# Addendum

to the Final Program Environmental Impact Report
for the North San José Development Policies Update
(SCH# 2004102067) and the Final Environmental Impact Report
for the BEA Development Project (SCH #2004012103)

# Campus at North First

File No. PD07-087

## Prepared by the

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

March 2008

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# SECTION 1.0 INTRODUCTION AND PURPOSE

The California Environmental Quality Act (CEQA) recognizes that between the date an environmental document is completed and the date the project is fully implemented, one or more of the following changes may occur: 1) the project may change; 2) the environmental setting in which the project is located may change; 3) laws, regulations, or policies may change in ways that impact the environment; and/or 4) previously unknown information can arise. Before proceeding with a project, CEQA requires the Lead Agency to evaluate these changes to determine whether or not they affect the conclusion in the environmental document.

The purpose of this Addendum is to evaluate the environmental impacts of a Planned Development (PD) Permit that proposes construction of up to 2.8 million square feet of R&D office space, and supporting retail and parking (hereafter, the "project" or "proposed development) on a 40-acre site in north San José.

A similar 2.8 million square foot R&D/office development was analyzed for the 40-acre project site in the 2004 certified *BEA Development Project EIR* (SCH #2004012103, hereafter *BEA FEIR*). The Planned Development Zoning (File PDC 04-002) evaluated in the BEA FEIR was approved by the City Council on June 29, 2004, as well as a Development Agreement and a PD Permit (File PD04-059) in 2004.

No development has occurred on the 40-acre site pursuant to any of the above PD permits.

Subsequent to the BEA FEIR, in June 2005, the City of San José certified the Final Program Environmental Impact Report (EIR) for the North San José Development Policies Update (SCH# 2004102067) that allows for 26.7 million square feet of new industrial/ office/Research & Development uses, 1.7 million square feet of new neighborhood serving commercial uses, and the addition of 32,000 new residential units in the Rincon Area. The project site is included in the NSJ Development Policies Update area and is designated *Core Industrial Area*. The BEA PD Zoning was already approved when the NSJ FPEIR was prepared and the R&D/office use allowed by the zoning is consistent with the NSJ Development Policies Update. The NSJ Development Policies Update is the operative land use guide for development in the project area.

Tishman-Speyer, the current project proponent, recently purchased the former BEA site and now proposes to build out the approved PD Zoning with a different site plan than what BEA proposed and is more consistent with the design guidelines of the NSJ Development Policies Update.

The proposed amount and extent of development has not changed from the previously approved PD Zoning project that was the subject of the BEA FEIR. This Initial Study, therefore, has been prepared to evaluate the environmental effects of the currently proposed PD Permit development.

Because the current PD Permit proposes development that is virtually identical to that addressed in the previously certified BEA FEIR, and because the proposed development is considered an allowed use in the NSJ FPEIR, this Addendum has been prepared to tier off of both the BEA FEIR and the NSJ FPEIR. This Addendum will evaluate whether the currently proposed development would result in any new environmental impacts that were not already identified in the BEA FEIR and NSJ FPEIR, or any impacts of greater severity than were already addressed, as described below. The City of San José is the Lead Agency under CEQA and has prepared this Addendum to address the impacts of implementing the proposed Planned Development Permit(s) on the project site.

The CEQA Guidelines §15162 state that when an EIR has been certified or negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
    a. The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
    b. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
    c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
    d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but he project proponents decline to adopt the mitigation measure or alternative.

CEQA Guidelines §15164 state that the lead agency or a responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in §15162 (see above) calling for preparation of a subsequent EIR have occurred.

Based on the proposed project description and knowledge of the project site (based on the environmental review prepared for the BEA FEIR and the North San José Development Policies Update EIR), the City has concluded that the proposed project would not result in any new impacts not previously disclosed in the BEA FEIR and/or the North San José Development Policies Update EIR and would not result in a substantial increase in the magnitude of any significant environmental impacts previously identified in the EIRs. For these reasons, an addendum to the BEA FEIR and North San José Development Policies Update EIR has been prepared for the proposed project.

This addendum will not be circulated for public review, but will be attached to both the BEA FEIR and North San José Development Policies Update EIR, pursuant to CEQA Guidelines §15164(c).

# SECTION 2.0 PROJECT INFORMATION

## 2.1 PROJECT TITLE

Campus at North First

## 2.2 PROJECT LOCATION

The approximately 40-acre project site is located in North San Jose. The L-shaped site is bisected by Component Drive and is bounded by R&D/office buildings to the south, North First Street to the east, and Orchard Parkway to the west. Regional and vicinity maps of the project site are shown on Figure 2.0-1 and 2.0-2, respectively.

The surrounding land uses include several industrial office/R&D buildings, light rail transit and commercial businesses. North First Street and the Component Light Rail Transit (LRT) station are located to the east of the site. BEA offices and other office/R&D buildings are located to the south of the site. To the north is the Sun Microsystems office/R&D campus and a PG&E transformer substation. Orchard Parkway and vacant, undeveloped land is located to the west of the site. An aerial photograph showing surroundings is on Figure 2.0-3.

## 2.3 PROPERTY OWNER/PROPONENT

Tishman Speyer
Steve Minden
One Bush Street, Suite 450
San Francisco, CA 94104
(415) 344-6627

## 2.4 LEAD AGENCY CONTACT

City of San José
Department of Planning, Building, and Code Enforcement
Andrew Crabtree, Principal Planner
John Baty, Project Planner
200 East Santa Clara Street
San José, CA 95113-1905
(408) 535-7893

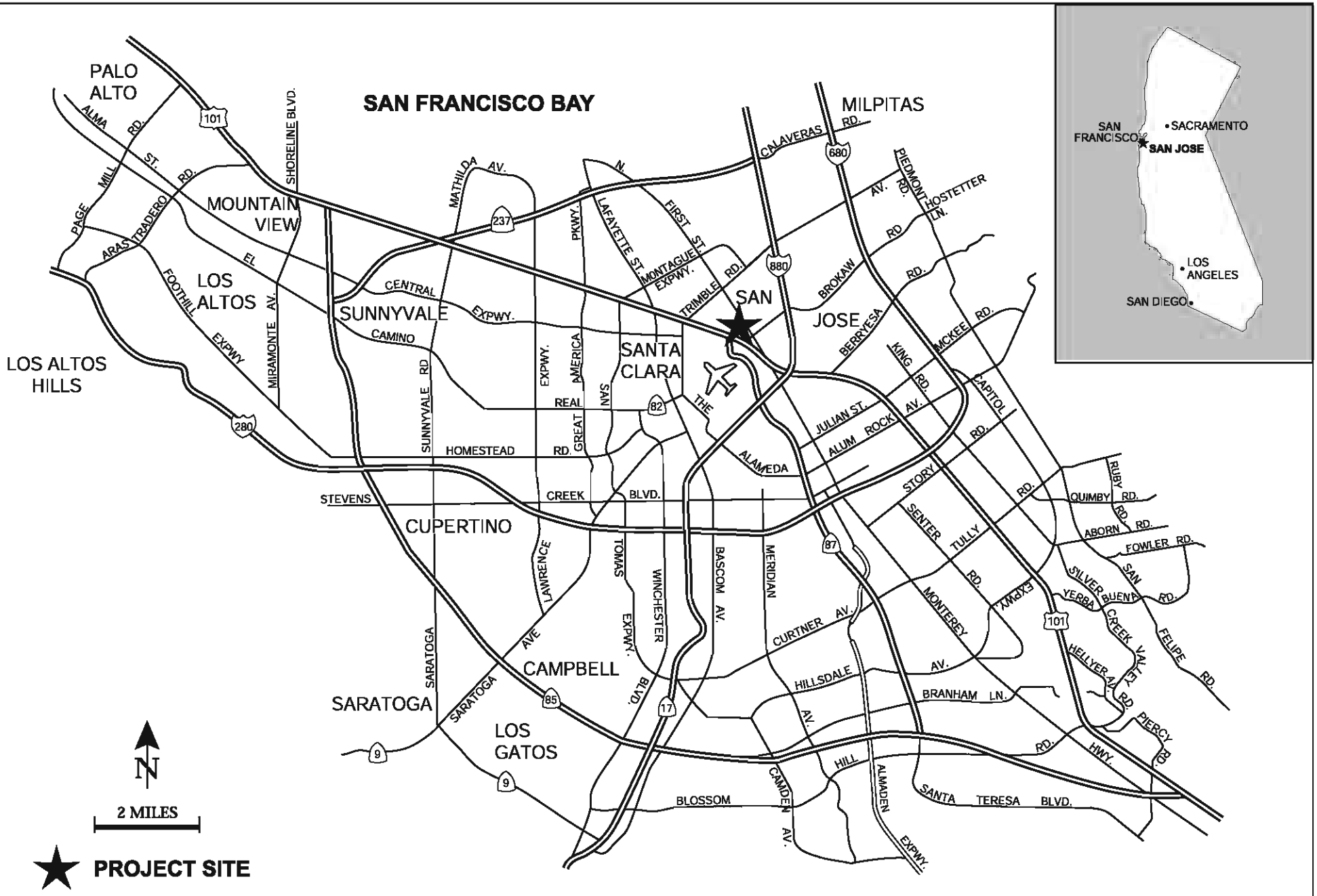
## 2.5 ASSESSOR'S PARCEL NUMBERS

101-02-011

## 2.6 GENERAL PLAN LAND USE DESIGNATION AND ZONING DESIGNATION

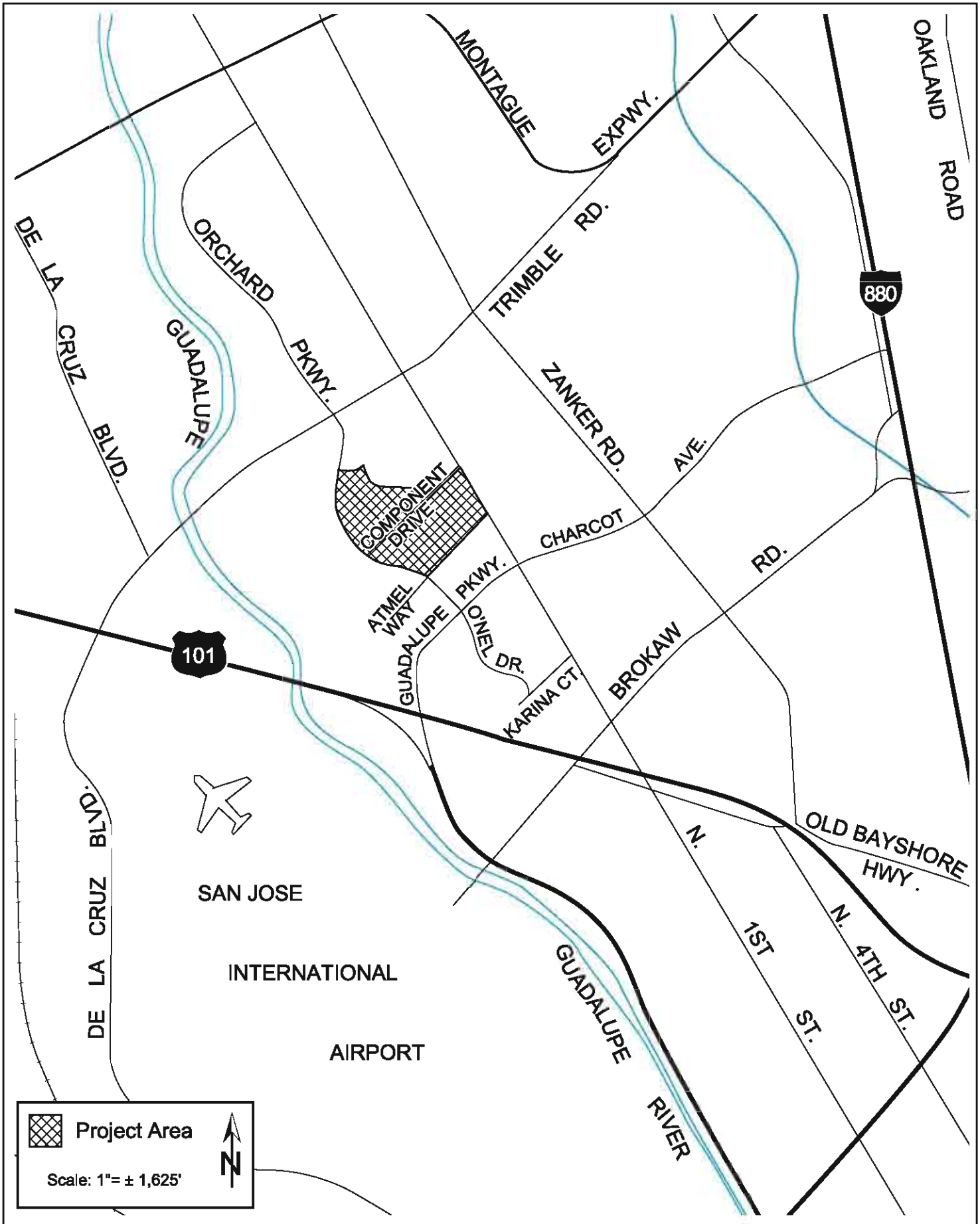
General Plan Land Use Designation: *Industrial Core Area*

Zoning Designation: *IP(PD) – Industrial Park Planned Development*



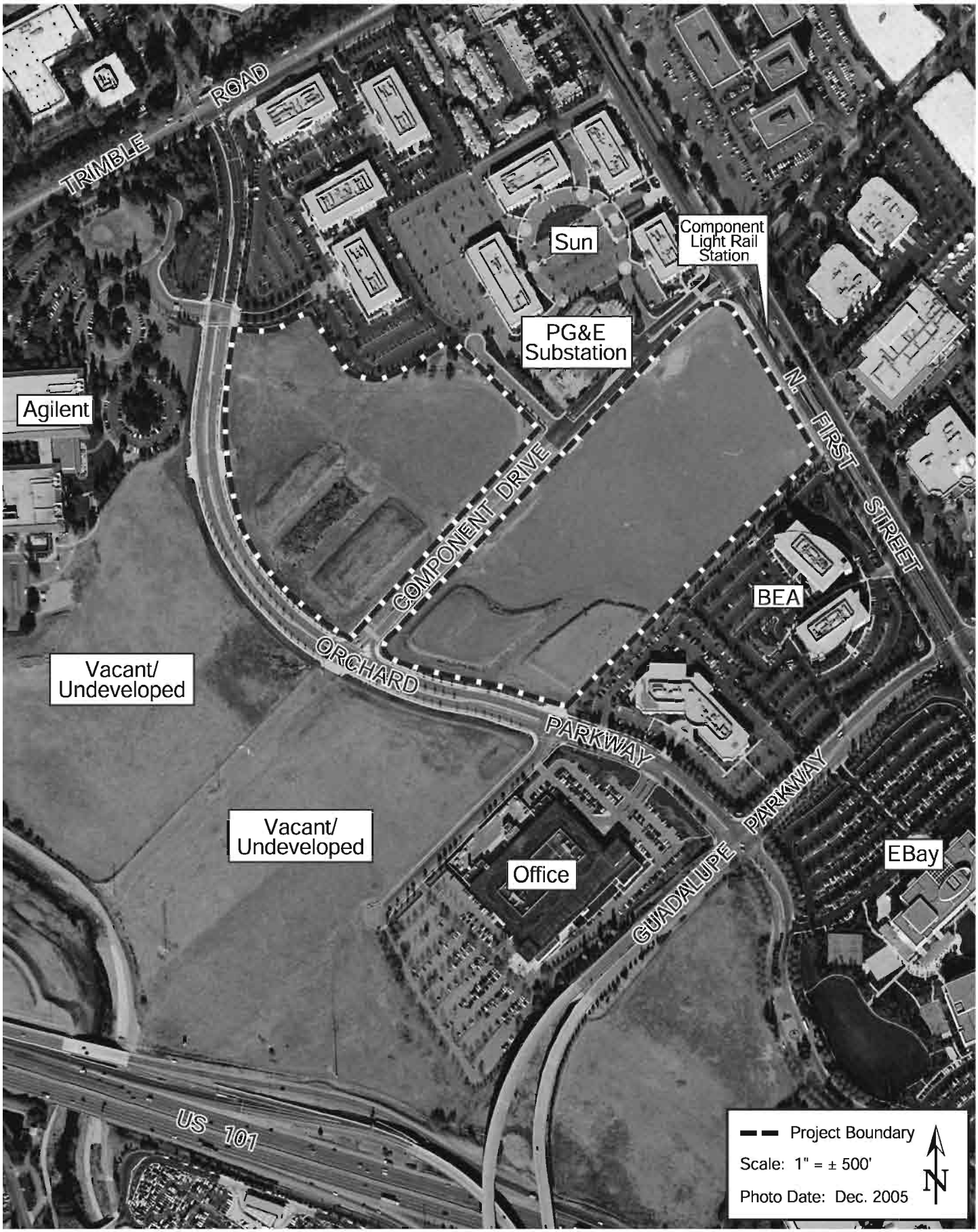

REGIONAL MAP

FIGURE 2.0-1




VICINITY MAP

FIGURE 2.0-2




AERIAL PHOTOGRAPH FIGURE 2.0-3

# SECTION 3.0 PROJECT DESCRIPTION

## 3.1 OVERVIEW OF THE PROPOSED PROJECT

The approximately 40-acre project site is designated by the General Plan as *Industrial Core Area* and zoned *IP (PD) – Industrial Park Planned Development* (refer to Figure 3.0-1). The complete project proposes four phases of development totaling 2.8 million square feet (sf) of office, with retail and parking structures.

The current project proposes the total square footage of development previously approved for the former BEA proposal, which was addressed and analyzed in the certified *BEA Development Project Final EIR* (hereafter *BEA FEIR*). The BEA project had approved Planned Development Zonings (File Nos. PDC03-73 and PDC04-002) that allowed up to 2.8 million square feet of R&D office development and a building height increase from 105 to 210 feet on the site

## 3.2 PROJECT COMPONENTS

The proposed project site will be constructed in four phases, with Phase 1 proposed for immediate development. Phase 1 is comprised of two R&D/office buildings, a fitness center, a parking structure, various recreational uses and landscaping. Phases 2, 3, and 4 would each consist of two R&D/office buildings, a parking structure, open space areas and landscaping (e.g., groundcover, shrubs, and trees). Phase 1 also provides a new two-lane public street to be located at the southern boundary of the site, extending from North First Street to Orchard Parkway. North First Street is the eastern boundary of the site, Component Drive divides Phases 2 and 3 of the site, and Orchard Parkway is the western boundary of the site. Figure 3.0-1 shows the overall conceptual site plan for the project phases, open space areas, and roadways. Conceptual site plans and floor plans for the proposed Phase 1 are provided as Figures 3.0-2 to 3.0-6. A description of the four project Phases are provided below.

Building setbacks from North First Street would meet the maximum 30-foot setback and design principle of the approved PD Zoning (PDC04-002). Building heights would not exceed the 210 foot height limit for the site.

