix G for modeling outputs.

As shown in Table 17, construction would occur within 165 feet of a church, 200 feet of commercial uses, and 500 feet of residential uses. However, project construction noise would not exceed 80 dBA at the church or these commercial and residential land uses. Accordingly, project construction noise would not exceed FTA significance thresholds used for this analysis.

Due to the proximity of construction activity relative to nearby commercial and residential uses and the duration of project construction, pursuant to City of San José General Plan Policy EC-1.7, construction noise impacts associated with the project would need to use best available suppression devices and techniques, or a potentially significant impact would occur. As a result, the project would be required to comply with the following mitigation measure:

Mitigation Measure

Impact NOI-1: Construction activities occurring for more than 12 months could result in temporary noise impacts to sensitive receptors in the surrounding area.

MM NOI-1: Construction-Related Noise. Noise minimization measures shall include, but are not limited to, the following:

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

Operational Noise

The noise sources generated by operation of the project following construction are anticipated to be those typical of mixed-use development projects, such as heating, ventilation, and air conditioning (HVAC) equipment, use of recreational outdoor spaces (private balconies and outdoor deck areas), delivery trucks, trash hauling, and landscape maintenance. The primary on-site operational noise source from the project would be from HVAC units located on the rooftop of the proposed building. Rooftop HVAC units would be located as close as approximately 10 feet from the edge of the rooftop and 84 feet above the ground. Detailed mechanical specifications for the future HVAC systems are not available at this stage of project design, therefore noise levels produced by typical HVAC equipment were used, which are 72 dBA at a distance of 3 feet. At the property line – located a total distance of approximately 95 feet away from the nearest rooftop HVAC equipment– noise levels from HVAC equipment would attenuate to approximately 42 dBA. Note that this is a conservative analysis, as it does not account for acoustical shielding from the rooftop parapet walls.

The City has adopted exterior noise standards in the SJMC and the General Plan Noise Element regulating operational stationary noise sources in the City. The proposed project would result in a significant impact if noise from the project's stationary operational noise sources (i.e., HVAC equipment) exceeds 55 dBA L_{eq} at the property line. Although a conservative assumption of stationary noise from HVAC units would be approximately 42 dBA at the project site property line, the following mitigation measure is included to ensure operational noise impacts would be less than significant.

Impact NOI-2: Mechanical equipment associated with project operation is not known at this time and has the potential to exceed 55 dBA DNL at the adjacent property line.

> **MM NOI-2**: Prior to issuance of any building permits and during final building design, the project applicant shall prepare a detailed acoustical study to evaluate the potential noise generated by building mechanical equipment and demonstrate the necessary noise control to meet the City's 55 dBA DNL goal. Noise control features such as sound attenuators, baffles, and barriers shall be identified, if required, and evaluated to demonstrate that mechanical equipment noise would not exceed 55 dBA DNL at noise-sensitive locations around the project site. The noise control features identified by the study shall be incorporated into the project prior to issuance of a building permit. The detailed acoustical study demonstrating that mechanical equipment would not exceed 55 dBA DNL at adjacent sensitive receptors shall be signed by a qualified noise consultant and submitted to the Director of Planning, Building, and Code Enforcement, or Director's designee, prior to the issuance of a building permit.

Another source of noise resulting from project operation would be traffic noise from vehicle trips generated by the proposed project. Project traffic noise increases were estimated using the project trip generation estimates provided by Hexagon Transportation Consultants, Inc. in the Local Transportation Analysis (Appendix C). These trips were added to the average daily traffic (ADT) volumes on Alvin Avenue published by the City of San José. Pursuant to the trip generation

estimates, the project is anticipated to generate 141 new daily trips (Appendix C). According to the City of San José, the ADT on Alvin Avenue is 5,514 (City of San José 2015).

Traffic noise generated by implementation of the project is governed by Policy EC-1.2 of the Envision San José 2040 General Plan. A significant permanent noise impact would occur if the 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" (up to 60 dBA DNL); 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 (equal to or more than 60 dBA DNL)

The project would generate 141 new daily vehicle trips (Appendix C). As a result, the ADT volumes on Alvin Avenue would increase from 5,514 vehicles to 5,655 vehicles due to project-generated traffic. This increase in traffic on Alvin Avenue would result in a noise increase of approximately 0.1 dBA DNL. This would not exceed the 3.0 dBA DNL threshold identified in the Envision San José 2040 General Plan for significant, permanent noise impacts. Therefore, noise increases due to project-generated traffic would be less than significant.

LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED

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

Construction activities known to generate excessive groundborne vibration, such as pile driving, would not be conducted during construction of the project. The greatest source of vibration during project construction would be a vibratory roller used during paving activities. Based on the proposed site plan, it is assumed the vibratory roller would be used approximately 70 feet from the nearest off-site structures (Tafatolu Congregational Church to the southeast and the USPS commercial building to the northwest). A vibratory roller generates a vibration level of approximately 0.21 in/sec PPV at a distance of 25 feet (FTA 2018). A vibration level of approximately 0.21 in/sec PPV would attenuate to a vibration level of approximately 0.045 in/sec PPV at the nearest offsite structures located 70 feet away.

Groundborne vibration levels exceeding 0.08 in/sec PPV would have the potential to result in cosmetic damage to historic buildings, and groundborne vibration levels exceeding 0.2 in/sec PPV would have the potential to result in cosmetic damage to normal buildings. Because vibration from project construction would be of approximately 0.045 in/sec PPV at the nearest offsite structures, project construction would not result in vibration levels with potential for structural damage. Vibration impacts from project construction would be less than significant.

The project does not include substantial vibration sources associated with operation. Therefore, operational vibration impacts would be less than significant.

LESS-THAN-SIGNIFICANT IMPACT

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

The project site is located approximately 0.8 miles from the Reid-Hillview County Airport and is located within the Reid-Hillview County Airport Comprehensive Land Use Plan's Airport Influence Area and Safety Zone (City of San José 2024a). While the project site is within the Airport Influence Area, it is outside of the Community Noise Equivalent Level (CNEL) noise contour (Santa Clara County Airport Land Use Commission 2020). Therefore, the proposed project would not expose people residing or working in the project area to excessive noise levels associated with airports. There would be no impact.

NO IMPACT

14 Population and Housing

	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 (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?	☐	☐	■	☐
b. Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	■

Existing Setting

According to the California Department of Finance (DOF) population and housing estimates, the population of San José was 959,256 as of January 2023, with 345,798 housing units (DOF 2023a). There are approximately 2.86 persons per household in San José (DOF 2023b). The project site is within ABAG's Central South Santa Clara County Superdistrict, with ABAG estimating that approximately 18,000 households will be added to this Superdistrict by 2050 (ABAG 2021). ABAG has yet to publish population forecasts for Superdistricts or for cities and counties within the Bay Area as part of their recently adopted Plan Bay Area 2050. However, the projection of 18,000 new households in Superdistrict would be correlated with population growth because households have residents.

Regulatory Setting

Local

Association of Bay Area Governments

The Association of Bay Area Governments (ABAG) allocates regional housing needs to each city and county within the nine-county San Francisco Bay Area, based on statewide goals. California's Housing Element Law requires cities to: 1) zone adequate lands to accommodate its Regional Housing Needs Allocation (RHNA); 2) produce an inventory of sites that can accommodate its share of the regional housing need; 3) identify governmental and non-governmental constraints to residential development; 4) develop strategies and work plans to mitigate or eliminate those constraints; and 5) adopt a housing element that is to be updated on a regular recurring basis.

Envision San José 2040 General Plan

The 2040 General Plan contains a Housing Element that is updated every eight years and certified by the State Department of Housing and Community Development. The City's current Housing Element is the 2023-2031 Housing Element, which was certified on January 29, 2024. The 2023-2031 Housing

Element contains an assessment of the amount, type, and phasing of development needed to achieve the City's social, economic, and environmental goals related to housing. Consistent with the objectives of ABAG's Plan Bay Area 2050, the City's Housing Element has the following objectives (City of San José 2023a):

- Increasing the supply, diversity, and affordability of housing
- Promoting infill development and a more efficient land use pattern
- Promoting an improved intraregional relationship between jobs and housing
- Protecting environmental resources
- Promoting socioeconomic equity

Impacts Assessment

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

The proposed project would include the construction of an eight-story mixed used building with a total of 138 residential units. Based on the DOF's estimated persons per household rate of 2.86 for the city of San José, the construction of 138 residential units would result in a population increase of approximately 395 people.[3]

The project site is within ABAG's Central South Santa Clara County Superdistrict, with ABAG estimating that approximately 18,000 households will be added to this Superdistrict by 2050 (ABAG 2021). The 138 residential units that would be constructed in the Superdistrict as a result of the project would represent approximately 0.8 percent of the household growth projected through 2050 by ABAG. Therefore, by correlation, the 395 people residing in the 138 project residences would be a similar negligible percentage of the population growth that would result from 18,000 new households in the Superdistrict forecasted by ABAG. The retail component of the project would be less than 5,000 square feet and not a substantial employer. Therefore, the project would have a less than significant impact on direct and indirect population growth.

LESS-THAN-SIGNIFICANT IMPACT

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

The project site does not contain existing residential development, and future construction of residences on the project site would not result in the removal of existing housing or displacement of existing residents. There would be no impact.

NO IMPACT

3 The project's 138 residential units multiplied by an average of 2.86 persons per household equals approximately 395 people.

15 Public Services

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than - Significant Impact	No Impact
a.	Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, or 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:				
	1 Fire protection?	☐	☐	■	☐
	2 Police protection?	☐	☐	■	☐
	3 Schools?	☐	☐	■	☐
	4 Parks?	☐	☐	■	☐
	5 Other public facilities?	☐	☐	■	☐

Existing Setting

Fire protection services are provided to the project site by the San José Fire Department (SJFD), which serves a total population of approximately 1.2 million residents. SJFD responds to fires, hazardous materials spills, and medical emergencies (including injury accidents) in the project area. SJFD currently has 34 fire stations through the City. The closest fire station to the project site is Station 16, located at 2001 S King Road, approximately 0.6 mile northwest of the project site.

Police protection services are provided to the project site by the San José Police Department (SJPD). Officers are dispatched from police headquarters, located at 201 West Mission Street, approximately 4.7 miles northwest of the project site.

