Initial Study and Addendum to the
Final Program Environmental Impact Report
for the North San José Development Policies Update
(SCH# 2004102067)

Hyundai Site

File No. PDC05-099

Prepared by the

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

March 2007

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SECTION 1.0 INTRODUCTION AND PURPOSE

This Addendum and Initial Study of environmental impacts was prepared to conform to the requirements of the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations §15000 *et. seq.*), and the regulations and policies of the City of San José.

The Initial Study evaluates the environmental impacts which might reasonably be anticipated to result from the proposed rezoning of an 11-acre site in north San José from *IP – Industrial Park* to *A(PD) – Planned Development* to allow development of between 481 and 580 multi-family residential units and up to 5,000 square feet of commercial uses.

The City of San José is the Lead Agency under CEQA and has prepared this Addendum and Initial Study to address the impacts of implementing the proposed rezoning on the project site.

Tiering of the Environmental Review

CEQA Section 21093(b) states that environmental impact reports shall be tiered whenever feasible, as determined by the lead agency. "Tiering" refers to using the analysis of general matters contained in a broader Environmental Impact Report (EIR) (such as one prepared for a general plan or policy statement) in subsequent EIRs or Initial Studies/negative declarations on narrower projects; and concentrating the later environmental review on the issues specific to the later project [CEQA Guidelines 15152(a)].

Tiering is appropriate when it helps a public agency to focus on issues at each level of environmental review and to avoid or eliminate duplicative analysis of environmental effects examined in previous environmental impact reports [CEQA Section 21093(a)].

North San José is a Redevelopment Project area. Section 15180 of the CEQA Guidelines states all public and private activities pursuant to a redevelopment plan are considered a single project. An EIR on a redevelopment plan is to be treated as a program EIR and no subsequent EIR is required for individual components of the redevelopment plan unless otherwise required by Section 15162 or 15163.

In accordance with CEQA Sections 21093(a) and 21093(b) and CEQA Guidelines Section 15152(a), this Initial Study tiers off the City of San José Final Program EIR for the North San José Development Policies Update (State Clearinghouse #2004102067) certified by the City Council on June 2005 (hereinafter referenced as the NSJ FPEIR).

Addendum to the Final Program EIR for the North San José Development Policies Update

CEQA Guideline Section 15164 states that an addendum to a previously certified EIR should be prepared if some changes or additions are necessary but none of the conditions require the preparation of a subsequent EIR.

A subsequent EIR would be required if:

a. Substantial changes are proposed in the project involving new significant impacts or a substantial increase in the severity of previously identified significant impacts;
b. Substantial changes occur with respect to the circumstances under which the project will occur, involving new significant impacts or a substantial increase in the severity of previously identified significant impacts;
c. New important information not previously known shows:
    i. The project will have one or more significant impacts not discussed in the previous EIR;
    ii. Significant impacts will be substantially more severe than shown in the previous EIR;
    iii. Mitigation or alternatives previously found to not be feasible would, in fact, be feasible and would substantially reduce one or more significant impacts, but the project proponents decline to adopt the mitigation or alternative; or
    iv. Mitigation or alternatives which are considerably different from those in the previous EIR would substantially reduce one or more significant impacts, but the project proponents decline to adopt the mitigation or alternative.

An Initial Study was prepared to determine whether an addendum or subsequent EIR was appropriate for the proposed Hyundai Project. As discussed in **Section 4.0 Environmental Setting, Checklist, and Discussion of Impacts**, the proposed project does not propose substantial changes to the North San José Development Policies Update project, result in any new or more significant impacts, or identify mitigation measures or alternatives that would reduce previously identified significant impacts. In addition, the existing conditions have not substantially changed since the approval of the 2005 NSJ FPEIR. For these reasons, the proposed Hyundai Project does not require a subsequent EIR and qualifies for an addendum to the 2005 NSJ FPEIR.

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

Hyundai Site

2.2 PROJECT LOCATION

The approximately 11-acre project site is located on Montague Expressway, west of North First Street and east of Guadalupe River, in north San José. The project site is bounded by industrial office buildings to the north and east, Montague Expressway to the south, and Guadalupe River on the west. Regional and vicinity maps of the project site are shown on Figures 2.0-1 and 2.0-2, respectively. An aerial photograph and surrounding land uses is shown on Figure 2.0-3.

2.3 PROPERTY OWNER/PROPONENT

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Jesse Couch
4000 East Third Avenue, Floor 6
Foster City, CA 94404
(650) 235-2830

2.4 LEAD AGENCY CONTACT

City of San José
Department of Planning, Building, and Code Enforcement
Rodrigo Orduna, Project Planner
200 East Santa Clara Street
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(408) 535-7890

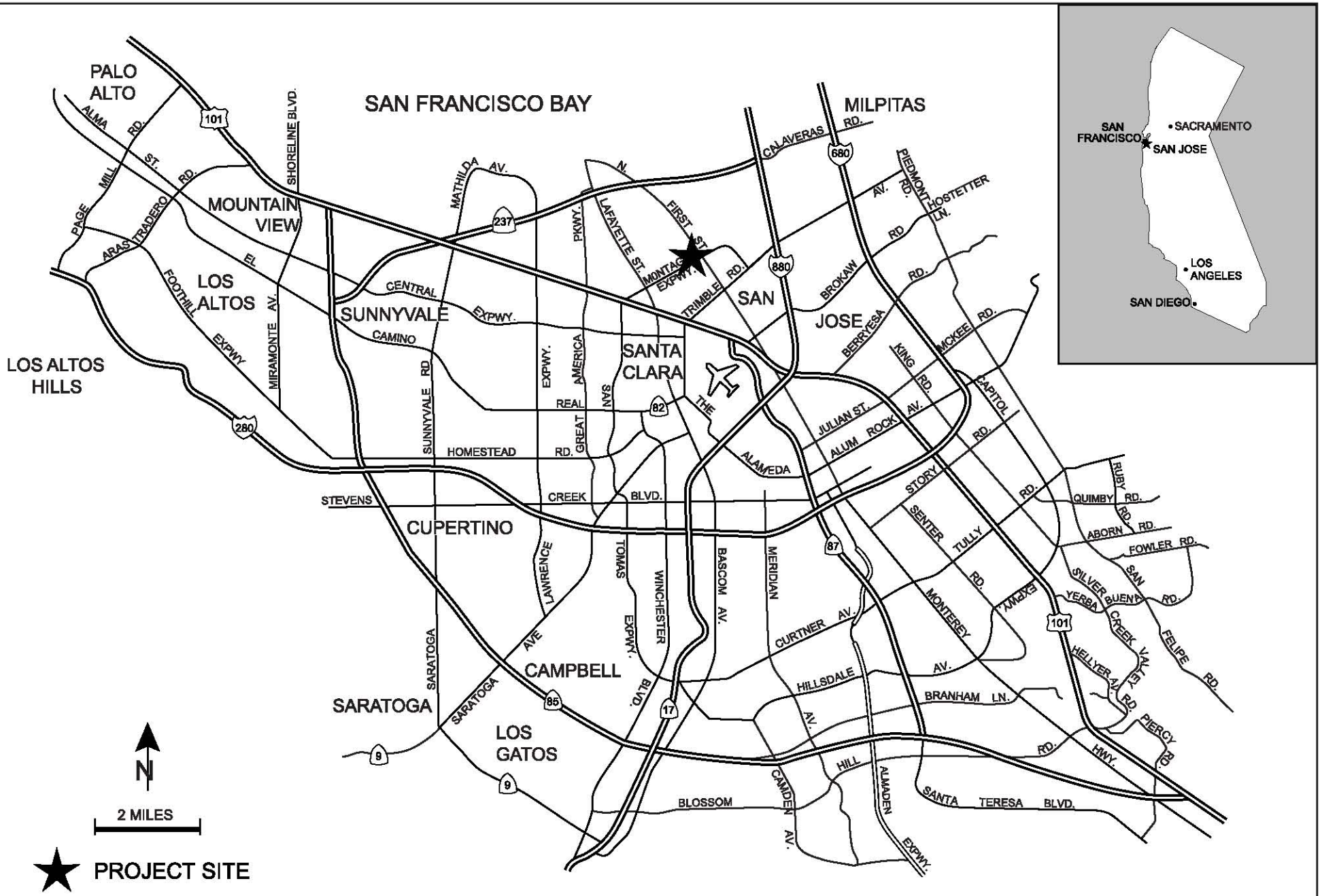
2.5 ASSESSOR'S PARCEL NUMBER

097-06-055

2.6 GENERAL PLAN LAND USE DESIGNATION AND ZONING DESIGNATION

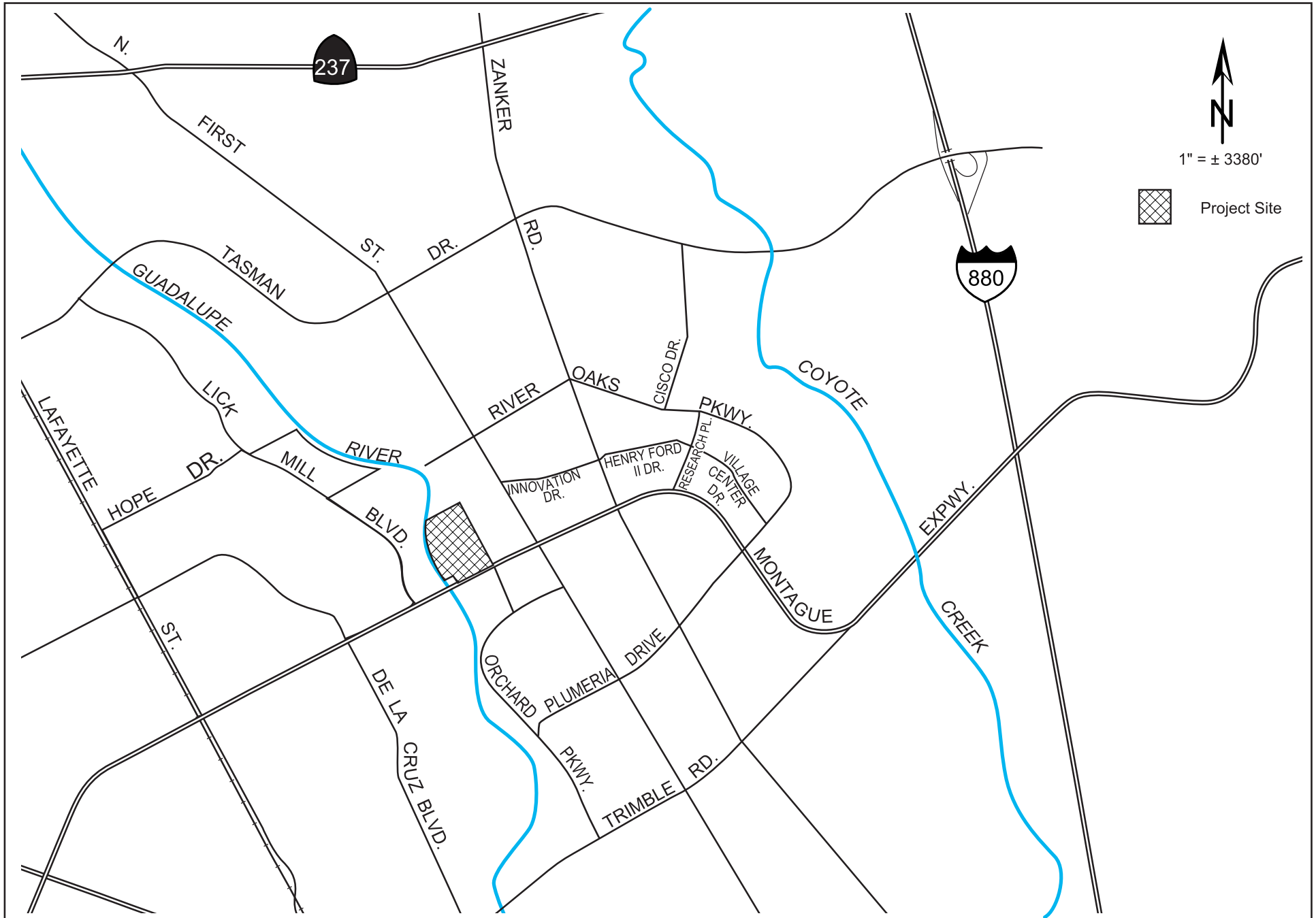
General Plan Land Use Designation: *Industrial Park* with a *Transit/Employment Residential District Overlay* [55+ dwelling units per acre (du/ac)]

Zoning Designation: *IP – Industrial Park*



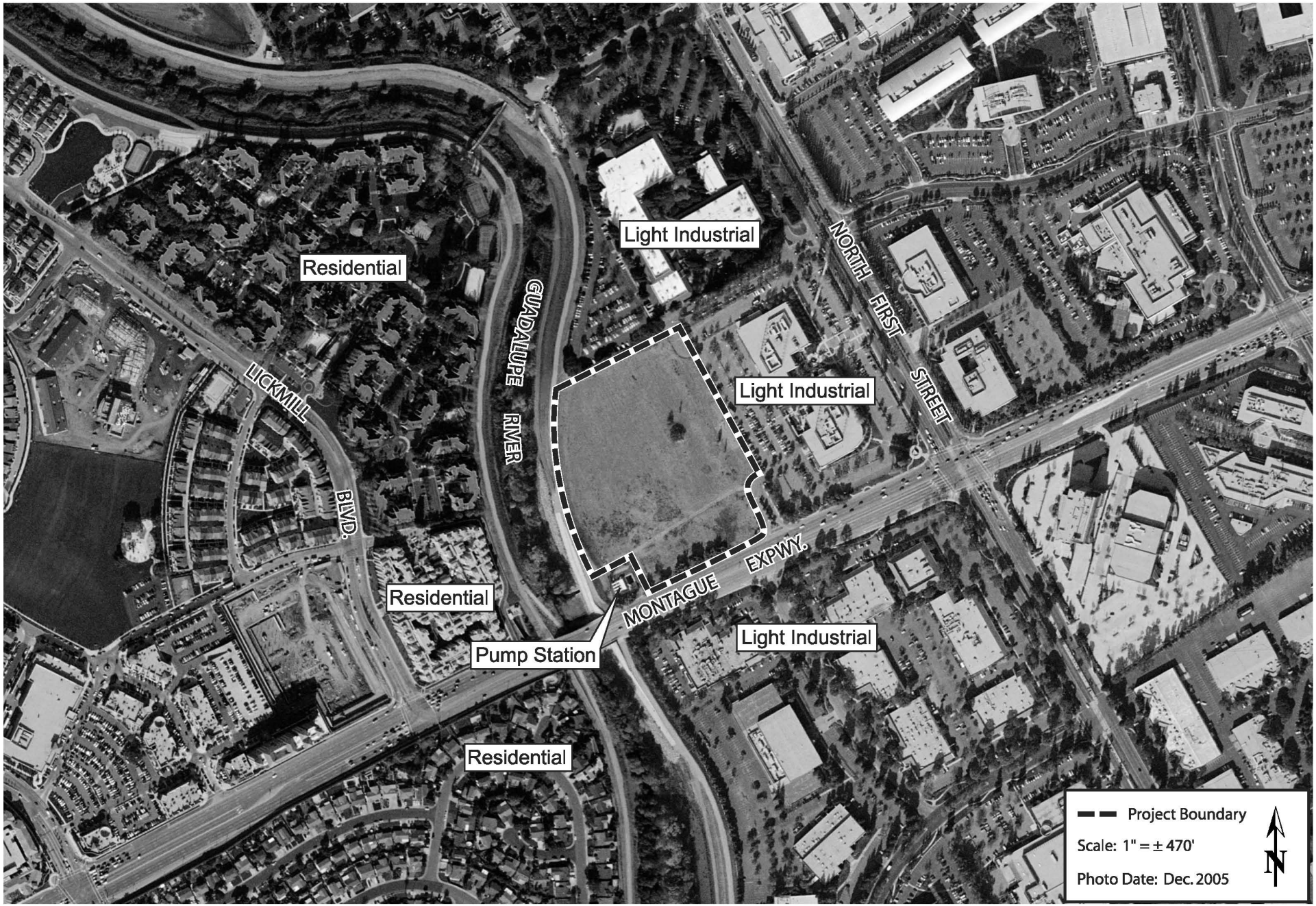
REGIONAL MAP

FIGURE 2.0-1



VICINITY MAP

FIGURE 2.0-2



AERIAL PHOTOGRAPH WITH SURROUNDING LAND USES

FIGURE 2.0-3

SECTION 3.0 PROJECT DESCRIPTION

3.1 OVERVIEW OF THE PROPOSED PROJECT

Currently, the approximately 11-acre project site is designated as *Industrial Park* with a *Transit/Employment Residential District Overlay* [55+ dwelling units per acre (du/ac)] and zoned *IP – Industrial Park* (refer to Figure 3.0-1). The project proposes to rezone the project site to *A(PD) – Planned Development* to allow development of between 481 and 580 multi-family residential units and up to 5,000 square feet of auxiliary commercial uses. The overall net density of the proposed residential development would be between 55 and 67 du/ac.[1] The units would range from studios to three bedroom units.