### 3.2.1 Phase I

The Phase 1 development is proposed on 11.90 acres of the 40-acre project site, located at the southwest corner of North First Street and Component Drive. Phase 1 is comprised of 712,473 gross square feet (gsf) of research and development (R&D) office uses with ground floor retail space, fitness facilities and a stand-alone parking structure. A conceptual site plan for Building A,B, C and the parking garage are shown in Figure 3.0-2. Two R&D office buildings (Building A and B) with ground floor retail uses are proposed in the Phase 1 development. Building A comprises 359,500 gsf, and 12 stories (228 feet in height). Building B comprises approximately 335,600 gsf, and 11 stories (178 feet in height). Building A is oriented to the southeast, fronting onto North First Street and located nearest to the southwestern corner of North First Street and Component Drive (refer to Figure 3.0-2). Building B is south of Building A, nearest the southeastern corner of the site. Retail space with storefront glazing is provided at the ground level of both Buildings A and B fronting on to the sidewalk of North First St. A broad pedestrian promenade connects the Light Rail Station at the northeast corner of the site with Buildings A and B forming the primary entrance to the site. This promenade will continue through the site, as later phases are built, connecting future buildings and

various planned recreational amenities. An executive drop-off is provided off North First Street between the two buildings which is connected to the lobbies of the buildings by an open plaza providing signage and a central court is located between Buildings A and B. An outdoor seating area is located west of Building A, between the parking garage and Building A, and service drive located east of the parking structure provides access to the parking structure and Building A from Component Drive.

A fitness center to serve the office uses is proposed in Building C, located in the southwestern portion of the site, adjacent to the Phase 2 development area. Building C is one story in height and approximately 17,400 gsf. A swimming pool area and outdoor lap pool is located to the south of Building C with a shading structure surrounding the pool site. An outdoor seating area and recreational area is proposed west of Building B, between Building B and the fitness center (Building C).

**Internal Access**

A public roadway is proposed at the southern portion of the site. This roadway will provide access to Buildings B, C, and D from North First Street and Orchard Parkway. A central walkway runs from Building C to the northeastern corner of the site, providing connections throughout the Phase 1 site.

**Parking**

Parking for the office uses will be provided by a parking garage (P1) located at the northwestern portion of the site. The proposed garage is seven levels (approximately 62 feet in height to the upper deck), and provides 1,817 parking stalls. Two vehicle access points to the garage are provided off of Component Drive. The drives will align with existing curb cuts and returns along Component Drive. A service drive leading to the Building A loading dock will come off the eastern parking garage drive. Two pedestrian access points to the garage are provided from the southern edge of the garage. A seating area and bocce court is located to the south of the parking garage between the main walkway and the parking structure.

### 3.2.2 Phase 2

The Phase 2 development is proposed on 10.72 acres of the 40-acre project site, located immediately west of Phase 1 at the southeast corner of Component Drive and Orchard Parkway. Phase 2 comprises 636,752 gsf of R&D office uses in two 11-story buildings (Buildings D and E). The Phase 2 parking garage (P2) is adjacent to the P1 parking garage, comprises seven levels (approximately 62 feet in height) and includes 1,623 parking stalls. Additional park-like landscaping and recreational amenities including a soccer field, basketball court and tennis courts will be provided between Buildings C and D.

### 3.2.3 Phase 3

The Phase 3 development is located on 8.63 acres at the northern side of Component Drive, on the northeast corner of Component Drive and Orchard Parkway. Phase 3 comprises two office buildings totaling approximately 695,850 gsf of R&D office space and a parking structure. The office buildings (Buildings F and G) are 12 stories in height. The parking garage (P3) includes seven levels and 1,774 parking stalls.

### 3.2.4 Phase 4

The Phase 4 development is proposed on 8.54 acres of the project site, located immediately to the north of Phase 3, on Orchard Parkway. Phase 4 comprises two office buildings totaling 755,032 gsf of R&D office space and a parking structure immediately adjacent to P3. The R&D office buildings (Buildings H and I) are 13 stories in height. The parking garage (P4) includes seven levels and 1,925 stalls.

### 3.2.5 Dedication of Public Right-of-Way

The project proposes to dedicate a 43-foot wide section along the southern boundary of the site for public right-of-way (ROW), to construct a public two lane, 30-foot wide roadway extending from North First Street to Orchard Parkway. The ROW dedication will be developed with a five foot wide sidewalk and a five foot wide planting strip adjacent to the roadway. The dedication will widen to 60 feet for the 400 foot length of road immediately off North First St. The extra 20 feet of width will accommodate angle or diagonal parking between the roadway and sidewalk to serve the adjacent retail spaces in Buildings A and B. The sidewalk will be 10 feet wide and directly abut the curb in this portion of the new street. The new street will be built in two phases. The first approximately 500 foot section will be built as part of Phase 1. The balance of work will be built as part of Phase 2. An additional 20-foot wide ROW to the south of the proposed dedication may be provided by the adjacent property owner for future widening of the roadway.

Existing sidewalks are located along street frontages for the site on Component Drive, North First Street and Orchard Parkway.

### 3.2.6 Site Access

The proposed Phase 1 development would be accessed via two driveways. One driveway is located on Component Drive and one on the new public roadway proposed at the southern boundary of the site (refer to Figure 3.0-2). Phases 2, 3 and 4 will be accessed from Component Drive, Orchard Parkway, the new public roadway, and the cul-de-sac roadway located off of Component Drive at the eastern boundary of Phase 3 (refer to Figure 3.0-1). Sidewalks on the roadways surrounding the site and walkways throughout the site will provide pedestrian access to buildings, parking structures and recreational areas.

The main components of the proposed project buildout, including the R&D/office, recreational uses, and public ROW are summarized in Table 3.0-1.

**Table 3.0-1**
**Summary of Total Project Areas and Acreages**

| Proposed Use | Description | Acreage |
|---|---|---|
| Research and Development/Office Space and Retail | Approximately 36,409 square feet of ground floor retail space in Buildings A and B and approximately 2,784,592 gross square feet of R&D/office use in nine buildings (Buildings A-I). | 5.7 |
| Recreational Uses/Landscaping | Passive and active uses such as benches, picnic areas, open grass areas, a bocce court, basketball court, paddle tennis and badminton court, an outdoor lap pool, and jogging paths. | 16.5 |
| Public Right-of-Way | Dedication of land along southern portion of site for sidewalks and sidewalk improvements, and a new | 1.1 |

| | | |
|---|---|---|
| | public street | |
| Sidewalks | Construction of private sidewalks throughout the project site to facilitate internal circulation | 16.5 |
| **TOTAL AREA** | | **39.7** |

### 3.2.7 Parking

As discussed above, parking for the project would be located in four seven-level parking structures located throughout the site, adjacent to the R&D/office buildings. The project provides parking in conformance with the City's requirements, one parking space per 250 gross square feet of space. The project qualifies for a 25 percent reduction in parking requirements due to the site's proximity to the Component light rail station (refer to Figure 3.0-1 and Table 3.0-2).

**Table 3.0-2**
**Minimum Parking Requirements**

| | **Parking Spaces Required*** |
|---|---|
| Phase 1 | 1,817 |
| Phase 2 | 1,623 |
| Phase 3 | 1,774 |
| Phase 4 | 1,925 |
| TOTAL | 7,140 |

Notes:
* Parking requirements are based on all open parking and no tandem spaces being provided (Gross Building Area x 0.85 (SJ Zoning Factor) x .003). The proposed project is allowing for one parking space for every 333 square feet of net usable office space and a 25 percent reduction was applied because the project is located within walking distance of the Component light rail station.

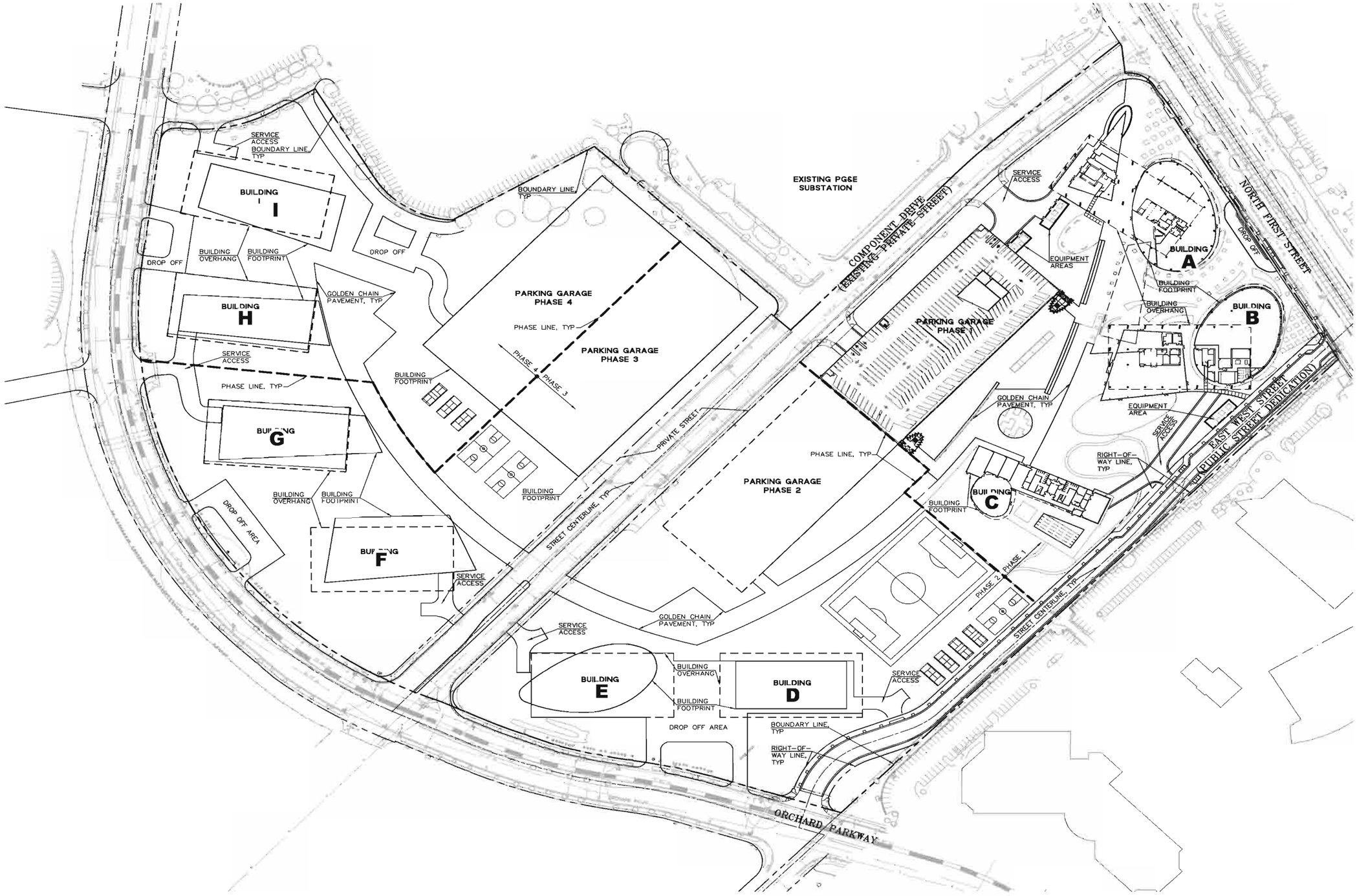
### 3.2.8 LEED Certification

The project is working to achieve Silver Leadership in Energy and Environmental Design (LEED) certification status. The LEED rating system offers four certification levels for new construction -- Certified, Silver, Gold and Platinum -- that correspond to the number of credits accrued in five green design categories: sustainable sites, water efficiency, energy and atmosphere, materials and resources and indoor environmental quality. LEED standards cover new commercial construction and major renovation projects, interiors projects and existing building operations. The proposed project is using various design and construction techniques, including, but not limited to:

- Hybrid car parking and bike parking
- Showers provided on-site
- Vegetated open space equal to 20 percent of the project's site area.

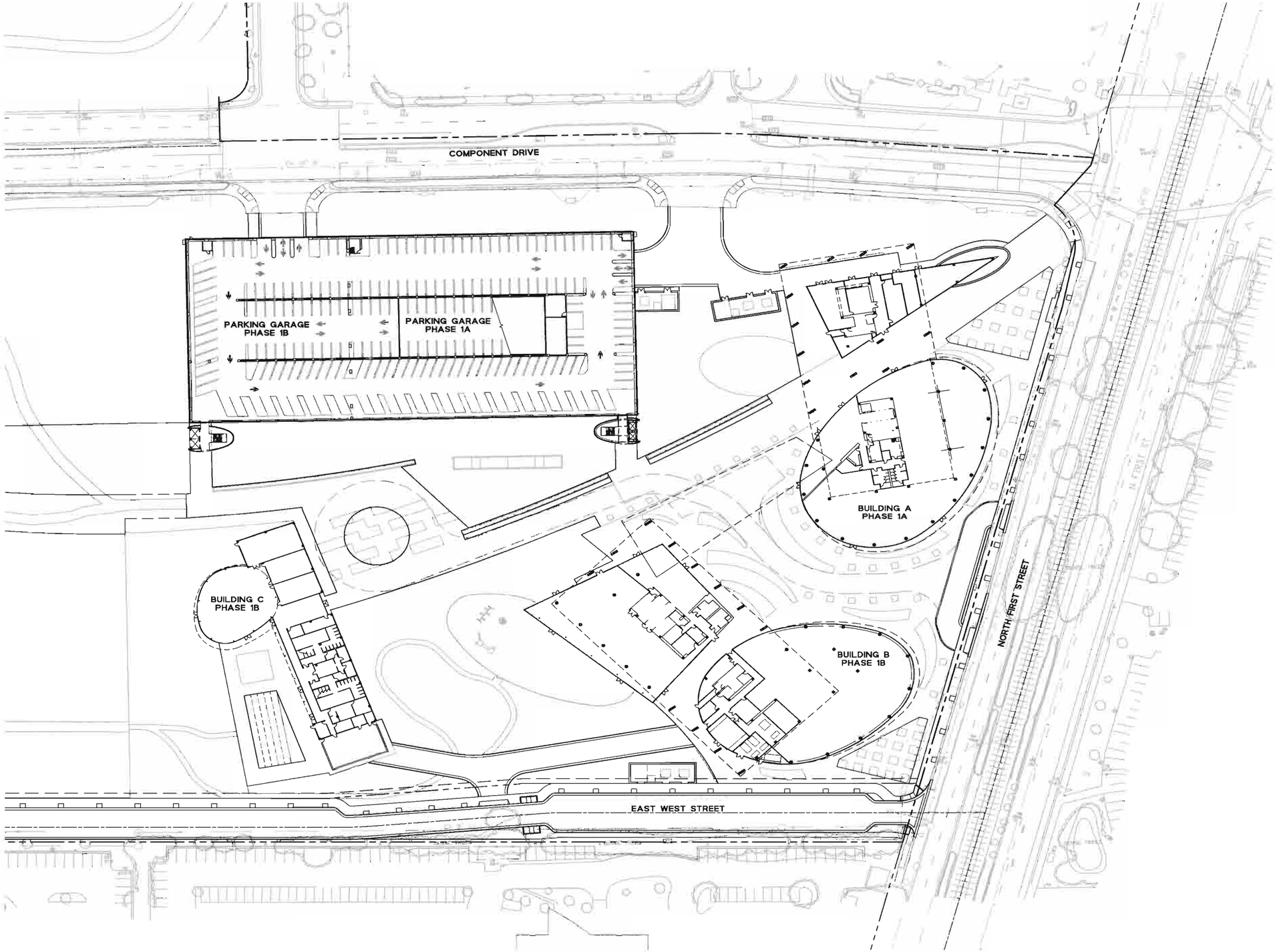
- Roofing materials with a Solar Reflective Index[1] (SRI) 3 on 75 percent or more of the roof surface.
- Reclaimed water used for irrigation.
- Photovoltaic panels to be located on the parking structure.

[1] The Solar Reflective Index is a measure of the constructed surface's ability to reflect solar heat, as shown by a small temperature rise. It is defined so that a standard black (reflectance 0.05, emittance 0.90) is 0 and a standard white (reflectance 0.80, emittance 0.90) is 100. SRI combines reflectance and emittance into one number.




MASTER SITE PLAN

FIGURE 3.0-1




PHASE 1-CONCEPTUAL SITE PLAN

FIGURE 3.0-2

# SECTION 4.0 ENVIRONMENTAL SETTING, CHECKLIST, AND DISCUSSION OF IMPACTS

In accordance with CEQA Section 21093(b) and CEQA Guidelines Section 15152(a), this Addendum tiers off the previously certified 2004 BEA FEIR and the City of San José 2005 NSJ FPEIR (approved June 2005).

The amount of residential and commercial development proposed was included and analyzed in the certified BEA FEIR and the 2005 NSJ FPEIR. This Addendum evaluates the project specific environmental impacts that were not addressed in the two previously certified FEIRs.

This section, **Section 4.0 Environmental Setting, Checklist, and Discussion of Impacts**, describes any changes that have occurred in existing environmental conditions on and near the project area, as well as environmental impacts associated with the proposed project or the changed conditions. The environmental checklist, as recommended in the California Environmental Quality Act (CEQA) Guidelines, was used to compare the environmental impacts of the "Proposed Project" with those of the "Approved Project" (i.e., development approved in the 2005 NSJ FPEIR and in the 2004 BEA FEIR) and to identify whether the proposed project would likely result in new significant environmental impacts. The right-hand column in the checklist lists the source(s) for the answer to each question. The sources cited are identified at the end of this section.

Mitigation measures are identified for all significant project impacts. "Mitigation Measures" are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guideline 15370). Measures that are required by law or are City standard conditions of approval are categorized as "Standard Measures." Measures that are proposed by the applicant that will further reduce or avoid already less than significant impacts are categorized as "Avoidance Measures."

Each impact is numbered using an alpha-numerical system that identifies the environmental issue. For example, **Impact HAZ – 1**, denotes the first impact in the hazards and hazardous materials section. Mitigation measures and conclusions are also numbered to correspond to the impacts they address. For example, **MM NOI – 2.3** refers to the third mitigation measure for the second impact in the noise section. The letter codes used to identify environmental issues are as follows:

**Table 4.0-1**
**Letter Codes of Environmental Issues**

| Letter Code | Environmental Issue |
|---|---|
| AES | Aesthetics |
| AG | Agricultural Resources |
| AIR | Air Quality |
| BIO | Biological Resources |
| CUL | Cultural Resources |
| GEO | Geology and Soils |
| HAZ | Hazards and Hazardous Materials |
| HYD | Hydrology and Water Quality |
| LU | Land Use |
| MIN | Mineral Resources |
| NOI | Noise |

| | |
|---|---|
| POP | Population and Housing |
| PS | Public Service |
| REC | Recreation |
| TRAN | Transportation |
| UTIL | Utilities and Service Systems |

## 4.1 AESTHETICS

### 4.1.1 Setting

#### 4.1.1.1 *Project Site*

The approximately 40-acre project site is located near the intersection of North First Street and Component Drive, between North First Street and Orchard Parkway in North San Jose (refer to Figure 2.0-3). The project site has undergone some grading and infrastructure improvements, however the site is currently vacant and undeveloped land. The site and surrounding area are flat, and as a result, the project site is only visible from the immediate area.