The project site is located within the San José Unified School District (SJUSD), which has 41 schools across the City. The closest schools to the project site are OB Whaley Elementary School, Katherine R. Smith Elementary School, Jeanne Meadows Elementary School, and George V. LeyVa Middle School located approximately 0.1 mile southeast, 0.6 mile northeast, 0.7 mile northwest, 0.8 mile southeast, respectively.

The City manages approximately 3,621 acres of parkland (City of San José 2021b). The nearest parks to the project site are Nisich Park, Welch Park, and Turtle Rock Park located approximately 0.3 mile west, 0.4 mile northeast, 0.7 mile northwest, respectively.

Other public facilities evaluated in this section of the Initial Study consist of public libraries. The San José Public Library operates 25 branches, including the Tully Community Branch Library. The Tully Community Branch Library is approximately 0.9 mile west of the project site and is the closest library to the site. The next closest branch is the Evergreen Branch Library, approximately 1.7 miles northeast of the project site.

Regulatory Setting

Local

ENVISION SAN JOSÉ 2040 GENERAL PLAN

The Envision San José General Plan Quality of Life chapter (chapter four in the General Plan) includes Goals, Policies and Implementation Actions for various public services, including Education, Libraries, Health Care, Public Safety (Police and Fire), and Code Enforcement. In addition, the Parks, Open Space, and Recreation Subsection, within the same chapter, provides the Goals, Policies, and Actions related to parks, open space, and recreational facilities. The following is a summary of the applicable Goals and Policies related to education, libraries, police and fire protection, and parks.

Goal ES-1: Education. Promote the operation of high-quality educational facilities throughout San José as a vital element to advance the City's Vision and goals for community building, economic development, social equity, and environmental leadership.

Policy ES-1.1: Facilitate open communication between the City, public school districts and the development community in order to coordinate the activities of each to achieve the highest quality of education for all public-school students.

Policy ES-1.2: Encourage school districts, the City, and developers to engage in early discussions regarding the nature and scope of proposed projects and possible fiscal impacts and mitigation measures. These discussions should occur as early as possible in the project planning stage, preferably preceding land acquisition.

Goal ES-2: Libraries. Maintain and expand Library Information Services within the City to:

- Enrich lives by fostering lifelong learning and providing every member of the San José community access to a vast array of ideas and information
- Give all members of the community opportunities for educational and personal growth throughout their lives
- Develop partnerships to further the educational, cultural and community missions of organizations in San José
- Support San José State University Library's educational mission in expanding the base of knowledge through research and scholarship
- Locate branch libraries in central commercial areas of neighborhoods for essential public access to library resources, events, and community meeting spaces, and to stimulate economic development
- Maximize branch library hours of operation to facilitate daily patronage

Policy 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.

Goal ES-3: Law Enforcement and Fire Protection. Provide high-quality law enforcement and fire protection services to the San José community to protect life, property and the environment through fire and crime prevention and response. Utilize land use planning, urban design and site development measures and partnerships with the community and other public agencies to support long-term community health, safety and well-being.

Policy ES-3.1: Provide rapid and timely Level of Service (LOS) response time to all emergencies:

- 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.
- 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.
- Enhance service delivery through the adoption and effective use of innovative, emerging techniques, technologies and operating models.
- Measure service delivery to identify the degree to which services are meeting the needs of San José's community.
- Ensure that development of police and fire service facilities and delivery of services keeps pace with development and growth in the city.

Policy ES-3.2: Strive to ensure that equipment and facilities are provided and maintained to meet reasonable standards of safety, dependability, and compatibility with law enforcement and fire service operations.

Policy ES-3.8: Use the Land Use / Transportation Diagram to promote a mix of land uses that increase visibility, activity and access throughout the day and to separate land uses that foster unsafe conditions.

Policy 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.

Policy 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.

Policy ES-3.15: Apply demand management principles to control hazards through enforcement of fire and life safety codes, ordinances, permits and field inspections.

Policy ES-3.17: Promote installation of fire sprinkler systems for both commercial and residential use and in structures where sprinkler systems are not currently required by the City Municipal Code or Uniform Fire Code.

Policy ES-3.20: Require private property owners to remove excessive/overgrown vegetation (e.g., trees, shrubs, weeds) and rubbish to the satisfaction of the Fire Chief to prevent and minimize fire risks to surrounding properties.

Action ES-3.22: Maintain the City's Fire Department Strategic Plan as a tool to achieve Envision General Plan Level of Service and other related goals and policies. Base fire station location planning on a four-minute travel radius.

Action ES-3.23: Engage public safety personnel in the land use entitlement process for new development projects.

Goal PR-1: High Quality Facilities and Programs. Provide park lands, trails, open space, recreation amenities, and programs, nationally recognized for their excellence, which enhance the livability of the urban and suburban environments; preserve significant natural, historic, scenic and other open space resources; and meet the parks and recreation services needs of San José's residents, workers, and visitors.

Policy PR-1.1: Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.

Policy PR-1.2: Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.

Policy PR-1.3: Provide 500 square feet per 1,000 population of community center space.

Impacts Assessment

a.1. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered fire protection facilities, or the need for new or physically altered fire protection facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives?

SJFD currently provides fire protection services to the area and would continue to provide fire protection services to the project site. As discussed in Section 14, *Population and* Housing, the proposed project would result in the construction of 4,992 square feet of commercial/retail space and 138 dwelling units and a population increase of approximately 395 people. The final project design would be reviewed by the SJFD and future development facilitated by the project would be required to comply with the SJFD conditions and recommendations, including specific fire clearances around proposed structures and the provision of fire sprinkler systems. Because the project does not include a significant increase to the population of the City, is within an established service area, and would be required to comply with fire district building conditions, and because the site is currently developed and served by SJFD, it would not result in increased demand for fire services on the site. Therefore, the project would not result in the need for new or physically altered fire facilities and impacts would be less than significant.

LESS-THAN-SIGNIFICANT IMPACT

a.2. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered police protection facilities, or the need for new or physically altered

police protection facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives?

SJPD currently serves the area and would continue to provide police protection services to the project site. As discussed in Section 14, *Population and* Housing, the proposed project would result in the construction of 4,992 square feet of commercial/retail space and 138 dwelling units and a population increase of approximately 395 people. The population could increase the demand for police services but would not be expected to increase demand such that additional facilities would be required to service the site. Additionally, the project site is an urban area of the City where there are already existing residential and commercial buildings and other land uses that could require police services and the site is currently developed and served by SJFD. Because the project is located in such an area, the service area of the SJPD would not expand. Therefore, the project would not result in the need for new or physically altered police facilities and impacts would be less than significant.

LESS-THAN-SIGNIFICANT IMPACT

a.3. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered schools, or the need for new or physically altered schools, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios or other performance objectives?

The proposed project would result in the construction of 4,992 square feet of commercial/retail space and 138 dwelling units and a population increase of approximately 395 people. The school-aged residents of the proposed project would likely attend the nearest SJUSD schools to the site, which are OB Whaley Elementary School, Katherine R. Smith Elementary School, Jeanne Meadows Elementary School, George V. LeyVa Middle School, and Windmill Springs Elementary School. According to DOF population estimates, the population of San José was 959,256 as of January 2023 (DOF 2023a). According to the 2022 US Census Five-Year Estimates, the number of school-aged children in San José (residents 18 years old or younger) was approximately 212,006, representing approximately 21 percent of the population of San José (US Census Bureau 2022). Applying this ratio of 21 percent school-aged children to the projected population increase due to the proposed project, the project would generate approximately 83 school-aged children.[4] Eighty-three students would incrementally increase the service population and demand for SJUSD school services given the existing supply of elementary, middle, and high schools within five miles of the project site. In accordance with Senate Bill 50, the project applicant would be required to pay development impact fees to SJUSD at the time of the building permit issuance. SJUSD would use collected funds towards new facilities to offset any impacts associated with new the development. Pursuant to California Government Code Section 65996, payment of these fees is deemed to fully mitigate cumulative CEQA impacts of new development on school facilities. Therefore, payment of state-mandated impact fees would reduce the project project's potentially cumulatively considerable environmental impacts on school facilities to less than significant levels.

LESS-THAN-SIGNIFICANT IMPACT

a.4. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered parks, or the need for new or physically altered parks, the

4 21 percent multiplied by 395 potential residents equals approximately 83 residents under 18 years of age.

construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios or other performance objectives?

The Envision San José General Plan Quality of Life chapter (chapter four in the General Plan) includes the following policies which require the City to provide accessible parkland to its residents:

- Policy PR-1.1: Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
- Policy PR-1.2: Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.

As discussed in Section 14, *Population and Housing*, the proposed project includes the construction of 4,992 square feet of commercial/retail space and other non-residential spaces and 138 dwelling units, for a population increase of approximately 395 people. According to the California Department of Finance (DOF) population and housing estimates, the population of San José was 959,256 as of January 2023 (DOF 2023a). The proposed project would result in a total population of approximately 959,642 people, resulting in a nominal increase in parkland use within the City. The project would not result in substantial adverse physical effects or require the construction of new park facilities. Additionally, given the proximity of the project site to the Coyote Creek Trail, Lake Cunningham Park, Welch Park, and Kelley Park, many project residents would likely walk to a nearby park, reducing the need for expanding parking or bathroom facilities at the park. Impacts would be less than significant.

LESS-THAN-SIGNIFICANT IMPACT

a.5. Would the project result in substantial adverse physical impacts associated with the provision of other new or physically altered public facilities, or the need for other new or physically altered public facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives?

Because the project would not result in a significant increase in the City's population, existing public facilities such libraries, recreation and community centers, public amenities, and other facilities would not need to be constructed or physically altered. Impacts would be less than significant.

LESS-THAN-SIGNIFICANT IMPACT

16 Recreation

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

Existing Setting

Parklands in the city are managed by the US Department of Fish and Wildlife, Santa Clara County Parks and Recreation, City of San José Department of Parks, Recreation, and Neighborhood Services, and the Santa Clara Valley Open Space Authority. The City manages approximately 3,621 acres of parkland to serve its residents. The nearest parks to the project site are Nisich Park located approximately 0.3 mile west of the project site, Welch Park approximately 0.4 mile northeast of the project site, and Turtle Rock Park located approximately 0.7 mile northwest of the project site (City of San José 2021b). The Coyote Creek Trail is approximately 1.2 miles west of the project site.