As shown in Figure 3.0-2 the project site can be divided into six blocks: Blocks A through F. It is anticipated that residential uses would be developed on all blocks, with auxiliary commercial uses on the ground floor of Block A. For each block, the residential units could be grouped into one building located around a common open space area and on top of podium parking (refer to Figure 3.0-3). Parking for Block A would be provided in a two-level garage, with one level below grade and the other above grade. Parking for Blocks B, E, and F would be provided in one-level garages located above grade. Parking for Blocks C and D would be provided in one-level garages located below grade (refer to Figure 3.0-5). Some residential units and the commercial uses (for Block A only) would be located around the perimeter of the above grade parking on Blocks A, B, E, and F (refer to Figure 3.0-5).

The building on Block A would be up to six stories in height (up to 80 feet tall from ground level to the top of the building). The buildings on Block B through F would be up to five stories in height (up to 55 feet from ground level to the top of the building). Figure 3.0-5 shows conceptual project elevations.

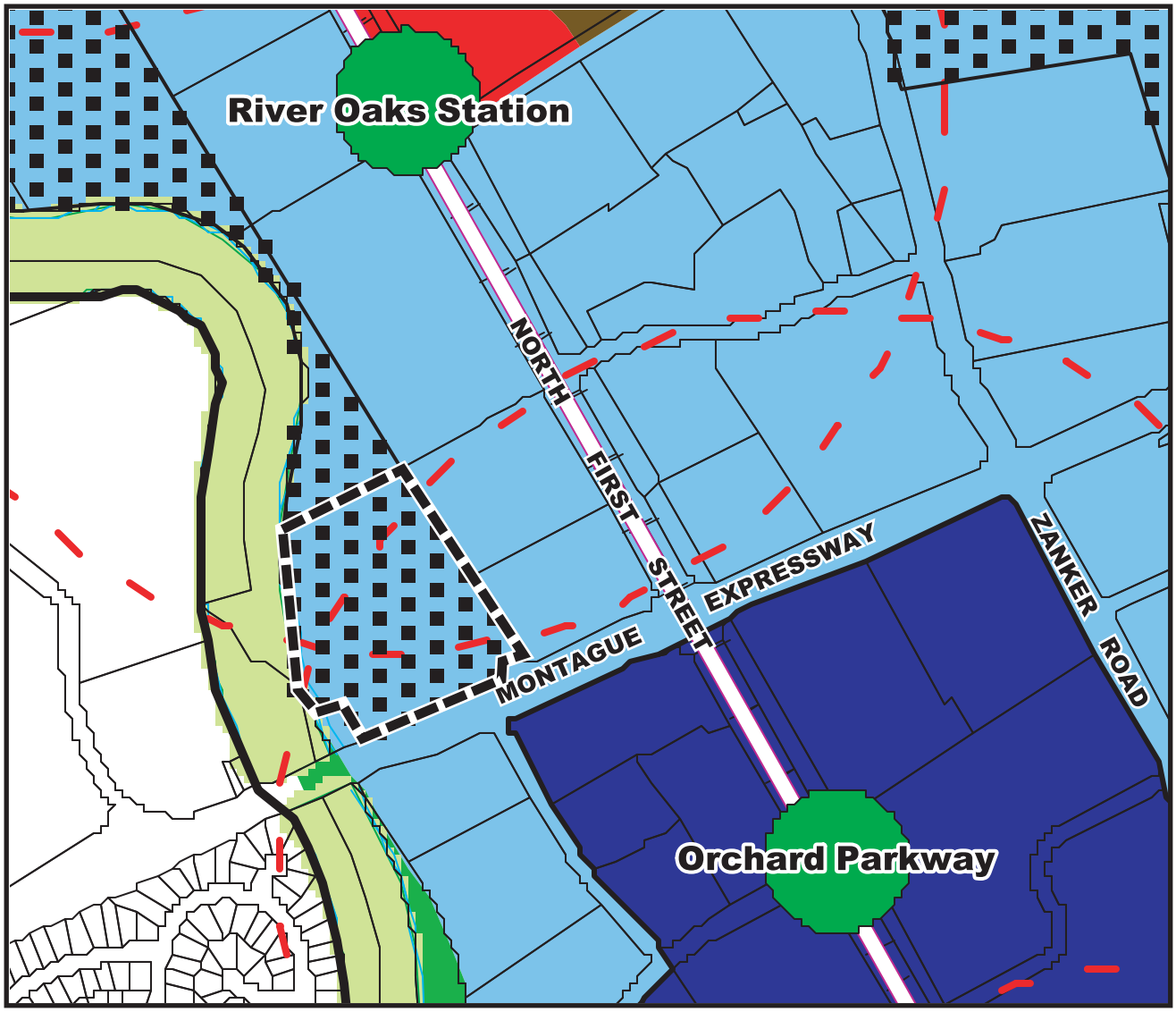
The project also includes the construction of private streets for internal circulation and the dedication of approximately two acres of the project site for public right-of-way (ROW).

A breakdown of the land uses proposed on-site are provided in Table 3.0-1 below. The main components of the proposed project, including the residential, commercial, and ROW dedication, are described more detail in **Section 3.2 Project Components**.

Table 3.0-1
Summary of Project Areas

Proposed Use	Description	Approx. Acreage
Residential with auxiliary commercial uses	Between 481 and 580 residential units, up to 5,000 square feet of commercial uses, leasing and sales offices, and approximately one acre for private, internal circulation streets	8.7
Public Right-of-Way	Dedication of land for public streets along the north, east, and west site boundaries; as well as a public east-west street through the site	2.4
TOTAL PROJECT SITE AREA		**11.1**

[1] The overall net density of the residential development of the project was calculated by dividing the total number of proposed units (481 to 580 units) by the net acreage of the project site proposed for residential uses (8.7 acres), excluding public streets



Project Site

Light Rail 2,000' Radius

N

1" = ± 610'

High Density Residential (25-50 DU/AC)

General Commercial

Industrial Park

Public/Quasi-Public

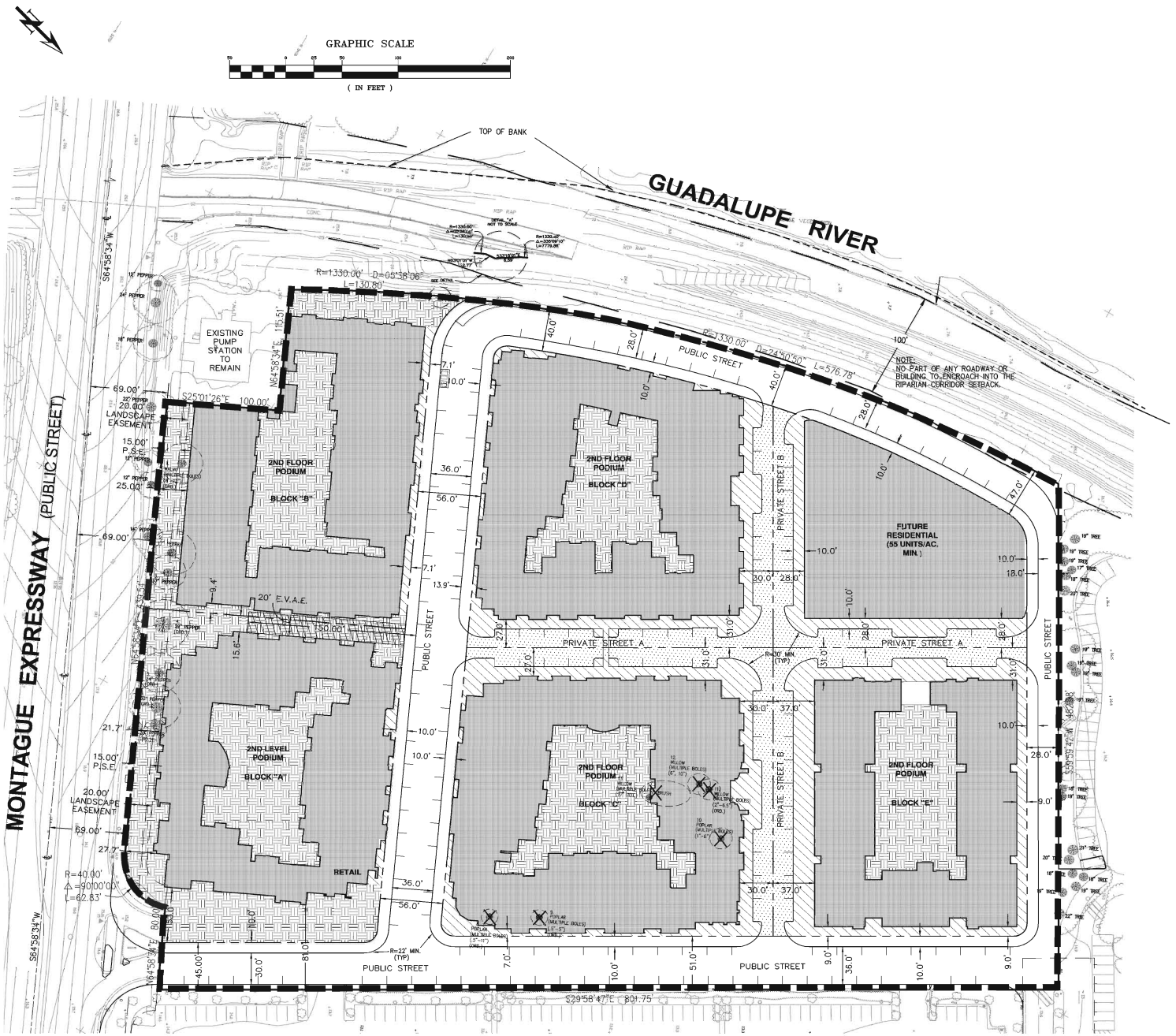
Public Park and Open Space

Industrial Core Area

Transit/Employment Residential District: 55+ DU/AC

Light Rail Station

EXISTING GENERAL PLAN LAND USE MAP FIGURE 3.0-1



LAND USE LEGEND

SYMBOL	USE	AREA (SQ. FT.)
	PUBLIC STREET	106,550
	PRIVATE STREET	30,600
	BUILDINGS	217,150
COMMON / USEABLE	COMMON OPEN SPACE	132,250

Date: 02/16/07

Project Boundary

EX. TREE (ORD.) = ORDINANCE SIZE

EX. TREE – TO BE REMOVED. (ORD.) = ORDINANCE SIZE

CONCEPTUAL LAND USE PLAN

FIGURE 3.0-2

3.2 PROJECT COMPONENTS

3.2.1 Residential Development

The project proposes to develop between 481 and 580 multi-family residential units on-site. The overall net density of the proposed residential development would be between 55 and 67 du/ac.[2] The project applicant anticipates constructing a total of 573 units on-site, including 118 units in Block A, 104 units in Block B, 127 units in Block C, 119 units in Block D, 50 units in Block E, and 55 units in Block F. The units would range from studios to three bedroom units.

As shown in the conceptual site plan (Figure 3.0-3), the proposed residences on each block could be grouped in one building and situated around a common open space. The proposed buildings and common open space would be located on top of podium parking, with some units located around the perimeter of the above grade parking podiums. The project proposes a building of up to six stories in height (up to 80 feet tall from the ground to the top of the building) on Block A, and buildings of up to five stories in height (up to 55 feet tall from the ground floor to the top of the building) on Blocks B through F (refer to Figure 3.0-4).

A summary of the development for each block is provided in Table 3.0-2.

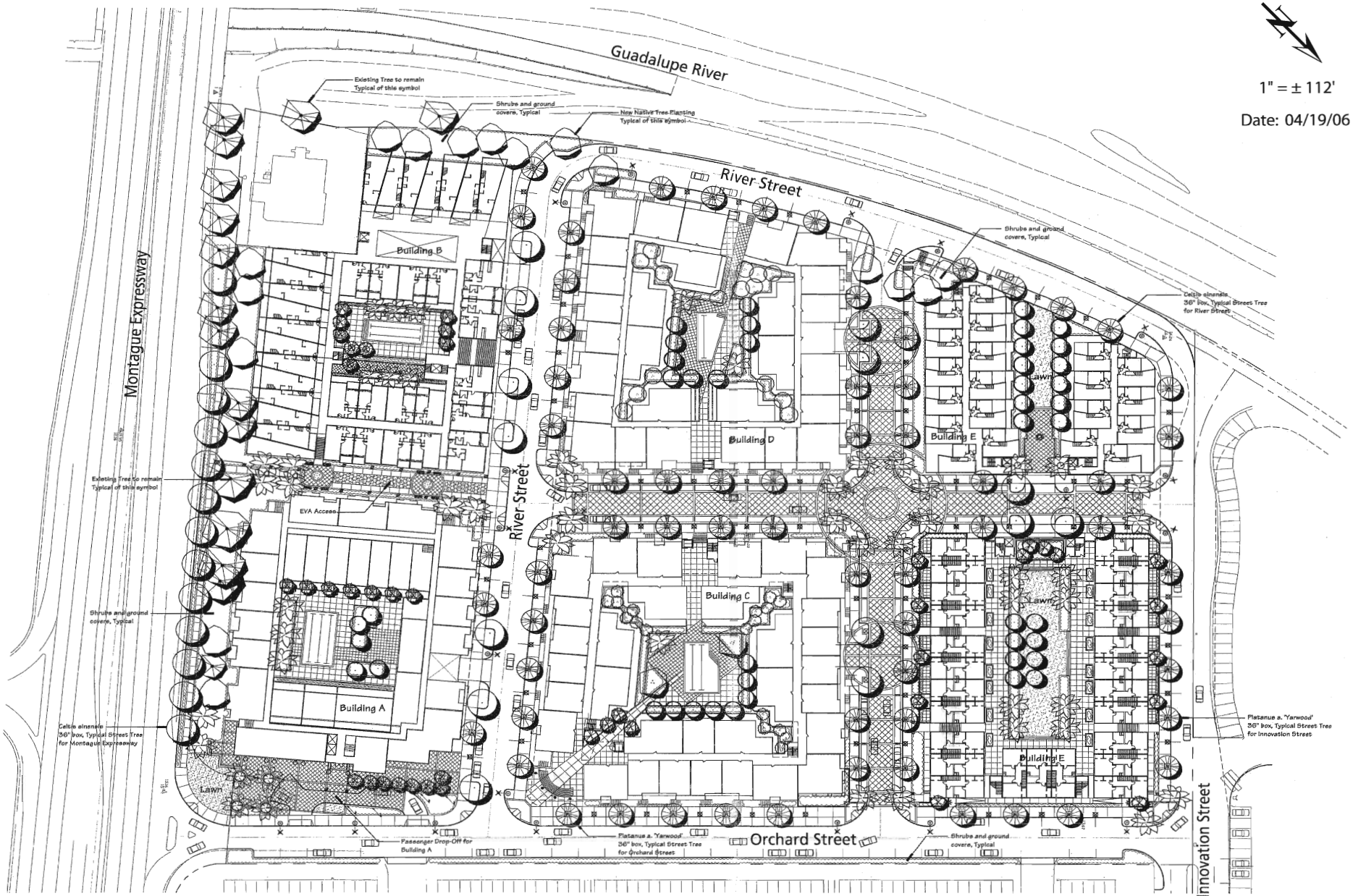
Table 3.0-2
Summary of Development for Each Block

Block	Residential Units Anticipated	Commercial Use (square feet)	Maximum Height From the Ground to the Top of the Building
A	118	Up to 5,000	80 feet/6 stories
B	104	---	55 feet/5 stories
C	127	---	55 feet/5 stories
D	119	---	55 feet/5 stories
E	50	---	55 feet/5 stories
F	55	---	55 feet/5 stories
TOTAL	**573**	**Up to 5,000**	

3.2.2 Commercial Development

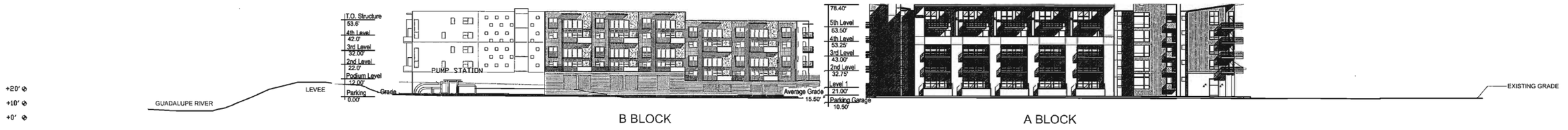
The project proposes up to 5,000 square feet of auxiliary commercial uses consistent with the *CP-Commercial Pedestrian* zoning district. This commercial district is intended for uses that support pedestrian-oriented retail activity at a scale compatible with surrounding residential neighborhoods. As shown on Figures 3.0-2 and 3.0-5, the auxiliary commercial uses would be located at grade, along the east perimeter of the parking podium on Block A, facing the proposed public street (designated as Orchard Street).

[2] The overall density of the residential development of the project was calculated by dividing the total number of proposed units (481 to 580 units) by the acreage of the project site proposed for residential uses (8.7 acres).