Since the BEA FEIR was certified in 2004, there has been some development in north San Jose, but there have been no major changes in the overall aesthetic character of the project area.

#### 4.1.1.2 *Surrounding Area*

The surrounding land uses include modern two-story R&D/office buildings and a PG&E transformer substation to the north of Component Drive, North First Street and the Component light rail station to the east, several office/R&D buildings on the east side of North First Street, Orchard Parkway and vacant parcels to the west, and the BEA headquarters, other three to four-story R&D/office buildings and surface parking lots border the site to the south.

Photographs of the project site and surrounding area are shown in Photos 1-8 below.

#### 4.1.1.3 *Scenic Vistas*

The project site is not located within a scenic viewshed or along a scenic highway. Intermittent views of the foothills are available from the project site looking east. The views of the foothills are interrupted by existing buildings and large trees.

Photo 1 - View of project site looking east from Component Drive.

Photo 2 - View of the project site and the current BEA headquarters looking southeast from Component Drive.

PHOTOS 1 AND 2

Photo 3 - Intersection of Orchard Parkway and Component Drive, facing east with northern and southern portions of the project site. Photo taken from Orchard Parkway.

Photo 4 - Northern portion of the project site, taken from the northeastern corner of the Orchard Parkway and Component Drive intersection.

## PHOTOS 3 AND 4

### 4.1.2 Environmental Checklist and Discussion of Impacts

| AESTHETICS | New Potentially Significant Impact | New Less Than Significant With Mitigation Incorporated | New Less Than Significant Impact | Same Impact as "Approved Project" | Less Impact than "Approved Project" | Information Source(s)/ Discussion Location |
|---|---|---|---|---|---|---|
| Would the project: | | | | | | |
| 1) Have a substantial adverse effect on a scenic vista? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |
| 2) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |
| 3) Substantially degrade the existing visual character or quality of the site and its surroundings? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |
| 4) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |
| 5) Increase the amount of shading on private or public open space (e.g., backyards, parks, plazas, and/or school yards)? | ☐ | ☐ | ☐ | ☒ | ☐ | 1 |

#### 4.1.2.1 *Project Design*

The project proposes to construct approximately 2.8 million gsf of R&D/office and retail space. The project also proposes to construct a new public roadway, private service roadways and driveways on the project site.

The currently proposed project includes buildings of generally the same height and mass as analyzed in the previously certified BEA FEIR. The NSJ FPEIR concluded that with full build out under the North San José Area Development Policy, which includes the proposed project, the visual character of north San José would become more urban with bigger buildings and less open space. The visual difference between what would occur and what is currently in place, however, would not be a degradation of the visual character of the area.

All projects, including the proposed project, will be evaluated for consistency with the City's adopted Industrial Design Guidelines as part of the design review process required for approval of Planned Development Permits.

#### 4.1.2.2 *Light and Glare*

Implementation of the proposed project could create a significant glare impact on automobiles traveling on North First Street and Orchard Parkway. Buildings constructed of highly reflective materials on which the sun reflects at a low angle commonly cause adverse glare. Reflected sunlight from glass on the exterior of the proposed buildings could affect automobiles traveling on North First

Street and Orchard Parkway and airplanes arriving into and departing from Norman Y. Mineta San Jose International Airport.

**Impact AES-1:** The project would not result in any new or more significant visual impacts than those addressed in the certified NSJ FPEIR or BEA FEIR. **(No New Impact)**

**Mitigation Measure:** The following mitigation measure was included in the BEA FEIR and is proposed by the project to reduce glare impacts.

**MM AES-1.1:** The exterior of the proposed buildings shall be constructed of materials such as high-performance tinted non-mirrored glass, painted metal panels and pre-cast concrete or fabricated wall surfaces.

#### 4.1.2.3 *Impacts to Scenic Vistas*

The proposed project would contribute to the identified impacts to scenic vistas in the certified 2005 NSJ FPEIR The proposed project will not result in any new or more significant impacts to scenic vistas than those described in the certified 2005 NSJ FPEIR.

The vacant parcel is not a scenic resource. While the visual change to the vacant property will be noticeable to occupants of nearby businesses and to passing cars on North First Street and Orchard Parkway, the placement of new R&D/office buildings at an infill location, near existing urban buildings, would not be a significant adverse environmental impact. Development of approximately 2.8 million square feet of R&D/office on this site has already been evaluated in the certified BEA FEIR. Proposed project plans are being reviewed by the City staff for conformance with the Industrial Design Guidelines. Development of the proposed project in conformance with the adopted Industrial Design Guidelines would not result in a substantial degradation of the visual character of the area, and would not significantly affect a scenic vista.

#### 4.1.2.4 *Shade and Shadow Impacts*

Shade and shadow impacts occur when a structure reduces access to natural sunlight. In an urban environment, virtually all land uses are subject to shading from adjacent properties to some extent. As discussed in the certified 2005 NSJ FPEIR, the City of San José typically identifies significant shade and shadow impacts as occurring when a building or other structure substantially reduces natural sunlight on private or public open spaces, measured midday on the first day of winter (December 21) and on the vernal and autumnal equinoxes (March/September 21).

The proposed project will result in up to 13 new structures on the project site, including eight R&D/office buildings, one fitness center, and four parking garages. The R&D/office buildings are approved to be up to 210 feet in height. The height of the proposed buildings will be taller than any buildings currently surrounding the site. Shading effects resulting from the proposed project would not impact any residential or public recreational open spaces.

Implementation of the proposed project will shade land uses adjacent to the project site but the shading will have a less than significant impact on those land uses.

The project design would not introduce any inconsistencies with City policies about sun and shade and would not result in any new or more significant shade and shadow impacts than were described in the certified 2005 NSJ FPEIR.

### 4.1.3 *Conclusion*

**Impact AES-1:** The proposed project would not result in any new or more significant visual and aesthetic impacts than those previously identified in the NSJ FPEIR. **(No New Impact)**

**Impact AES-1.1:** The proposed project, with the implementation of the above mitigation measure will reduce glare impacts to automobiles to a less than significant level and would not result in any new or more significant light and glare impacts than those addressed in the certified 2004 BEA FEIR. **(No New Impact)**

## 4.2 AGRICULTURAL RESOURCES

### 4.2.1 Setting

The north San José area was cultivated for over one hundred years for a variety of crops including orchards, field crops, and greenhouse-grown flowers. Presently, however, very little agriculture remains and all of the land within the project area has been designated for urban uses for over 30 years.

According to the Santa Clara County Important Farmland 2006 map, the project site is designated as *Urban and Built-Up Land*. *Urban and Built-up Land* is defined as residential land with a density of at least six units per 10-acre parcel, as well as land used for industrial and commercial purposes, golf courses, landfills, airports, sewage treatment and water control structures.

Currently, the project site is undeveloped and not used for agricultural purposes. The site is not the subject of a Williamson Act contract. The site is located within an urban area of San Jose and there is no agricultural land adjacent to the project site.

### 4.2.2 Environmental Checklist and Discussion of Impacts

| AGRICULTURAL RESOURCES | | | | | | |
|---|---|---|---|---|---|---|
| | New Potentially Significant Impact | New Less Than Significant With Mitigation Incorporated | New Less Than Significant Impact | Same Impact as "Approved Project" | Less Impact than "Approved Project" | Information Source(s)/ Discussion Location |
| Would the project: | | | | | | |
| 1) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3,4 |
| 2) Conflict with existing zoning for agricultural use, or a Williamson Act contract? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3,5 |
| 3) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2 |

The project site is not designated as farmland, nor is it used for agricultural purposes. As described in the BEA FEIR, the project would result in the development of prime agricultural land. The project site is former agricultural lands that have not been cultivated in over three years, and is within a developed urban area. The proposed project would not result in any new or more significant impacts to farmland or agricultural resources than were described in the certified BEA FEIR or the certified 2005 NSJ FPEIR.

### 4.2.3 Conclusion

The proposed project would not result in impacts to farmland. **(No New Impact)**

## 4.3 AIR QUALITY

### 4.3.1 Setting

#### 4.3.1.1 *Background Information*

The ambient and regulatory requirements regarding air quality have basically remained unchanged since the approval of the 2005 NSJ FPEIR. The primary change is that the Bay Area Air Quality Management District (BAAQMD) adopted the *Bay Area 2005 Ozone Strategy* on January 4, 2006. The *Bay Area 2005 Ozone Strategy* updates VMT and other assumptions in the 2000 Clean Air Plan (CAP) related to the reduction of ozone in the atmosphere and serves as the current CAP for the Bay Area. The Bay Area 2005 Ozone Strategy is based upon *Projections 2003*, prepared by the Association of Bay Area Governments (ABAG), which was based upon the City's General Plan at that time. The City's General Plan has recently been updated with the approval of the NSJ FPEIR. The growth assumptions in the NSJ FPEIR, therefore, were not included in ABAG's *Projections 2003.*

Since the proposed project will increase the number of jobs in a job center near transit and future housing, the project is consistent with the Bay Area Ozone Strategy by placing jobs near transit and housing.

#### 4.3.1.3 *Sensitive Receptors*

BAAQMD defines sensitive receptors as facilities where sensitive receptor population groups (children, the elderly, the acutely and chronically ill) are likely to be located. These land uses included residences, school playgrounds, child-care centers, retirement homes, convalescent homes, hospitals and medical clinics. There are no sensitive receptors near the project site.

### 4.3.2 Environmental Checklist and Discussion of Impacts

| AIR QUALITY | New Potentially Significant Impact | New Less Than Significant With Mitigation Incorporated | New Less Than Significant Impact | Same Impact as "Approved Project" | Less Impact than "Approved Project" | Information Source(s)/ Discussion Location |
|---|---|---|---|---|---|---|
| Would the project: | | | | | | |
| 1) Conflict with or obstruct implementation of the applicable air quality plan? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3,6 |
| 2) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3,6 |

| AIR QUALITY | | | | | | |
|---|---|---|---|---|---|---|
| | New Potentially Significant Impact | New Less Than Significant With Mitigation Incorporated | New Less Than Significant Impact | Same Impact as "Approved Project" | Less Impact than "Approved Project" | Information Source(s)/ Discussion Location |
| Would the project: | | | | | | |
| 3) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard including releasing emissions which exceed quantitative thresholds for ozone precursors? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3,6 |
| 4) Expose sensitive receptors to substantial pollutant concentrations? | ☐ | ☐ | ☐ | ☒ | ☐ | 2,3,6 |
| 5) Create objectionable odors affecting a substantial number of people? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |

### 4.3.2.1 Regional and Local Air Quality Impacts

The development of the proposed project would contribute to the significant regional and local air quality impacts identified in the certified 2005 NSJ FPEIR and certified BEA FEIR. The proposed project, however, would not result in any new or more significant regional or local air quality impacts than were described in the certified 2005 NSJ FPEIR or the certified BEA FEIR.

**Impact AIR – 1:** The proposed project would result in impacts to regional and local air quality. **(No New Impact)**

**Mitigation Measure:** The following mitigation measure is identified as part of the certified BEA FEIR and 2005 certified NSJ PFEIR and is proposed by the project:

**MM AIR – 1.1:** Tishman-Speyer will implement a Transportation Demand Management (TDM) program for the project site with a goal of a 15 percent reduction in daily vehicle trips. The following measures, identified by BAAQMD as appropriate for a project of this type, will be incorporated into the TDM:

- **Provide physical improvements, such as sidewalk improvements, landscaping and bicycle parking that would act as incentives for pedestrian and bicycle modes of travel.**
- **Provide showers and lockers for employees bicycling or walking to work.** Showers and lockers will be provided in Building C, the fitness center facility.
- **Provide secure and conveniently located bicycle parking and storage for workers.**

- **Using electric lawn and garden equipment for landscaping maintenance.** Two-cycle engine equipment will be avoided.
- **Constructing transit amenities such as bus turnouts/bus bulbs, benches, and shelters.** A bus stop is located at North First Street and Component Drive and a drop-off location on North First Street will be provided for car pools and shuttles.
- **Providing direct, safe, attractive pedestrian access from project land uses to transit stops and adjacent development.** A crosswalk will provide direct pedestrian access from the Component light rail station to the main pedestrian promenade.
- **Utilizing reflective (or high albedo) and emissive roofs and light colored construction materials to increase the reflectivity of roads, driveways, and other paved surfaces, and include shade trees near buildings to directly shield them from the sun's rays and reduce local air temperature and cooling energy demand**. The project is working to achieve Silver Leadership in Energy and Environmental Design (LEED) certification status using various design and construction techniques, including the use of roofing materials with a Solar Reflective Index[2] (SRI) 3 on 75 percent or more of the roof surface.
- **Provide on-site services for employees, such as cafeteria, ATM, dry cleaners, etc.** The ground floor levels of Buildings A and B provide over 40,000 sq. ft. of potential retail space for amenities.
- **Provide preferential parking for electric or alternatively-fueled vehicles.** Electric and alternatively-fueled vehicle parking spaces will be provided in the parking garages.
- **Design and locate buildings to facilitate transit use.** The site is located within ¼ mile of the VTA Component LRT station.

The following TDM measures will be considered and negotiated at a later date with tenants occupying the project development:

- **Develop a transit use incentive program for employees in the project area, such as on-site distribution of passes and/or subsidized transit passes for local transit systems (participation in the VTA EcoPass system would satisfy this requirement).** A lease incentive may be provided by the project developer for a future tenant.
- **Provide a guaranteed ride home program.**
- **Implement a flextime policy.**
- **Providing a satellite telecommute center within or near the development;**
- **Implement a carpool/vanpool program, e.g. carpool ridematching for employees, assistance with vanpool formation, provision of**

[2] The Solar Reflective Index is a measure of the constructed surface's ability to reflect solar heat, as shown by a small temperature rise. It is defined so that a standard black (reflectance 0.05, emittance 0.90) is 0 and a standard white (reflectance 0.80, emittance 0.90) is 100. SRI combines reflectance and emittance into one number.

**vanpool vehicles, etc.** The developer may offer a care share service program as a tenant amenity and car pool/van pool parking spaces will be provided in the parking garages.

- **Contribute to off-site child care within walking distance of the project site.** The proposed development is providing approximately 8,000 sq. ft. of ground floor retail space in Building B and approximately 15,000 sq. ft. of adjacent outdoor space suitable for a daycare facility.
- Implement a parking cash-out program for employees (non-driving employees receive a transportation allowance equivalent to value of subsidized parking).
- **Provide shuttle service to multimodal transit centers.** The project applicant is in discussions with Caltrain to provide a shuttle van service from the Lawrence LRT station and Capitol Corridor/ACE train station to the project site.
- **Implement a parking cash-out program for employees (non-driving employees receive a transportation allowance equivalent to value of subsidized parking).**

**Construction-Related Impacts**

Construction activities would temporarily affect local air quality. Construction activities such as earthmoving, construction vehicle traffic and wind blowing over exposed earth would generate exhaust emissions and fugitive particulate matter emissions that affect local and regional air quality. Construction activities are also a source of organic gas emissions. Solvents in adhesives, non-water based paints, thinners, some insulating materials, and caulking materials would evaporate into the atmosphere and would participate in the photochemical reaction that creates urban ozone. Asphalt used in paving is also a source of organic gases for a short time after its application.

Construction dust could affect local air quality at various times during construction of the project. The dry, windy climate of the area during the summer months creates a high potential for dust generation when, and if, underlying soils are exposed to the atmosphere. The effects of construction activities would be increased dustfall and locally elevated levels of $PM_{10}$ downwind of construction activity.

The development of the proposed project would contribute to the significant construction-related, short-term air quality impacts identified in the certified 2005 NSJ FPEIR and the certified BEA FEIR. The proposed project, however, would not result in any new or more significant construction-related air quality impacts than were described in the certified 2005 NSJ FPEIR and the certified BEA FEIR.

**Impact AIR – 2:** The proposed project would not result in significant construction-related, short-term air quality impacts. **(No New Impact)**

**Mitigation Measures:** The following mitigation measures are identified as part of the certified 2005 NSJ FPEIR and certified BEA FEIR and are proposed by the project:

**MM AIR – 2.1:** Water all active construction areas at least twice daily.

**MM AIR – 2.2:** Water or cover stockpiles of debris, soil, sand, or other materials that can be blown by the wind.

**MM AIR – 2.3:** Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.

**MM AIR – 2.4:** Sweep daily (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites.

**MM AIR – 2.5:** Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.

**MM AIR – 2.6:** Hydroseed or apply non-toxic soil stabilizers to inactive construction areas.

**MM AIR – 2.7:** Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.)

**MM AIR – 2.8:** Install sandbags or other erosion control measures to prevent silt runoff to public roadways.

**MM AIR – 2.9:** Replant vegetation in disturbed areas as quickly as possible.

### 4.3.3 Conclusion

**Impact AIR – 1:** The proposed project, with the implementation of the above mitigation measures, would not result in any new or more significant regional or local air quality impacts than those addressed in the certified 2005 NSJ FPEIR and certified BEA FEIR. **(No New Impact)**

**Impact AIR – 2:** The proposed project, with the implementation of the above mitigation measures, would not result in any new or more significant construction-related air quality impacts than those addressed in the certified 2005 NSJ FPEIR and BEA FEIR. **(No New Impact)**

## 4.4 BIOLOGICAL RESOURCES

The following discussion is based on a biological assessment prepared by *H.T. Harvey & Associates* in October 1996 for the Novell, Inc., North San Jose Campus EIR (1997) and two burrowing owl surveys conducted by *H.T. Harvey & Associates* in July and November 2003 for the BEA Development Project EIR. The biological conditions have basically remained unchanged since the certification of the BEA FEIR in 2004.

### 4.4.1 Setting

The project site is a vacant, developed area. The project site is level and contains only one biotic habitat, Ruderal, on the project site. The ruderal habitat is generally comprised of a mix of non-native annual grasses and forbs, the same as those previously described in the BEA FEIR. There are no regulated habitats or trees present on the project site.

Since the BEA FEIR there have been no changes in the suitability of the sites for special status plant species; special status plant species are assumed to be absent, due to a lack of suitable habitat.

The project site is not located within an adopted Habitat Conservation Plan or other approved local, regional, or state habitat conservation plan.

#### 4.4.1.2 *Special-Status Plants and Animals*

Special-status plant and animal species include species listed under state and federal Endangered Species Acts (including candidate species), animals designated as Species of Special Concern by the California Department of Fish and Game, and plants listed in the California Native Plant Society's Inventory of Rare and Endangered Vascular Plants of California.

**Burrowing Owls**

The burrowing owl is listed by the State of California as a Species of Special Concern due to habitat loss caused by intense development of open, flat, grasslands in California. This species occupies a variety of habitats where the burrowing activities of small mammals provide for suitable nesting habitat.

The project site has been graded and disturbed, but still provides suitable Burrowing Owl foraging habitat. According to the BEA FEIR, burrowing owls have occurred within the project area and suitable nesting habitat was identified at this project site. The BEA FEIR identified the need to survey the vacant site for burrowing owls during the nesting season (February 1-August 31).