Regulatory Setting

See the "Parks" subsection in Section 15 above.

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

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

As discussed in Section 14, *Population and Housing*, the proposed project would result in a population increase of approximately 395 people. This population growth would result in a nominal increase in parkland use within the city. As discussed above in Section 15, *Public Services*, the Envision San José General Plan Quality of Life chapter (chapter four in the General Plan) includes the following policies which require the City to provide accessible recreational facilities/parklands to its residents:

- Policy PR-1.1: Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.

- Policy PR-1.2: Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.

The site is served by existing recreational facilities and would not result in an accelerated deterioration of facilities, and would not require the construction of additional facilities. Nisich Park and Welch Park are within 0.5 mile of the project site. Additionally, the project would include approximately 24,036 square feet of open space. Accordingly, impacts would be less than significant.

LESS-THAN-SIGNIFICANT IMPACT

17 Transportation

	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, roadway, bicycle 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 use (e.g., farm equipment)?	☐	☐	■	☐
d. Result in inadequate emergency access?	☐	☐	■	☐

This section of the Initial Study is based primarily on a Local Transportation Analysis prepared for the proposed project by Hexagon Transportation Consultants. The Local Transportation Analysis, dated April 2024, is provided as Appendix C to this Initial Study.

Existing Setting

Existing Roadway Network

Regional access to the project site is provided by US Highway 101 (US 101). Local access to the project site is provided by Tully Road, King Road, Alvin Avenue, and Burdette Drive. These facilities are described below.

- **US 101** is a north/south freeway that extends northward from the project site through San Francisco and southward through Gilroy. In the vicinity of the project site, US 101 is eight lanes wide (three mixed-flow lanes and one HOV lane in each direction). Access to and from the project is provided via a full interchange with Tully Road.
- **Tully Road** is an east-west city connector that runs from the boundary of east San José and ends at its intersection with Monterey Street. East of White Road it is classified as a City Connector to Ruby Road. East of Ruby Road, it transitions into a Local Connector Street called Murillo Avenue. Tully Road has a posted speed limit of 40 mph and consists of six travel lanes with a raised median in the project vicinity. Tully Road has sidewalks on both sides of the street, bike lanes in both directions, and no on-street parking permitted in the study area. Tully Road provides access to the project site via Alvin Avenue.
- **King Road** is a north/south city connector Street that runs through east San José. To the north, King Road becomes Lundy Avenue near Berryessa Road, and to the south, King Road becomes Silver Creek Road near Capitol Expressway. Near the project site, King Road is four lanes wide

(two lanes in each direction) with a two-way center left-turn lane and a posted speed limit of 35 mph. King Road has sidewalks on both sides of the street, bike lanes in both directions, and no on-street parking permitted in the study area. Access to the site from King Road is provided via Burdette Drive.

- **Alvin Avenue** is a two-lane north/south local street that provides access to the project site via its intersection with Burdette Drive. Alvin Avenue begins at Aldrich Way in the south and extends north to Tully Road where it transitions into Lanai Avenue. Lanai Avenue terminates at Cunningham Avenue in the north. Alvin Avenue/Lanai Avenue has sidewalks on both sides of the street and is a designated bike route with shared lane markings (Sharrows). Parking is not allowed on either side of Alvin Avenue in the project vicinity. South of Tully Road, Alvin Avenue has a posted speed limit of 30 mph. North of Tully Road, Lanai Avenue has a posted speed limit of 25 mph.
- **Burdette Drive** is a short, two-lane, east-west local street that provides direct access to the project site via its intersections with Alvin Avenue and King Road. Burdette Drive has a posted speed limit of 25 mph and has sidewalks on both sides of the street. Parking is allowed on both sides of the street. Burdette Drive has no bicycle facilities.

Existing Pedestrian Facilities

Pedestrian facilities in the project area consist primarily of sidewalks along the streets and crosswalks with pedestrian signal heads at intersections. Sidewalks are found along all previously described local roadways in the study area. The existing network of sidewalks and crosswalks provides adequate connectivity for pedestrians between the project site and other surrounding land uses and transit stops. Crosswalks with pedestrian signal heads and push buttons are located at the signalized intersections in the study area, although crosswalks do not exist on the following study intersection approaches:

- Alvin Avenue & Tully Road – Eastbound approach
- King Road & Burdette Drive – Southbound approach
- Alvin Avenue & Fontaine Road – Southbound approach

Existing Bicycle Facilities

Bicycle facilities in the project area are described below. A map of these bicycle facilities is provided as Figure 5 in the Local Transportation Analysis (Appendix C).

- Tully Road – Class II bicycle facilities (striped bike lanes) along its entirety
- Alvin Avenue/Lanai Avenue – Designated bike route with Sharrows along its entirety
- King Road – Class II bicycle facilities (striped bike lanes) along its entirety

Existing Transit Service

Existing transit service in the project vicinity is provided by the Santa Clara Valley Transportation Authority (VTA). The project area is served by four local bus routes: Routes 22, 26, 70 and 77. All four bus routes operate within a 0.5-mile radius of the project site, with bus stops located within walking distance on Alvin Avenue and King Road (see Figure 6 of the Local Transportation Analysis; Appendix C).

- **Local Route 22** provides frequent service between Eastridge Mall and the Palo Alto Transit Center. Route 22 operates along Tully Road and King Road (north of Tully Road) in the project

area, with 15-minute headways during the weekday peak commute periods. Bus stops are located at the intersection of King Road and Tully Road.

- **Local Route 26** provides frequent service between Eastridge Mall and West Valley College. Route 26 operates along Tully Road in the project area, with 15-minute headways during the weekday peak commute periods. Bus stops are located on Tully Road between Alvin Avenue and King Road.
- **Local Route 70** provides frequent service between the Milpitas BART station and the Capitol LRT station. Route 70 operates along King Road (south of Rigoletto Drive) and Rigoletto Drive in the project area, with 15-minute headways during the weekday peak commute periods. Bus stops are located on Rigoletto Drive east of King Road and on King Road just north of Enesco Avenue.
- **Local Route 77** provides frequent service between the Milpitas BART station and Eastridge Mall. Route 77 operates along King Road (north of Rigoletto Drive) and Rigoletto Drive in the project area, with 15-minute headways during the weekday peak commute periods. Bus stops are located on King Road north and south of Tully Road, with the closest bus stops located near Burdette Drive.

Existing Vehicle Miles Traveled

The City of San Jose defines vehicle miles traveled (VMT) as the total miles of travel by personal motorized vehicles a project is expected to generate in a day. VMT is calculated for residential, office, and industrial projects using the Origin-Destination VMT method, which measures the full distance of personal motorized vehicle-trips with one end within the project. Figure 5 shows the current estimated VMT levels for San José residents based on the location of residences. As shown on Figure 5, the project site is within a "Threshold VMT Area." Threshold VMT Areas are areas of San José that have VMT levels below the City's thresholds of significance.

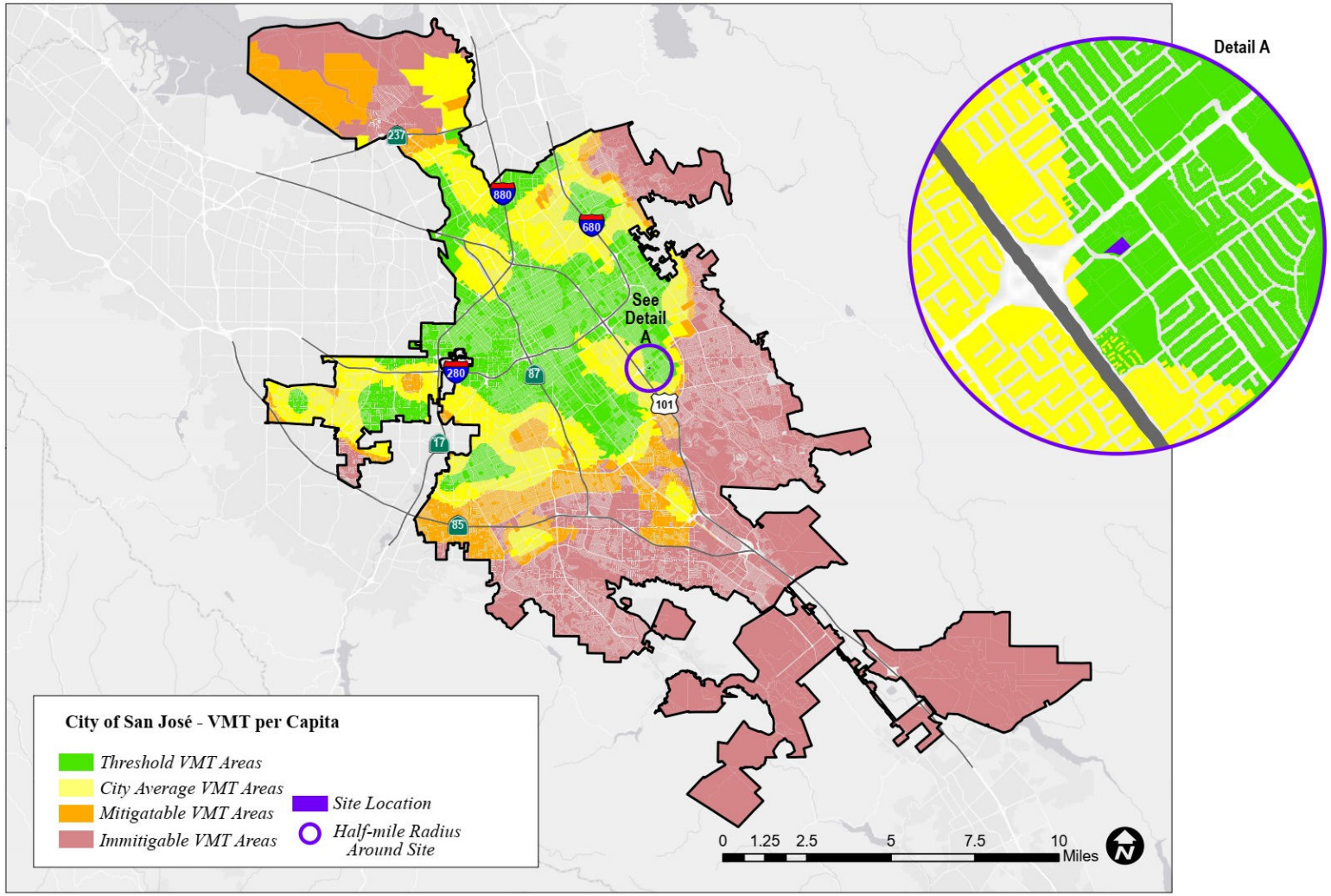
Regulatory Setting

Regional

REGIONAL TRANSPORTATION PLANNING

The Metropolitan Transportation Commission (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 the region's Sustainable Communities Strategy (integrating transportation, land use, and housing to meet GHG reduction targets set by CARB) and Regional Transportation Plan (including a regional transportation investment strategy for revenues from federal, state, regional and local sources through 2050.