CONCEPTUAL SITE AND LANDSCAPE PLAN

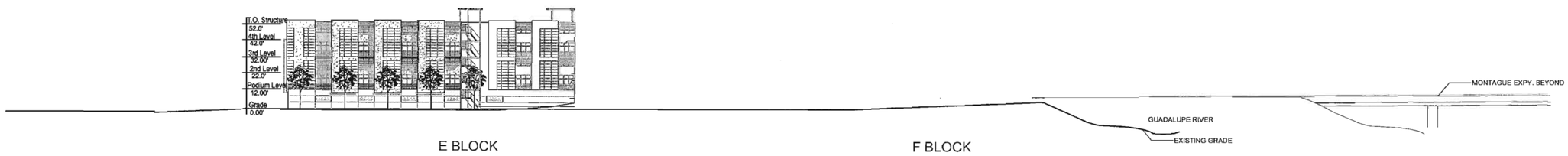
FIGURE 3.0-3



B BLOCK

A BLOCK

SOUTH ELEVATION



E BLOCK

F BLOCK

NORTH ELEVATION

A BLOCK

C BLOCK

E BLOCK

EAST ELEVATION

F BLOCK

D BLOCK

B BLOCK

WEST ELEVATION

CONCEPTUAL CROSS-SECTIONS

FIGURE 3.0-4

3.2.3 Open Space/Landscaping

As discussed above, each proposed residential building would likely be situated around a common open space area (refer to Figure 3.0-3). A total of approximately three acres (approximately 0.5 acres per block) of common open space would be provided throughout the project site. The common open space would include open grass areas, seating areas, and landscaping. The landscaping would include ground cover, shrubs, and small trees (refer to Figure 3.0-3). In addition, private open space areas, in the form of patios and balconies, are also proposed for each residential unit.

3.2.4 Site Access

The project site would be accessible via a proposed public street (designated as Orchard Street) from Montague Expressway. This public street would be located on the eastern site boundary. Additional public streets are proposed on the north and west site boundaries, and through the project site (refer to Figure 3.0-2). The project proposes to dedicate a total of approximately two acres for public streets. This provides the access to commercial uses and refined circulation consistent with the Area Development Policy's encouragement of a grid street system in north San José.

In addition to the public streets, the project proposes two private streets to provide additional site circulation (refer to Figure 3.0-2). The private streets would total approximately 0.7 acres.

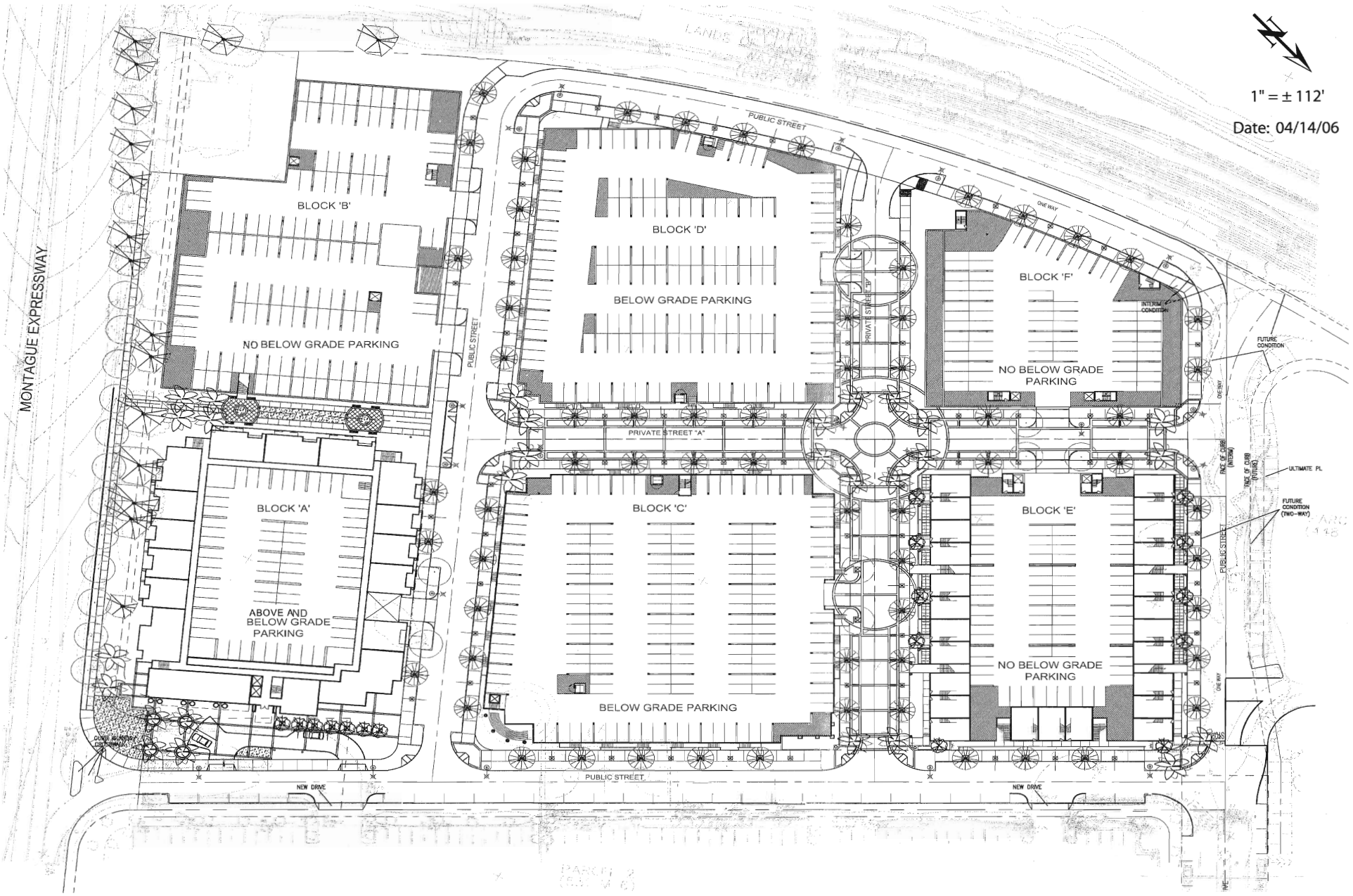
3.2.5 Parking

Parking for the proposed residences would be located below podiums and buildings. Parking for Block A would be provided in a two level garage, with one level below grade and the other above grade. Parking for Blocks B, E, and F would be provided in one level garages located above grade. Parking for Blocks C and D would be provided in one level garages located below grade (refer to Figure 3.0-5). The proposed project would provide a quantity of residential parking in conformance with the City's requirements. The proposed project qualifies for a 10 percent reduction in parking requirements due to the site's proximity to the River Oaks and Orchard light rail stations (refer to Figure 3.0-1 and Table 3.0-3). Parking for visitors and the commercial uses would be provided along the proposed public and private streets on-site.

Table 3.0-3
Minimum Parking Requirements

Unit Size	Parking Spaces Required*
Studio	1.26
1 Bedroom	1.35
2 Bedroom	1.62
3 Bedroom	1.80
3 Bedroom+; add per bedroom	0.14

Notes:
Parking ratios are based on all open parking and no tandem spaces being provided (City of San José. Residential Design Guidelines. February 1997). In addition, a 10 percent credit was applied because the project is located within walking distance of the River Oaks and Orchard light rail stations (Municipal Code 20.90.220A).



CONCEPTUAL PARKING PLAN

FIGURE 3.0-5

SECTION 4.0 ENVIRONMENTAL SETTING, CHECKLIST, AND DISCUSSION OF IMPACTS

In accordance with CEQA Section 21093(b) and CEQA Guidelines Section 15152(a), this Initial Study tiers off the City of San José North San José Development Policies Update Final Program EIR (2005 NSJ FPEIR) (approved June 2005). The amount of residential development proposed was included and analyzed in the certified 2005 NSJ FPEIR, and the FPEIR evaluated, at a program level, developing residential uses on the project site.

This section, **Section 4.0 Environmental Setting, Checklist, and Discussion of Impacts,** describes the existing environmental conditions on and near the project area, as well as environmental impacts associated with the proposed project. 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 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.

In addition, 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 and Surrounding Area*

The approximately 11-acre project site is square shaped and located on Montague Expressway between Guadalupe River and North First Street (refer to Figure 2.0-2). Most of the project site is undeveloped and consists of non-native/ruderal grassland and 13 trees that are located primarily long the southern site boundary.[3] A small group of trees and an old water stand pipe are located near the center of the site. A paved basketball court is located on the eastern site boundary. There are no buildings or other structures on-site.

The project site is bounded by one- and two-story industrial office buildings to the north and east, a pump station and Montague Expressway to the south, and Guadalupe River to the west (refer to Figure 2.0-3).

Views of the project site and area are shown in Photos 1 – 6.

Photo 1: View of adjacent pump station and southern site boundary from the Guadalupe River trail/levee looking west.

[3] There are trees near the northern site boundary; however, they are located on the adjacent property.

Photo 2: View of project site from the Guadalupe River levee/trail looking northeast.

Photo 3: View of project site looking north. Adjacent industrial office uses are visible in the background.

Photo 4: View of old water pipe on-site.

Photo 5: View of project site looking west. The Guadalupe River levee/trail and high-density residential development across the River in Santa Clara is visible in the background.

Photo 6: View of northern site boundary looking west.

4.1.1.2 *Scenic Vistas*

The project site is not located within a scenic viewshed or along a scenic highway. Views of the eastern foothills, however, are available from the project site (see Photos 2 and 3). Views of the foothills from surrounding properties are interrupted by trees and existing buildings.

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
2) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒	☐	1,2
3) Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☐	☒	☐	1,2

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:						
4) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☐	☒	☐	1,2
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 *Change in Visual Character*

The project proposes to construct between 481 and 580 multi-family residential units and up to 5,000 square feet of auxiliary commercial uses. The project also proposes to construct public and private roadways on-site (refer to Figure 3.0-2). Of the 13 trees on-site, the project proposes to preserve nine trees (including six ordinance-size) and remove four ordinance-size trees (refer to Figure 3.0-2). The project, however, proposes to replace those removed trees consistent with City Policy and to plant additional trees and landscaping, including groundcover, shrubs, and small trees within the building courtyards.

As shown on the conceptual site plan (Figure 3.0-3), the proposed residences on each block could be grouped in one building and situated around common open space. The proposed buildings and common open space would be located on top of podium parking. Parking for Block A would be provided in a two-level garage, with one level below grade and the other above grade. Parking for Blocks B, E, and F would be provided in one-level garages located above grade and parking for Blocks C and D would be provided in one-level garages located below grade (refer to Figure 3.0-4). Residential units and the commercial uses (for Block A only) located around the perimeter of the above grade parking on Blocks A, B, E, and F (refer to Figure 3.0-5).

The building on Block A would be up to six stories in height (up to 80 feet tall from the ground to the top of the building), and the buildings on the other blocks would be up to five stories in height (up to 55 feet tall from the ground floor to the top of the building) (refer to Figure 3.0-4).

All of the buildings would undergo architectural review as part of the Planned Development (PD) Permit process prior to development.

Proposed Right-Of-Way Dedication

The project proposes to dedicate approximately two acres of land for public right-of-way. The project proposes to construct public streets on the north, east, and west site boundaries, as well as a east-west public street through the site (refer to Figure 3.0-2).

The certified 2005 NSJ FPEIR analyzed the visual impacts associated with the development of high-density residential in north San José, including those areas designated for the *Transit Employment*

Residential District Overlay. As discussed in the 2005 NSJ FPEIR, the proposed project would result in development of greater mass and density than the existing uses on-site. It was concluded in the 2005 NSJ FPEIR that future development's conformance with the City's *Residential Design Guidelines* would avoid significant visual and aesthetic impacts.

The proposed project would not be consistent with *Chapter 9 – Landscaped Areas* of the City's *Residential Design Guidelines.* Chapter 9 states that landscaping should be provided in all setback areas between project walls and/or fences and the rights-of-way of public streets and sidewalks. The landscaping should be generous and should include trees and/or shrubs as well as groundcover. Tall shrubs or vines should be planted to help screen walls and fences and provide protection from graffiti. While the project proposes landscaping throughout the site (refer to Figure 3.0-3), it does not propose landscaping in all setback areas between project walls and/or fences and the rights-of-way of public streets and sidewalks. The lack of landscaping in a particular location on-site is not considered a significant impact. The final landscape plan shall be reviewed and approved at the PD Permit stage by the City to ensure adequate landscaping is proposed and that the intent of the *Residential Design Guidelines* is achieved.

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

Impact AES – 1: The proposed project would result in visual or aesthetic impacts. **(Significant 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 AES -1.1: Compliance with the City of San José *Residential Design Guidelines*, including the following:

- *Chapter 5 – Perimeter Setbacks:* Residential structures of three stories or more are to be set back a minimum of 15 feet from incompatible uses. Residential structures of three stories or more are to be setback a minimum of 25 feet from public open space.
- *Chapter 11 – Building Design:* This chapter specifies minimum facade articulation, vertical and horizontal roof articulation, the quality of building materials and details, stylistic consistency, and the need for care and attention to detail in design of street facades.
- *Chapter 14 – Solar Access:* Within a project, buildings should not be located in positions that will result in substantial shading of the private open space of adjacent units in the project.

4.1.2.2 *Light and Glare Impacts*

Lighting of the proposed project would increase the light in the project area. It was concluded in the certified 2005 NSJ FPEIR that significant light and glare impacts, including light spillover onto adjacent properties, would be reduced or avoided by compliance with the City's *Outdoor Lighting Policy* (4-3).

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

Standard Measure: The project proposes to implement the following standard measure to reduce or avoid light and glare impacts:

- Comply with the City's *Outdoor Lighting Policy* (Policy 4-3), which includes the use of low-pressure sodium outdoor security lighting on-site, along walkways, entrance areas, common outdoor use areas, and parking areas.

4.1.2.3 *Impacts to Scenic Vistas*

The certified 2005 NSJ FPEIR analyzed the impacts of the development of *Transit/Employment Residential District* (55+ du/ac) uses at several locations in North San José, including the project site. It was concluded that the amount of development proposed would reduce the availability of views of the foothills. The views of the foothills from streets and existing buildings in the project vicinity may be reduced as a result of the proposed buildings on-site; however, the views from the new, proposed development would provide improved views of the foothills.

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.

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. During summer, shading may even be desirable. 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).[4]

Maximum shading occurs on December 21, the winter solstice, when the sun is at the lowest angle above the horizon. Shadow length and bearing calculations were performed for various locations on the project site to determine whether the proposed project would cast substantial shadows on surrounding properties.

Generally, in the winter, when shadows are the longest, the proposed project would result in the shading of the Guadalupe River levee and service roads during the morning hours and the adjacent parking lots north and east of the project site during the afternoon hours. During the vernal and autumnal equinoxes, the proposed project would result in minimal shading of the Guadalupe River levee and service roads during the morning hours. In the afternoon hours, the proposed project would result in very minimal shading of the adjacent parking lot north of the site and minimal shading of the adjacent parking lot to the east of the site.

[4] On the first day of winter, the sun is lowest in the sky and shading is greatest. On both the vernal and autumnal equinoxes, the sun is at the same location, over the equator. This threshold evaluates shading from September 21 through March 21.

Furthermore, the project design would not introduce any inconsistencies with City policies regarding shading, 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 proposes to comply with the City's *Residential Design Guidelines* regarding perimeter setbacks, building design, and solar access to reduce aesthetic impacts. In addition, the project's final landscape plan shall be reviewed and approved by the City at the PD Permit stage to ensure that adequate landscaping is proposed and that the intent of the *Residential Design Guidelines* (Chapter 9 – Landscaped Areas) is achieved. **(Less Than Significant Impact with Mitigation Incorporated)**

4.2 AGRICULTURAL RESOURCES

4.2.1 Setting

While North San José was cultivated for over a hundred years for a variety of crops, including orchards, field crops, and greenhouse-grown flowers, very little agriculture remains. Based on historic information, the project site was in orchard use from at least the late 1930s through the 1970s. In the 1980s, the orchard was removed and the site continued to be undeveloped from the early 1980s to today. Although the project site is undeveloped, it has been designated for urban uses for over 30 years. The project site is not the subject of a Williamson Act contract.

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
2) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒	☐	1,2,4
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

As discussed above, the project site is not designated as farmland or used for agricultural purposes. For these reasons, the proposed project would not result in any impacts to farmland or result in any new or more significant impacts to agricultural resources than were described in 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 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 2002, 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 2005 NSJ FPEIR. The growth assumed in the 2005 NSJ FPEIR, therefore, was not included in ABAG's Projections 2002. While the development of high density residential land uses close to job centers and along transit lines is specifically consistent with the Bay Area 2005 Ozone Strategy, the proposed project would add population to San José that was not reflected in ABAG's Projections 2002. For this reason, as discussed in the certified 2005 NSJ FPEIR, the development of high density residential uses on the project site would not be consistent with the population assumptions in the *Bay Area 2005 Ozone Strategy*.

4.3.1.2 *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. Sensitive receptors near the project site include the residential uses west of the project site (refer to Figure 2.0-3).

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?	☐	☐	☐	☒	☐	1,2,5
2) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☐	☒	☐	1,2,5

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?	☐	☐	☐	☒	☐	1,2,5
4) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☐	☒	☐	2,5
5) Create objectionable odors affecting a substantial number of people?	☐	☐	☐	☒	☐	1,2

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. 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.