A reconnaissance-level survey was preformed in July and November 2006 to determine if Burrowing Owls utilize the area for nesting, roosting or foraging. The survey found no Burrowing Owls or unoccupied burrows on the site. Also no secondary evidence of their presence (i.e., feathers, prey remains, etc.) were observed, however, during the July 2003 survey, a pair of Burrowing Owls was found nesting on a parcel across (west of) Orchard Parkway from the BEA site.

The site has little potential for providing long-term habitat for breeding Burrowing Owls. The increasing urban/commercial uses, including light rail, automobile traffic, human disturbance, annual disking requirements, and occurrence of domestic housecats in the adjacent residential areas render

the site less than optimum for occupancy by the species. However, Burrowing Owls in Santa Clara County have nested in wells at transit stations, in landscaping strips adjacent to major streets, and on the pitchers mound in a college baseball diamond. Since Burrowing Owls have been known in this area, they may return to the site.

In February 2007 burrowing owl surveys were conducted by *H.T. Harvey and Associates*. The Burrowing Owl Survey report is provided in Appendix A. During the surveys a burrowing owl was observed on the northern portion of the site, across Component Drive. There was no evidence that the owl was paired or actively nesting on the site, and was determined that the single owl present likely moved onto the site recently because the parcels were disked and the burrows on site appeared very freshly excavated. Below is a description of the mitigation agreement between the previous landowner, Agilent Technologies, Inc., and the California Department of Fish and Game (CDFG) was established in January 2001.

2001 Burrowing Owl Mitigation Agreement

The property owner previous to BEA Systems was Agilent Technologies. In 2001 Agilent Technologies entered into a mitigation agreement with the California Department of Fish and Game (CDFG) that provided for the purchase of off-site burrowing owl habitat in other, less developed and protected parts of the region to offset the loss of habitat formerly used by two nesting pairs of burrowing owls and one resident adult burrowing owl. The purpose of the agreement was to offset the loss of burrowing owl habitat and provide for survival of the species in other areas as the larger Agilent (now Tishman-Speyer) property is developed over time (by Agilent or other subsequent property owners). Agilent Technologies provided mitigation at a ratio of 6.5 acres of owl habitat for each pair or single burrowing owl displaced from the area for a total of 19.5 acres.

The agreement also states that the take of individual owls is prohibited per the Fish and Game Code (Section 3503.3) and that no burrowing owls would be evicted from burrows during the nesting season. The agreement does allow for eviction of burrowing owls during the non-nesting season (September 1 to January 31), pending evaluation of the eviction plans and receipt of formal written approval from the Department of Fish and Game authorizing the eviction. The project applicant is currently in communications with CDFG and adhering to requirements for prevention of burrowing owls nesting on the project site.

#### 4.4.1.3 *City of San José Tree Ordinance*

The City of San José Tree Ordinance defines an ordinance-sized tree as any woody perennial plant characterized by having main stem or trunk which measures 18-inches or greater in diameter at a height of 24-inches above natural grade slope. A tree removal permit is required from the City for the removal of ordinance-sized trees.

There are no trees present on the project site.

## 4.4.2 Environmental Checklist and Discussion of Impacts

| BIOLOGICAL RESOURCES | New Potentially Significant Impact | New Less Than Significant With Mitigation Incorporated | New Less Than Significant Impact | Same Impact as "Approved Project" | Less Impact than "Approved Project" | Information Source(s)/ Discussion Location |
|---|---|---|---|---|---|---|
| Would the project: | | | | | | |
| 1) 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 Game or U.S. Fish and Wildlife Service? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |
| 2) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |
| 3) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |
| 4) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |
| 5) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |
| 6) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |

#### 4.4.2.2 *Special-Status Plants and Animals*

Burrowing Owl habitat is present on the site and several breeding pairs have been found in the surrounding area. Construction during the nesting season could disturb or destroy occupied burrows, which would result in the loss of eggs or young birds. Development of the project will not result in "take" of any Burrowing Owls because if non-breeding birds are found on-site prior to construction they will be relocated off-site. However, relocation permits for Burrowing Owls are no longer issued by CDFG. The former property owner implemented ground squirrel eradication measures to prevent owls from nesting on the site, but Burrowing Owls may still forage on the site. If development of the site does require the eviction of birds, off-site mitigation may be required to reduce significant impacts to the local population.

**Impact BIO – 1:** The project would result in a significant loss of Burrowing Owl foraging habitat and construction activities during the nesting season may result in the loss of individual Burrowing Owls. **(No New Impact)**

**Mitigation Measures:** The following mitigation measures are identified as part of the certified 2005 NSJ FPEIR, certified BEA FEIR and the 2001 CDFG mitigation agreement to offset impacts to Burrowing Owls and Burrowing Owl habitat, and are proposed by the project:

**MM BIO-1.1:** If construction will directly impact occupied burrows, eviction outside the nesting season may be permitted pending evaluation of eviction plans by, and receipt of formal written approval of the relocation from the CDFG. No Burrowing Owls will be evicted from burrows during the nesting season (1 February through 31 August) unless evidence indicates that nesting is not actively occurring.

**MM BIO-1.2:** If Burrowing Owls are present during the nonbreeding season (1 September to 31 January), a 165-foot buffer zone, within which no new activity will be permissible, will be maintained around the occupied burrow(s). During the breeding season (1 February to 31 August), a 250-foot buffer, within which no new activity will be permissible, will be maintained between project activities and occupied burrows. Owls present on-site after 1 February will be assumed to be nesting on or adjacent to the site unless evidence indicates otherwise. This protected area will remain in effect until 31 August, or at the CDFG's discretion and based upon monitoring evidence, until the young owls are foraging independently.

### 4.4.3 Conclusion

**Impact BIO – 1:** The proposed project, with the implementation of the above mitigation measures, would not result in any new or more significant impacts to Burrowing Owls than those addressed in the certified BEA FEIR. **(No New Impact)**

## 4.5 CULTURAL RESOURCES

The project site is located within an area considered to be of moderate to high sensitivity for archaeological resources. The project site and adjacent properties have been inspected previously and there are no known significant prehistoric cultural materials present within or immediately adjacent to the project site. Previous archaeological reports prepared by Holman Associates and Basin Research Associates concluded there is no need to testing for subsurface prehistoric resources in the project area.

A historic site was recorded approximately 900 feet from the project site, and any historic/prehistoric settlement has the potential to extend to the project site. Also, the site is in close proximity to the Guadalupe River, increasing the likeliness of sensitive historic and prehistoric archaeological resources occurring on the site.

### 4.5.1 Environmental Checklist and Discussion of Impacts

| CULTURAL RESOURCES | New Potentially Significant Impact | New Less Than Significant With Mitigation Incorporated | New Less Than Significant Impact | Same Impact as "Approved Project" | Less Impact than "Approved Project" | Information Source(s)/ Discussion Location |
|---|---|---|---|---|---|---|
| Would the project: | | | | | | |
| 1) Cause a substantial adverse change in the significance of an historical resource as defined in §15064.5? | ☐ | ☐ | ☐ | ☒ | ☐ | 3 |
| 2) Cause a substantial adverse change in the significance of an archaeological resource as defined in §15064.5? | ☐ | ☐ | ☐ | ☒ | ☐ | 3 |
| 3) Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature? | ☐ | ☐ | ☐ | ☒ | ☐ | 3 |
| 4) Disturb any human remains, including those interred outside of formal cemeteries? | ☐ | ☐ | ☐ | ☒ | ☐ | 3 |

As described in the BEA FEIR, the potential exists that subsurface prehistoric and historic resources could be disturbed by the proposed development. Development of the proposed project would require grading, trenching for utilities and excavation for building footings. Due to the absence of recorded cultural resources on or near the site and the site's low potential for containing archaeological resources, the development of this property is not anticipated to impact archaeological resources. However, should any archaeological resources be found during grading operations, their disturbance would be a significant impact. The proposed project would not result in any new or more significant cultural resource impacts than were described in the certified BEA FEIR.

**Standard Measures:** The project proposes to implement the following standard measures, if required:

**MM CUL-1.1:** In the event any significant cultural materials are encountered, all construction within a radius of 50-feet radius of the find would be halted, the

Director of Planning, Building and Code Enforcement would be notified, and a professional archaeologist will examine the find and make appropriate recommendations regarding the significance of the find and make appropriate recommendations regarding the significance of the find and the appropriate mitigation. Recommendations could include collection, recordation, and analysis of any significant cultural materials.

**MM CUL-1.2:** If human remains are discovered, the Santa Clara County Coroner will be notified. The Coroner would determine whether or not the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he would notify the Native American Heritage Commission, would attempt to identify "most likely" descendants of the deceased.

**MM CUL-1.3:** If the Director of Planning, Building and Code Enforcement finds that the archaeological find is not a significant resource, work would resume only after the submittal of a preliminary archaeological report and after provisions for reburial and ongoing monitoring are accepted.

**MM CUL-1.4:** A final report will be prepared by the project archaeologist when a find is determined to be a significant archaeological resource, and/or when Native American remains are found on the site. The final report will include background information on the completed work, a description and list of identified resources, the disposition and curation of these resources, and testing, and other recovered information, and conclusions.

### 4.5.3 Conclusion

**Impact CUL – 1:** The proposed project, with the implementation of the above standard measures, would not result in any new or more significant impacts to cultural resources than those addressed in the certified BEA FEIR. **(No New Impact)**

## 4.6 GEOLOGY AND SOILS

The following discussion is based on two geotechnical investigation reports. The first report was prepared by *Lowney Associates* (currently *TRC Solutions*) in 2001 for the site when it was originally reviewed for development as the BEA Systems Corporate Office Campus. The second report was prepared by *TRC Solutions* in December 2007 for the Campus at North First Street project and is provided in Appendix B.

### 4.6.1 Setting

#### 4.6.1.1 *Geological Features*

The project site is located in the Santa Clara Valley, a relatively flat alluvial basin, bounded by the Santa Cruz Mountains to the southwest and west, the Diablo Mountain Range to the east, and the San Francisco Bay to the north. The soil is made up of bedrock overlaid with marine and terrestrial sedimentary rocks of Tertiary and Quaternary age materials. The soils on the site consist of sedimentary alluvial deposits of silty to sandy clays and clay/silts interrupted by groundwater.

#### 4.6.1.2 *On-Site Geologic Conditions*

**Soils and Groundwater**

Soils on-site include medium stiff to hard lean clay of medium to high plasticity ranging from five to 16 feet with interbedded medium dense sand layers. The clay soils between about 10 to 30 feet are moderately compressible. Below the upper clay, medium stiff to stiff silty and sandy clay, interbedded with medium dense to dense silty and clayey sands, mostly below 30 feet in depth.

The near surface soils on-site have a high to very high expansion potential. Expansive soils shrink and swell as a result of moisture changes. These changes can cause heaving and cracking of slabs-on-grade, pavements and structures found on shallow foundations. Because the site topography is flat, there is no erosion or landslide hazard.[3]

Groundwater at the project site was encountered at depths ranging from 8.5 to 23 feet below ground. Groundwater in the project area has been measured as high as five feet below ground. Fluctuations in the level of groundwater may occur due to variations in rainfall, underground drainage patterns, and other factors.

**Seismicity**

The San Francisco Bay Area is one of the most seismically active regions in the United States. Santa Clara County is classified as Zone 4, the most seismically active zone. An earthquake of moderate to high magnitude generated within the San Francisco Bay region could cause considerable ground shaking at the project site. The degree of shaking is dependent on the magnitude of the event, the distance to its zone of rupture and local geologic conditions.

[3] Cooper-Clark and Associates. Geotechnical Investigation, City of San José Sphere of Influence. Technical Report and Maps. 1974. and County of Santa Clara. Santa Clara County Geologic Hazard Zones. Map 11. 23 September 2002.

The four major and active fault lines in the region are the San Andreas Fault, Calaveras Fault, Hayward Fault and Monte Vista-Shannon. The San Andreas Fault runs north/south and parallel to the Hayward Fault and the Calaveras Fault line. The San Andreas Fault is approximately 13 miles southwest of the site; the Calaveras Fault is approximately eight miles northeast of the site; the Hayward Fault is approximately seven and a half miles northeast of the site; and the Monte-Vista Shannon is approximately nine miles from the project site.

The project site is not located within a fault rupture hazard zone, and therefore, fault rupture through the site is not anticipated.

### Liquefaction

Soil liquefaction is a condition where saturated granular soils near the ground surface undergo a substantial loss of strength during seismic events. Loose, water-saturated soils are transformed from a solid to a liquid state during ground shaking. The project area is located within a liquefaction hazard zone, as identified by the State of California Seismic Hazard Zones map. The susceptible layers generally range from 1.5 to 4.0 feet in thickness and are overlain by more than 30 feet of non-liquefiable soil. Several silt and sand layers theoretically can liquefy, resulting in about 1.5 to 3.75 inches of total settlement, and 0.75 to 1.75 inches of differential settlement.

### Lateral Spreading

Lateral spreading is a type of ground failure related to liquefaction. It consists of the horizontal displacement of flat-lying alluvial material toward an open area, such as an open body of water, channel or excavation. The site is located between 0.25 and 0.5 miles from the Guadalupe River and the shallow, potentially liquefiable soils are located between 16 and 28 feet below the existing ground surface. The potential for lateral spreading at the site is relatively low based on the site's proximity to the Guadalupe River, type of on-site soils, and potential for liquefaction.

### 4.6.2 Environmental Checklist and Discussion of Impacts

| GEOLOGY AND SOILS | New Potentially Significant Impact | New Less Than Significant With Mitigation Incorporated | New Less Than Significant Impact | Same Impact as "Approved Project" | Less Impact than "Approved Project" | Information Source(s)/ Discussion Location |
|---|---|---|---|---|---|---|
| Would the project: | | | | | | |
| 1) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: | | | | | | |
| a) Rupture of a known earthquake fault, as described on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Special Publication 42.) | ☐ | ☐ | ☐ | ☒ | ☐ | 2,3 |
| b) Strong seismic ground shaking? | ☐ | ☐ | ☐ | ☒ | ☐ | 2,3 |
| c) Seismic-related ground failure, including liquefaction? | ☐ | ☐ | ☐ | ☒ | ☐ | 2,3 |
| d) Landslides? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |
| 2) Result in substantial soil erosion or the loss of topsoil? | ☐ | ☐ | ☐ | ☒ | ☐ | 2,3 |
| 3) Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? | ☐ | ☐ | ☐ | ☒ | ☐ | 2,3 |
| 4) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property? | ☐ | ☐ | ☐ | ☒ | ☐ | 2,3 |
| 5) 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? | ☐ | ☐ | ☐ | ☒ | ☐ | 2 |

#### 4.6.2.1 *On-Site Soils*

The soils on-site have a high expansive potential and therefore, soils may expand and contract as a result of seasonal or man-made soil moisture conditions. Expansive soil conditions could potentially

damage the future development on the site, which would represent a significant impact unless avoided by incorporating appropriate engineering into grading and foundation design. The soils on the site also have potential for liquefaction. The proposed project is not expected to be exposed to slope instability, erosion, or landslide-related hazards, due to the flat topography of the project site.

The proposed project would not result in any new or more significant soil related impacts than were described in the certified 2005 NSJ FPEIR and BEA FEIR.

**Impact GEO – 1:** Due to the expansion potential of the soils on-site, there is a potential to expose people and structures to significant geological hazards. **(No New Impact)**

**Mitigation Measures:** The project proposes to implement the following mitigation measures to reduce geologic hazard impacts:

**MM GEO – 1.1:** Design and construct buildings in accordance with the design-level geotechnical investigation prepared for the project site, which identifies the specific design features that will be required for the project, including site preparation, compaction, trench excavations, foundation and subgrade design, drainage, and pavement design. The geotechnical investigation shall be reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance for the project.

**MM GEO-1.2:** Implement standard grading and best management practices to prevent substantial erosion and siltation during development of the site.

**MM GEO-1.3:** Previous grading on-site has been conducted in conformance with an approved grading permit and mitigation measures and further grading will follow similar measures, such as mitigation listed below, to ensure that there is no significant soil erosion on site during construction:

- All excavation and grading work will be scheduled in dry weather months, or the construction site will be weatherized to withstand or avoid erosion.
- Stockpiles of excavated soils will be covered with secured tarps or plastic sheeting.
- Existing vegetation will be removed only when it is absolutely necessary.
- Ditches will be installed, if necessary, to divert runoff around excavations and graded areas.

#### 4.6.2.2 *Seismicity and Seismic Hazards*

The project site is located in a seismically active region, and therefore, strong ground shaking would be expected during the lifetime of the proposed project. Ground shaking could damage buildings and other proposed structures, and threaten the welfare of future residents. In addition, the project site includes potentially liquefiable soil materials.

The proposed project would not result in any new or more significant seismic related hazard impacts than were described in the certified 2005 NSJ FPEIR and BEA FEIR.

**Impact GEO – 2:** The project is subject to seismic and seismic-related hazards. **(No New Impact)**

**Mitigation Measure:** The following mitigation measure is identified as part of the certified 2005 NSJ FPEIR to be required of future residential development in North San José and is proposed by the project:

**MM GEO 2.1:** The project shall be designed and constructed in conformance with the 2007 Uniform Building Code guidelines for Seismic Zone 4 to avoid or minimize potential damage from seismic shaking and seismic-related hazards on the site.

#### 4.6.2.3 *Guadalupe River*

The Guadalupe River is located to the west of the project site. An approximately 15 foot high levee and berm is present along the east side of the Guadalupe River. The levee has been engineered for flood control, but flooding could occur on the site. Flooding on-site is discussed in Section 4.8 Hydrology and Water Quality.

#### 4.6.2.4 *Liquefaction and Lateral Spreading*

Based on the subsurface conditions on-site, there is a potential for liquefaction and associated lateral spreading to occur below the levees. There is a possibility, although remote that some movement or possibly breeching of the levee could occur if a significant earthquake occurred. As discussed above, several silt and sand layers could liquefy, resulting in 1.5 to 3.75 inches of total settlement in the buildings. If ground rupture and sand venting were to occur, significantly higher ground deformation could occur. Liquefied sands may vent through cracks in the surficial soils. The resulting sand boils will contribute to the magnitude of liquefaction induced settlement and could impact site improvements such as streets, sidewalks, or exterior concrete flatwork as well as the buildings.

**Impact GEO-3:** The project is subject to liquefaction-induced settlements and ground rupture. **(Less Than Significant Impact)**

**Mitigation Measure:** The project proposes to implement the following mitigation measures to reduce liquefaction-induced impacts.

**MM GEO 3.1:** Pile caps for Buildings A, B and the parking garage for Phase I will be tied together with grade beams to provide increased lateral stiffness of the foundations.