Figure 5 VMT Heat Map for San José Residents



Source: Local Transportation Analysis 2024 (Appendix C)

CONGESTION MANAGEMENT PROGRAM

The Santa Clara Valley Transportation Authority (VTA) oversees the Santa Clara Congestion Management Program (CMP). The relevant state legislation requires that all urbanized counties in California prepare a CMP in order to obtain each county's share of the increased gasoline tax revenues. The legislation requires that each CMP contain the following five mandatory elements: 1) a system definition and traffic level of service standard element, 2) a transit service and standards element, 3) a trip reduction and transportation demand management element, 4) a land use impact analysis program element, and 5) a capital improvement element. The Santa Clara County CMP includes the five mandated elements and three additional elements, including a county-wide transportation model and database element, an annual monitoring and conformance element, and a deficiency plan element.

In accordance with California Statute, Government Code Section 65088, Santa Clara County has established a CMP. The intent of the CMP legislation is to develop a comprehensive transportation improvement program among local jurisdictions that will reduce traffic congestion and improve land use decision-making and air quality. VTA serves as the Congestion Management Agency for Santa Clara County and maintains the county's CMP.

Congestion Management Agencies are required by California State statute to monitor roadway traffic congestion and the impact of land use and transportation decisions on a countywide level, at least every two years. VTA conducts CMP monitoring and produces the CMP Monitoring and Conformance Report on an annual basis for freeways, rural highways and CMP-designated intersections. VTA also prepares and adopts guidelines for preparing transportation impact analyses (TIS) and traffic level of service (LOS) Analysis Guidelines, and Local Model Consistency Guidelines.

The Santa Clara County CMP also includes Deficiency Plan Requirements. Deficiency plans, as they relate to traffic congestion management, are plans that identify offsetting measures to improve transportation conditions on the CMP facility in lieu of making physical traffic capacity improvements such as widening an intersection or roadway.

Local

CITY OF SAN JOSÉ COUNCIL POLICY 5-1 VEHICLE MILES TRAVELED

In adherence to State of California SB 743 and the City's goals as set forth in the Envision San José 2040 General Plan, the City of San José has adopted Transportation Analysis Policy, Council Policy 5-1. The policy replaces its predecessor (Policy 5-3) and establishes the thresholds for transportation impacts under the CEQA based on VMT instead of levels of service (LOS). The intent of this change is to shift the focus of transportation analysis under CEQA from vehicle delay and roadway auto capacity to a reduction in vehicle emissions.

The City of San José defines VMT as the total miles of travel by personal motorized vehicles a project is expected to generate in a day. As established in the City's Transportation Analysis Policy, projects that include retail and residential uses would create a significant adverse impact when:

- Retail: project-generated VMT is a net increase to the existing regional total VMT
- Residential: project-generated VMT exceeds the existing Citywide average VMT per capita

In addition to a VMT analysis, Policy 5-1 also requires the preparation and analysis of a Local Transportation Analysis (LTA) to address the effects of a project on transportation, access, circulation, and related safety elements as it relates to the operation of the project. LTAs provide

additional information to evaluate transportation conditions proximate to a Project and supplements the VMT analysis. LTAs implement the multimodal vision of the City's General Plan.

ENVISION SAN JOSÉ 2040 GENERAL PLAN

The Envision San José 2040 General Plan outlines goals and policies intended to ensure that the transportation network with the city is safe, efficient and sustainable.

The Circulation Element of the General Plan aims to:

- Establish circulation policies that increase bicycle, pedestrian, and transit travel, while reducing motor vehicle trips, to increase the City's share of travel by alternative transportation modes.
- Promote San José as a walking- and bicycling-first city by providing and prioritizing funding for projects that enhance and improve bicycle and pedestrian facilities.

The goals and policies applicable to the project are included below:

Goal TR-1: Balanced Transportation System: Complete and maintain a multimodal transportation system that gives priority to the mobility needs of bicyclists, pedestrians, and public transit users while also providing for the safe and efficient movement of automobiles, buses, and trucks.

Policy TR-1.2: Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.

Policy TR-1.4: Through the entitlement process for new development, projects shall be required to fund or construct needed transportation improvements for all transportation modes giving first consideration to improvement of bicycling, walking and transit facilities and services that encourage reduced vehicle travel demand.

- Development proposals shall be reviewed for their impacts on all transportation modes through the study of Vehicle Miles Traveled (VMT), Envision San José 2040 General Plan policies, and other measures enumerated in the City Council Transportation Analysis Policy and its Local Transportation Analysis. Projects shall fund or construct proportional fair share mitigations and improvements to address their impacts on the transportation systems.
- The City Council may consider adoption of a statement of overriding considerations, as part of an EIR, for projects unable to mitigate their VMT impacts to a less than significant level. At the discretion of the City Council, based on CEQA Guidelines Section 15021, projects that include overriding benefits, in accordance with Public Resources Code Section 21081 and are consistent with the General Plan and the Transportation Analysis Policy 5-1 may be considered for approval. The City Council will only consider a statement of overriding considerations for (i) market-rate housing located within General Plan Urban Villages; (ii) commercial or industrial projects; and (iii) 100% deed-restricted affordable housing as defined in General Plan Policy IP-5.12. Such projects shall fund or construct multimodal improvements, which may include improvements to transit, bicycle, or pedestrian facilities, consistent with the City Council Transportation Analysis Policy 5-1.
- Area Development Policy. An "area development policy" may be adopted by the City Council to establish special transportation standards that identifies

development impacts and mitigation measures for a specific geographic area. These policies may take other names or forms to accomplish the same purpose.

Policy TR-1.6: Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.

Policy TR-1.8: Actively coordinate with regional transportation, land use planning, and transit agencies to develop a transportation network with complementary land uses that encourage travel by bicycling, walking and transit, and ensure that regional greenhouse gas emission standards are met.

Policy TR-1.10: Require needed public street right-of-way dedication and improvements as development occurs. The ultimate right-of-way shall be no less than the dimensions as shown on the Functional Classification Diagram except when a lesser right-of-way will avoid significant social, neighborhood or environmental impacts and perform the same traffic movement function. Additional public street right-of-way, beyond that designated on the Functional Classification Diagram, may be required in specific locations to facilitate left-turn lanes, bus pullouts, and right-turn lanes in order to provide additional capacity at some intersections.

Goal TR-3: Maximize Use of Public Transit. Maximize use of existing and future public transportation services to increase ridership and decrease the use of private automobiles.

Policy TR-3.3: As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

Goal TR-5: Vehicular Circulation. Maintain the City's street network to promote the safe and efficient movement of automobile and truck traffic while also providing for the safe and efficient movement of bicyclists, pedestrian, and transit vehicles.

Goal TR-8: Parking Strategies. Develop and implement parking strategies that reduce automobile travel through parking supply and pricing management.

SAN JOSÉ BETTER BIKE PLAN 2025

Adopted in October 2020, the City's Better Bike Plan assesses current bicycle facilities in San José and outlines several goals for improving facilities and increasing bicycle ridership by 2025 (City of San José 2020c). Goals applicable to the project include:

- Get more people on bikes. Change street design and parking pricing practices to actively disincentivize driving.
- Improve process and design. Adopt separated bike lanes, shared-use paths, and bicycle boulevards as preferred bikeway types.
- Establishing a bikeway network. Rapidly implement a dense, interconnected bikeway network in key focus areas that are most likely to address safety, demand, and equity.

Impacts Assessment

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

Transit

The project area is well-served by local bus routes; therefore, it is reasonable to assume that some project residents would utilize transit service. According to the Local Transportation Analysis (Appendix C), the small increase in transit demand generated by the project would be accommodated by the current available ridership capacity of the VTA bus service. The proposed project would not conflict with a program, plan, ordinance or policy addressing transit.

Roadways

Construction-related vehicle trips would include construction workers traveling to and from the project site, haul trucks (for moving and importing soil), and other trucks associated with equipment and material deliveries. Such trips would occur on area roadways, such as Alvin Avenue, Burdette Drive, Tully Road, and US 101. Given that construction would be a short-term and temporary activity, trips would account for a relatively small portion of existing traffic on area roadways. Consistent with City standard practice, the project would be required to submit a construction management plan for City approval that addresses the construction schedule, street closures and/or detours, construction staging areas and parking, and the planned truck routes. Therefore, construction of the project would not conflict with a program, plan, ordinance, or policy addressing the circulation system as it pertains to roadways.

The project would not alter the existing roadway network in the vicinity of the project site and there would be no changes to existing vehicular travel patterns or usage of roadways due to operation of the project. Most project generated vehicles would utilize Alvin Avenue via Tully Road and Burdette Drive via King Road to access the site. A small percentage of retail-generated trips would originate from the south via Alvin Avenue. Accordingly, the project would not create cut-through traffic. Because the project would not alter roadways or substantially change travel patterns on roadways, operation of the project would not conflict with a program, plan, ordinance, or policy addressing the circulation system as it pertains to roadways.

Bicycle

The project would not remove bicycle facilities, nor would it conflict with adopted plans or policies for new bicycle facilities. Existing bicycle facilities in the study area consist of Class II striped bike lanes along King Road and Tully Road, as well as designated bike routes with Sharrows (shared lane markings) along Alvin Avenue south of Tully Road, Lanai Avenue north of Tully Road, and Rigoletto Drive east of King Road. Some future residents of the project would likely utilize these bike routes given that the proposed project includes resident bicycle parking. Additionally, a bicycle rack would also be provided from the ground floor retail space.