Impact AIR – 1: The proposed project would result in impacts to regional and local air quality. **(Significant Impact)**

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

MM AIR – 1.1: The project shall implement measures identified by BAAQMD to reduce emissions, which may include, but are not limited to, the following:

- Providing bicycle lanes, sidewalks and/or paths, connecting project residences to adjacent schools, parks, the nearest transit stop and nearby commercial areas;
- Providing secure and conveniently placed bicycle parking and storage facilities at parks and other facilities;
- Allowing only natural gas fireplaces, pellet stoves, or EPA-Certified wood-burning fireplaces or stoves in residences. Conventional open-hearth fireplaces should not be permitted. EPA-Certified fireplaces and fireplace inserts are 75 percent effective in reducing emissions from this source;

- Providing direct, safe, attractive pedestrian access from project land uses to transit stops and adjacent development; and
- 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.

4.3.2.2 *Construction-Related Impacts*

Construction activities would temporarily affect local air quality. Construction activities such as demolition, 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. 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.

Impact AIR – 2: The proposed project would result in significant construction-related, short-term air 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 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. **(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. **(No New Impact)**

4.4 BIOLOGICAL RESOURCES

The following discussion is based upon a biological evaluation completed for the project site by *Live Oak Associates, Inc.* in September 2005. The purpose of the biological evaluation was to describe the biotic resources on-site and evaluate potential impacts of the proposed project to such resources. A copy of this report is included in Appendix A of this Initial Study.

4.4.1 Setting

The approximately 11-acre project site is generally level, however, there is a steep bank, approximately 20 feet high west of the site that separates the project site from two service roads and Guadalupe River and trail.

The site consist of non-native/ruderal grassland, trees, and shrubs. The wildlife value of the project site is low, given the fact that the site is regularly disced, supports a few trees, and surrounded by development.

4.4.1.1 *Non-Native Grassland*

Most of the project site is covered in a mixture of native and non-native grasses. Plant species include yellow star thistle, Italian thistle, and common wild oats. There are also several tree species on-site including willow, pepper, and California black walnut trees. In addition, there are several coyote brush plants.

The ruderal non-native grassland on-site is expected to regularly support only the most common grassland species. Reptilian species expected to occur here include the western fence lizard, alligator lizard, and gopher snake.

Avian species observed on-site include rock doves, ash-throated flycatcher, and scrub jay. Other resident and migratory avian species that may occur in this habitat include loggerhead shrike, American crow, and purple finch.

Larger mammals that are expected to occur in grassland habitat include the opossum, raccoon, and feral cat.

4.4.1.2 *Special-Status Plants and Animals*

Applicable Regulations

Threatened and Endangered Species

State and federal "endangered species" legislation has provided the California Department of Fish and Game (CDFG) and the U.S. Fish and Wildlife Service (USFWS) with a mechanism for conserving and protecting plant and animal species of limited distribution and/or low or declining populations. Species listed as threatened or endangered under provisions of the state and federal Endangered Species Acts, candidate species for such listing, state species of special concern, and some plants listed as endangered by the California Native Plant Society (CNPS) are collectively referred to as "species of special status."

Permits may be required from both the CDFG and USFWS if activities associated with a proposed project will result in the take of a listed species. To "take" a listed species, as defined by the state of California, is "to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill" said species (California Fish and Game Code, Section 86). "Take" is more broadly defined by the federal Endangered Species Act to include "harm" of a listed species (16 USC, Section 1532(19), 50 CFR, Section 17.3).

Migratory Birds

State and federal laws also protect most bird species. The Federal Migratory Bird Treaty Act (FMBTA: 16 U.S.C., scc. 703, Supp. I, 1989) prohibits killing, possessing, or trading in migratory birds, except in accordance with regulations prescribed by the Secretary of the Interior. This act encompasses whole birds, parts of birds, and bird nests and eggs.

Birds of Prey

Birds of prey, such as owls and hawks, are protected in California under provisions of the State Fish and Game Code, Section 3503.5, (1992), which states that it is "unlawful to take, possess, or destroy any birds in the order Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto." Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes nest abandonment and/or loss of reproductive effort is considered "taking" by the CDFG.

Special-Status Plant Species On-Site

No special-status plant species occurring within the site vicinity occur on the site. This is mainly due to the fact that the site is regularly disced and is surrounded by urban development.

Special-Status Animal Species On-Site

Twenty-seven special-status animals occur in the site vicinity (refer to Appendix A). Of these 27 species, 21 would be absent or unlikely to occur on-site due to the lack of suitable habitat and marginal foraging habitat. The remaining six special-status animal species including the white-tailed kite, northern harrier, Cooper's hawk, burrowing owl, and loggerhead shrike, may occur more frequently as regular foragers or may be resident to the site. Since 2001, there have been over 20 observations of burrowing owls within three miles of the site, however, no direct sighting or indirect evidence (e.g., white wash, pellets, feathers) of burrowing owls was observed during site visits. In addition, no stick nests were noted in any of the trees bordering the site. It should be noted that cliff swallows, which are protected under the Migratory Bird Treaty Act, were observed foraging on-site.

4.4.1.3 *Wetlands and Other Jurisdictional Waters*

Jurisdictional waters include rivers, creeks, and drainages with a defined bed and bank that may carry at most ephemeral flows, lakes, ponds, reservoirs, and wetlands. Such waters may be subject to the regulatory authority of the U.S. Army Corps of Engineers (USACE), CDFG, and California Regional Water Quality Control Board (RWQCB).

The Guadalupe River is adjacent to the west of the site; however, it does not occur within the property boundary. The project site does not support any natural water features; therefore, the site does not support jurisdictional waters.

4.4.1.4 *City of San José Riparian Policy*

The City of San José's Riparian Corridor Policy Study design guidelines state development adjacent to riparian habitats generally should be set back 100 feet from the outside edge of the riparian habitat (or top of bank, whichever is greater) to reduce anticipated impacts to riparian biotic communities and hydrologic regimes.

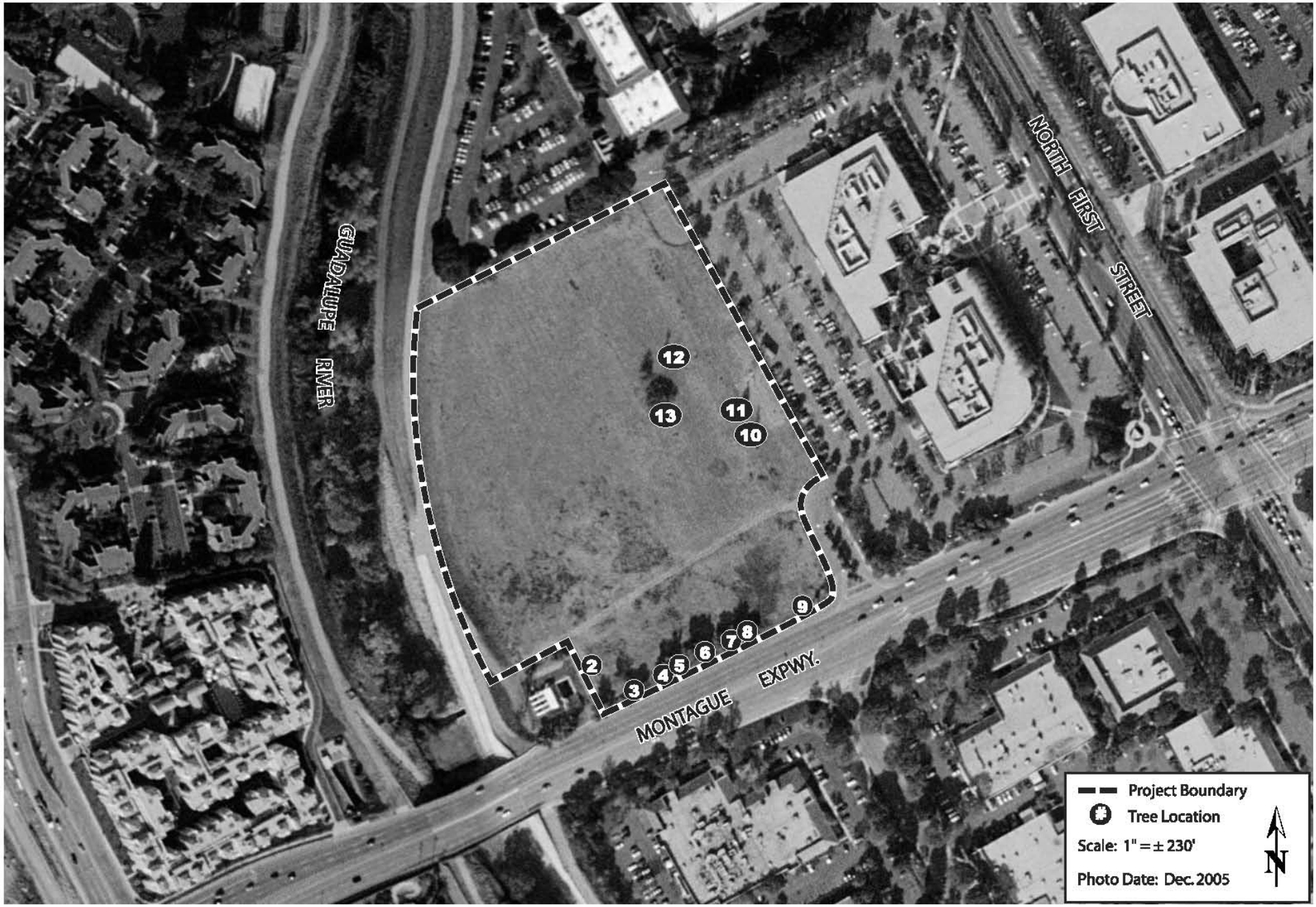
4.4.1.5 *City of San José Tree Ordinance*

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 multi-stem tree is considered a single tree and measurement of that tree includes the sum of the diameter of the tree trunks of that tree. A tree removal permit is required from the City for the removal of ordinance-sized trees.

There are a total of 13 trees on-site, including one pine tree, one California black walnut, one willow tree, four poplar trees, and six pepper trees. Most of the trees are in good condition. Of the 13 trees on-site, 10 trees are ordinance-sized. Figure 4.0-1 shows the location of the trees and Table 4.0-2 summarizes the tree species, size, and condition. Most of the trees are located along the southern site boundary (adjacent to Montague Expressway), with an island of willow trees near the center of the site. There are other trees located near the northern site boundary; however, they are located on the adjacent property.

Table 4.0-2
Tree Survey

Tree #	Common Name	Diameter	Ordinance-sized?	Condition
1	Pine	26.6	Yes	Poor
2	Popular	2.8 (multi-stem)	No	Good
3	California black walnut	28.6 (multi-stem)	Yes	Good
4	Pepper Tree	17.6	No	Good
5	Pepper Tree	17.6	No	Good
6	Pepper Tree	29.0	Yes	Good
7	Pepper Tree	23.9 (multi-stem)	Yes	Fair
8	Pepper Tree	30.7 (multi-stem)	Yes	Good
9	Pepper Tree	19.6 (multi-stem)	Yes	Fair
10	Popular	29.4 (multi-stem)	Yes	Good
11	Popular	(multi-stem)	Yes	Good
12	Popular	18.1 (multi-stem)	Yes	Fair
13	Willow	20.1 (multi-stem)	Yes	Fair



TREE SURVEY

FIGURE 4.0-1

4.4.1.6 *City of San José Heritage Trees*

Under the City of San José Municipal Code, Section 13.28.330 and Section 13.32.090, specific trees are found, because of factors including, but not limited to, their history, girth, height, species or unique quality, to have a special significance to the community and are designated Heritage Trees. There are no heritage trees 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
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) 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
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
5) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒	☐	1,2,4,6

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: 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

The project proposes to construct between 481 and 580 multi-family residential units and up to 5,000 square feet of auxiliary commercial uses on-site. The proposed project also includes the construction of new public and private roadways through the project site, and new landscaping and trees (refer to Figure 3.0-3).

4.4.2.1 *Impacts to Non-Native Grasslands*

The proposed project would result in the loss of approximately 11 acres of non-native/ruderal grassland. This habitat possesses minimal biotic value and provides only low-quality habitat for most species. Individuals of various species presently occupying the site would be displaced or lost from the site as a result of future development. Less disturbed grasslands, however, are currently abundant in the region. The loss of this habitat would be a less than significant impact.

4.4.2.2 *Movement of Native Wildlife*

While native wildlife may move through the non-native grassland habitat on-site, the project site does not represent a significant movement corridor for native wildlife, based on ecology of the species occurring in the site vicinity and the fact that the site is surrounded by urban development. For this reason, the proposed project would have a less than significant impact on wildlife movements.

4.4.2.3 *Special-Status Plants and Animals*

Cliff Swallows

Cliff swallows were observed foraging on the site, and roosting under an overpass on Montague Expressway, adjacent to the project site. Swallows are protected under the Migratory Bird Treaty Act. The construction of the proposed project could impact the nearby roosting swallows. Destruction of or disturbance to active nests during the breeding season (March 1 – July 31) would be a significant impact.

Impact BIO – 1: The proposed project could result in significant impacts to nesting cliff swallows. **(Significant Impact)**

Mitigation Measure: The project proposes to implement the following mitigation measure to reduce impacts to cliff swallows to a less than significant impact:

MM BIO – 1.1: If construction occurs during the nesting season (March 1 – July 31), a pre-construction survey for nesting swallows (under the overpass) shall be conducted by a qualified ornithologist. If swallows are determined to be absent during the nesting season surveys, construction can proceed without further mitigation. If, however, swallows are determined to be present near the overpass, construction shall be delayed until it has been determined by a qualified ornithologist that all young swallows have fledged.

If construction occurs outside the nesting season, no mitigation is required.

Nesting Raptors

The site provides suitable habitat for nesting raptors including the white-tailed kite, northern harrier, Cooper's hawk, burrowing owl, and loggerhead shrike. No stick nests, however, were noted in any of the trees bordering the site. In addition, no direct sighting or indirect evidence (e.g., white wash, pellets, feathers) of burrowing owls was observed. Nonetheless, the site provides suitable habitat for these species and they could occupy the site at any time prior to development occurring. For this reason, future development of the site could cause abandonment of active nests or direct mortality to white-tailed kites, northern harriers, Cooper's hawks, burrowing owls, and loggerhead shrikes. This would be a significant impact.

Impact BIO – 2: The proposed project could result in significant impacts to white-tailed kites, northern harriers, Cooper's hawks, burrowing owls, and loggerhead shrikes. **(Significant Impact)**

Mitigation Measures: The project proposes to implement the following mitigation measures to reduce impacts to nesting raptors including white-tailed kites, northern harriers, Cooper's hawks, burrowing owls, and loggerhead shrikes to a less than significant level:

MM BIO – 2.1: A qualified ornithologist shall conduct pre-construction surveys for nesting raptors (including both tree and ground nesting raptors) on site within 30 days of the onset of ground disturbance, if ground disturbance is to occur during the breeding season (February 1 to August 31). These surveys shall be based on the accepted protocols (e.g., as for the burrowing owl) for the target species. If a nesting raptor is detected, an appropriate construction buffer shall be established. Actual size of buffers would depend on the species, topography, and type of activity that would occur in the vicinity of the nest.

MM BIO – 2.2: A qualified ornithologist shall conduct pre-construction surveys for burrowing owls during the non-breeding season. Pre-construction surveys during the non-breeding season are not necessary for tree nesting raptors, as they are expected to abandon their roosts during staging. If pre-staging surveys (conducted either during the breeding or non-breeding season) determine that burrowing owls occupy the site just prior to staging, then a passive relocation effort (blocking burrows with one-way doors) in

consultation with the State Department of Fish and Game would be necessary to ensure that the owl is not harmed or injured during construction.

4.4.2.4 *Riparian Policy*

The edge of the riparian corridor was determined to be the westernmost edge of the lower service road. As long as development is set back 100 feet from the above referenced riparian delineation, the proposed project would be in compliance with the City's Riparian Corridor Policy.

Based on the conceptual site plan (refer to Figure 3.0-3), the site's property line is between 90 to 110 feet from the edge of the riparian corridor of the Guadalupe River. No development is proposed within 100 feet of the riparian corridor. Usable open space and a public street (designated as River Street) is proposed between the riparian corridor and the proposed buildings (refer to Figure 3.0-2) .For this reason, the proposed project would not result in significant impacts to the riparian corridor of the Guadalupe River.

4.4.2.5 *Ordinance-Size Trees*

Of the 13 trees on-site, 10 are ordinance-size. The project proposes to preserve nine trees, including six ordinance-size trees and remove four ordinance-size trees (refer to tree #10 – 13 on Figure 4.0-1). The trees proposed to be removed are located where buildings are proposed (refer to Figure 3.0-2). The project proposes to replace those removed trees and plant additional trees and landscaping, including shrubs, vines, and groundcover.

Due to the project design, which includes high density development with minimal setbacks from streets and sidewalks, there is little space for replacement trees. The design is consistent with City policies, therefore, offsite replacement of trees removed would be required as mitigation.