**MM GEO 3.2:** A mat foundation or ground improvements will be performed for the location of Building C.

### 4.6.3 Conclusion

**Impact GEO – 1:** The proposed project, with the implementation of the above mitigation measures, would not result in any new or more significant geologic impacts from expansive soils on-site than those addressed in the certified 2005 NSJ FPEIR or BEA FEIR. **(No New Impact)**

**Impact GEO – 2:** The proposed project, with the implementation of the above mitigation measures, would not result in any new or more significant geological impacts relating to seismic and seismic-related hazards than those addressed in the certified 2005 NSJ FPEIR or BEA FEIR. **(No New Impact)**

**Impact GEO-3:** With implementation of the above mitigation measures, the proposed project would not result in significant geological impacts relating to liquefaction and lateral spreading. **(Less Than Significant Impact)**

## 4.7 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based upon a Phase I Environmental Site Assessment Report prepared for the BEA FEIR in July 2000 by *SECOR International Incorporated*.

### 4.7.1 Setting

Hazardous materials are commonly used by large institutions, commercial, and industrial businesses. Hazardous materials include a broad range of common substances such as motor oil and fuel, pesticides, detergents, paint, and solvents. A substance may be considered hazardous if, due to its chemical and/or physical properties, it poses a substantial hazard when it is improperly treated, stored, transported, disposed of, or released into the environment in the event of an accident.

#### 4.7.1.1 *Site History*

Data from aerial photographs and historic city directories indicate that the site was used for agricultural use as early as 1860. Prior to 1970 the site was developed with a pear farm, and other farming continued until 2000. In photographs taken in 1956, 1963, and 1968, the southeast corner of the site was developed with several small agricultural structures. A house and barn were also located on the site, but were demolished in the early 1980s. Since the removal of the agricultural fields in 2000, the project site has remained vacant.

#### 4.7.1.2 On-Site Sources of Contamination

***Agricultural Use***

Due to the historic agricultural use on the site, pesticides were likely used during normal farming operations and it is possible that the soil is contaminated with pesticides. Dicholor diphenyl tricloroethane (DDT) and other chlorinated pesticides were used for agricultural purposes in this area of the Santa Clara Valley, as was lead arsenate, a metallic pesticide.

There are no known soil samples of the project site. However, the 15.8-acre eBay parcel located to the south of the project site, was sampled by the City of San Jose in 2002. Due to the close proximity of the project site to the eBay site it is assumed, that pesticide levels on the project site are comparable to what was found on the eBay property. The levels of DDT found on the site (1.52 ppm) exceeded the Total Threshold Limit Concentration (TTLC) established by the California Department of Health Services of 1 ppm. The concentrations of arsenic and lead are above typical background levels in the San Jose area. Levels of arsenic and lead in the soil at the eBay site averaged 60.5 ppm and 141 ppm, respectively.

#### 4.7.1.3 Off-Site Sources of Contamination

Based upon available information, there is one facility in the vicinity of the project site that has the potential to impact the site. The Unocal Station located at 2101 North First Street was listed in the database report as a leaking underground storage tank (LUST) site for a release of gasoline into the groundwater in 1990. However, based on groundwater monitoring, the vacant parcel has not yet been impacted by this leak.

## 4.7.2 Environmental Checklist and Discussion of Impacts

| HAZARDS AND HAZARDOUS MATERIALS | New Potentially Significant Impact | New Less Than Significant With Mitigation Incorporated | New Less Than Significant Impact | Same Impact as "Approved Project" | Less Impact than "Approved Project" | Information Source(s)/ Discussion Location |
|---|---|---|---|---|---|---|
| Would the project: | | | | | | |
| 1) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |
| 2) Create a significant hazard to human beings or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? | ☐ | ☐ | ☐ | ☒ | ☐ | 3,7 |
| 3) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |
| 4) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment? | ☐ | ☐ | ☐ | ☒ | ☐ | 2,3,7 |
| 5) 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 for people residing or working in the project area? | ☐ | ☐ | ☐ | ☒ | ☐ | 2,3 |
| 6) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? | ☐ | ☐ | ☐ | ☒ | ☐ | 2,3 |
| 7) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |

| HAZARDS AND HAZARDOUS MATERIALS | | | | | | |
|---|---|---|---|---|---|---|
| | New Potentially Significant Impact | New Less Than Significant With Mitigation Incorporated | New Less Than Significant Impact | Same Impact as "Approved Project" | Less Impact than "Approved Project" | Information Source(s)/ Discussion Location |
| Would the project:<br>8) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |

### 4.7.2.1 *On-Site Sources of Contamination*

**Agricultural Use**

It is known that the project site was used for agricultural production beginning in 1860 and from 1970 to 2000. During this time, it is likely that pesticides were used as part of the normal agricultural operations. The City determined that there are low levels of residual pesticides and metals on the adjacent eBay site. The eBay site was once part of a large orchard that also contained the BEA site and, therefore, can reasonably be assumed to have the same soil composition as the BEA site.

The elevated levels of arsenic and lead were not considered problematic for the site if it were used for industrial or commercial purposes because most of the site will be covered with buildings and pavement so direct exposure to future site users would be limited.

The site could contain hazardous materials in the soil and groundwater from historic agricultural activities and other sources that have not yet been identified. Possible contamination may be encountered during earthwork activities. Therefore, the following avoidance measures will be implemented to ensure that construction workers and landscape workers will not be significantly impacted by contaminated soils.

**Avoidance Measure:** The project proposes to implement the following avoidance measures:

- Analytical testing of soil and groundwater shall be conducted for hazardous substances (including heavy metals, arsenic, chromium, petroleum hydrocarbons, and pesticides) prior to issuance of a grading permit. If results indicate the presence of such materials in excess of applicable health standards, a soil management plan (SMP) shall be developed to establish management practices for construction worker health and safety during earthwork activities at the project site. The SMP shall address appropriate protocols for handling and/or disposing of the soil that will be encountered during construction. The SMP will be submitted to San José's Environmental Services Department for approval prior to issuance of grading permits.

### 4.7.2.2 *Possible Off-Site Sources of Impact*

Based on the review of information from the certified BEA FEIR, no off-site contamination currently affects the project site. Due to LUST located near the project site, the site could be impacted in the

future by contaminated groundwater. However, because of the approved and proposed land use of the site, the contamination is unlikely to affect site users.

### 4.7.3 Conclusion

The proposed project, with the implementation of the avoidance measures would not result in any new or more significant hazardous material impacts than were previously identified in the BEA FEIR. **(No New Impact)**

## 4.8 HYDROLOGY AND WATER QUALITY

### 4.8.1 Setting

The existing drainage and regulatory requirements regarding hydrology and water quality are generally unchanged from the certified 2005 NSJ FPEIR and the certified BEA FEIR. The primary changes are the update of the North San José Floodplain Management Study reflecting the completion of flood control projects for Coyote Creek and Lower Guadalupe River, the City's update of its *Post-Construction Urban Runoff Management* (Policy 6-29), and the City's adoption of the *Post-Construction Hydromodification Management* (Policy 8-14).

#### 4.8.1.1 *Flooding*

The North San José Floodplain Management Study was updated in June 2006. Existing flood conditions in North San José have been changed by completion of flood control projects for Coyote Creek and Lower Guadalupe River. The flood control projects have increased the stream channel flood capacity and reduced the potential for overflows from the stream channels into the North San José area. With the flood control projects, the flood potential has been reduced to residual shallow flooding primarily due to storm drain excess flows which exceed the capacity of the storm drain systems during a 100-year storm.

Based on the updated Federal Emergency Management Agency's Flood Insurance Rate Maps[4], the majority of the project site is located within *Zone X*, but the northwestern portion of the site (location of Phases 3 and 4) is located within *Zone AH*. Flood *Zone X* is defined as areas of 500-year flood; areas of 100-year flood with average depths of less than one foot or with drainage areas less than one square mile; and areas protected by levee from 100-year flood. Flood *Zone AH* is defined as areas of flood depths of one to three feet (usually areas of ponding). The project site is protected from the 100-year flood by levee, dike, or other structure subject to possible failure during larger floods.

Development constraints were developed as part of the North San José Floodplain Management Study to allow increased development density, protect new structures, and minimize potential increases in flood depths. The development constraints are consistent with the Federal Emergency Management Agency (FEMA) requirements and the City's floodplain management ordinance. The development constraints are:

- Finished floors for new development shall be at or above the estimated 100-year water surface elevations defined for the effective FEMA Flood Insurance Rate Maps (FIRMs).

- New development shall include on-site conveyance areas to allow for shallow flooding to cross the site. On-site blockage for buildings and other development shall be restricted to include on-site conveyance.

- On-site flood conveyance will be at the approximate elevation of the street sidewalk at the site.

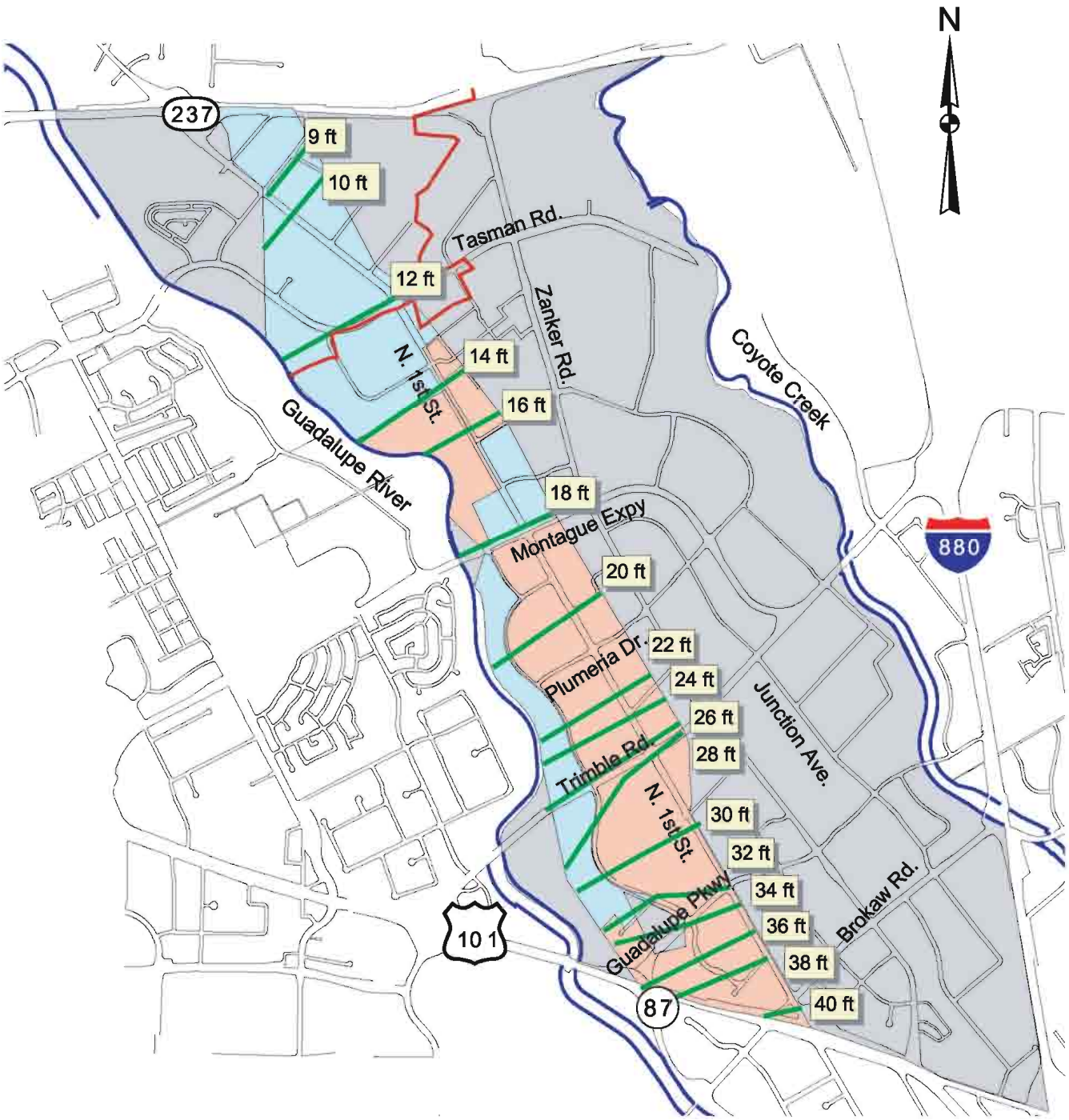
[4] Federal Emergency Management Agency (FEMA). Flood Insurance Rate Map, Community Panel Number 0603490013 E. Revised to reflect LOMR dated October 25, 2006.

- On-site flood blockage restrictions will be established based on a percentage of the site width perpendicular to the direction of flood flow across the site (generally in an east-west direction, or perpendicular to North First Street).

- On-site blockage restriction will depend on the land use designation on the site. Allowable flood blockage should be based on the 90 percent blockage areas shown on the Floodplain Management Policy figure (see Figure 4.1-1).

The project site is located within the North San Jose Floodplain Management Policy area. The site falls entirely within the zone that allows for up to 90 percent blockage of flood flows. Blockage is defined as any area on the site with an elevation higher than the approximate elevation of the back edge of the street sidewalk surrounding the site. Onsite conveyance of shallow flooding must be maintained to an amount of 10 percent of the site width perpendicular to the direction of flood flow across the site (generally in an east-west direction, or perpendicular to North First Street). At least 10 percent of the site width in any given cross section must be at the same elevation or lower than the sidewalk and thus essentially maintain existing topography.[5]

[5] Schaaf and Wheeler. Technical Memorandum for Tishman-Speyer Site Flood Blockage Study. November 27, 2007.




FLOODPLAIN MANAGEMENT POLICY AREA FIGURE 4.0-1

### 4.8.1.2 *Drainage*

North San José is served by eight main drainage systems which discharge to both Coyote Creek and Guadalupe River. Four of the systems include City pump stations to pump the storm drain flows into the stream channel. The nearest pump station to the project site is the Trimble Road pump station, serving the area between Trimble Road and US 101. The Trimble Road pump station has a pumping capacity of 600 cubic feet per second (cfs).

### 4.8.1.3 *Regulatory Requirements*

**City of San José Post-Construction**
**Urban Runoff Management (Policy 6-29)**

The City of San José's Policy No. 6-29 requires all new and redevelopment projects to implement Post-Construction Best Management Practices (BMPs)[6] and Treatment Control Measures (TCMs)[7] to the maximum extent practicable. This Policy also establishes specific design standards for Post-Construction TCMs for projects that create, add, or replace 10,000 square feet or more of impervious surfaces.

**City of San José Post-Construction**
**Hydromodification Management (Policy 8-14)**

In 2005, the City of San José adopted the Post-Construction Hydromodification Management (Policy 8-14) to manage development related increases in peak runoff flow, volume and duration, where such hydromodification[8] is likely to cause increased erosion, silt pollution generation, or other impacts to local rivers, streams, and creeks.

Policy 8-14 requires stormwater discharges from new and redevelopment projects that create or replace one acre (43,560 square feet) or more of impervious surfaces to be designed and built to control project-related hydromodification, where such hydromodification is likely to cause increased erosion, silt pollutant generation, or other impacts to beneficial uses of local rivers, streams, and creeks. The Policy establishes specified performance criteria for Post-Construction Hydromodification control measures (HCMs) and identifies projects which are exempt from HCM requirements. For example, projects are exempt that do not increase the impervious area of a site, as

[6] Post-Construction Best Management Practices (BMPs) are methods, activities, maintenance procedures, or other management practices designed to reduce the amount of stormwater pollutant loading from a site. Examples of Post-Construction BMPs include proper materials storage and housekeeping activities, public and employee education programs, and storm inlet maintenance and stenciling.

[7] Post-Construction Treatment Control Measures are site design measures, landscape characteristics or permanent stormwater pollution prevention devices installed and maintained as part of a new development or redevelopment project to reduce stormwater pollution loading from the site; is installed as part of a new development or redevelopment project; and is maintained in place after construction has been completed. Examples of runoff treatment control measures include filtration and infiltration devices (e.g., vegetative swales/biofilters, insert filters, and oil/water separators) or detention/retention measures (e.g., detention/retention ponds). Post-Construction TCMs are a category of BMPs.

[8] Hydromodification occurs when the total area of impervious surfaces increases resulting in the decrease of rainfall infiltration, which causes more water to run off the surface as overland flow at a faster rate. Storms that previously did not produce runoff from a property under previous conditions can produce erosive flows in creeks. The increase in the volume of runoff and the length of time that erosive flows occur intensifies sediment transport, increasing creek scouring and erosion and causing changes in stream shape and conditions, which can, in turn, impair the beneficial uses of the stream channels.

are projects that drain to exempt channels, projects that drain to stream channels within the tidally influenced area, or projects that drain to non-earthen stream channels that are hardened on three sides and extend continuously upstream from the tidally influenced area.

### 4.8.2 Environmental Checklist and Discussion of Impacts

| HYDROLOGY AND WATER QUALITY | | | | | | |
|---|---|---|---|---|---|---|
| | New Potentially Significant Impact | New Less Than Significant With Mitigation Incorporated | New Less Than Significant Impact | Same Impact as "Approved Project" | Less Impact than "Approved Project" | Information Source(s)/ Discussion Location |
| Would the project: | | | | | | |
| 1) Violate any water quality standards or waste discharge requirements? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |
| 2) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |
| 3) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on-or off-site? | ☐ | ☐ | ☐ | ☒ | ☐ | 1 |
| 4) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on-or off-site? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |
| 5) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |
| 6) Otherwise substantially degrade water quality? | ☐ | ☐ | ☐ | ☒ | ☐ | 1 |

| HYDROLOGY AND WATER QUALITY | | | | | | |
|---|---|---|---|---|---|---|
| | New Potentially Significant Impact | New Less Than Significant With Mitigation Incorporated | New Less Than Significant Impact | Same Impact as "Approved Project" | Less Impact than "Approved Project" | Information Source(s)/ Discussion Location |
| Would the project: | | | | | | |
| 7) Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |
| 8) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3,7 |
| 9) Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |
| 10) Be subject to inundation by seiche, tsunami, or mudflow? | ☐ | ☐ | ☐ | ☒ | ☐ | 1 |

### *4.8.2.1 Flooding*

As stated in the BEA FEIR, the project site is located in an area of San José subject to periodic flooding that could expose people or structures to significant risks which is considered a significant impact. The site is located in three different types of flood areas: 1) 100-year flood with average depths of less than one foot or drainage areas less than one square mile; 2) area of 100-year flood with an average depth of one to three feet, and/or; 3) area protected by levees from 100-year flood. The 100-year flood water surface elevation at the site is approximately 30 feet (NAVD 88). Most of the project site is at elevations ranging from 33 to 38 feet (NGVD). None of the existing or proposed structures will be below grade, and the proposed project would not result in any new or more significant flooding impacts than were described in the BEA FEIR.

The project proposes walkways and open areas that will function as conveyance areas for shallow flooding to cross the site. This is consistent with the North San José Flood Plain Management Study and FEMA requirements. An analysis of the proposed site plan and building elevations' potential for blocking flood flows was prepared in December 2007 by *Schaaf & Wheeler (*see Appendix C). For the blockage analysis, cross sections were taken at various locations throughout the project site perpendicular to North First Street. A blockage percentage was calculated for each by adding the length of building blockage in the cross section to 50 percent of the remaining open space and dividing by the total cross section length. The most developed cross section is 68.8 percent blocked by structures. With the addition of the estimated 50 percent of landscaped areas potentially blocked, the total blockage increases to 84.4 percent. Since this is less than the maximum 90 percent blockage allowed, the site is consistent with the floodplain blockage criteria. These results assume that the final grading plans will not include landscaping that blocks greater than 50 percent of any cross-section.