The San José Better Bikeway Plan 2025 identifies a planned Class IV protected bike lane along Alvin Avenue, including along the project site frontage. This Class IV bike lane will be essential to safely moving bicycles through the project area. Given that the project would front the planned bicycle lane, it is reasonable to assume the project would increase use of the planned bike lane. The project applicant must provide fair-share monetary contributions toward the future Class IV bike lane as a condition of approval. With mandatory provision of the fair-share monetary contributions toward

the future Class IV bike lane, the proposed project would not conflict with a plan addressing bicycle facilities. Impacts would be less than significant.

Pedestrian

The proposed project would modify existing pedestrian crosswalks in the project area, such as crosswalks at the intersection of Alvin Avenue and Burdette Drive. According to the Local Transportation Analysis (Appendix C), existing pedestrian facilities provide adequate connectivity between the project site and nearby bus stops and other points of interest. The site plan indicates that the existing 8-foot-wide sidewalk along the project frontage on Alvin Avenue would be retained. Additionally, according to the site plan, the project would widen the sidewalk along the project frontage on Burdette Drive from 8 feet wide to 10 feet wide to match the sidewalk along the adjacent property east of the project site. In addition to sidewalk improvements proposed by the project applicant, the City of San José would require the project to include 12-foot-wide sidewalks along both the Alvin Avenue and Burdette Drive project frontages. Widening the sidewalks to 12 feet would be an improvement compared to existing conditions. The sidewalks would provide direct access to the residential lobby and leasing office, as well as the ground-level retail space. The proposed sidewalk improvements must be to City standards. The City would also require the applicant to construct a half-bulb-out at its corner of the intersection of Alvin Avenue and Burdette Drive. The half-bulb-out would provide more pedestrian space than compared with existing conditions.

There are numerous schools within walking distance of the project site, which is considered generally less than 1 mile away. Pedestrian facilities are generally present in the project area, and the project would improve pedestrian conditions. Accordingly, impacts related to pedestrian circulation would be less than significant.

LESS-THAN-SIGNIFICANT IMPACT

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

CEQA Guidelines Section 15064.3(b) identifies criteria for evaluating transportation impacts. Specifically, the guidelines state VMT exceeding an applicable threshold of significance may indicate a significant impact. According to the Transportation Analysis Handbook, a detailed CEQA transportation analysis would not be required if a project meets the City's screening criteria (City of San José 2023b). Market-rate or mixed-income residential projects located in Planned Growth Areas (PGAs) near high-quality transit that incorporate transit-supporting features will result in low VMT. If a residential project is located in an area identified within the City's CEQA transportation screening map for residential projects and meets the other screening criteria specified in Table 1 of the Transportation Analysis Handbook, then the project would not need to conduct a detailed CEQA transportation analysis. The project would be required to meet the following screening criteria to be considered a low VMT project that would not require a transportation analysis:

1. **Planned Growth Areas:** Located within a Planned Growth Area as defined in the Envision San José 2040 General Plan; AND
2. **High-Quality Transit:** Located within ½ a mile of an existing major transit stop or an existing stop along a high-quality transit corridor; AND
3. **Transit-Supportive Project Density:**
    - Minimum of 35 units per acre for residential projects or components;

- If located in a General Plan Land Use Designation that has 35 units per acre, the maximum density allowed in the General Plan Land Use Designation must be met;

4. **Active Transportation:** Not negatively impact transit, bike or pedestrian infrastructure; AND
5. **Retail Projects:** less than 100,000 square feet of total gross floor area or less and has no drive-through.

According to the Envision San José 2040 General Plan, the project site is located within the Tully Road/South King Road Urban Village, which is defined as a Planned Growth Area. In addition, the project site is located within proximity to high quality transit, namely the VTA Rapid Bus routes 77 and 26, which run along Tully Road and South King Road at frequent intervals. A bus stop serving Route 26 is approximately 675 feet away from the project site on Tully Road. A bus stop serving Route 77 is approximately 725 feet from the project site on South King Road. Additionally, the project would result in approximately 138 dwelling units on the 0.93-acre site which would fall within the transit-supportive project density criteria. The project would not negatively affect existing transit, bicycle, or pedestrian infrastructure in the area. Rather, the project would include bicycle parking and a bicycle repair area for resident use which would encourage bicycle use for residents. Lastly, the retail component of the project would be approximately 4,992 square feet, well below the 100,000 square feet threshold, and would not include a drive-through. As such, the project would meet the City's VMT screening criteria. The project would not conflict or be inconsistent with CEQA Guidelines Section 15064.3(b), and impacts to VMT would be less than significant.

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 use (e.g., farm equipment)?

Circulation improvements at the project site would include modifications to the existing driveway on Burdette Drive and the addition of a service vehicle driveway along the project's northern boundary at Alvin Avenue. However, no other major changes would be made. The proposed service driveway would allow vehicles a clear view of Alvin Avenue and is not located near a sharp curve or intersection that would obstruct the vision of exiting drivers. The proposed project would not significantly change site access or road operations surrounding the project site. Accordingly, the project would not substantially increase hazards due to a design feature (e.g., sharp curves or inadequate site distance), and the impact would be less than significant.

LESS-THAN-SIGNIFICANT IMPACT

d. Would the project result in inadequate emergency access?

The design of the project is required to comply with the City's standards for emergency vehicle access (including providing adequate points of access, vertical clearance, and turning radius). Consistent with City standard practice, the project would be required to submit a construction management plan for City approval that addresses the construction schedule, street closures and/or detours, construction staging areas and parking, and the planned truck routes. In operation, the applicant has provided the City with a detailed plan demonstrating that each floor of the proposed residences would be accessible by a fire aerial apparatus, fire hoses, and other emergency vehicles from Alvin Avenue. The project plans would also be subject to review by the San José Fire Department to ensure that adequate emergency access would be available prior to issuance of

building permits. Therefore, the project would not result in inadequate emergency access, and the impact would be less than significant.

LESS-THAN-SIGNIFICANT IMPACT

Other Transportation and Site Access Considerations – Non-CEQA

Senate Bill 743, the revised 2019 CEQA Guidelines (and current CEQA Guidelines), and Council Policy 5-1 promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses. Due to these requirements, the VMT metric promotes those statutory purposes better than level of service is the adopted significance metric under CEQA. An LTA was prepared for the project to address transportation operational issues of the project, and the effects of the project on transportation, access, circulation, and safety elements in the project area (see Appendix C). These operational metrics and issues are provided for informational purposes only and are unrelated to CEQA.

Trip Generation

Trips generated by any new development are typically estimated based on counts of existing developments of the same land use type. A compilation of typical trip generation rates can be found in the Institute of Transportation Engineers' (ITE) Trip Generation Manual. Project trip generation was estimated by applying to the sizes and uses of the proposed development with the appropriate trip generation rates obtained from the ITE Trip Generation Manual, 11th Edition (2021).

After applying the ITE trip rates to the proposed project and applying the appropriate trip reductions, the project would generate 141 new daily vehicle trips, with 16 new trips (-4 inbound and 20 outbound) occurring during the AM peak hour and 28 new trips (26 inbound and 2 outbound) occurring during the PM peak hour, as shown in Table 18 and Table 19.

Table 18 Project Trip Generation Estimates - Total

Land Use	Size	Daily Rate	Daily Trips
Multifamily Mid-Rise	138 dwelling units	4.54 per unit	627
Residential & Retail Internal Capture	-	-	(41)
Location-Based Vehicle Mode Share (12%)	-	-	(70)
Net Residential Trips	**-**	**-**	**516**
Retail	4,992 square feet	54.45 per 1,000 square feet	272
Residential & Retail Internal Capture (15%)			(41)
Location-Based Vehicle Mode Share (12%)			(28)
Retail Pass-By External Trip Reduction			(34)
Net Retail Trips			**169**
Existing Commercial Building (to be Removed)			(544)
Total Net Project Trips			**141**

Notes:

Trip generation for the residential component of the project based on avg. rates contained in ITE Trip Generation Manual, 11th Edition , for Multifamily Housing Mid-Rise Not Close to Rail Transit (Land Use 221) located in General Urban/Suburban setting. Rates expressed in trips per dwelling unit (DU).

Trip generation for the retail component of the project based on average rates contained in the ITE Trip Generation Manual, 11th Edition , for Strip Retail Plaza <40 ksf (Land Use 822) located in a General Urban/Suburban setting. Rates are expressed in trips per 1,000 square feet (SF).

A 15% residential/retail internal mixed-use trip reduction was applied to the project per the 2014 Santa Clara VTA TIA Guidelines. The 15% reduction was first applied to the smaller generator (retail). The same number of trips were subtracted from the larger generator (residential) to account for both trip ends.

A 12% reduction was applied to the residential and retail components of the project based on the location-based vehicle mode share percentage outputs (Table 17 of the TA Handbook) produced from the San Jose Travel Demand Model for the place type: Suburban with Multifamily Housing.

Source: Local Transportation Analysis (Appendix C)

Table 19 Project Trip Generation Estimates – Peak Hour

Land Use	Size	Daily Trips	AM Rate	AM In	AM Out	AM Total	PM Rate	PM In	PM Out	PM Total
Multifamily Mid-Rise	138 dwelling units	627	0.37	12	39	51	0.39	33	21	54
Residential & Retail Internal Capture	-	(41)		(1)	(1)	(2)		(2)	(2)	(4)
Location-Based Vehicle Mode Share (12%)	-	(70)		(1)	(5)	(6)		(4)	(2)	(6)
Net Residential Trips	**-**	**516**		**10**	**33**	**43**		**27**	**17**	**44**
Retail	4,992 square feet	272	2.36	7	5	12	6.59	17	16	33
Residential & Retail Internal Capture (15%)		(41)		(1)	(1)	(2)		(2)	(2)	(4)
Location-Based Vehicle Mode Share (12%)		(28)		(1)	0	(1)		(2)	(2)	(4)
Retail Pass-By External Trip Reduction		(34)		0	0	0		(4)	(4)	(8)
Net Retail Trips		**169**		**5**	**4**	**9**		**9**	**8**	**17**
Existing Commercial Building (to be Removed)		(544)		(19)	(17)	(36)		(10)	(23)	(33)
Total Net Project Trips		**141**		**(4)**	**20**	**16**		**26**	**2**	**28**

Notes:

Trip generation for the residential component of the project based on avg. rates contained in ITE Trip Generation Manual, 11th Edition , for Multifamily Housing Mid-Rise Not Close to Rail Transit (Land Use 221) located in General Urban/Suburban setting. Rates expressed in trips per dwelling unit (DU).