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

Avoidance Measures: The project proposes to implement the following mitigation and avoidance measures:

Tree Removal

- The proposed project shall replace trees removed at the following ratios:

Table 4.0-3
Standard Tree Replacement Requirements

Diameter of Tree to be Removed	Native	Non-Native	Minimum Size of Each Replacement Tree
19 inches or greater	5:1	4:1	24-inch box
12 – 18 inches	3:1	2:1	24-inch box
Less than 12 inches	1:1	1:1	15-gallon container

Notes: X:X = Tree replacement to tree loss ratio
Trees greater than 18-inches in diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.

All native trees shall be replaced with the same native species or other desirable species (e.g., walnuts do not necessarily need to be replaced with walnuts, but may be replaced with oaks or buckeyes), and all non-native species shall be replaced with a native species appropriate to the site. In this case, native trees replacements placed at the edge of the riparian habitat could consist of species adapted to riparian habitats. Planting stock shall be collected locally (within a five-mile radius of the project site) to the extent possible in order to maintain genetic integrity of the species' to be replaced, and replacement planting should be completed between November and January.

- In the event that the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures shall be implemented, to the satisfaction of the Director of Planning, Building, and Code Enforcement, at the development permit stage:

  - The size of a 15-gallon replacement tree can be increased to 24-inch box and count as two replacement trees.
  - An alternative site(s) shall be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of the Department of Planning, Building, and Code Enforcement.[5]
  - A donation of $300 per mitigation tree to San José Beautiful or Our City Forest for in-lieu off-site tree planting in the community. These funds will be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting will be provided to the Planning Project Manager prior to issuance of a development permit.

Tree Preservation

- The project proponent shall retain a consulting arborist prior to any ground disturbance activities. The consulting arborist shall develop a tree protection plan outlining specific procedures to ensure that retained trees are protected during the construction phase.

- For retained trees in the immediate vicinity of construction or demolition areas, problems of soil compaction within the root zone resulting from heavy construction equipment shall be prevented. In order to minimize construction and demolition impacts to remaining trees, barrier fencing shall be installed around the dripline of all retained trees or at the edge of construction areas. Any construction or demolition activates taking place within the dripline of retained trees shall be done by hand or with light equipment that does not cause soil compaction. All fencing shall remain in place throughout the construction phase of the project. The type of fencing to be utilized shall be at the direction of the consulting arborist.

- Any limb or root pruning to be conducted on retained trees shall be approved and supervised by the consulting arborist and shall follow best management practices develop by the International Society of Arboriculture.

[5] Contact Todd Capurso, PRNS Landscape Maintenance Manager, at (408) 277-2733 or todd.capurso@sanjoseca.gov for specific park locations in need of trees.

- Supplemental irrigation to retained trees shall be applied as determined by the consulting arborist.

- If any of the retained trees should be damaged during the construction phase, they shall be evaluated at the earliest possible time by the consulting arborist so that appropriate measures can be taken.

4.4.3 Conclusion

Impact BIO – 1: The proposed project, with the implementation of the above mitigation measure, would not result in any new or more significant impacts to cliff swallows than those addressed in the certified 2005 NSJ FPEIR **(Less Than Significant Impact with Mitigation Incorporated)**

Impact BIO – 2: The proposed project with the implementation of the above mitigation measure, would not result in any new or more significant impacts to white-tailed kites, northern harriers, Cooper's hawks, burrowing owls, and loggerhead shrikes than those addressed in the certified 2005 NSJ FPEIR **(Less Than Significant Impact with Mitigation Incorporated)**

4.5 CULTURAL RESOURCES

The following discussion is based on a archaeological evaluation completed by *Archaeological Resource Service* for the project site in July 2005. The purpose of the archaeological evaluation was to obtain information regarding recorded historic and/or prehistoric archaeological sites in and around the project area.

A complete copy of this report is on file with the City of San José Planning Division located at 200 East Santa Clara Street, Floor 3, San José, California 95113 and can be viewed during normal business hours.

4.5.1 Setting

A prehistoric and historic site record and literature search was completed by the California Historical Resources Information System, Northwest Information Center, Sonoma State University, Rohnert Park (File No. 06-37). Previous research indicates three prehistoric sites and two historic archaeological sites are located in the immediate vicinity of the project site.

4.5.1.1 *Prehistoric Resources*

There are three prehistoric sites recorded in the project vicinity: 1) SCI-7, which lies on the west side of Guadalupe River, 2) SCI-276, which is located north of the project site, and 3) SCI-359, which has been reported to lie within the project site and appears to be ephemeral.

Previous investigations found that archaeological site SCI-276 may extend into the northern portion of the project site. Evidence of this site has been observed during several previous investigations, and a few indicators were observed in trenches on-site. The history of SCI-276 is similar to many other deposits of this kind in the valley. It was probably originally confined to the west side of the Guadalupe River, but was bisected when the channel was straightened in the mid-twentieth century. The deposit on the west side of the river was originally recorded as SCI-7, but has now been separated from it by the new channel. Some researchers dispute this, maintaining that SCI-7 and SCI-276 have always been separate deposits.

The history of disturbance in the project area has probably generated the deposits that were recorded as SCI-359. This site was recorded entirely within the project site, but no undisturbed deposits have been noted. References to this site indicate a fairly ephemeral deposit, with no internal structure apparent. The project's consulting archaeologist concluded that SCI-359 is a product of disturbance to SCI-7/276 when the river channel was straightened.

Subsurface examination of the project site found that the upper sandy soil layer (top five feet) has been entirely brought into the parcel by natural forces since the mid-nineteenth century. The lower dark soil layer (five to seven feet below ground) is a natural dark sandy, clayey layer generally lacking indications of prehistoric occupation or use. A few fragments of shellfish found in the northernmost and westernmost trenches are consistent with previous observations of the location of SCI-276.

A few fragments of brick and other historic era artifacts found in the lower reaches of the upper sandy soil deposit are probably associated with the nineteenth century agricultural use of the site.

4.5.1.2 *Historic Resources*

Two historic era sites have been reported in the site vicinity: the Magnant-Lick Mill site and the Cantua-Alviso adobe site. Previous research indicates that the Magnant-Lick Mill site lies under the Lick Paper Mill, which is on the west side of the Guadalupe River. The former Lick Mill consists of both historic buildings and structures, and archaeological deposits. No deposits from the Lick Mill are expected on-site. The Cantua-Alviso adobe site appears to be under the existing parking lot north of the project site.

The cultural resources consultants found no other evidence of historic use of the site. The hazardous materials review (see **Section 4.7.1.2**) identified buildings on what may have been the adjacent property currently occupied by the pump station.

4.5.2 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?	☐	☐	☒	☐	☐	7
2) Cause a substantial adverse change in the significance of an archaeological resource as defined in §15064.5?	☐	☐	☒	☐	☐	7
3) Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?	☐	☐	☒	☐	☐	7
4) Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☒	☐	☐	7

The project proposes to construct between 481 and 580 multi-family residential units and up to 5,000 square feet of auxiliary commercial uses. Parking for the proposed uses would be provided above and below grade. It is anticipated that the project would require excavation of up to approximately 6.6 feet below grade for the construction of below ground parking garages.

Prehistoric and Historic Resources

Due to the proximity of recorded archaeological and historic sites, there is a potential for buried cultural resources to exist on-site. Deposits associated with SCI-276 may be found during excavation near the levee or under the upper sandy soil layer. Additionally, there is a possibility that artifacts and deposits from the Cantua-Alviso adobe building and its associated activity areas would be encountered.

Impact CUL – 1: The construction of the proposed project could impact buried cultural resources. **(Significant Impact)**

Mitigation Measures: The project proposes to implement the following mitigation measures to reduce impacts to cultural resources to a less than significant level:

MM CUL – 1.1: A qualified archaeologist shall monitor all excavation processes. Monitoring shall occur during the entire workday, and shall continue on a daily basis until a depth of excavation has been reached at which resources could not occur. This depth is estimated to be nine feet below grade, but may be modified in specific cases, and shall be determined by the monitoring archaeologist based on observed soil conditions.

The qualified archaeologist shall inspect all spoil materials, open excavations, recently grubbed areas, and other soil disturbances. The frequency and duration of monitoring by the archaeologist shall be based on the relative sensitivity of the exposed soils and active work areas. The monitoring archaeologist shall determine the relative sensitivity of the area.

MM CUL – 1.2: If prehistoric human interments (human burials) are encountered within the native soils of the parcel, all work shall be halted in the immediate vicinity of the find. The County Coroner, project superintendent, and the company liaison shall be contacted immediately. The procedures to be followed at this point are prescribed by law.

- Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American.
- If the Coroner determines that the remains are not subject to his/her authority, the Native American Heritage Commission shall be notified to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location no subject to further subsurface disturbance.

MM CUL – 1.3: If significant cultural deposits other than human burials are encountered, the project shall be modified to allow the artifacts or features to be left in place or the archaeological consultant shall undertake the recovery of the deposit or feature. Significant cultural deposits are defined as archaeological features or artifacts that associate with the prehistoric period, the historic era Mission and Pueblo periods and the American era up to about 1900.

MM CUL – 1.4: Whenever the monitoring archaeologist suspects that potentially significant cultural remains or human burials have been encountered, the piece of

equipment that encounters the suspected deposit shall be stopped, and the excavation shall be inspected by the monitoring archaeologist. If the suspected remains prove to be nonsignificant or non-cultural in origin, work shall recommence immediately. If the suspected remains prove to be part of a significant deposit, all work shall be halted in that location until removal has been accomplished. If human remains (burials) are found, the County Coroner shall be contacted so that they (or a designated representative) can evaluate the discovered remains and implement proper contacts with pertinent Native American representatives.

Equipment stoppages shall only involve those pieces of equipment that have actually encountered significant or potentially significant deposits, and shall not be construed to mean a stoppage of all equipment on the site unless the cultural deposit covers the entire site.

MM CUL – 1.7: In the event that any artifacts are discovered in the upper sandy soil, or at any time when an archaeologist is not present, the following procedures shall be followed:

- All contractors and subcontractors shall inform all employees or others on the job site that no artifacts are to be removed form the area except through authorized procedures. In this usage, "artifacts" mean any item over 50 years of age.

  It should be made clear to all individuals and companies associated with the project that any artifacts found in the course of work are the property of the property owner and therefore are not to be removed. By defining artifacts so closely, the property owner retains the ability to determine whether or not to bring in an archaeologist to examine the find. As a general rule, artifacts greater than 100 years of age should be considered important unless a specific evaluation by an archaeologist determines otherwise. Artifacts greater than 50 years old, but less than 100 yeas old should be considered important enough to be evaluated. Generally, the process of recording the discovery location should be an adequate "mitigation" of any negative impacts. Artifacts less than 50 years old are only important if they associate with a specific historic event of recognized significance.

- Any artifacts that are found on or near the project site are to be turned over to, or brought to the attention of the inspector.

- Whenever any buried artifact or artifacts or archaeological features are encountered during excavation, grading, trenching, or any other earth disturbing operation, all work shall be halted in a 50 foot radius of the find and an archaeologist shall be consulted immediately.

  No earth disturbing operations are to be reinitiated until the archaeologist has determined that no significant or potentially significant cultural resources would be impacted by continuing operations. Significant cultural deposits shall be removed following

archaeological procedures, or preserved in place by modifying the project accordingly. The Archaeological Monitoring Procedures shall be used for all subsequent operations when work is reinitiated.

- The artifact, if portable, shall be transported to a safe location where it can be kept until it can be inspected by an archaeologist.

  When removed by the inspector or other responsible person, the artifact shall be transported to a location such as the on-site construction office where it can be kept under secure conditions. At the beginning of any project, the location for artifacts to be brought, and the responsible individuals they can be turned over to, shall be identified by the project manager. A log of artifacts shall be maintained at the storage location.

4.5.3 Conclusion

Impact CUL – 1: The proposed project, with the implementation of the above mitigation measures, would not result in any new or more significant impacts to cultural resources than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

4.6 GEOLOGY AND SOILS

The following discussion is based on a preliminary geotechnical investigation completed for the project site by *Lowney Associates* in May 2005. A copy of this report is included in Appendix B of this Initial Study.

4.6.1 Setting

4.6.1.1 *Geological Features*

The project area is located in the Santa Clara Valley, between the base of the western foothills of the Hamilton-Diablo Mountain Range and the northeasterly foothills of the Santa Cruz Mountains, in the Coast Range Geomorphic Province of Central California. Bedrock underlying the area is part of the Franciscan Complex, a diverse group of igneous, sedimentary, and metamorphic rocks of the Upper Jurassic to Cretaceous age (70 to 140 million years old). These rocks are part of a northwesterly-trending belt of material that lies along the east side of the San Andreas Fault system, which is located approximately 12 miles southwest of the area. The Franciscan Complex is overlain by alluvium deposits of Holocene age (less than two million years old). This alluvium is comprised primarily of clay, silt, sand, and gravel. Below surface soils, older alluvial soils extend to depths of greater than 950 feet.

4.6.1.2 *On-Site Geologic Conditions*

Soils and Groundwater

The top two feet of soil on-site is undocumented fill consisting of very stiff gravelly lean clay. Below the fill and the ground surface, native alluvial soils consisting of interbedded medium stiff to very stiff clays and sandy clays, and loose to very dense clayey sands and poorly graded sands with clay were encountered to the maximum depth explored of 45 feet. The on-sites soils have a low 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.

Groundwater on-site was encountered at depths of eight and 10 feet. The *Seismic Hazard Zone Report* for the project area indicates that groundwater has been measured as high as five feet in the project area within the last 50 years. Fluctuations in the level of groundwater may occur due to variations in rainfall and other factors.

Seismicity

Northern California is one of the most seismically active regions in the United States. The significant earthquakes that occur in the area are generally associated with crustal movement along well-defined, active fault zones of the San Andreas Fault system, which regionally trends in a northwesterly direction. The closest faults to the site are the Monte Vista-Shannon Fault located less than five miles to the southwest, the southeast extension of the Hayward Fault located approximately 8.5 miles to the northeast, and the San Andreas Fault located approximately nine miles to the southwest.

The site is not located within a designated Alquist-Priolo Earthquake Fault Zone. No known surface expression of active faults is believed to cross the project site. The site is also not within a Santa Clara County Earthquake Rupture Hazard Zone. Fault rupture through the site, therefore, is not anticipated.

Ground Shaking

Strong ground shaking can be expected at the site during moderate to severe earthquakes in the general region. This is common to virtually all developments in the San Francisco Bay Area.

Liquefaction

The site is located within an area zoned by the state of California as having potential for seismically induced liquefaction hazards and in a Santa Clara County Geologic Hazard Zone mapped liquefaction zone. 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. Liquefaction can result in significant deformations.

Lateral Spreading

Lateral spreading typically occurs as a form of horizontal displacement of relatively flat-lying alluvial material toward an open or "free" face such as an open body of water, channel, or excavation. In soils, this movement is generally due to failure along a weak plane and is often associated with liquefaction. The on-site soils have a moderate to high potential for lateral spreading.

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.)	☐	☐	☐	☒	☐	2,8
b) Strong seismic ground shaking?	☐	☐	☐	☒	☐	2
c) Seismic-related ground failure, including liquefaction?	☐	☐	☐	☒	☐	2,8

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:						
d) Landslides?	☐	☐	☐	☒	☐	1,2
2) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☒	☐	2,8
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?	☐	☐	☐	☒	☐	2,8
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?	☐	☐	☐	☒	☐	2,8
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

The project proposes to construct between 481 and 580 multi-family residential units and up to 5,000 square feet of auxiliary commercial uses. Parking for the proposed uses would be provided above and below grade. It is anticipated the project would require excavation of up to approximately 6.6 feet in depth for the below ground parking.

4.6.2.1 *Soils and Groundwater*

As discussed above, the soils on-site have a low expansion potential. The proposed project is not expected to be exposed to slope instability, erosion, or landslide-related hazards due to the flat topography of the site.

Shallow groundwater was encountered at depths ranging from approximately eight to 10 feet below the existing ground surface, with historic water levels as shallow as five feet. Since the project proposes below ground parking, shallow groundwater could be encountered during construction.

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

Impact GEO – 1: Groundwater could be encountered during site construction. **(Significant Impact)**

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 has a potential for liquefaction and lateral spreading.

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.

Impact GEO – 2: The project is subject to seismic and seismic-related hazards.

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

MM GEO – 1.1 and 2.1: Design and construct buildings in accordance with a design-level geotechnical investigation prepared for the project site, which identifies the specific design features that would be required for the project, including site preparation, compaction, trench excavations, foundation and subgrade design, drainage, and pavement design. The investigation shall include a detailed liquefaction analysis and address the need for permanent dewatering or structure tie down to resist hydraulic uplift (as well as potentially wet and unstable subgrade and the need for dewatering during construction).

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

4.6.3 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 groundwater on-site than those addressed in the certified 2005 NSJ FPEIR. **(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 hazard related impacts relating to seismic and seismic-related hazards than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

4.7 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based upon an environmental site assessment and soil and groundwater quality evaluation completed by *Erler & Kalinowski, Inc.* in June 2006. The purpose of the assessment and evaluation was to identify recognized environmental conditions on the project site related to current and historic use of hazardous substances, including petroleum products.[6] This report is included in Appendix C of this Initial Study. Additional soil and groundwater sampling was completed by *Erler & Kalinowski, Inc.* in January 2007 and is included in Appendix D of this Initial Study.