Flooding throughout the project area could also occur if the adjacent Guadalupe River levee breaches as a result of earthquake induced soil liquefaction and lateral spreading under the levee. However, the potential for this to occur is remote and unlikely.

The proposed project would not result in any new or more significant flooding impacts than were described in the certified 2005 NSJ FPEIR and BEA FEIR.

**Impact HYD-1:** The proposed project could result in construction-related flooding impacts. **(No New Impact)**

**Mitigation Measures:** The following mitigation measure is proposed by the Project:

**MM HYD- 1.1:** Final grading plans for Phases 2, 3 and 4, will ensure that 50 percent of the landscaping in cross-sections perpendicular to North First Street remains at or below the elevation of the sidewalks.

#### 4.8.2.2 *Drainage*

The project site is currently vacant, undeveloped land and 100 percent pervious surfaces.

The project proposes to construct nine new buildings, four parking garages, a public street, connecting walkways, and surrounding landscaping in four phases. With the development of the proposed project, approximately 59 percent (23.3 acres) of the project site would be impervious and approximately 41 percent (16.5 acres) of the site would be pervious. The proposed project, therefore, would result in an approximately 59 percent (23.3 acres) increase in impervious surfaces (refer to Table 4.0-2).

**Table 4.0-2**
**Summary of Impervious and Pervious Surfaces On-Site-All Project Phases**

| Site Surface | Existing/Pre-Construction (acres) | % | Project/Post-Construction (acres) | % | Difference (acres) | % |
|---|---|---|---|---|---|---|
| **Impervious** | | | | | | |
| Building Footprint | 0 | 0 | 5.7 | 14% | 5.7 | 14% |
| Parking/Driveways/ Streets | 0 | 0 | 17.6 | 44% | 17.6 | 44% |
| *Subtotal* | *0* | *0* | *23.3* | *59%* | *23.3* | *59%* |
| **Pervious** | | | | | | |
| Landscaping | 39.8 | 100 | 16.5 | 41% | 23.3 | -59% |
| *Subtotal* | *39.8* | *100* | *16.5* | *41%* | *23.3* | *-59%* |
| **Total** | **39.8** | **100** | **39.8** | **100** | | |

The Phase I project site contains a 30-inch storm drain at the northern boundary of the site, leading to existing 18-inch and 29-inch storm drains. The 29-inch storm drain converts to a 27-inch storm drain at the northeastern portion of the site, west of Building A. The 27-inch storm drain meets with an 18-inch storm drain at the proposed central court between Buildings A and B and runs to the southeastern portion of the site, branching to a 15-inch storm drain and a 12-inch storm drain.

An 18-inch storm drain runs through the center of the site, linking to a 15-inch storm drain serving Building C. The site's storm drain system flows to a 54-inch line in North First Street.

According to the BEA FEIR, the existing storm water drainage system can accommodate the increase in storm water for the proposed full build out of the site, however, the City's Post-Construction Hydromodification Management (Policy 8-14) requires that new projects replacing or adding 10,000 square feet or more of impervious surfaces to a site not increase the total amount of runoff entering the storm drainage system. To accommodate the City's requirement, Phase I of the project will provide nine on-site storm water bioretention[9] areas and a media filter drainage area with supporting bioretention cell underdrains to retain and filter peak flows onsite before metering it out at the preconstruction rate.

#### 4.8.2.3 *Water Quality*

**Construction-Related Impacts**

Construction of the proposed project, as well as grading, and excavation activities, may result in temporary impacts to surface water quality. Construction of the proposed project would also result in a disturbance to the underlying soils, thereby increasing the potential for sedimentation and erosion. When disturbance to underlying soils occurs, the surface runoff that flows across the site may contain sediments that are discharged into the storm drain system and ultimately the San Francisco Bay.

The development of the proposed project would contribute to the significant construction-related water quality impacts identified in the certified 2005 NSJ FPEIR. The proposed project would not, however, result in any new or more significant construction-related water quality impacts than were described in the certified 2005 NSJ FPEIR.

**Impact HYD – 2:** The proposed project would result in construction-related water quality impacts. **(Significant Impact)**

**Mitigation Measures:** The following mitigation measures are identified as part of the certified 2005 NSJ FPEIR and are proposed by the project:

**MM HYD – 2.1:** Compliance with the NPDES General Construction Activity Stormwater Permit administered by the Regional Water Quality Control Board. Prior to future construction or grading for project with land disturbance of one acre or more, applicants shall be required to file a "Notice of Intent" (NOI) to comply with the General Permit and prepare a Stormwater Pollution Prevention Plan (SWPPP) that addresses measures that would be included in the project to minimize and control construction and post-construction runoff. Copies of the SWPPP shall be submitted to the City of San José Department of Public Works. The following measures typically are included in a SWPPP:

- Preclude non-stormwater discharges to the stormwater system.

[9] Bioretention systems are designed to filter pollutants from runoff using a combination of vegetated buffer strip, sand bed, ponding area, organic layer, planting soil and plants.

- Incorporate effective, site-specific Best Management Practices for erosion and sediment control during the construction and post-construction periods.
- Cover soil, equipment, and supplies that could contribute pollution prior to rainfall events or monitor runoff.
- Perform monitoring of discharges to the stormwater system.

**MM HYD – 2.2:** Comply with the City's Grading Ordinance.

**Post-Construction Impacts**

Stormwater runoff from urban uses contains metals, pesticides, herbicides, and other contaminants such as oil, grease, lead, and animal waste. Runoff from the proposed project may contain increased oil and grease from parked vehicles, as well as sediment and chemicals (i.e., fertilizers and pesticides) from landscaped areas.

The amount of pollution carried by runoff from the site would increase accordingly with increased intensity of use. The existing and proposed acreages of pervious and impervious surfaces are shown in Table 4.0-5. The existing site is 39.8 acres and 100 percent pervious surfaces. The proposed project will develop 23.3 acres of the site with impervious surfaces. The remaining 41 percent of the site will be pervious surfaces. The project would increase traffic and human activity on and around the project site, generating more pollutants and increasing dust, litter, and other contaminants that would be washed into the storm drain system. The project, therefore, would generate increase in water contaminants that could be carried downstream in stormwater runoff from paved surfaces on the site. The project will add more than 10,000 square feet of impervious surfaces, so it must conform to the version of Council Policy 6-29 in place at the time a development permit is filed.

The development of the proposed project would contribute to the significant post-construction related water quality impacts identified in the certified 2005 NSJ FPEIR. The proposed project, however, would not result in any new or more significant post-construction related water quality impacts than were described in the certified 2005 NSJ FPEIR and the BEA FEIR. The proposed project has Best Management Practices (BMPs) in place to ensure compliance with NPDES permit requirements to reduce post-construction water quality impacts.

**Impact HYD - 3:** The proposed project would result in post-construction water quality impacts. **(No New Impact)**

**Mitigation Measure:** The following mitigation and avoidance measures were identified as part of the certified 2005 NSJ FPEIR and BEA FEIR and are proposed by Phase I of the project:

**MM HYD-3.1:** Development of the project site would be required to comply with Provision C.3 of the City's NPDES Permit, the City Council Policy Number 6-29 on Post-Construction Urban Runoff Management, the City Council Number 8-14 on and Post-Construction Hydromodification Management and the City's other local policies and ordinances regarding urban runoff and water quality, as applicable.

**MM HYD – 3.2:** Compliance with Council Policy 6-29 is required at the development permit stage and is demonstrated by incorporating post-construction BMPs including, but not limited to, the following:

- Installation of landscaping (surrounding bioretention cells) surrounding Buildings A, B, and C, the parking structure, the central entry and walkway, and the recreational area adjacent to Building B that will facilitate the infiltration of stormwater.
- Design landscaped areas to be lower in elevation than surrounding paved areas.
- Install media filter treatment with ongoing maintenance and inspection activities to ensure mechanical filtration devices remain effective.

**MM HYD-3.3:** When the construction is complete, a Notice of Termination (NOT) for the General Permit for Construction will be filed with the Regional Water Quality Control Board and the City of San Jose. The NOT will document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a post-construction storm water management plan is in place as described in the SWPPP for the site.

**Mitigation Measure:** The following mitigation and avoidance measures were identified as part of the certified 2005 NSJ FPEIR and BEA FEIR and are proposed by future phases of the project:

**MM HYD-3.4:** Future development of the project site would be required to comply with Provision C.3 of the City's NPDES Permit, the City Council Policy Number 6-29 on Post-Construction Urban Runoff Management, the City Council Number 8-14 on and Post-Construction Hydromodification Management and the City's other local policies and ordinances regarding urban runoff and water quality, as applicable.

**MM HYD-3.5:** The project will submit a copy of the draft SWPPP to the City of San Jose for review and approval prior to construction of each project site. The certified SWPPP will be posted at the project site and will be updated to reflect current site conditions.

**MM HYD-3.6:** As part of the mitigation for post-construction runoff impacts addressed in the SWPPP and compliance with Council Policy 6-29, future phases of the project will submit plans for BMPs and numerically sized TCMs such as the following:

- Vegetated swales and flow-through areas;
- Bioretention areas or basins;
- Disconnected downspouts that are directed into landscaped areas;
- Minimization of impervious surfaces and increased use of permeable pavement;
- Location of all storm drain inlets to be stenciled with, "No Dumping! Flows to Bay;" and

- Location and design of trash enclosures (all shall be covered) and materials handling areas.

**MM HYD-3.7:** When the construction is complete, a Notice of Termination (NOT) for the General Permit for Construction will be filed with the Regional Water Quality Control Board and the City of San Jose. The NOT will document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a post-construction storm water management plan is in place as described in the SWPPP for the site.

### 4.8.3 Conclusion

**Impact HYD – 1:** The proposed project, with the implementation of the above mitigation measure, would not result in any new or more significant flooding impacts than those addressed in the certified 2005 NSJ FPEIR or BEA FEIR. **(No New Impact)**

**Impact HYD – 2:** The proposed project, with the implementation of the above mitigation measures, would not result in any new or more significant construction-related impacts than those addressed in the certified 2005 NSJ FPEIR or BEA FEIR. **(No New Impact)**

**Impact HYD - 3:** The proposed project, with the implementation of the above mitigation measures, would not result in any new or more significant post-construction water quality impacts than those addressed in the certified 2005 NSJ FPEIR or BEA FEIR. **(No New Impact)**

## 4.9 LAND USE

### 4.9.1 Setting

#### 4.9.1.1 *Existing Land Use*

The approximately 40-acre project site consists of one parcel (APN 101-02-011) and is located at the intersection of North First Street and Component Drive, between North First Street and Orchard Parkway in north San José (refer to Figure 2.0-2). The project site is currently vacant, undeveloped land covered with weedy grass. There are no trees on the site. Infrastructure includes sidewalks bordering the project site on Component Drive, North First Street and Orchard Parkway.

#### 4.9.1.2 *Surrounding Land Uses*

The surrounding land uses include office/R&D uses and a PG&E substation to the north of the site, North First Street and the Component Light Rail station (LRT) to the east of the site, office/R&D uses (BEA offices) to the south of the site, and Orchard Parkway to the west of the site. To the west of Orchard Parkway is a parcel of vacant, undeveloped land and to the east of North First Street is office/R&D businesses.

#### 4.9.1.3 *Land Use Plans*

**General Plan Land Use and Zoning Designation**

General Plan Land Use Designation

After the certification of the 2005 NSJ FPEIR, the San José 2020 General Plan land use designations in north San José were modified in selected areas, but not on the subject site. The existing land use designation on the project site (*IP – Industrial Park*) remains unchanged from the certified BEA FEIR.

Zoning Designation

The project site has a zoning designation of *IP (PD)– Industrial Park.* The *IP(PD) – Industrial Park* designation is an exclusive designation intended for a wide variety of industrial uses such as research and development, manufacturing, assembly, testing, and offices. Areas exclusively for industrial uses may contain a very limited amount of supportive commercial uses, in addition to industrial uses, when those uses are of a scale and design providing support only to the needs of businesses and their employees in the immediate industrial area. The site is zoned for a Planned Development (PD).

## North San José Area Development Policy

The North San José Area Development Policy (hereinafter referred to as the Policy) provides for the development of up to 32,000 new residential dwelling units allowing for approximately 56,640 new residents within North San José, and up to 26.7 million square feet of new industrial/office/R&D building space beyond existing entitlements, allowing for 83,000 new employees. A summary of the provisions of the Policy are listed in Table 4.0-3:

**Table 4.0-3**
**Consistency with North San José Area Development Policy Checklist**

| Provisions of the Policy | Consistent? | | |
|---|---|---|---|
| | Yes | No | N/A |
| **Land Use** | | | |
| Residential development must occur on land within the Transit/Employment Residential Overlay, on land already designated for residential use in the General Plan, or within the Industrial Core area in a mixed use configuration. | | | X |
| Residential development within the Overlay must be at least 55 DU/AC. | | | X |
| Site must not contain an existing important vital or "driving" industrial use. | | | X |
| Site must not be adjacent to an industrial use that would be significantly adversely impacted by the residential conversion. | | | X |
| The site must not be in proximity to an industrial or hazardous use that would create hazardous conditions for the proposed residential development (e.g. an adequate buffer must be provided for new residential uses from existing industrial uses) in order to protect all occupants of the sites and enhance preservation of land use compatibility among sites within the Policy area. A risk assessment may be required to address compatibility issues for any proposed industrial to residential conversions. | | | X |
| Site should be within 1,000 feet of existing park or would help establish or contribute to a new park of adequate size within 1,000 feet. | | | X |
| Site design must support transit use and pedestrian safety. | X | | |
| Master planning for sites for parks, schools, and other public facilities must be completed within each of the seven new residential areas prior to any proposed conversion within that area. | | | X |
| Project does not result in the conversion of industrial land not anticipated by the Policy. | X | | |
| **Traffic** | | | |
| Project includes design features that encourage bicycle and pedestrian movements. | X | | |
| Project incorporates TDM measures (see Policy list for residential projects). | X | | |
| Project includes dedication of public street right-of-way determined necessary through or adjacent to the project site. | X | | |
| **Infrastructure Improvements** | | | |
| Project includes extension, expansion, or improvement of utilities or other infrastructure needed to serve the project and its immediate area, including extension of recycled water line where possible. | X | | |
| Project includes dual plumbing to allow use of recycled water for landscaping. | X | | |
| **Allocation of Capacity** | | | |
| Sufficient capacity remains within the relevant Phase to allow development of the proposed units. | X | | |

| **Table 4.0-3<br>Consistency with North San José Area Development Policy Checklist** | | | |
|---|---|---|---|
| **Provisions of the Policy** | **Consistent?** | | |
| | **Yes** | **No** | **N/A** |
| **Design Criteria** | | | |
| Project is consistent with relevant policies in the Residential Design Guidelines. | | | X |
| Project is consistent with Multi-modal Transportation Design Criteria in the ADP. | X | | |
| Project incorporates Green Building techniques, resource conservation programs, and minimizes water use. | X | | |

#### 4.9.1.4 *Other*

The project area is not part of a habitat conservation plan or natural community conservation plan.

### 4.9.2 Environmental Checklist and Discussion of Impacts

| LAND USE | | | | | | |
|---|---|---|---|---|---|---|
| | New Potentially Significant Impact | New Less Than Significant With Mitigation Incorporated | New Less Than Significant Impact | Same Impact as "Approved Project" | Less Impact than "Approved Project" | Information Source(s)/ Discussion Location |
| Would the project: | | | | | | |
| 1) Physically divide an established community? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3,8 |
| 2) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3,8, 9 |
| 3) Conflict with any applicable habitat conservation plan or natural community conservation plan? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,8 |

As described in the BEA FEIR, the proposed project would develop 40 acres of vacant land with office/industrial and commercial uses. There has been no change to the project that would result in any new or more significant land use impact. The Phase I of the project would result in the development of approximately 12 acres of vacant, undeveloped land. The proposed project would not result in any new or more significant land use than were described in the certified BEA FEIR.

### 4.9.2.1 *Conformance with Land Use Plans*

**General Plan**

The project proposes to construct eight new industrial/office buildings, one fitness center and four new parking structures on the vacant, undeveloped project site that is currently designated *Industrial Park* and zoned *IP(PD) – Industrial Park.* The proposed project is consistent with the *Industrial Park (PD)* designation.

**North San José Area Development Policy**

Land Use

The proposed project is consistent with the land use provisions in the Policy.

Traffic

The project will pay relevant impact fees to fund mitigation measures needed to meet future traffic conditions resulting from development in the North San Jose area. Traffic impact fees will be spent on projects identified as mitigation measures for the North San Jose Area Development Environmental Impact Report (EIR). The current project is paying the fees applicable to the approved BEA PD zoning.

The project also proposes design features (which include TDM measures) that encourage bicycle and pedestrian movements (refer to Section 4.3 Air Quality). As a result, the proposed project is consistent with the traffic provisions of the Policy.

Infrastructure Improvements

The proposed project is consistent with the Policy's provisions for infrastructure improvements. As discussed in Section 4.16 Utilities and Service Systems, the existing utility systems have adequate capacity to serve the proposed project and the project would connect to existing utility lines in nearby streets. Additionally, the project proposes to dedicate public street ROW for roadway improvements at the southern boundary of the site, between North First Street and Orchard Parkway.

Allocation of Capacity

The NSJ Policy provides for the development of 26.7 million square feet of new industrial/office/R&D building space, 1.7 million square feet of new neighborhood serving commercial uses, and 32,000 new dwelling units in the Rincon area. In regards to allocation capacity, development of the site was approved previously under the certified BEA FEIR. The PD Permit for the BEA project allowed for the development of 2.8 million square feet of office/R&D on the proposed site. Since the existing site has been previously approved and allocated for office/R&D development of similar density, sufficient capacity is available to allow for the development of the proposed project.

Additionally, the project site is within the Core area, within 2,000 feet of a LRT station, and is making use of the allowable reductions in parking for close proximity to a LRT station, therefore,

according to the North San Jose Area Development Policy, the property is given very high priority for industrial development.

Design Criteria

The project is consistent with the Policy's Core Area and Multi-modal Transportation Design Criteria by orienting buildings onto North First Street, not placing parking structures along North First Street, and providing a high level of pedestrian environment amenities with landscaped pedestrian connections between buildings and outdoor gathering areas on-site. The project site is located within walking distance of the Component transit station and has existing pedestrian connections to the transit station.

The proposed project is consistent with the North San José Area Development Policy. Table 4.0-3 provides a summary of the project's consistency with the Policy's provisions.

### 4.9.2.2 *Land Use Compatibility*

Land use conflicts can arise from two basic causes: 1) conditions on or near the project site may have impacts on the persons or development introduced onto the site by the new project. Both of these circumstances are aspects of land use compatibility; or 2) a new development or land use may cause impacts to persons or the physical environment in the vicinity of the project site or elsewhere. Potential incompatibility may arise from placing a particular development or land use at an inappropriate location, or from some aspect of the project's design or scope.