Trip generation for the retail component of the project based on average rates contained in the ITE Trip Generation Manual, 11th Edition , for Strip Retail Plaza <40 ksf (Land Use 822) located in a General Urban/Suburban setting. Rates are expressed in trips per 1,000 square feet (SF).

A 15% residential/retail internal mixed-use trip reduction was applied to the project per the 2014 Santa Clara VTA TIA Guidelines. The 15% reduction was first applied to the smaller generator (retail). The same number of trips were subtracted from the larger generator (residential) to account for both trip ends.

A 12% reduction was applied to the residential and retail components of the project based on the location-based vehicle mode share percentage outputs (Table 17 of the TA Handbook) produced from the San Jose Travel Demand Model for the place type: Suburban with Multifamily Housing.

The PM peak hour pass-by trip reduction (34% for Shopping Center) was based on the ITE Trip Generation Handbook (3rd Edition). There is no AM peak hour pass-by trip reduction. The daily pass-by trip reduction (17%) was calculated based on the average of the AM and PM pass-by trip reduction percentages.

The AM and PM peak hour trips generated by the existing commercial building to be removed are based on driveway counts conducted on January 11, 2024. Existing daily trips were estimated.

Source: Local Transportation Analysis (Appendix C)

Intersection LOS Evaluation

An intersection level of service (LOS) analysis was performed for the following five intersections:

- Alvin Avenue & Fontaine Road
- Alvin Avenue & Tully Road
- King Road & Tully Road
- King Road & Burdette Drive
- Alvin Avenue & Burdette Drive

The trip distribution patterns for the residential and retail components of the project were estimated based on existing travel patterns on the surrounding roadway network that reflect typical weekday AM and PM commute patterns, the locations of complementary land uses, and freeway access points. The peak hour vehicle trips generated by the project were assigned to the roadway network in accordance with the trip distribution patterns.

According to the City of San Jose's *Transportation Analysis Handbook, 2023*, an adverse effect on signalized intersection operations would occur if for either peak hour:

- The level of service at the intersection degrades from an acceptable level (LOS D or better) under background conditions to an unacceptable level under background plus project conditions, or
- The level of service at the intersection is an unacceptable level (LOS E or F) under background conditions and the addition of project trips cause both the critical-movement delay at the intersection to increase by four (4) or more seconds *and* the volume-to-capacity ratio (V/C) to increase by one percent (.01) or more.

An exception to the second criteria listed above applies when the addition of project trips reduces the amount of average delay for critical movements (i.e., the change in average delay for critical movements is negative). In this case, the threshold of significance is an increase in the critical V/C value by .01 or more.

For CMP intersections (i.e., King Road & Tully Road), an adverse effect on signalized intersection operations would occur if for either peak hour:

- The level of service at the intersection degrades from an acceptable level (LOS E or better) under background conditions to an unacceptable LOS F under background plus project conditions, or
- The level of service at the intersection is an unacceptable level (LOS F) under background conditions and the addition of project trips cause both the critical-movement delay at the intersection to increase by four (4) or more seconds *and* the volume-to-capacity ratio (V/C) to increase by one percent (.01) or more.

The criteria used by the City of San José to evaluate effects to intersections, above, refer to "background conditions" and "background plus project conditions." These conditions are defined as follows:

- **Background Conditions.** Background traffic volumes were estimated by adding to existing peak hour volumes the projected volumes from approved but not yet completed or occupied developments. The added traffic from approved but not yet completed or occupied developments was provided by the City of San Jose in the form of the Approved Trips Inventory (ATI). Background conditions represent the baseline conditions to which project conditions are compared for the purpose of determining potential adverse operational effects of the project.
- **Background Plus Project Conditions.** Project conditions reflect traffic volumes with completion of the project and approved developments. Background plus project traffic volumes were estimated by adding to background traffic volumes the additional trips generated by the project.

The results of the analysis show that all of the signalized study intersections are currently operating at acceptable levels of service (LOS D or better) during the AM and PM peak hours of traffic and would continue to operate acceptably under background and background plus project conditions (see Table 20). The proposed project would not result in substantial adverse effects at nearby signalized intersections.

Table 20 Intersection Level of Service Summary

		Existing		Background		Background Plus Project			
Intersection	Peak Hour	Average Delay (seconds)	LOS	Average Delay (seconds)	LOS	Average Delay (seconds)	LOS	Increase in Critical Delay (seconds)	Increase in Critical V/C
Alvin Avenue & Fontaine Road	AM	9.6	A	9.6	A	9.5	A	0.0	0.002
	PM	10.3	B	10.3	B	10.4	B	0.0	0.012
Alvin Avenue/Lanai Avenue & Tully Road	AM	38.0	D	37.7	D	38.0	D	0.4	0.006
	PM	41.0	D	40.9	D	41.1	D	0.2	0.002
King Road & Tully Road (CMP Intersection)	AM	42.6	D	42.7	D	42.7	D	0.0	0.000
	PM	47.7	D	48.8	D	48.8	D	0.1	0.000
King Road & Burdette Drive	AM	17.0	B	17.0	B	17.0	B	0.0	0.000
	PM	17.5	B	17.3	B	17.2	B	0.1	0.000

Source: Local Transportation Analysis (Appendix C)

Traffic conditions at the unsignalized study intersection of Alvin Avenue and Burdette Drive were evaluated to determine whether the project would create any operational issues. The project would add 20 new PM peak hour trips to the southbound left-turn movement at this study intersection. Under existing and background conditions, the southbound left-turn movement would operate with a delay of 8.4 seconds per vehicle during the PM peak hour. The project would have little effect on the vehicle delay, increasing the delay to just 8.5 seconds per vehicle. The low vehicle delays are equivalent to LOS A operations. The results of the signal warrant check indicate that the AM and PM peak hour volumes at the unsignalized study intersection currently do not meet the signal warrant and would not meet the warrant with the addition of project generated trips (see Appendix C).

Intersection Queuing Analysis

The intersection queuing analysis is based on vehicle queuing for left-turn movements at intersections near the project site where the project would add a noteworthy number of trips (10 or more peak hour vehicle trips). Based on the project trip generation and trip distribution pattern, the signalized intersection of Alvin Avenue &Tully Road and the unsignalized intersection of Alvin Avenue & Burdette Drive were evaluated as part of the queuing analysis for this project. The project would not add a noteworthy number of trips to left-turn movements at the other study intersections.

The project would add 22 new vehicle trips during the AM peak hour and 7 new vehicle trips during the PM peak hour to the northbound left-turn movement at the intersection of Alvin Avenue and Tully Road. The addition of project generated trips would increase the 95th percentile vehicle queue length during the AM peak hour by one vehicle and would not increase the 95th percentile vehicle queue length during the PM peak hour. The northbound left-turn pocket on Alvin Avenue cannot be lengthened due to its proximity to Fontaine Road.

Truck Access and Circulation

The project site plan was reviewed for truck access including delivery and moving trucks, garbage trucks and emergency vehicles. The site plan shows one on-site loading space with access provided via Alvin Avenue. The angled driveway providing access to the freight loading space is shown to be 26 feet wide, which would be adequate to serve trucks.

Emergency Vehicle Analysis

The City of San Jose Fire Department requires that all portions of a building be within 150 feet of a fire department access road and requires a minimum of 3 feet of clearance from the property line along all sides of the building. The Fire Code also requires driveways to provide at least 20 feet of width for fire access.

According to the site plan, all areas of the building would be within 150 feet of a fire access road, a 6- foot-wide dedicated fire access lane would be provided around the perimeter of the building, and both project driveways are shown to be greater than 20 feet wide. Therefore, the project would comply with the City's fire access requirements.

Construction Activities

Typical activities related to the construction of the project could include lane narrowing and/or lane closures, sidewalk and pedestrian crosswalk closures, and bike lane closures. In the event of any type of closure, clear signage (e.g., sidewalk closure and detour signs) must be provided to ensure

vehicles, pedestrians and bicyclists are able to adequately reach their intended destinations safely. Per City standard practice, the project would be required to submit a construction management plan for City approval that addresses the construction schedule, street closures and/or detours, construction staging areas and parking, and the planned truck routes.

18 Tribal Cultural Resources

	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 a Public Resources Code Section 21074 as either a site, feature, place, or cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and 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.	☐	■	☐	☐

Existing Setting

Assembly Bill (AB) 52, detailed in the *Regulatory Setting* below, requires lead agencies to conduct formal consultations with California Native American tribes during the CEQA process to identify tribal cultural resources that may be subject to significant impacts by a project. At the time of preparation of this Initial Study, the Tamien Nation and Costanoan Band of Indian Tribes have sent written requests for notification of projects to the City of San José.

Archaeological (pre-historic) resource sensitivity is considered low at the project site, as described in Section 5, *Cultural Resources*, of this Initial Study.

Regulatory Setting

Federal

Refer to Section 5, *Cultural Resources*, for the federal regulatory setting pertaining to Tribal Cultural Resources.

State

Refer to Section 5, *Cultural Resources*, for a description of the California Register of Historic Places.

Assembly Bill 52

As of July 1, 2015, California Assembly Bill 52 of 2014 (AB 52) was enacted and expands CEQA by defining a new resource category, "tribal cultural resources." AB 52 establishes that "A project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment" (PRC Section 21084.2). It further states that the lead agency shall establish measures to avoid impacts that would alter the significant characteristics of a tribal cultural resource, when feasible (PRC Section 21084.3).

PRC Section 21074 (a)(1)(A) and (B) defines tribal cultural resources as "sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe" and is:

1. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or
2. 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 these criteria, the lead agency shall consider the significance of the resource to a California Native American tribe.