In addition, a screening level risk appraisal was completed by *ToxiChem* in September 2006 to review chemical inventories of facilities in the project vicinity, identify chemicals that may have offsite consequences if released or spilled, and provide a qualitative assessment of potential impacts of the released chemicals at the project site. This report is included in Appendix E of this Initial Study.

4.7.1 Setting

4.7.1.1 *Background Information*

Hazardous materials encompass a wide range of substances, some of which are naturally-occurring and some of which are man-made. Examples include pesticides, herbicides, petroleum products, metals (e.g., lead, mercury, arsenic), asbestos, and chemical compounds used in manufacturing. Determining if such substances are present on or near project sites is important because, by definition, exposure to hazardous materials above regulatory thresholds can result in adverse health effects on humans, as well as harm to plant and wildlife ecology.

Due to the fact that these substances have properties that are toxic to humans and/or the ecosystem, there are multiple regulatory programs in place that are designed to minimize the chance for unintended releases and/or exposures to occur. Other programs set forth remediation requirements at any site where contamination has occurred.

4.7.1.2 *Site Conditions*

Historic Use

Based on review of historic maps and aerial photographs, the project site was an orchard from 1939 through the early 1970s. During this time period, a residence and outbuilding, possibly associated with the orchard, existing on the southwest corner of the site, in the general area of the current Santa Clara Valley Water District (SCVWD) pump station. A small building/shed was located in the east-central portion of the site. This shed may have been used to store machinery, equipment or agricultural chemicals (e.g., pesticides) associated with the orchard. Information on site use prior to 1939 was not available.

[6] The term "recognized environmental conditions" means the presence or likely presence of hazardous substances or petroleum products on a property under conditions that indicate a significant release or significant threat of a release into the ground, groundwater, or surface water.

Present Use

By 1980, the project site was no longer occupied by an orchard. By 1982, the residence, as well as the small building/shed, are no longer on or adjacent to the site. In 1999, Hyundai purchased the site, but never used the site for agricultural or other purposes.

4.7.1.3 *Potential On-Site Sources of Contamination*

Regulatory Agency Database Report

A database search was undertaken for the project site for the purpose of identifying all sites within the project area where there are known or suspected sources of contamination, as well as sites that handle or store hazardous materials. Federal, state, local, historical, and brownfield databases were searched. The databases searched and results are included in Appendix C of this Initial Study.

The project site is not listed as a reported chemical use, storage, release, or waste generating site. In addition, there were no reported nearby hazardous materials spill or releases with a potential to significant impact the project site. The potential for site impact was evaluated based on information in the database records regarding the type of release, current case status, and distance and direction from the site.

Local Regulatory Agency Records Review

Files at the California Regional Water Quality Control Board (RWQCB), Santa Clara Valley Water District (SCVWD), and the San José Fire Department (SJFD) were reviewed. No file information exists at the RWQCB or SJFD for the project site. SCVWD had records pertaining to two former water supply wells on the project site, one near the former shed area and the other near the southeast corner of the site, near Montague Expressway. The records indicate that the well near the shed area was abandoned in 1965 and the well near Montague Expressway was destroyed in 1995.

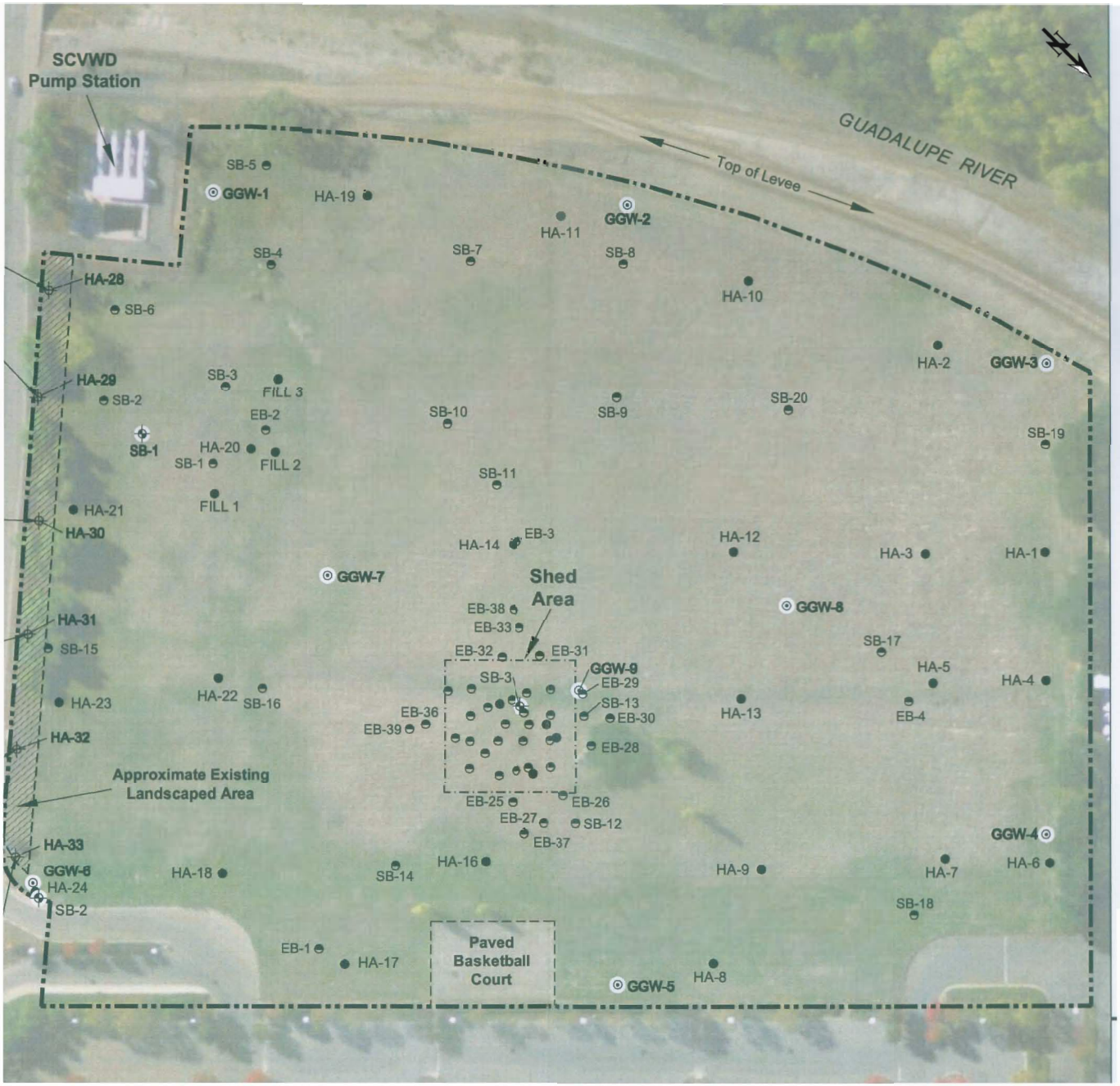
Soil Quality Evaluation

Since the project site has historically been used for agricultural purposes, soil borings were drilled and soil samples collected and analyzed to evaluate possible pesticide contamination and soluble metal concentrations. Figure 4.0-2 shows the locations of the soil and groundwater samples taken on-site.

The analysis of the soil samples collected on-site indicate that the soils contain measurable residual concentrations of organochlorine pesticides and certain heavy metals, including arsenic, lead, and mercury. These are presumed to be the result of historic application of pesticides on the site.

<u>Pesticide Contamination</u>

The primary organochlorine pesticides are detected in soils were dieldrin, endrin, 4,4'-DDD, 4,4'-DDE, and 4,4'-DDT (refer to Table 4.0-4). These organochlorine pesticides were generally detected in the upper two to 2.5 feet of soil on the site at concentrations generally above their respective San Francisco Regional Water Quality Control Board (SFRWQCB) residential Environmental Screening Levels (ESLs) and the California Environmental Protection Agency Department of Toxic Substances Control (DTSC) Human Health Screening Levels (CHHSLs) for residential sites.



LOCATION OF SOIL AND GROUNDWATER SAMPLES

FIGURE 4.0-2

ESLs are considered conservative. As stated by the SFRWQCB, the ESLs are not a regulatory "cleanup standard." The presence of a chemical at a concentration exceeding an ESL does not necessarily indicate that adverse impacts to human health or the environment are occurring; exceeding ESLs indicates that the potential for impacts may exist and that additional evaluation may be needed. The CHHSLs were developed to protect human health and are considered conservative. The presence of a chemical at a concentration above a CHHSL does not necessarily indicate that adverse impacts to human health are occurring; exceeding a CHHSL indicates that the potential for impacts may exist and that additional evaluation may be needed.

The highest concentrations of pesticides were generally detected in shallow soils in the former shed area, which is located near the center of the site (refer to Figure 4.0-2). In the shed area, in the upper 2.5 feet of soil, dieldrin was detected at up to 3,400 ppm, which exceeds its ESL of 34 ppm and CHHSL of 35 ppm; DDD was detected at up to 9,800 ppm, which exceeds its ESL of 2,300 and CHHSL of 2,300; DDE was detected at levels up to 3,830, which exceeds its ESL of 1,600 and CHHSL of 1,600; and DDT was detected at levels up to 12,000 ppm, which exceeds its ESL of 1,600 ppm and CHHSL of 1,600 ppm. Below a depth of 2.5 feet below ground surface, the concentrations of organochlorine pesticides in soil generally fall below their respective residential ESLs and CHHSLs.

Table 4.0-4
Pesticides in Upper 2.5 Feet of Soil On-Site (in parts per million)

Pesticide	Dieldrin	Endrin	4,4'-DDD	4,4'-DDE	4,4'-DDT	DDTr
Range Detected	<2.0 – 3,400	<2.0 - 400	<2.0 – 9,800	<2.0 – 3,830	<2.0 – 12,000	<2.0 – 27,500
Residential RWQCB ESL	34	4,100	2,300	1,600	1,600	1,600
US EPA PRG	30	18,000	2,400	1,700	1,700	1,700
Residential CA DTSC CHHSL	35	21,0000	2,300	1,600	1,600	1,600

Notes:
RWQCB ESL= California Regional Water Quality Control Board Environmental Screening Level
US EPA PRG = United States Environmental Protection Agency Preliminary Remediation Goal
CA DTSC CHHSL = California Department of Toxic Substances Control California Human Health Screening Levels
DDTr = DDT residuals (sum of DDD, DDE, and DDT concentrations)

Metal Concentrations

The soil samples collected were also tested for metals. Of the metals detected in on-site soils, arsenic, lead, and mercury were generally above their respective residential ESLs and CHHSLs. All other metals were generally found below their respective ESLs (refer to Table 4.0-5). Elevated levels of metals were generally found in the upper 2.5 feet of soil on-site and concentrated in the shed area. The shallow soils in the shed area had concentrations of arsenic at up to 169 ppm, which exceeds its ESL of 5.5 ppm and CHHSL of 0.07 ppm; total lead at up to 660 ppm, which exceeds its ESL and CHHSL of 150 ppm; and mercury at up to 11 ppm, which exceeds its ESL of 3.7 ppm.

Similar to the vertical distribution of organochlorine pesticide concentrations in shallow soil, the concentrations of arsenic, lead, and mercury dropped to near typical background concentrations at approximately three feet below ground surface (bgs). More detail about the soil samples is included in Appendices C and D of this Initial Study.

Table 4.0-5
Metals in Upper 2.5 Feet of Soil On-Site (in parts per million)

Metal	Arsenic	Total Lead	Mercury	Barium	Total Chromium	Cobalt	Copper	Nickel	Vanadium	Zinc
Range Detected	9.7 – 169	10.2 – 660	1.8 – 11	124 – 333	66.3 – 99.4	13.8 – 17.7	31.1 – 50.7	103 – 150	37.5 – 55.2	53.3 – 76.2
Residential RWQCB ESL	5.5	150	3.7	750	58	10	230	150	110	600
Residential CA EPA CHHSL	0.07	150	18	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Typical Background Concentration	0.5 – 20	3.4 – 54	0.02 – 1.3	n/a	n/a	n/a	n/a	n/a	n/a	n/a

Notes:
RWQCB ESL= California Regional Water Quality Control Board Environmental Screening Level
CA DTSC CHHSL = California Department of Toxic Substances Control California Human Health Screening Levels

Water Quality Evaluation

Groundwater samples were taken on-site from approximately 12 to 15 feet bgs (refer to Figure 4.0-2). The groundwater samples did not contain detectable concentrations of volatile organic compounds (VOCs), including benzene, toluene, ethylbenzene, xylenes, and methyl tertiary butyl ether (MTBE); organochlorine pesticide; or dissolved arsenic, lead, or mercury.

4.7.1.4 *Potential Off-Site Sources of Contamination*

Based upon available information, no hazardous material incidents have been reported in the site vicinity that would be likely to significantly impact the site. As is typical to many commercial/industrial areas, several facilities in the vicinity, however, were reported as hazardous materials users. If leaks or spills occur at these facilities, contamination could impact the project site, depending on the effectiveness of cleanup efforts.

Chemicals of Concern

From a risk assessment perspective, the primary objective is to identify chemicals that are likely to have offsite consequences if catastrophically released. For risk assessment purposes, chemicals are assumed to be of concern to the proposed residential project if they are acutely toxic, exist in a form that readily allows offsite transportation (after release), and are used/stored in sufficient quantities such that they represent a relatively strong and continuous source for offsite migration.

Releases from Facilities Within 0.5 Miles from the Project Site

A visual survey of the businesses within approximately 0.5 miles of the project site was completed to identify facilities likely to use, handle, and/or store significant quantities of hazardous substances. A total of 65 facilities were identified (refer to Appendix E for a list of these facilities and their addresses). Of the 65 facilities identified, 25 had chemical inventories on file at the San José Fire Department. Of these 25 facilities, eight facilities were identified as having chemicals that could, in the event of a release, produce significant concentrations at some distance off-site.

A summary of the eight facilities, location, and chemicals of concern are provided in Table 4.0-6. A map showing the location of these facilities is included in Appendix E of this Initial Study.

Table 4.0-6
Facilities Within 0.5 Miles of Site With Chemicals of Concern

Name	Location	Chemicals of Concern
SIGEN	51 Dagget Drive – approximately 0.4 miles east/southeast of the project site	Germanium tetrahydride (111 ft^3), diborane (130 ft^3), silane (133 ft^3), hydrogen chloride (329 ft^3), dichlorosilane (90 pounds), trichlorosilane (150 pounds), hydrofluoric acid waste (55-gallons), and hydrogen (9,000 ft^3)
Altera Corp	141 Innovation Drive – approximately 0.4 miles northeast of the project site	Tetrafluoromethane (220 ft^3), sulfur hexafluoride (220 ft^3), and hydrofluoric acid (1 gallon)
Cannon	3300 North First Street – approximately 0.2 miles north/northeast of the project site	Solvent waste (55-gallon containers), chlorodifluoromethane (350 pounds), and 20 gallons of liquid hydrogen.
Tessera, Inc.	3099 Orchard Drive – approximately 150 feet south of the project site	Tretrafluoromethane (250 ft^3), hydrochloric and nitric acids (one gallon), and various solvent related formulations (five gallons)
Ultratech Stepper	2865 Zanker Road – approximately 0.4 miles east/southeast of the project site	Hydrogen chloride mixture (20 ft^3) and chlorodifluoromethane (3,530 ft^3)

Table 4.0-6
Facilities Within 0.5 Miles of Site With Chemicals of Concern

Name	Location	Chemicals of Concern
NeoPhonics Corporation	2911 Zanker Road – approximately 0.4 feet	Silane (266 ft^3), germanium tetrahydride (8 ft^3), diborane (196 ft^3), phosphine (210 ft^3), ammonia (1,158 ft^3), dichlorosilane (38 ft^3), hydrogen bromide (48 ft^3), hexaflouroethane (588 ft^3), trifluoromethane (385 ft^3), sulfur hexafluoride (27 ft^3), and waste solvents (55-gallon quantities)
Ultratech	3050 Zanker Road – approximately 0.4 miles east/northeast of the project	Refrigerant gas (1,050 pounds)
Broadcom	3151 Zanker Road – approximately 0.3 feet east/northeast of the project site	Above ground storage tank of petroleum compounds (2,200 gallons)

Releases from Facilities Greater Than 0.5 Miles from the Project Site

There are five high-risk facilities (large toxic gas users) that could impact the project site under a worst-case release scenario. A summary of these five facilities, location, and chemicals of concern are provided in Table 4.0-7.