**Federal Aviation Administration Determination**

Implementation of the proposed project would result in nine buildings and four parking structures to be constructed within the navigable airspace of the Norman Y. Mineta San José International Airport. Due to the project's proximity to the flight paths, development on the site is subject to height limits under Federal Aviation Regulations, Part 77, which is administered by the Federal Aviation Administration (FAA) and incorporated into Santa Clara County Airport Land Use Commission policy. Under these regulations, any proposed structure that would exceed an FAA imaginary surface restriction, or which stands at least 200 feet above ground level, is required to be reviewed by the FAA for an airspace safety evaluation and must receive a "No Hazard Determination." For this site, buildings higher than 170 feet in height must submit a Form 7460-1 to the FAA for an airspace safety determination. The proposed building design for Phase I of the project would include two buildings that would meet the FAA requirement for evaluation. Building A is proposed with a height of 228 feet and Building B is proposed with a height of 178 feet.

The project, if and when approved, should be required to (a) comply with the height, design, and notification conditions of the FAA no-hazard determinations, and (b) grant an Avigation Easement to the City setting forth elevation limits as well as acceptance of aircraft noise impacts.[10]

**Impact LU-1:** The proposed high-rise buildings on the project site could potentially impact airport operations, thus requiring review by the FAA pursuant to Federal Aviation Regulations, Part 77. **(No New Impact)**

[10] Cary Greene, City of San Jose, Airport Department. Memorandum Re: PD 07-087. Dated October 15, 2007.

**Mitigation Measures:** The proposed mitigation measures are identified as part of the certified 2005 NSJ FPEIR and certified BEA FEIR and are proposed by the project:

**MM-LU 1.1:** Through compliance with General Plan Aviation Policies 47 and 49, as applicable, high-rise development within the project area would not exceed the height limits deemed acceptable by the FAA, and would not create a significant airspace safety impact on the Norman Y. Mineta San Jose International Airport.

**MM-LU 1.2:** Proposed development requiring notification to the FAA must receive a "Determination of No Hazard" prior to issuance of a development permit. In addition, conditions of development permit approval shall include

- Incorporation of any FAA requirements specified in the "Determination of No Hazard" as well as dedication of aviation easements to the City for development on the project site.

- Avigation Easement. Prior to the issuance of Building Permits the owner must grant an avigation easement to the City of San José setting forth acceptance of elevation limits and aircraft noise impacts. Contact Cary Greene, Airport Planner, at (408) 501-7702 or cgreene@sjc.org to initiate the easement dedication process.

- Aviation. A Determination of No Hazard (DNH) from the FAA is required prior to issuance of Building Permits for Building A and Building B. The owner shall agree to secure a Permit Adjustment(s) to memorialize any FAA conditions associated with the DNH for each building. FAA conditions could include, but are not limited to maximum height restrictions, building lighting, and construction notification.

### Agricultural Land and Open Space Impacts

The proposed development would not impact agricultural lands because the site does not include any areas of prime agricultural land, the project site has a zoning and land use designation for *Industrial Park*; and the site is surrounded by urban uses.

### Interface with Existing Uses

The project site is adjacent to R&D/Office uses to the north, south and east. Vacant, undeveloped lands (that are proposed for R&D/office use) are located to the west of the site, across Orchard Parkway. All of the surrounding uses to the site are compatible uses. Buildings A and B would be set back approximately 32 feet from North First Street to the east, the parking structure would be set back approximately 57 feet from Component Drive to the north, and Building B would be set back approximately 86 feet from the BEA office site to the south, including a 40 foot right-of-way for the proposed roadway linking North First Street and Orchard Parkway. Phase 2, 3 and 4 of the proposed project would abut onto Orchard Parkway to the west. The project proposes landscaping to buffer the proposed project from the streets.

The surrounding roadways combined with the proposed setbacks and building and site design, provide sufficient buffer between the project site and the surrounding land uses.

**Avoidance Measure:** The following measure is identified as part of the certified 2005 NSJ FPEIR to be required of future industrial development in North San José and is proposed by the project to further reduce land use compatibility impacts:

- Compliance with the City of San José *General Plan Policies*, including the following:

  - *Industrial Land Use Policy #12:* Employee intensive uses should be encouraged to locate near transit facilities.
  - *Industrial Land Use Policy #19:* New industrial development should create a pedestrian friendly environment by connecting the features of the development with safe, convenient, accessible, and pleasant pedestrian facilities. Such connections should also be made between the new development and adjacent public streets.

### 4.9.3 Conclusion

**Impact LU – 1:** The proposed project, with the implementation of the above mitigation and avoidance measures, would not result in any new or more significant land use compatibility impacts than those addressed in the certified 2005 NSJ FPEIR or certified BEA FEIR. **(No New Impact)**

## 4.10 MINERAL RESOURCES

### 4.10.1 Setting

The project site is not located within any designated mineral deposit area of regional significance. Mineral exploration is not performed on the project site and the site does not contain any known or designated mineral resources.

### 4.10.2 Environmental Checklist and Discussion of Impacts

| MINERAL RESOURCES | New Potentially Significant Impact | New Less Than Significant With Mitigation Incorporated | New Less Than Significant Impact | Same Impact as "Approved Project" | Less Impact than "Approved Project" | Information Source(s)/ Discussion Location |
|---|---|---|---|---|---|---|
| Would the project: | | | | | | |
| 1) 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? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |
| 2) 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? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3,8 |

As discussed above, the project is not located within a designated area containing mineral deposits of regional significance and, therefore, would not result in the loss of availability of a known mineral resource, and no mineral excavation sites are present within the general area. The proposed project would not result in impacts to mineral resources.

The proposed project would not result in any new or more significant impacts to mineral resources than were described in the certified 2005 NSJ FPEIR.

### 4.10.3 Conclusion

The project would not result in any new or more significant impacts to mineral resources than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

## 4.11 NOISE

The following discussion is based upon a noise assessment study completed for the 2004 certified BEA FEIR by *Illingworth & Rodkin* and the certified 2007 NSJ FPEIR.

### 4.11.1 Setting

The ambient noise conditions and regulatory requirements regarding noise have not changed since the certification of the 2005 NSJ FPEIR and the BEA FEIR.

#### 4.11.1.1 *Existing Noise Conditions*

The noise environment from the project site primarily results from transportation noise sources in the site vicinity including traffic on North First Street and Orchard Parkway. Background noise levels at the site result primarily from distant highway traffic, VTA light rail trains, and aircraft from the Norman Y. Mineta International Airport.

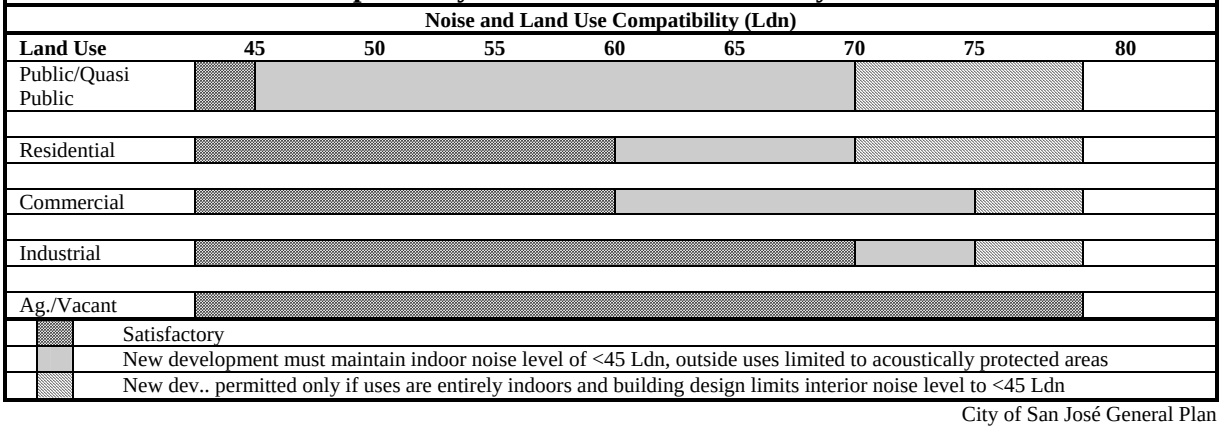
In a noise assessment conducted for the BEA FEIR, it was determined that the $L_{dn}$ Noise levels in the project area range from 65 to 75 dBA. The highest noise levels reached up to 83 dBA in the areas closest to US 101 due to aircraft flyovers.

According to the City's published Airport noise maps, the project site is located outside the existing and projected 65 dB CNEL noise contours of the Norman Y. Mineta San José International Airport.

#### 4.11.1.2 *Noise Standards*

Based on the City's General Plan, Table 4.0-4 shows the noise levels considered consistent with specific land uses. For industrial uses, outdoor noise levels of up to 70 decibels are considered satisfactory and up to 75 decibels are permitted for new development if the indoor noise level does not exceed 45 decibels and outdoor uses are limited to acoustically protected areas.

**Table 4.0-4**
**Land Use Compatibility Guidelines for Community Noise in San José**




City of San José General Plan

### 4.11.2 Environmental Checklist and Discussion of Impacts

| NOISE | New Potentially Significant Impact | New Less Than Significant With Mitigation Incorporated | New Less Than Significant Impact | Same Impact as "Approved Project" | Less Impact than "Approved Project" | Information Source(s)/ Discussion Location |
|---|---|---|---|---|---|---|
| Would the project result in: | | | | | | |
| 1) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? | ☐ | ☐ | ☐ | ☒ | ☐ | 3 |
| 2) Exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels? | ☐ | ☐ | ☐ | ☒ | ☐ | 3 |
| 3) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? | ☐ | ☐ | ☐ | ☒ | ☐ | 3 |
| 4) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |
| 5) 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 expose people residing or working in the project area to excessive noise levels? | ☐ | ☐ | ☐ | ☒ | ☐ | 3 |
| 6) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |

The following criteria were used to evaluate the significance of noise impacts:

**Noise and Land Use Compatibility.** Changes in land use where existing or future noise levels exceed levels considered "satisfactory" in the San José General Plan would result in a significant impact.

**Substantial Increase in Ambient Noise Levels**. In areas where noise levels already exceed those considered satisfactory, and if the DNL due to the project would increase by more than three dBA at noise-sensitive receptors, the impact is considered significant.

**Construction Noise.** Construction activities produce temporary noise impacts. Since these impacts are generally short-term and vary considerably day-to-day, they are evaluated somewhat differently

than operational impacts. When construction activities are predicted to cause prolonged interference with speech, sleep, or normal residential activities, the impact would be considered significant. Construction-related hourly average noise levels at noise-sensitive land uses above 70 dBA during the daytime and 55 dBA at night would be considered significant if the construction phase lasted more than 12 months.

**Aircraft Noise.** A significant impact would be identified if the project proposed noise-sensitive land use in the vicinity of the Norman Y. Mineta San José International Airport where noise levels exceeded the applicable standards projected by the City in the Airport Master Plan SEIR.

### 4.11.2.1 *Noise Impacts to the Project*

The proposed project is the development of R&D/Office uses on a currently undeveloped site. As discussed in section 4.11.1.2, outdoor noise levels of up to 70 decibels are considered satisfactory for industrial sites.

Noise levels near the project site do not exceed 70 decibels. The project would therefore not result in any new or more significant noise levels than were previously described in the certified 2005 NSJ FPEIR.

### 4.11.2.2 *Noise Impacts from the Project*

**Traffic-Generated Noise Impacts**

The NSJ FPEIR identified that future development in North San Jose would generate an increase in traffic along the local roadway network and substantially increase noise levels at noise sensitive receptors throughout North San Jose on a permanent basis.

The BEA FEIR determined that implementation of the previously proposed BEA project, which is very similar in terms of size and scale to the proposed project, would not increase traffic noise in nearby residential areas by three or more decibels. An increase in noise is considered significant if the ambient noise level increases by three or more decibels.

Significant traffic noise increases (greater than three decibels) are expected on North First Street, Component Drive, Orchard Parkway, Trimble Road, and Guadalupe Parkway, as determined in the BEA FEIR. These intersections, however, are located in an industrial use area and are not within close proximity to noise sensitive land uses. As a result, the proposed project will not significantly affect noise levels in the project area.

Development in the North San Jose area, including the proposed project, would attempt to reduce traffic-related noise by implementation of TDMs described in the FPEIR Air Quality and Transportation sections. Even with these measures, it was concluded in the certified 2005 NSJ FPEIR that noise impacts at some locations would remain significant and unavoidable and the City Council adopted a statement of overriding consideration for the impact.

**Impact NOI – 1:** Traffic from the proposed project would contribute to noise increases on roadways in the North San Jose area, which would result in significant and unavoidable impacts at some noise-sensitive receptors. This impact was

identified in the certified 2005 NSJ FPEIR and the City Council adopted a statement of overriding consideration for the impact. **(No New Impact)**

**Short-Term Construction Impacts**

Construction noise impacts primarily occur when construction activities occur during noise-sensitive times of the day (early morning, evening, or nighttime hours), in areas immediately adjoining noise sensitive land uses, or when construction occurs over extended periods of time.

The project applicant anticipates constructing Phase 1 of the proposed project from June 2008 through 2009. Phase 2, 3 and 4 would follow Phase 1 at six month intervals through 2013. Construction activities would include site preparation, construction of project infrastructure, construction of building cores and shells, building finishing, and landscaping.

Construction-related noise levels are normally the highest during construction of the project infrastructure because these phases require heavy equipment that normally generates the highest noise levels over extended periods of time. Typical hourly average construction generated noise levels are about 81 to 88 dBA measured at a distance of 50 feet from the center of the site during busy construction periods (e.g., earth moving equipment, impact tools, etc.). Construction-related noise levels are typically less during building erection, finishing, and landscaping phases when less heavy equipment is used. There would be variations in construction noise levels on a day-to-day basis depending on the actual activities occurring at the site.

Construction generated noise levels drop off at a rate of about six dBA per doubling of distance between the source and the receptor.

The proposed project would not result in any new or more significant construction-related impacts than were described in the certified 2005 NSJ FPEIR, which assumed construction would be occurring in North San José for many years in the future.

**Impact NOI – 2:** The proposed project would result in a short-term increase in noise levels in the project area during demolition and construction activities. **(No New Impact)**

**Mitigation Measures:** The following mitigation measures are identified as part of the certified 2005 NSJ FPEIR and proposed by the project:

**MM NOI – 2.1:** Equip all internal combustion engine driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.

**MM NOI – 2.2:** Locate stationary noise generating equipment as far as possible from sensitive receptors, such as residential uses.

**MM NOI – 2.3:** Utilize "quiet" air compressors and other stationary noise sources where technology exists.

**MM NOI – 2.4:** Prepare a detailed construction plan identifying the schedule for major noise-generating construction activities. The construction plan shall identify a

procedure for coordination with any adjacent noise sensitive facilities so that construction activities can be scheduled to minimize noise disturbance.

**MM NOI – 2.5:** Designate a "noise disturbance coordinator" who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints (e.g., beginning work too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. A telephone number for the disturbance coordinator would be conspicuously posted at the construction site.

**Project-Generated Traffic Noise Impacts**

Ambient noise levels in the project area will increase due to traffic generated by full build out under the North San José Development Policies Update, which includes the proposed project. The NSJ FPEIR determined that given the implementation timeframe for full build out of north San José and the incremental contributions from individual developments, there is no nexus for requiring mitigation for traffic noise at affected receptors from individual projects. The implementation of measures available to reduce the project noise level increase would not likely be reasonable or feasible and the impact was found to be significant and unavoidable.

### 4.11.2.2 *Noise Impact to the Project*

The proposed project is the development of industrial uses on a site with an *Industrial Core Area* land use designation and currently zoned for *Industrial Park Planned Development.* As discussed in section 4.11.1.3, outdoor noise levels of up to 70 decibels are considered satisfactory for industrial sites. Noise levels near project site do not exceed 70 decibels. Standard construction techniques would reduce interior noise levels of office buildings to 30 decibels lower than the exterior noise level, resulting in building interior noise levels of no more than 45 decibels.

Outdoor areas near Buildings A, B, and C would be somewhat shielded from traffic noise, but not from aircraft noise. Although exterior noise levels would be high, the noise levels would not exceed noise levels allowed for under the proposed industrial park/office land uses. The proposed site is outside the future CNEL noise contour map established by the Santa Clara County ALUC.

The project would not result in any new or more significant noise levels than were previously described in the BEA FEIR or NSJ FPEIR.

### 4.11.3 Conclusion

**Impact NOI – 1:** Traffic from the proposed project would contribute to noise increases on roadways in the North San Jose area, which would result in significant and unavoidable impacts at some noise-sensitive receptors. This impact was identified in the certified 2005 NSJ FPEIR and the City Council adopted a statement of overriding consideration for the impact. **(No New Impact)**

**Impact NOI – 2:** The proposed project, with the implementation of the above mitigation measures, would not result in any new or more significant short-term construction noise impacts than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

## 4.12 POPULATION AND HOUSING

### 4.12.1 Setting

The current and future population and housing estimates and assumptions have not changed since the certification of the 2005 NSJ FPEIR. Currently, there are no residential uses on-site, and none are proposed.

### 4.12.2 Environmental Checklist and Discussion of Impacts

| POPULATION AND HOUSING | New Potentially Significant Impact | New Less Than Significant With Mitigation Incorporated | New Less Than Significant Impact | Same Impact as "Approved Project" | Less Impact than "Approved Project" | Information Source(s)/ Discussion Location |
|---|---|---|---|---|---|---|
| Would the project: | | | | | | |
| 1) Induce substantial 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)? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2 |
| 2) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2 |
| 3) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2 |

The NSJ FPEIR concluded that development and redevelopment of properties in the overall NSJ area will increase both jobs and housing in north San José. The proposed land use changes and policy revisions under the North San José Development Policies Update (which include the proposed project) would result in a greater increase of jobs than housing in north San José, which is consistent with the City's General Plan policies. The project proposes up to 2.8 million square feet of office/R&D uses.

### 4.12.3 Conclusion

The proposed project would not result in any new or more significant population growth or housing impacts than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

## 4.13 PUBLIC SERVICES

### 4.13.1 Setting

All public services provided in north San José are discussed in detail in the NSJ FPEIR and BEA FEIR. There has been no change in the availability of services since the NSJ FPEIR was prepared. The nearest fire station is Station 20, located approximately 1.7 miles south of the project site at 1433 Airport Boulevard.

### 4.13.2 Environmental Checklist and Discussion of Impacts

| PUBLIC SERVICES | New Potentially Significant Impact | New Less Than Significant With Mitigation Incorporated | New Less Than Significant Impact | Same Impact as "Approved Project" | Less Impact than "Approved Project" | Information Source(s)/ Discussion Location |
|---|---|---|---|---|---|---|
| Would the project: | | | | | | |
| 1) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services: | | | | | | |
| Fire Protection? | ☐ | ☐ | ☐ | ☒ | ☐ | 2 |
| Police Protection? | ☐ | ☐ | ☐ | ☒ | ☐ | 2 |
| Schools? | ☐ | ☐ | ☐ | ☒ | ☐ | 2 |
| Parks? | ☐ | ☐ | ☐ | ☒ | ☐ | 2 |
| Other Public Facilities? | ☐ | ☐ | ☐ | ☒ | ☐ | 2 |

#### 4.13.2.1 *Fire and Police Service*

The project would be constructed in conformance with current codes, including features that would reduce potential fire hazards. The project design would also be reviewed by the SJFD to ensure that it incorporates appropriate safety features to minimize criminal activity.