Assembly Bill 52 (AB 52) establishes a formal consultation process for California Tribes regarding those resources. The consultation process must be completed before a CEQA document can be certified. Under AB 52, lead agencies are required to "begin consultation with a California Native American Tribe that is traditionally and culturally affiliated with the geographic area of the proposed project." Native American tribes to be included in the process are those that have requested notice of projects proposed within the jurisdiction of the lead agency.

- On July 9, 2018, a representative of the Ohlone Indian Tribe, Inc., requested notification of projects in accordance with Public Resources Code Section 21080.3.1 subd (b). In a meeting with City staff and the representative on July 12, 2018, the tribe clarified that such notification should be sent only for projects in the City of San José that involve ground disturbing activities in Downtown, and that such consultation requests may be sent via e-mail only for future projects that require a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report. As this project is not in Downtown, no notification was sent to the Ohlone Indian Tribe, Inc.
- On June 17, 2021, Chairwoman Geary of the Tamien Nation verbally requested AB 52 notification and sent written notice to the City, received June 28, 2021, requesting notification of projects in accordance with Public Resources Code Section 21080.3.1 subd (b), for all proposed projects that require a Negative Declaration, Mitigated Negative

Declaration, or Environmental Impact Report. Accordingly, AB 52 notification was sent via email to the Tamien Nation on July 30, 2024. The City did not receive a request for consultation nor additional information from the Tamien Nation.

- On July 23, 2024, City staff sent a notification letter to Kanyon Sayers-Roods, a representative of the Indian Canyon Band of Costanoan Ohlone People. A request for consultation was/was not received.
- On July 23, 2024, City staff sent a notification letter to Charlene Nijmeh, a representative of the Muwekwa Tribe. A request for consultation was/was not received.

Local

Refer to Section 5, *Cultural Resources*, for the local regulatory setting.

Impact Analysis

a. Would the project cause a substantial adverse change in the significance of a tribal cultural resource as defined in Public Resources Code Section 21074 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)?

b. Would the project cause a substantial adverse change in the significance of a tribal cultural resource as defined in Public Resources Code 21074 that is 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?

The project site is not located within an area mapped for high archaeological or pre-historic/Tribal cultural resources. However, there is always potential to uncover buried archaeological and Tribal cultural resources during ground disturbing activities, such as the excavation and grading that would be required for project construction. As described above in the Existing Setting, the project site is in an area of San José that the City considers to be a low sensitivity for archaeological (pre-historic) resources. Should project construction activities encounter and damage or destroy a Tribal cultural resource or resources, impacts would be potentially significant. Implementation of Mitigation Measures MM CUL-1(a) through MM CUL-1(e) outlined in Section 5, *Cultural Resources*, above, would ensure that potential impacts to tribal cultural resources would be less than significant.

LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED

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19 Utilities and Service Systems

	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 storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	☐	☐	■	☐
b. Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	■	☐
c. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has 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. Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	☐	☐	■	☐

Existing Setting

San José Water Company (SJWC) provides water service to the project site. SJWC relies on groundwater, imported treated water, and local surface water for its potable water supply. On average, SJWC purchases approximately 50 percent of its water supply from the Santa Clara Valley Water District, pumps approximately 40 percent of its supply from the groundwater aquifer and draws the remaining approximately 10 percent from local surface water sources (SJWC 2020).

Wastewater treatment and disposal is provided by the San José-Santa Clara Regional Wastewater Facility (RWF). The RWF treats an average of 110 million gallons per day (mgd) of wastewater, with a capacity of up to 167 mgd. The resulting fresh water from the RWF is discharged to the South San Francisco Bay or delivered to the South Bay Water Recycling Project for distribution. The RWF is

jointly owned by the cities of San José and Santa Clara and is managed and operated by the City of San José's Environmental Services Department. The City is currently implementing a $1.4 billion, 10-year Capital Improvement Program, which comprises a portion of the $2 billion in facility investments envisioned over the next 30 years in the Plant Master Plan, adopted in 2013 (City of San José 2020b).

The City owns and maintains the municipal stormwater drainage system which serves the project site. Stormwater is removed from the site primarily by sheet flow action across the paved surfaces towards storm drains located throughout the paved surfaces on nearby roads such as Keyes Street and Senter Road, or by percolation into the ground. Precipitation falling within the project site is currently able to infiltrate the ground surface. Precipitation falling on the segment of Senter Road that would be modified with the proposed road diet is currently conveyed to the existing storm drainage systems within and beneath the roadway.

Republic Services would provide solid waste collection services and California Waste Solutions would provide recycling and junk pickup service to the project site. Residential and commercial solid waste may be collected separately (SJMC 9.10.1800 Separate collection) or a mixed-use development may commingle the residential solid waste and commercial solid waste generated at the mixed-use development (SJMC 9.10.1810 Combined waste streams). The commingled waste would be collected by the City's authorized multi-family dwelling solid waste collector (GreenTeam of San José) if the total square footage of commercial building space in the mixed-use development is less than 15 percent of the total building space. The commingled waste would be collected by Republic Services if the total square footage of commercial building space in the mixed-use development is 15 percent or more of the total building space. Collected waste is primarily processed at Newby Island Sanitary Landfill. Newby Sanitary Landfill has a remaining capacity of over 21 million cubic yards and a closure date estimated in 2041 (CalRecycle 2019b).

Pursuant to the San José Municipal Code Section 9.10.1380 all commercial waste generators must subscribe to collection services that include Solid Waste, Recyclable Materials, and Organics Materials bins / carts. Failure to comply with these minimum service levels may result in a scheduled citation. This only applies if the mixed-use development is 15 percent or more of the total building space.

Regulatory Setting

State

CALIFORNIA GREEN BUILDING STANDARDS CODE COMPLIANCE FOR CONSTRUCTION, WASTE REDUCTION, DISPOSAL AND RECYCLING

CALGreen establishes mandatory green building requirements and provides guidelines for all buildings in California. The code includes specific regulations pertaining to:

- Planning and design
- Energy efficiency
- Water efficiency and conservation
- Material conservation and resource efficiency
- Indoor environmental quality
- Recycling and/or salvaging 65 percent of nonhazardous construction and demolition ("C&D") debris, or meeting the local construction and demolition waste management ordinance,

whichever is more stringent (see San José-specific CALGreen building code requirements in the local regulatory framework section below); and
- Providing readily accessible areas for recycling by occupants.

The guidelines provide measures for new construction projects to achieve green building performance levels, including reducing indoor water use by 20 percent, reducing wastewater by 20 percent, recycling and salvaging 65 percent of non-hazardous construction debris and providing readily accessible areas for recycle.

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.

ASSEMBLY BILL 341

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

SENATE BILL 1383

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

Local

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 quality under CALGreen, which is more stringent than the state requirement of 65 percent (San José Municipal Code Section 9.10.2480).

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 minimum project valuation for a deposit is $2,000 for an alteration-renovation residential project and $5,000 for a non-residential project. There is no minimum valuation for a demolition project and no square footage limit for the deposit applicability. The deposit is fully refundable if construction and demolition materials were reused, donated, or recycled at a City-certified processing facility. Reuse and donation require acceptable documentation, such as photos, estimated weight quantities, and receipts from donations centers stating materials and quantities.

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

SAN JOSE ZERO WASTE STRATEGIC PLAN / CLIMATE SMART SAN JOSE

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

ENVISION SAN JOSÉ 2040 GENERAL PLAN

The Envision San José 2040 General Plan establishes goals and policies that relate to green building design, construction and operation. The following are applicable to the project:

Policy MS-2.11: Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize the effectiveness of passive solar design).

Policy MS-3.1: Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.

Policy MS-3.2: Promote use of green building technology or techniques that can help reduce the depletion of the City's potable water supply, as building codes permit. For example, promote the use of captured rainwater, graywater, or recycled water as the preferred source for non-potable water needs such as irrigation and building cooling, consistent with Building Codes or other regulations.

Policy MS-3.3: Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.

Impacts Assessment

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

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

The project would be served by the existing water, wastewater treatment, stormwater drainage, electric power, natural gas, and telecommunications infrastructure near the project site, with new

service connections provided for the new development. The project would result in an increase in water use and wastewater generation based on 138 dwelling units and approximately 4,992 square feet of commercial space. In the City's 2020 Urban Water Management Plan, it is anticipated that water consumption would be 145 gallons per capita per day (City of San José 2021c). Based on these data, the project would generate an estimated 20,010 gallons per day, or 22.4 acre-feet per year, of net new water demand.

Table 21 details the anticipated supply and demand of water in San José in normal, single-dry, and multiple-dry years through 2045 in acre-feet per year.

Table 21 San José Water Supply and Demand Through 2045 (AFY)

Supply and Demand		2025	2030	2035	2040	2045
Normal Year						
Supply Total		21,080	24,156	27,343	32,815	33,552
Demand Total		21,080	24,156	27,343	32,815	33,552
Difference		0	0	0	0	0
Single Dry Year						
Supply Total		19,265	22,330	25,505	30,977	31,257
Demand Total		21,080	24,156	27,342	32,814	33,553
Difference		-1,815	-1,826	-1,837	-1,837	-2,296
Multiple Dry Years						
First Year	Supply Total	19,265	22,330	25,505	30,977	N/A
	Demand Total	21,080	24,156	27,342	32,814	N/A
	Difference	-1,815	-1,826	-1,837	-1,837	N/A
Second Year	Supply Total	19,421	22,508	26,140	30,666	N/A
	Demand Total	21,695	24,793	28,437	32,962	N/A
	Difference	-2,274	-2,285	-2,297	-2,296	N/A
Third Year	Supply Total	20,036	23,145	27,235	30,813	N/A
	Demand Total	22,310	25,431	29,531	33,110	N/A
	Difference	-2,274	-2,286	-2,296	-2,297	N/A
Fourth Year	Supply Total	20,652	23,783	28,329	30,636	N/A
	Demand Total	22,926	26,068	30,626	33,258	N/A
	Difference	-2,274	-2,285	-2,297	-2,622	N/A
Fifth Year	Supply Total	21,267	24,420	29,200	30,784	N/A
	Demand Total	23,541	26,705	31,720	33,405	N/A
	Difference	-2,274	-2,285	-2,520	-2,621	N/A

Source: City of San José 2021c
Note: Water supply and demand totals are in acre feet per year
N/A: Not available (data is not published in the UWMP)

As shown in Table 21, demand for water could exceed water supplies by as much as 2,622 AFY, depending on the hydrologic conditions and year. The project would represent a negligible and incremental increase in the City's water demand, including years when demand exceeds supplies. However, even when demand exceeds supply by up to 2,622 AFY, the approximately 22.4 AFY demand of the project would be 0.8 percent of the excess 2,622 AFY excess demand. Further, several existing and planned water conservation programs and strategies would reduce the difference between projected water supply and demand. Measures include, but are not limited to, landscape irrigation restrictions, public noticing and outreach, and restrictions on filling of pools, spas, and fountains. In response to prolonged drought conditions, the San Francisco Public Utilities Commission (a water supplier in the San Francisco Bay area) asked its retail and wholesale customers to voluntarily reduce system-wide water consumption by 10 percent. The City's UWMP also establishes a Water Shortage Contingency Plan and demand management measures for each water supplier in the City to ensure that adequate water supply is available in normal, single-dry, and multiple-dry years (City of San José 2021c).