Table 4.0-7
Facilities Greater Than 0.5 Miles From the Site With Chemicals of Concern

Name	Location	Chemicals of Concern
OLS Energy Agnews	3800 Cisco Way – approximately 1.1 miles northeast of the project site	Liquefied ammonia gas (58,000 pounds)
San José Water Pollution Control Plant	700 Los Esters Road – approximately 2.8 miles north/northwest of the project site	Chlorine (90 tons) and sulfur dioxide (90 tons)
McCabe's Quality Foods	1029 Montague Expressway – approximately 3.4 miles east of the project site	Anhydrous ammonia (12,000 pounds)
Univar USA	2256 Junction Avenue – approximately 1.7 miles southwest of the project site	Hydrofluoric acid (70% solution, 500 pounds)
Los Esteros Critical Energy Facility	800 Thomas Food Chew Way (formerly 1515 Alviso-Milpitas Road) – approximately 1.9 miles north of the project site	Aqueous ammonia (19% solution, 10,000 gallons)

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
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?	☐	☐	☒	☐	☐	9,10,11
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
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?	☐	☐	☐	☒	☐	2,10
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?	☐	☐	☐	☒	☐	2,10
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
7) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒	☐	1,2

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: 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

The project proposes to develop between 481 and 580 residential units and up to 5,000 square feet of auxiliary commercial uses. The project proposes parking above and below ground. It is anticipated that the proposed project would result in excavations of up to approximately 6.6 feet in depth.

4.7.2.1 *Possible On-Site Contamination*

Soil Quality Evaluation

Generally, the upper 2.5 feet of soil on the project site had levels of pesticides including dieldrin, 4,4'-DDD, 4,4'-DDE, and DDTr, and metals including arsenic, lead, and mercury above their respective ESLs and CHHSLs. The highest concentrations of pesticides and metals were detected in the former shed area of the project site, which is located near the center of the project site. The elevated levels of pesticides and metals could impact future residents of the proposed project and construction workers.

Impact HAZ – 1: On-site soils have elevated levels of pesticides and metals that could impact residents and construction workers. **(Significant Impact)**

Mitigation Measures: The project proposes to implement the following mitigation measures to reduce impacts related to pesticides and metals to a less than significant level:

MM HAZ – 1.1: Prior to issuance of building permits, a soil management plan (SMP) shall be developed to establish management practices for contractors' worker health and safety precautions during earthwork activities at the project site during development and post-development. The SMP shall address appropriate protocols for handling and/or disposing the soil that shall be employed during construction. Long-term post-construction risk management measures where appropriate shall be described in the SMP including protocols for maintenance work protection. The SMP shall be submitted to the San Francisco Regional Water Quality Control Board for review and approval.

MM HAZ – 1.2: Prior to initial site grading, soils in the shed area shall be excavated to approximately three feet bgs, and shall be disposed at an appropriately permitted disposal site.

Construction of subgrade garages and streets shall also require soil excavation. All soil excavated shall be characterized for levels of contamination. Depending on the test results, goals set by the SFRWQCB, and soil volumes excavated, excavated soil shall be either used on-site or disposed at an appropriately permitted disposal site. Soil containing residual pesticide concentrations may be used under suitable cover material where such use is consistent with the approved SMP and applicable regulations.

4.7.2.2 *Possible Off-Site Contamination*

Based on review of the most recently available hazardous materials inventories, ten facilities were identified for modeling of an accidental catastrophic release of a hazardous substance. To estimate potential risks, conservative worst-case hypothetical chemical releases judged to be representative of operations conducted nearby were used to evaluate potential impacts to the proposed project. Releases were modeled using conservative meteorology (stable conditions) to estimate worst-case concentrations downwind. In general, stable atmospheric conditions represent calm dark days or calm night-time conditions. During stable atmospheric conditions and low wind speed, the vertical and horizontal dispersivity of a release is minimized, resulting in higher predicted downwind concentrations or impacts.

A total of 13 possible worst-case release scenarios. Table 4.0-8 provides a summary of the representative worst-case release scenarios modeled.

The scenarios selected are representative of similar risks posed by facility chemicals that were not included. Additional details regarding the methodology for the risk modeling are provided in Appendix E of this Initial Study.

With respect to semiconductor gases, the Santa Clara County Toxic Gas Ordinance (TGO) regulates semiconductor facilities and other toxic gas users. For semi-conductor facilities, acutely hazardous process materials are housed in secondary containment facilities that typically include ventilated gas cabinet storage of gases, leak detection, and treatment capability for discharged gases. In addition, other standard industry controls include valves equipped with restrictive flow orifices (RFO) for the primary gas containment (cylinder). The gas cylinders are equipped with RFOs to limit the release of toxic gases in the rare event of an equipment and/or valve failure during processing.

Table 4.0-8
Representative Worst-Case Release Scenarios Modeled

Facility	Chemical
SIGEN	- Germanium tetrahydride (111 ft^3) - Hydrogen Chloride (329 ft^3) - Diborane (130 ft^3) - Hydrogen (9,000 ft^3)
Cannon	- waste solvent (55-gallons)
Neophonics	- Phosphine (210 ft^3)
Broadcom	- Hydrocarbon (2,200 gallons)
OLS Energy Facility	- Ammonia (58,000 pounds)
San José Wastewater Pollution Control Plant	- Chlorine (180,000 pounds)
McCabe's Quality Foods	- Ammonia (12,000 pounds)

Table 4.0-8 **Representative Worst-Case Release Scenarios Modeled**	
Facility	**Chemical**
Univar USA	- Hydrofluoric acid (500 pounds)
Los Esteros Critical Energy Facility	- Aqueous ammonia (10,000 gallons)

Thresholds

The criteria to determine the levels of chemical concentration of concern are drawn from the *American Industrial Hygiene Association's* Emergency Response Guidelines (ERPGs), and the *National Institute of Occupational Safety and Health* Immediately Dangerous to Life and Health Concentrations (IDLHs). ERPGs and IDLHs are defined in Table 4.0-9. The Bay Area Air Quality Management District (BAAQMD) recommends the use of ERPG exposure level 2 (ERPG-2) as criteria for evaluating significant impacts. In addition, the US EPA generally defines the area of impact in the Risk Management Program (RMP) as the ERPG-2 concentration. In the absence of ERPG guidelines, the US EPA has recommended 1/10 of the IDLH concentrations for planning purposes.

Table 4.0-9 **Definitions of Emergency Response Guidelines (ERPGs) and Immediately Dangerous to Life and Health Concentrations (IDLHs)**	
Criteria	**Definition**
ERPG-1	ERPG exposure level 1 is defined as the maximum airborne concentration, which is believed that nearly all individuals could be exposed to for up to one hour without experiencing more than mild, transient adverse health effects or without perceiving a clearly defined objectionable odor.
ERPG-2	ERPG exposure level 2 is defined as the maximum airborne concentration which is believed that nearly all individuals could be exposed to for up to one hour without experiencing or developing irreversible or other serious side effects of symptoms that could impair an individual's ability to take protective action.
ERPG-3	ERPG exposure level 3 is defined as the maximum airborne concentration, which is believed that nearly all individuals could be exposed to for up to one hour without experiencing or developing life-threatening health effects.
IDLH	IDLH represent maximum concentrations from which, in the event of a respirator failure, one could escape within 30 minutes without a respirator and without experiencing an escape impairing or irreversible health effects. IDLHs are assumed to be applicable to healthy adult workers in the work place and do not take into account exposure of more sensitive individuals.

Analysis

In the event of a worst-case release scenario for the facilities and chemicals listed in Table 4.0-8 above, the following chemicals and facilities could result in significant impacts to future residents at the project site (refer to Table 4.0-10 and Figure 4.0-3):

Table 4.0-10
Facilities and Chemicals That Could Result in Significant Impacts

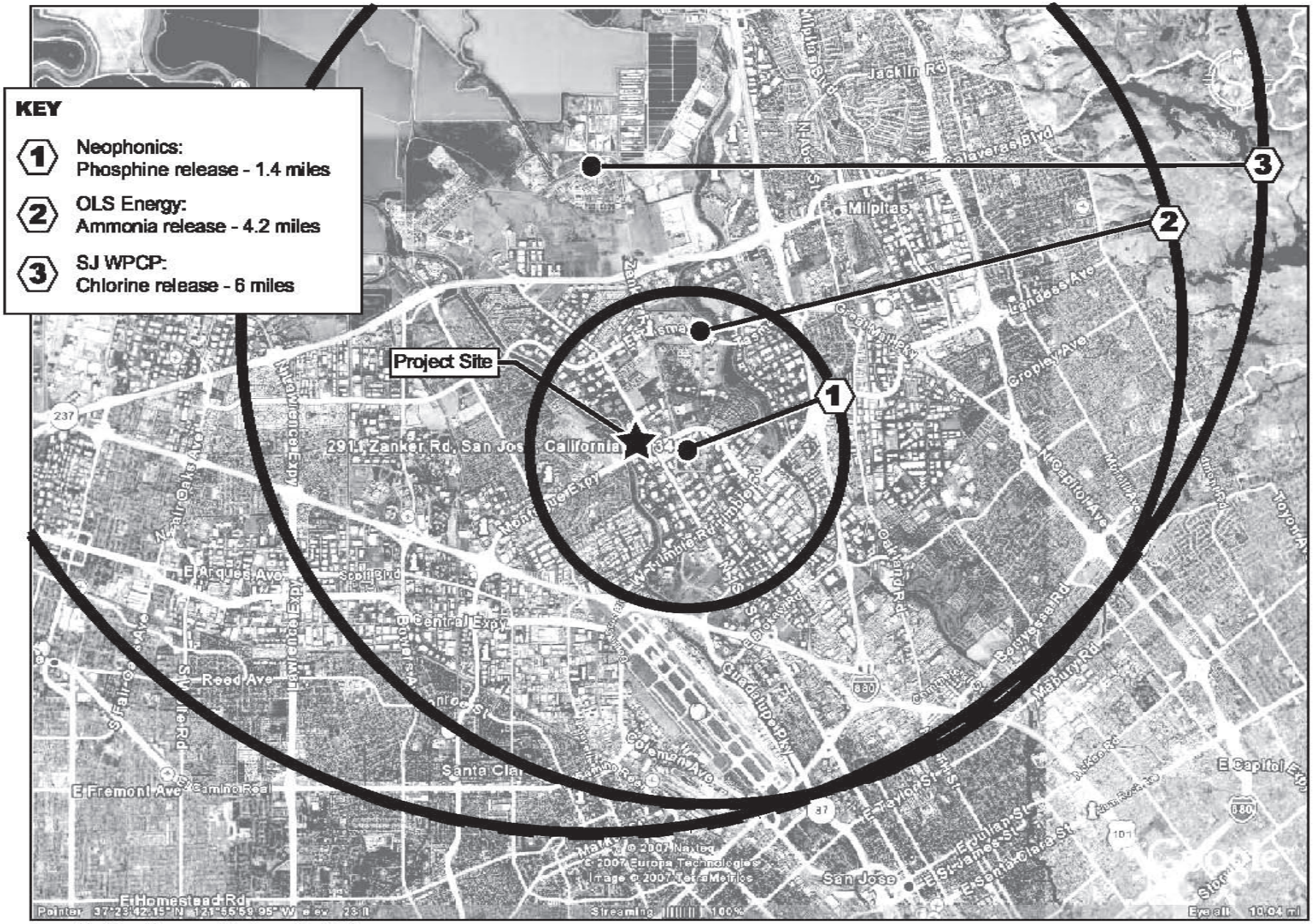
Release Scenario	Predicted Exterior Concentrations (parts per million)	Predicted Interior Concentration (parts per million)	Emergency Planning Concentrations (parts per million)
Neophonics – located approximately 2,000 feet from site			
Phosphine Release RFO EPA-WC	 0.13 5.6	 0.05 0.44	IDLH = 50 ERPG-2 = 0.5 ERPG-3 = 5
OLS Energy Facility – located approximately 1.1 miles from site			
Ammonia Release EPA-WC	 2,730	 221	IDLH = 300 ERPG-2 = 150 ERPG-3 = 750
San José Wastewater Pollution Control Plant – located approximately 2.8 miles from site			
Chlorine Release Site Specific Worst Case	 88.6	 11	IDLH = 10 ERPG-2 = 3 ERPG-3 = 20
Notes: RFO = restricted flow orifice; EPA-WC = worst case default: loss of entire contents of container over 10 minutes during worst-case atmospheric conditions			

While a worst-case release could have very significant health and safety impacts on parts of the project site, the likelihood of their occurrence is also effected by other circumstances. The analysis in Appendix E found that the probability of this worst-case release is not a reasonable basis for a threshold of significance. Specifically, the report by an industrial hygienist found that, due to mechanical and/or institutional controls the users have in place (e.g., TGO), the release limiting effects of restrictive flow orifices (RFOs),[7] the likelihood of multiple failures required to result in a significant release event, the likelihood of ideal conditions being present (i.e., favorable winds, failure in emergency response, etc.), the probability of a significant release is improbable (refer to Appendix E). For these reasons, impacts to the proposed project would be less than significant from an accidental chemical release at an off-site source.

4.7.3 Conclusion

Impact HAZ – 1: The proposed project, with the implementation of the above mitigation measure, would not result in significant impacts from pesticide and metal impacted soils. **(Less Than Significant Impact with Mitigation Incorporated)**

[7] Standard industry controls include valves equipped with RFOs for the primary gas containment (cylinder). The gas cylinders are equipped with RFOs to limit the release of toxic gases in the rare event of an equipment and/or valve failure during processing.



Source: ToxiChem Management Systems, INC. 03/07

WORST-CASE ACCIDENTIAL RELEASE SCENARIO IMPACT AREAS

FIGURE 4.0-3

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. The primary changes are the update of the Federal Emergency Management Agency's Flood Insurance Rate Map (FEMA FIRM) that covers the project site, 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*

According to the Federal Emergency Management Agency's (FEMA), the project site is located within Zone AH.[8] Zone AH is defined as areas having a one-percent chance of flooded in any given year. The project site has a base flood elevation of 17 feet [North American Vertical Datum (NAVD) 1988].[9]

4.8.1.2 *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)[10] and Treatment Control Measures (TCMs)[11] 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[12] is likely to cause increased erosion, silt pollution generation, or other impacts to local rivers, streams, and creeks.

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[8] Federal Emergency Management Agency, Letter of Map Revision, October 25, 2006.
[9] 17 feet NAVD 1988 is equivalent to 14.3 feet NGVD 29.
[10] 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.
[11] 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.
[12] 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

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 hydromodificaiton, 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 are projects that drain to exempt channels, or projects that discharge to stream segments that are either tidally influenced or hardened to the Bay.

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
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) 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

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.

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:						
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
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
6) Otherwise substantially degrade water quality?	☐	☐	☐	☒	☐	1
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?	☐	☐	☐	☒	☐	1,2,12
8) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	☐	☐	☐	☒	☐	1,2,12
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?	☐	☐	☐	☒	☐	1,2,12
10) Be subject to inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☒	☐	1

4.8.2.1 *Drainage*

Currently, most of the project site consists of pervious surfaces, with the exception of the paved basketball court. The project proposes to remove the existing basketball court and construct between 481 and 580 multi-family residential units and up to 5,000 square feet of commercial uses on-site. The development of the proposed project would substantially increase the amount of impervious surfaces on site (refer to Table 4.0-11).

Table 4.0-11
Summary of Impervious and Pervious Surfaces On-Site

Site Surface	Existing/Pre-Construction (acres)	%	Project/Post-Construction (acres)	%	Difference (acres)	%
Impervious						
Building Footprint	---	---	6	55	+6	+55
Parking/Streets	---	---	3	27	+3	+27
Subtotal	0	0	*9*	*82*	*+9*	*+82*
Pervious						
Landscaping	11	100	2	18	-9	-82
Subtotal	*11*	*100*	*2*	*18*	*-9*	*-82*
Total	**11**	**100**	**11**	**100**		

It is anticipated that the existing 24-inch storm drain line located along the northern boundary of the site would be able to accommodate the increase runoff from the proposed project. Moreover, the proposed project would not result in any new or more significant drainage impacts than were described in the certified 2005 NSJ FPEIR.

4.8.2.2 *Flooding*

As discussed above, the project site is located within a 100-year flood hazard zone, with a base flood elevation of 17 feet (NAVD 1988).[13] According to the City's *Special Flood Hazard Area Regulations* (Municipal Code Chapter 17.08), the finished floor of buildings (i.e., the finished floor of the residential buildings – not the podium parking garage) within Zone A should be elevated to or above the base flood elevation, which is 17 feet (NAVD 1988) on the project site, to avoid flooding impacts.[14]

The project proposes import clean fill to elevate the entire project site above the base flood elevation. For this reasons, the finished floors of the buildings and parking garages would be located above the base flood elevation of 17 feet NAVD 1988.[15] The proposed project, therefore, would not result in significant flooding impacts or any new or more significant flooding impacts than were described in the certified 2005 NSJ FPEIR.

Impact HYD – 1: The proposed project is located in a 100-year flood zone. **(Significant Impact)**

Mitigation Measures: The project proposes to implement the following mitigation measures to reduce impacts to a less than significant level:

MM HYD – 1.1: Elevate the finished floor of the residential buildings and parking garages above the base flood elevation of 17 feet NAVD 1988.[16]

[13] 17 feet NAVD 1988 is equivalent to 14.3 feet NGVD 29.
[14] Ibid.
[15] Ibid.
[16] Ibid.