As discussed in the certified 2005 NSJ FPEIR, the buildout of the development analyzed would incrementally increase the need for fire and police protection services, which may create the need for additional staffing or resources, or a new fire station in the greater North San José project area. The increase in demand for fire and police services is not necessarily an environmental impact. The environmental impact, if it does occur, would generally result from the impacts on the physical environment that result from the physical changes made in order to meet the demand. Future development of new fire facilities in the project area would require supplemental environmental review which could consist of an Addendum or Supplemental EIR to the certified 2005 NSJ FPEIR.

It was concluded in the certified 2005 NSJ FPEIR that the construction of a new fire station in north San José would not have significant adverse environmental impacts.

Given the infill location of the project site and the fact that the site is already served by the SJFD and SJPD, it is not anticipated the development of the proposed project would result in significant impacts to police and fire services nor would this project alone require the construction of additional fire or police facilities. Furthermore, the proposed project would not result in any new or more significant impacts to fire and police service than were described in the certified 2005 NSJ FPEIR.

#### 4.13.2.2 *Schools*

The proposed project is the development of industrial uses on a site and would therefore not generate students, park users, of library users. Therefore, the proposed project will not impact school, park, or library facilities in north San José.

### 4.13.3 Conclusion

The proposed project, with the implementation of the above standard measures, would not result in any new or more significant impacts to public services or facilities than those addressed in the certified 2005 NSJ FPEIR or BEA FEIR. **(No New Impact)**

## 4.14 RECREATION

### 4.14.1 Setting

The existing park and recreational facilities in the project area have not changed since the certification of the 2005 NSJ FPEIR or BEA FEIR.

### 4.14.2 Environmental Checklist and Discussion of Impacts

| RECREATION | | | | | | |
|---|---|---|---|---|---|---|
| | New Potentially Significant Impact | New Less Than Significant With Mitigation Incorporated | New Less Than Significant Impact | Same Impact as "Approved Project" | Less Impact than "Approved Project" | Information Source(s)/ Discussion Location |
| Would the project: | | | | | | |
| 1) 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? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2 |
| 2) 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? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2 |

The proposed project would not impact recreational uses in the area. Because the project does not propose to increase the number of residents in the area, the project will not increase the demand for recreational facilities or services in north San José.

Phase 1 of the proposed project will include various recreational uses for employee use on site. Outdoor uses include a basketball court, lap pool, bocce ball court, two paddle tennis courts, a badminton court and three outdoor seating areas. Building C will house a fitness center, including four exercise rooms, spa services and shower/restroom facilities.

### 4.14.3 Conclusion

Implementation of the proposed project-specific development would not result in any new or more significant recreational impacts than were previously identified in the NSJ FPEIR. **(No New Impact)**

## 4.15 TRANSPORTATION

### 4.15.1 Setting

The transportation system in the project area, including regional and local roadways, bicycle and pedestrian facilities, and existing transit services (i.e., bus and light rail services) has not substantially changed since the certification of the NSJ FPEIR in June 2005 or the BEA FEIR.

#### 4.15.1.1 North San José Area Development Policy

The City adopted a new Area Development Policy for North San José as part of the approved North San José Development Policies Update. The policy makes better use of the land in North San José by encouraging intensification of an existing urbanized area in order to significantly increase transit use and discourage sprawl on the outer edges of Santa Clara County and the Central Valley.

The proposed project site is located within the San José Development Policy area. The Area Development Policy allows the project site to be redeveloped with higher density industrial land uses, even though the City's LOS policy cannot be achieved in the project area.

A revised Deficiency Plan for North San José was proposed as part of the approved North San José Development Policies Update as a companion to the revised North San José Development Policy. The revised Deficiency Plan reflects the City's approved intensification of development in North San José and the actions proposed to encourage and facilitate transit use in the area.

The 2.8 million square feet of office/R&D use allowed by the approved PD zoning (PDC04-002) may be developed on the site under the provisions of the previous NSJ Development Policy and subject to the Deficiency Plan per the previous policy.

#### 4.15.1.2 Site Access

The site is currently undeveloped and offers no existing infrastructure for vehicular access. Pedestrian access is available from existing sidewalks located on Component Drive, Orchard Parkway and North First Street.

The project proposes vehicular entrances on Component Drive and Orchard Parkway. Four driveways are proposed off of Component Drive. Two driveways to access the parking garage for Phase 1, one driveway to access the parking garage for Phase 2 and one driveway to access the parking garage for Phase 3. Six driveways are proposed off of Orchard Parkway. Four driveways would be located north of Component Drive and two driveways would be located south of Component Drive.

The project is also proposing to dedicate a 40-foot wide section along the southern boundary of the site for public right-of-way (ROW), to construct a public two lane, 30-foot wide roadway extending from North First Street to Orchard Parkway. The ROW dedication will be developed with a five-foot wide sidewalk and a five-foot wide planting strip adjacent to the roadway. The dedication with widen to 60 feet for the 400 foot length of road immediately off North First St. The extra 20 feet of width will accommodate angle or diagonal parking between the roadway and sidewalk to serve the adjacent retail spaces in buildings A and B. The sidewalk will be 10 feet wide and directly abut the curb in this portion of the new street. The new street will be built in two phases. The first

approximately 500 feet will be built as part of Phase 1. The balance of work will be built as part of Phase 2.

#### 4.15.1.3 Parking

The proposed project includes the phased construction of four new parking garages.

### 4.15.2 Environmental Checklist and Discussion of Impacts

| TRANSPORTATION/TRAFFIC | New Potentially Significant Impact | New Less Than Significant With Mitigation Incorporated | New Less Than Significant Impact | Same Impact as "Approved Project" | Less Impact than "Approved Project" | Information Source(s)/ Discussion Location |
|---|---|---|---|---|---|---|
| Would the project: | | | | | | |
| 1) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio of roads, or congestion at intersections)? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |
| 2) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |
| 3) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |
| 4) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |
| 5) Result in inadequate emergency access? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |
| 6) Result in inadequate parking capacity? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |
| 7) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |

### 4.15.2.1 *Level of Service*

The traffic impacts from the proposed industrial park development have already been analyzed and accounted for in the certified 2005 NSJ FPEIR. Implementation of the proposed project will contribute to the overall level of service (LOS) impact on local intersections and freeway segments in the north San José area. These impacts were found to be significant and unavoidable and, as a result, the City of San José adopted a statement of overriding consideration for the NSJ FPEIR transportation impacts in accordance with CEQA Guidelines Section 15093. This project will not result in any new or more significant impacts to the LOS of any local intersection or freeway segment than were previously identified in the NSJ FPEIR.

As noted previously, up to 2.8 million square feet of development may be developed on the site under the provisions of the previous North San Jose Area Development Policy and subject to the Deficiency Fee per the previous policy. These fees will be used to fund construction of a series of transportation improvements identified in the 2005 NSJ Final EIR.

Even with these prescribed improvements for the North San Jose Area, traffic impacts at some locations would remain significant and unavoidable; the City Council adopted a statement of overriding considerations for this impact.

The proposed project would include TDM measures as required in the NSJ FPEIR to reduce air pollution emissions. Relevant TDM measures include the provision of bike and pedestrian facilities, implementation of carpool/vanpool programs, and use of various transit and other non-auto incentive programs for employees.

**Standard Measure:** The project proposes to implement the following standard measure:

- The currently proposed 2.8 million square foot project shall comply with the City's previous *North San José Area Development Policy* and Deficiency Plan Fee.

### 4.13.2.2 *Parking*

Each phase of the proposed project would include one parking garage. Parking garages for Phase 1 and 2 would be seven levels (approximately 62 feet). The parking garage for Phase 1 would serve Buildings A, B and C with 1,817 stalls. The garage for Phase 2 would serve Buildings D and E with 1,623 stalls. The garage for Phase 3 would serve Buildings F and G with 1,774 stalls. The garage for Phase 4 would serve Buildings H and I with 1,925 stalls. The project would provide a total of 7,140 parking spaces for the site.

The proposed number of parking stalls complies with the development standards established for PDC04-002, which correspond with Section 20.90 of the SJMC.

**Standard Measure:** The project proposes to implement the following standard measure:

- Comply with the development standards established for PDC04-002, which correspond with Section 20.90 of the SJMC.

### 4.15.3 Conclusion

The proposed project, with the implementation of the above measures, would not result in new or more significant impacts to the transportation system than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

## 4.16 UTILITIES AND SERVICE SYSTEMS

### 4.16.1 Setting

The water, sanitary sewer, storm drainage, solid waste, natural gas, and electricity services and facilities have not changed since the certification of the BEA FEIR or the 2005 NSJ FPEIR.

#### 4.16.1.1 Water Service

Water service to the site is supplied by the San José Municipal Water System (SJMW). There is an existing 12-inch water main that transitions into a 18-inch water main in North First Street as it goes north, an 18-inch water main in Component Drive, and an 12-inch water main in Orchard Parkway. Based on information provided by SJMW for the BEA FEIR, there is adequate water available to support the domestic water demand and fire flow requirements of the proposed project.

#### 4.16.1.2 Sanitary Sewer/Wastewater Treatment

Wastewater from the City of San Jose is treated at the San Jose/Santa Clara Water Pollution Control Plan (WPCP), located near Alviso. The WPCP provides primary, secondary and tertiary treatment of wastewater and has the capacity to treat 167 million gallons of wastewater a day (mgd).

There is currently a 15-inch sanitary sewer line located in North First Street and two sanitary sewer lines (10-inch and 15-inch) located in Orchard Parkway. Based on a sewer capacity analysis prepared by BKF Engineers for the project (provided in Appendix D), there is adequate sewer capacity to accommodate Phase I, as well as the subsequent phases, of the proposed project.[11]

#### 4.16.1.3 Storm Drainage System

Storm drainage lines in the area are owned and maintained by the City of San José. Currently, the project site is 100 percent pervious. There is currently an existing 54-inch storm drain in North First Street, a 96-inch storm drain line in Orchard Parkway and a 30-inch line in Component Drive. All of the lines that serve the project site drain to the Guadalupe River which flows north into the San Francisco Bay.

#### 4.16.1.4 Solid Waste

Collection service to non-residential properties is provided by a number of non-exclusive service providers and non-residential waste may be disposed of at any of four privately owned landfills in San José. According to the Source Reduction and Recycling Element prepared for the City of San Jose and the County-wide Integrated Waste Management Plan, there is sufficient landfill capacity for Santa Clara County needs for at least 25 more years. Recycling services are available to most businesses.

[11] BKF Engineers. Sanitary Sewer Study Associated with Campus at North First Street Project (Phased Commercial Development). February 22, 2008.

## 4.16.2 Environmental Checklist and Discussion of Impacts

| UTILITIES AND SERVICE SYSTEMS | New Potentially Significant Impact | New Less Than Significant With Mitigation Incorporated | New Less Than Significant Impact | Same Impact as "Approved Project" | Less Impact than "Approved Project" | Information Source(s)/ Discussion Location |
|---|---|---|---|---|---|---|
| Would the project: | | | | | | |
| 1) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |
| 2) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |
| 3) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |
| 4) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |
| 5) 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? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |
| 6) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |
| 7) Comply with federal, state, and local statutes and regulations related to solid waste? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2,3 |

### 4.16.2.1 Water Service

Project proposes water lines to connect to existing water mains in North First Street (12-inch) and Component Drive (18-inch). The project is required to design and install on-site landscape irrigation piping to accept recycled water in the future.

The NSJ FPEIR concluded that both San José Water Company and the San José Municipal Water System (SJMWS) would be able to provide water service to all future development allowed under the North San José Development Policies Update, which includes the proposed project. The proposed project will not result in any new or more significant impacts to the water supply than were previously identified in the NSJ FPEIR.

#### 4.16.2.2 Sanitary Sewer/Wastewater Treatment

Phase 1 of the project is proposing an eight-inch sanitary sewer line leading from Building A to the southern portion of the site, linking up with Building B and then to the 15-inch sewer main line located in North First Street.

Implementation of the proposed project will increase wastewater generation on the project site by approximately 392,000 gpd with a total peak discharge of 784,000 gpd. The existing sanitary sewer lines in the north San José area have specific constraints that were identified in the NSJ FPEIR. It was concluded that some of the existing system would need upgrades or modifications prior to development or redevelopment of some sites to meet the City's requirements.

According to the sanitary sewer study prepared by BKF Engineers[12] for the entire project site, the new 8-inch line proposed in the new east/west street and the existing 15-inch main in North First Street have adequate capacity for Phase I of the proposed project. Based on the assumptions made in the BKF study the existing 15-inch main in Orchard Parkway has adequate capacity for future phases (Phase 2 through 4). Therefore, the entire project will not result in any new or more significant impacts to the waste water infrastructure than were previously identified in the NSJ FPEIR. Should any part of the assumptions change prior to implementation, the project is required to provide a supplemental sanitary sewer study for review and approval by City staff prior to Public Works clearance. The applicant will be required to implement any mitigation measures identified in the supplemental study as it relates to sanitary sewer.

#### 4.16.2.3 Storm Drainage System

As stated above, implementation of the proposed project will result in an approximate 59 percent increase in impervious surfaces on the project site. The increase in impervious surfaces will result in a net increase in stormwater runoff entering the storm drain system. As a result, the proposed project will contribute to exceedences in the capacity of the existing storm drainage system.

**Impact UTIL-2:** The proposed project will contribute to exceedences in the capacity of the existing storm drainage system. **(No New Impact)**

**Mitigation Measures:** The following mitigation measure is identified as part of the certified 2005 NSJ FPEIR and will be implemented by the project:

**MM UTIL-2.1:** On-site and off-site stormwater collection systems will be evaluated for adequacy prior to issuance of Site Development or Planned Development Permits.

[12] BKF Engineers. Sanitary Sewer Study Associated with Campus at North First Street Project (Phased Commercial Development). February 22, 2008.

#### 4.16.2.4 Solid Waste

Implementation of the proposed project will result in a net increase of solid waste generated on the project site. The proposed project will generate approximately 28,000 pounds of solid waste per day at full build out.

The NSJ FPEIR concluded that there is sufficient capacity in the existing solid waste disposal facilities serving San José to accommodate waste generated by the development approved under the North San José Development Policies Update, which included the proposed project. As a result, implementation of the proposed project will not result in any new or more significant impacts to solid waste collection and disposal than were previously identified in the NSJ FPEIR.

### 4.16.3 Conclusion

The proposed project, with implementation of the mitigation measure for the storm drainage system, will not result in any new or more significant utilities impacts than were previously identified in the BEA FEIR and NSJ FPEIR. **(No New Impact)**

## 4.17 MANDATORY FINDINGS OF SIGNIFICANCE

| | New Potentially Significant Impact | New Less Than Significant With Mitigation Incorporated | New Less Than Significant Impact | Same Impact as "Approved Project" | Less Impact than "Approved Project" | Information Source(s)/ Discussion Location |
|---|---|---|---|---|---|---|
| 1) Does the project have the potential to 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, 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? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2, p. 22-83 |
| 2) 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)? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2, p. 22-83 |
| 3) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? | ☐ | ☐ | ☐ | ☒ | ☐ | 1,2, p. 22-83 |

The project proposes to develop 2.8 million square feet of new industrial/office/R&D building space, which was previously approved for the site under the certified 2004 BEA FEIR. The project is well within the amount of development analyzed in the NSJ FPEIR and planned for the north San José area.

The 2005 NSJ FPEIR analyzed the development of 26.7 million square feet of new industrial/office/R&D building space, 1.7 million square feet of new neighborhood serving commercial uses, and the addition of 32,00 new dwelling units in the North San José area.

The project site is considered burrowing owl habitat. Agilent Technologies, the previous owner of the project site, entered into a mitigation agreement with the California Department of Fish and Game (CDFG) in 2001 that provided for the purchase of off-site burrowing owl habitat to offset the loss of habitat and provide for survival of the species in other areas as the property is developed over time (by Agilent or other subsequent property owners). The agreement also states that the take of individual owls is prohibited per the Fish and Game Code (Section 3503.3) and that no burrowing owls would be evicted from burrows during the nesting season and the non-nesting season (September 1 to January 31), pending evaluation of the eviction plans and receipt of formal written approval from the Department of Fish and Game authorizing the eviction.

The proposed development would contribute to significant cumulative transportation, air quality, and noise impacts resulting from full build out of North San José under the North San José Development Policies Update. No feasible mitigation measures have been identified to reduce these cumulative

impacts to a less than significant level. The proposed project will not result in any new or more significant impacts than were previously identified in the NSJ FPEIR.

**Checklist Sources**

1. Professional judgment and expertise of the environmental specialist preparing this assessment, based upon a review of the site and surrounding conditions, as well as a review of the project plans.

2. City of San José. Final Environmental Impact Report, North San José Development Policies Update. June 2005.

3. City of San Jose. BEA Development Project EIR. March 2004.

4. California Department of Conservation. Santa Clara County Important Farmland 2006. Map.

5. City of San José. Zoning Ordinance. 10 February 2006.

6. Bay Area Air Quality Management District. CEQA Guidelines. December 1999.

7. Schaaf & Wheeler. North San José Floodplain Management Study Analysis. November 2007.

8. City of San José. San José 2020 General Plan.

9. City of San José. North San José Area Development Policy. June 2005.

# SECTION 5.0 REFERENCES

BKF Engineers. Sanitary Sewer Study. February 2008.

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City of San José. Agilent Building 91-ISO Bulk Ammonia Storage Project Initial Study. May 2005.

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City of San José. North San José Area Development Policy. June 2005.

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H.T. Harvey & Associates. Burrowing Owl Survey Report. February 19, 2007

Schaaf & Wheeler. North San José Floodplain Management Study Analysis. November 2007.

TRC Solutions. Geotechnical Investigation-Campus at North First Street, Phase I. December 17, 2007.

# SECTION 6.0 LEAD AGENCY AND CONSULTANTS

**Lead Agency:**

**City of San José**
Department of Planning, Building, and Code Enforcement
Joseph Horwedel, Director
Akoni Danielson, Principal Planner
John Baty, Project Planner

**Consultants:**

**BKF Engineers**
Civil Engineers
Kurt Wurnitsch

**David J. Powers and Associates, Inc.**
Environmental Consultants and Planners
Judy Shanley, Principal
Karli Grigsby, Assistant Project Manager
Stephanie Francis, Graphic Artist

**Schaaf & Wheeler**
Consulting Civil Engineers
Jim Schaaf, Principal
Stephanie Conran, P.E.

**TRC Solutions**
Hazards and Geotechnical Consultants
Scott Leek, P.E., G.E. Principal Geotechnical Engineers
Erin Standley, P.E., Project Engineer