Conservatively assuming that wastewater flow rates from the project would be 95 percent of the estimated water demand, the project would generate an estimated net increase of 19,000 gpd of wastewater. Given that the RWF has the capacity to treat 167 mgd of wastewater and treats an average of 110 mgd, an additional capacity of approximately 57 mgd remains. The estimated net new wastewater generation from the project would constitute a negligible portion (approximately 0.03 percent) of the RWF's remaining capacity. Therefore, the existing RWF would be able to accommodate increased wastewater flows associated with the project and the project would not require the construction of new or expansion of existing wastewater treatment facilities. Given the foregoing, the project's impacts on water and wastewater treatment facilities would be less than significant.

As described in Section 10, *Hydrology and Water Quality,* while the project would increase the impervious surface areas on the project site, the project would also include new stormwater treatment and drainage features in accordance with the LID stormwater management requirements of Provision C.3 of the MRP and City Council Policies 6-29 and 8-14 to minimize and control post-construction stormwater runoff. The project would not contribute stormwater runoff which would exceed the capacity of existing or planned stormwater drainage system. Therefore, the project's impact on the capacity of stormwater drainage systems would be less than significant.

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 has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

As stated above in impact analysis 'b.', although the project would generate more wastewater than under existing conditions, the project's wastewater generation would comprise a negligible portion of the RWF's remaining capacity. Therefore, the project would have a less than significant impact related to wastewater treatment capacity.

LESS-THAN-SIGNIFICANT IMPACT

d. Would the project generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

The California Department of Resources Recycling and Recovery (CalRecycle) estimates that residences generate an average of 12.23 pounds of solid waste per day, or 2.2 tons per year per residence (CalRecycle 2006). The project includes 138 residential units, which when multiplied by the 2.2-ton generation rate, would result in approximately 1,664 pounds per day or 304 tons of solid waste per year. Republic Services, the solid waste service provider for the project site, primarily disposes solid waste residue at Newby Island Sanitary Landfill. This landfill has a maximum daily throughput of 4,000 tons per day and has a remaining capacity of 21,200,000 cubic yards (CalRecycle 2019b). The amount of solid waste generated by the project would constitute a negligible portion of the remaining available landfill capacity. The solid waste generated by the project would be negligible because it represents less than 0.03 percent of the maximum daily throughput of the landfill. Therefore, the project would have a less than significant impact on landfill capacity.

LESS-THAN-SIGNIFICANT IMPACT

e. Would the project comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

The project would be required to comply with City and State plans and policies to reduce solid waste generation, including a requirement to divert at least 50 percent of solid waste and recyclables, and 75 percent of organics by 2025, as required by Assembly Bill 939, Senate Bill 1383, and the City of San José's Zero Waste Strategic Plan. The project's incremental increase in solid waste would not adversely affect solid waste facilities. Impacts would be less than significant.

LESS-THAN-SIGNIFICANT IMPACT

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20 Wildfire

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than - Significant Impact	No Impact
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:				
a. Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	■
b. Due to slope, prevailing winds, and other factors, exacerbate wildfire risks and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	☐	☐	☐	■
c. Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	☐	☐	☐	■
d. Expose people or structures to significant risks, including downslopes or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	☐	☐	☐	■

Existing Setting

The California Department of Forestry and Fire Protection (CAL FIRE) maps areas of significant fire hazards based on fuels, terrain, weather, and other relevant factors, pursuant to Public Resources Code 4201-4204 and Government Code 51175-51189. These areas are referred to as Fire Hazard Severity Zones (FHSZs) and are identified for areas where the state has financial responsibility for wildland fire protection (i.e., state responsibility areas, or SRAs), and areas where local governments have financial responsibility for wildland fire protection (i.e., local responsibility areas, or LRAs). There are three FHSZ mapped for SRAs (moderate, high, and very high), while only lands zoned as very high are identified in LRAs. The project site is located within a LRA and is not located near a SRA or a very high FHSZ (CAL FIRE 2007; 2023). Additionally, the project site is located within an urbanized area of the City of San José and is surrounded by other developed land uses or roads on all sides. Given the surrounding land uses, there are insufficient fuels for a wildland fire.

Regulatory Setting

Local

ENVISION SAN JOSÉ 2040 GENERAL PLAN

The Envision San José 2040 General Plan establishes goals and policies that relate to wildfire. The following are applicable to the project:

Goal EC-8: Wildland and Urban Fire Hazards. Protect lives and property from risks associated with fire-related emergencies at the urban/wildland interface.

Policy EC-8.1: Minimize development in very high fire hazard zone areas. Plan and construct permitted development so as to reduce exposure to fire hazards and to facilitate fire suppression efforts in the event of a wildfire.

Policy EC-8.2: Avoid actions which increase fire risk, such as increasing public access roads in very high fire hazard areas, because of the great environmental damage and economic loss associated with a large wildfire.

Policy EC-8.3: For development proposed on parcels located within a very high fire hazard severity zone or wildland-urban interface area, implement requirements for building materials and assemblies to provide a reasonable level of exterior wildfire exposure protection in accordance with City-adopted requirements in the California Building Code.

Impacts Assessment

a. If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project substantially impair an adopted emergency response plan or emergency evacuation plan?

b. If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project, due to slope, prevailing winds, and other factors, exacerbate wildfire risks and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?

c. If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?

d. If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project expose people or structures to significant risks, including downslopes or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

As the project site is not located in or near SRAs or lands classified as very high FHSZs, no impact would occur related to wildfire hazards, including emergency response/evacuation, pollutants and uncontrolled wildfire spread, associated infrastructure, or post-fire effects.

NO IMPACT

21 Mandatory Findings of Significance

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than - Significant Impact	No Impact
Does the project:				
a. 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. 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. Have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	■	☐

a. Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

The proposed project is developed with an office building and paved surface parking lot. Other areas of the site are maintained grass lawn and landscaping. Habitat for wildlife or endangered plants does not occur on the project site. Mitigation measures BIO-1(a) through BIO-1(d) would prevent impacts to migratory nesting birds that may use nearby trees for nest sites. With these mitigation measures, the project would not 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.

There are no important examples of the major periods of California history on the project site. The proposed project would have no impact on historic resources. There are no known prehistoric resources on the project site. Implementation of mitigation measures CUL-1(a) through CUL-1(e) would prevent impacts to potential prehistoric resources encountered during construction. With implementation of these mitigation measures, the proposed project would not eliminate important examples of the major periods of California history or prehistory.

LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED

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)?

The City's General Plan EIR identified the following cumulative impacts: loss of agricultural land in southern Santa Clara County/north Coyote Valley, traffic congestion, traffic-related noise, increase in VMT per capita and emissions of criteria air pollutants, nitrogen deposition, a regional jobs-housing imbalance, and GHG emissions. The project would neither contribute to cumulative impacts on agricultural land as none is located on or near the project site (see Section 2, *Agricultural and Forestry Resources*), nor to nitrogen deposition impacts on species composition of serpentine ecosystems with payment of the nitrogen deposition fee required by the SCVHP (implemented after the adoption of the General Plan; see Section 4, *Biological Resources*). In addition, the project would not result in a substantial increase in employment because it is primarily a residential project with a small commercial component of approximately 4,992 square feet. Therefore, the project would not contribute to a regional jobs-housing imbalance and would provide housing in the region. As discussed in Section 3, *Air Quality*, cumulative criteria pollutant emission impacts and health risk impacts would be less than significant. As discussed in Section 8, *Greenhouse Gas Emissions*, the project would have a less than significant impact with regard to GHG emissions, which are cumulative in nature. As described in Section 13, *Noise*, the project would result in an increased in vehicle trips on roadways in the project area, but the increase would be a fraction of existing traffic volume and result in no discernible increase in noise levels. Therefore, the project would not result in cumulative traffic noise impacts. Similarly, as described in Section 17, *Transportation*, the project would not result in a cumulative increase in VMT, as the project screens out from detailed analysis and is assumed to have less than significant impacts. Given the foregoing, the project's contribution to significant cumulative impacts would be less than cumulatively considerable.

LESS-THAN-SIGNIFICANT IMPACT

c. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

Implementation of the project would not result in impacts that are significant and unavoidable or cumulatively considerable, including those related to hazardous materials, emergency response, proximity to airport activities, or transportation hazards. The implementation of the standard permit conditions described in Section 3, *Air Quality*; Section 5, *Cultural Resources*; Section 7, *Geology and Soils*; Section 10, *Hazards and Hazardous Materials*; and Section 13, *Noise*; as well as required mitigation measures applicable to cultural resources, hazards and hazardous materials, and noise would ensure that impacts are less than significant. Therefore, the project would not result in impacts that would cause substantial adverse effects on human beings, either directly or indirectly.

LESS-THAN-SIGNIFICANT IMPACT

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Appendix A

CalEEMod Report

Appendix B

Construction Health Risk Assessment Report

Appendix C

Local Transportation Analysis

Appendix D

Energy Consumption Calculations

Appendix E

City of San Jose Development Compliance Checklist

Appendix F

Phase I Environmental Site Assessment

Appendix G

Noise and Vibration Study