MM HYD – 1.2: Obtain an Elevation Certificate (FEMA Form 81-31) for each proposed structure, based on construction drawings, prior to issuance of building permits and occupancy permits.

MM HYD – 1.3: Elevate building support utility systems such as HVAC, electrical, plumbing, air conditioning equipment, including ductwork, and other service facilities above the base flood elevation or otherwise protected from flood damage.

4.8.2.3 *Water Quality*

Construction-Related Impacts

Construction of the proposed project, as well as demolition, grading, and excavation activities, may result in temporary impacts to surface water quality. Demolition of the existing buildings and 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 ultimately discharged into the storm drain system.

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 measure is identified as part of the certified 2005 NSJ FPEIR and is 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 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.
- 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 to non-visible 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 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. 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 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.

Impact HYD – 3: The proposed project would result in post-construction water quality impacts. **(Significant Impact)**

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

MM HYD – 3.1: Compliance with the NPDES Municipal Permit by incorporating BMPs to control non-point pollution, which include the following:

- Direct roof drains to discharge and drain away from building foundation to an unpaved area wherever possible.
- Install continuous deflective separation (CDS) units to treat stormwater flows. The cleaning and monitoring of the CDS units shall be performed by project contractors during construction and by the HOA there after.

4.8.3 Conclusion

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

4.9 LAND USE

4.9.1 Setting

4.9.1.1 *Existing Land Use*

The approximately 11-acre project site consists of one parcel (APN 097-06-055) and is located on Montague Expressway between North First Street and Guadalupe River in north San José. The project site is bounded by industrial office buildings to the north and east, Montague Expressway to the south, and the Guadalupe River on the west (refer to Figure 2.0-2).

Most of the project site is undeveloped and consists of non-native/ruderal grassland and 13 trees that are primarily located along the southern site boundary.[17] A small group of trees and an old water pipe are located near the center of the site. A paved basketball court is located on the eastern site boundary. There are no buildings or structures on-site.

4.9.1.2 *Surrounding Land Uses*

The surrounding land uses include industrial office uses to the north, east, and south; Montague Expressway and a pump station to the south; and Guadalupe River and residential uses to the west (refer to Figure 2.0-3). The surrounding offices are occupied by businesses including *Valley Transportation Authority, Hynix,* and *Tessera.* Although the property to the north of the site is currently zoned and used for industrial uses, it also has a land use designation of *Industrial Park* with a *Transit/Employment Residential District* (55+ du/ac) *Overlay*, similar to the project site (refer to Figure 3.0-1).

4.9.1.3 *Land Use Plans*

General Plan Land Use Designation

With the certification of the 2005 NSJ FPEIR, the City's General Plan was modified. As a result, the existing land use designation for the project site (*Industrial Park*) was modified to include a *Transit/Employment Residential District* (55+ du/ac) overlay.

The *Transit/Employment Residential District* overlay does not change the underlying land use designation of *Industrial Park,* however, it does allow for the development of residential uses as an alternative use at a minimum average density of 55 du/ac. Commercial uses are also allowed on the first two floors with residential uses on upper floors. In addition, land within this overlay designation can be converted for the development of new schools and parks as needed to support residential development. Development within this land use designation is intended to make efficient use of land to provide residential units in support of nearby industrial employment centers.

[17] There are trees near the northern site boundary; however, they are located on the adjacent property.

Zoning Designation

The project site has a zoning designation of *IP – Industrial Park.* The *IP – 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.

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 within North San José, including the potential conversion of up to 285 acres of existing industrial lands to residential use at minimum densities of either 55 du/ac (up to 200 acres) or 90 du/ac (up to 85 acres). A summary of the provisions of the Policy are listed in Table 4.0-12:

Table 4.0-12
Consistency with North San José Area Development Policy Residential 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 (see list for residential projects in Policy.	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		

Table 4.0-12 **Consistency with North San José Area Development Policy Residential Checklist**			
Provisions of the Policy	**Consistent?**		
	Yes	**No**	**N/A**
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		
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 site 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?	☐	☐	☐	☒	☐	1,2,13
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?	☐	☐	☐	☒	☐	1,2,4, 13
3) Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☒	☐	1,13

The project proposes to rezone the project site from *IP – Industrial Park* to *A(PD) – Planned Development* to allow development of between 481 and 580 multi-family residential units and up to 5,000 square feet of commercial uses on-site. The proposed commercial uses would be uses allowed by the *CP – Commercial Pedestrian* zoning district. This commercial district is intended for uses that support pedestrian-oriented retail activity at a scale compatible with surrounding residential neighborhoods. The project also proposes to construct public and private roadways through the project site (refer to Figure 3.0-2).

4.9.2.1 *Conformance with Land Use Plans*

General Plan and Zoning

The overall density of the proposed residential development would range between 55 and 67 du/ac.[18] The proposed project, therefore, would be consistent with the residential density requirement of 55 or more du/ac. Also, as mentioned above, the existing land use designation allows for commercial uses on the ground floor of residential developments. The proposed commercial uses on the ground floor of Block A, therefore, would be consistent with the existing land use designation.

Since the project proposes to rezone the project site from *IP – Industrial Park* to *A(PD) – Planned Development* to reflect the proposed development, it is not consistent with the existing zoning for the site.

North San José Area Development Policy

Land Use

The proposed project is consistent with the land use provisions in the Policy because it proposes residential development between 55 and 67 du/ac within an appropriate transit employment overlay area, proposes residential development in proximity to public transit, would not impact a vital or "driving" industrial use,[19] would not expose residents to significant hazards from nearby industrial facilities (refer to **Section 4.7 Hazards and Hazardous Materials**), and proposes to comply to the City's *Parkland Dedication Ordinance* by dedicating and/or paying in-lieu fees (refer to **Sections 4.13 Public Services** and **4.14 Recreation**). City staff is continuing to investigate the best location for a park or parks to serve the project area.

Traffic

The project proposes to include design features (which include TDM measures) that encourage bicycle and pedestrian movements (refer to **Section 4.3 Air Quality**) and dedicate public street ROW (refer to **Section 3.2 Project Components**). For these reasons, the proposed project with the traffic provisions of the Policy.

[18] The overall net density of the residential development of the project was calculated by dividing the total number of proposed units (481 to 580 units) by the acreage of the project site proposed for residential uses (8.7 acres).
[19] The project site is currently undeveloped and located adjacent to two low intensity industrial office uses, the Hynix building east of the site and VTA office headquarters north of the site. Owners of both properties have indicated that they support the proposed project and do not anticipate any negative impacts.

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. In addition, the project does not preclude the installation of dual plumbing for use of recycled water for landscaping.

Allocation of Capacity

In regards to allocation capacity, the City Council has approved one rezoning for residential uses totaling 0.8 acres in area. The approved project exceeded the minimum density of 90 du/ac. The City has not yet approved any projects between 55 and 90 du/ac. For this reason, sufficient capacity remains to allow development of the proposed units.

Design Criteria

As discussed below and in **Section 4.1 Aesthetics**, the proposed project is generally consistent with the City's *Residential Design Guidelines.* The City's *Residential Design Guidelines*, however, do not specifically address development at the density and character envisioned by the Policy and the General Plan for the Transit Employment Residential areas in North San José. Two new chapters have been drafted, and are undergoing public review, that addresses transit-oriented development and mid- and high-rise residential development. New proposed guidelines include recommendations for mixed-use development with ground floor retail, pedestrian accessibility using smaller block sizes, minimum residential density of 55 du/ac, a range of accessible open spaces, and on-street and below grade parking. Adoption of the updated *Residential Design Guidelines* with these two new chapters is anticipated in winter of 2007 – 2008. The proposed project would be consistent with the guidelines in the two proposed new chapters.

In addition, the project is consistent with the Policy's Multi-modal Transportation Design Criteria by incorporating commercial services on-site and including TDM measures to encourage pedestrian and bicycle movement (refer to **Section 4.3 Air Quality**). The project also proposes to consider dual plumbing for use of recycled water, use of high efficiency fixtures (e.g., low flush toilets), and use of drought tolerant and native plantings in landscaping to minimize water use (refer to **Section 4.16 Utilities and Service Systems**).

The proposed project is consistent with the North San José Area Development Policy. Table 4.0-12 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.

Interface with Existing Industrial and Open Space Uses

The western project boundary is a levee and the Guadalupe River. Planned trails along the top of the river levees would qualify as public open space. The project proposes open space and a public street along this boundary. All residential structures would be set back at least 20 to 25 feet from the toe of the levee, and substantially farther from the likely future trail location on top of the levee.

As discussed in the certified 2005 NSJ FPEIR, developing residential uses near existing industrial uses could result in land use compatibility issues. The nearest proposed residential units would be separated from the existing industrial office north of the site by a new proposed street (approximately 28 feet wide), an existing row of mature trees along the property boundary, and an existing parking lot (approximately 50 feet wide). The proposed residential building, therefore, would be set back a total of approximately 78 feet from the industrial office building to the north.

The nearest proposed residential units would be separated from the existing industrial office east of the project site by a new proposed public street (approximately 30 feet wide), an existing row of trees along the property boundary, and an existing parking lot (approximately 187 feet wide). The proposed residential buildings, therefore, would be set back a total of approximately 217 feet from the industrial office to the east of the site. The nearest building elevation of the eastern structure includes a loading dock for shipping and receiving. Posted hours indicated that the docks are only used during normal office hours.

The proposed project is buffered from the industrial uses to the south by Montague Expressway, a six-lane roadway that is approximately 130 feet wide. The project also proposes new landscaping throughout the project site, which would provide additional screening.

The interfaces between the proposed residential and existing industrial uses could trigger complaints and subsequent limitations being placed on industrial businesses in the project area. It was concluded in the certified 2005 NSJ FPEIR that development of residential uses, in conformance with the City's *Residential Design Guidelines,* would limit the likelihood that significant land use compatibility impacts between new residents and surrounding land uses would arise (see also **Section 4.7 Hazards and Hazardous Materials**).

The proposed project would not be consistent with *Chapter 9 – Landscaped Areas* of the City's *Residential Design Guidelines.* Chapter 9 states that landscaping should be provided in all setback areas between project walls and/or fences and the rights-of-way of public streets and sidewalks. The landscaping should be generous and should include trees and/or shrubs as well as groundcover. Tall shrubs or vines should be planted to help screen walls and fences and provide protection from graffiti. While the project proposes landscaping throughout the site (refer to Figure 3.0-3), it does not propose landscaping in <u>all</u> setback areas between project walls and/or fences and the rights-of-way of public streets and sidewalks. The lack of landscaping in a particular location on-site, however, would not be considered a significant impact. The final landscape plan shall be reviewed and approved at the PD Permit stage by the City to ensure adequate landscaping is proposed and that the intent of the *Residential Design Guidelines* is achieved.

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

Impact LU – 1: The proposed project could result in land use compatibility issues between the proposed residences and the existing industrial uses. **(Significant 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 LU – 1.1: Compliance with the City of San José *Residential Design Guidelines*, including the following:

- *Chapter 5 – Perimeter Setbacks:* Residential structures of three stories or more are to be set back a minimum of 15 feet from incompatible uses. Residential structures of three stories or more are to be setback a minimum of 25 feet from public open space.
- *Chapter 11 – Building Design:* This chapter specifies minimum facade articulation, vertical and horizontal roof articulation, the quality of building materials and details, stylistic consistency, and the need for care and attention to detail in design of street facades.
- *Chapter 14 – Solar Access:* Within a project, buildings should not be located in positions that will result in substantial shading of the private open space of adjacent units in the project.

Interface with Proposed Uses

The project proposes up to 5,000 square feet of commercial uses on-site. As shown on the proposed land use plan (Figure 3.0-2), the commercial uses could be built on the ground floor on Block A. The ground floor of the Block A building would consist of parking and commercial uses, while the subsequent floors of the buildings would be developed with solely residential uses. (Note: effects of the project itself would not be a CEQA impact. Should the project be built in widely separated phases over time, however, project residents could be adversely impacted by a later phase that was not know hen earlier units were occupied).

As discussed above, the proposed commercial uses would be consistent with the *CP – Commercial Pedestrian* zoning district and be comprised of uses that support pedestrian oriented retail activity, such as a coffee shop and other resident serving businesses. The loading and delivery for these commercial uses would be via their front doors along the proposed public roadway. Deliveries would be restricted to the hours of 7 AM to 7 PM, Monday through Sunday, to avoid substantial land use compatibility impacts between the proposed commercial and residential uses.

Avoidance Measure: The project proposes to implement the following avoidance measure:

- Restrict commercial deliveries to the hours of 7 AM to 7 PM, Monday through Sunday.

4.9.3 Conclusion

Impact LU – 1: The proposed project proposes to comply with the City's *Residential Design Guidelines* regarding perimeter setbacks, building design, and solar access to reduce land use compatibility impacts. In addition, the project's final landscape plan shall be reviewed and approved by the City at the PD Permit

stage to ensure that adequate landscaping is proposed and that the intent of the *Residential Design Guidelines* (Chapter 9 – Landscaped Areas) is achieved. **(Less Than Significant Impact with Mitigation Incorporated)**

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
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?	☐	☐	☐	☒	☐	1,2,13

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 project by *Illingworth & Rodkin* in March 2005. A complete copy of this report is included in Appendix F of this Initial Study.

4.11.1 Setting

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

4.11.1.1 *Existing Noise Conditions*

The project site is located on Montague Expressway between North First Street and Guadalupe River (refer to Figure 2.0-2). The surrounding land uses include industrial office uses to the north, east, and south; Montague Expressway and a pump station to the south; and Guadalupe River and residential uses to the west (refer to Figure 2.0-3). The predominant noise sources affecting the project site are vehicular traffic on Montague Expressway and intermittent aircraft over flights. The adjacent pump station does not to generate substantial noise.

Ambient noise levels at the project site were measured in February 2005. Noise measurements were taken from two locations on the site: one on the southern site boundary near Montague Expressway and the other near the eastern site boundary. The L_{dn} noise level at the project site is estimated to range from 61 to 76 dBA.

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?	☐	☐	☐	☒	☐	14
2) Exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels?	☐	☐	☐	☒	☐	14
3) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☒	☐	14
4) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☒	☐	1,2,14

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:						
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?	☐	☐	☐	☒	☐	14
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?	☐	☐	☐	☒	☐	1,2,14

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 L_{dn} 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 of the Santa Clara County ALUC or the City of San José.

4.11.2.1 *Noise Impacts from the Project*

The project proposes to construct between 481 and 580 multi-family residential units and up to 5,000 square feet of commercial uses on-site.

Project-Generated Traffic Impacts

For traffic noise to increase noticeably (i.e., by a minimum of three dBA), existing traffic volumes must double. With the buildout of the project analyzed in the certified NSJ EIR, a traffic noise increase of three dBA is anticipated on Montague Expressway. The project-generated traffic would contribute to the future noise increases anticipated with the buildout of North San José. It was concluded in the certified 2005 NSJ FPEIR that traffic generated by the amount of development analyzed in the document would result in significant increases in traffic-generated noise.

This was identified as a significant unavoidable impact and the City Council adopted a statement of overriding considerations for the 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 demolition and infrastructure phases of construction require heavy equipment that generates the highest noise levels. Pile driving is not anticipated, but could occur depending on the final project design.

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 normally less during building erection, finishing, and landscaping phases. There would be variations in construction noise levels on a day-to-day basis depending on the actual activities occurring at the site. The nearest noise sensitive receptors are existing residences located approximately 335 feet west of the project site, separated from the site by the river and its levees.

The proposed project would not result in any new or more significant construction-related impacts than were described in the certified 2005 NSJ FPEIR.

Impact NOI – 1: The proposed project could result in a short-term increase in noise levels in the project area during demolition and construction activities. **(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 NOI – 1.1: Limit all construction-related activities to the hours of 7 AM to 7 PM Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific construction noise mitigation plan and a finding by the Director of Planning, Building, and Code

Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.

MM NOI – 1.2: Use "new technology" power construction equipment with state-of-the-art noise shielding and muffling devices.

MM NOI – 1.3: Equip all internal combustion engines used on the project site with adequate mufflers and ensure all internal combustion engines are in good mechanical condition.

MM NOI – 1.4: Prepare a detailed construction plan identifying the schedule for major noise-generating construction activities within 500 feet of residential units. The construction plan shall identify a procedure for coordination with the adjacent noise sensitive facilities so that construction activities can be scheduled to minimize noise disturbance.

MM NOI – 1.5: 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.

4.11.2.2 *Noise Impact to the Project*

Exterior Noise Levels

The future environment at the site would continue to result primarily from traffic noise generated on Montague Expressway and aircraft over flights. The site is located outside the 60 CNEL noise contour for San José International Airport.

Existing noise levels generated by traffic on Montague Expressway are approximately 76 dBA L_{dn} at a distance of 50 feet from the edge of the roadway. As discussed above, future traffic noise levels are estimated to increase by approximately three dBA at the project site. Based on the conceptual site plan, common outdoor use areas on Blocks A, C, D, E, and F are proposed in shielded locations within the proposed residential buildings (refer to Figure 3.0-3). In these areas, noise levels would meet the City's 60 dBA L_{dn} guidelines.

A small portion of the common use area on Block B is only partially shielded by the proposed building and has line-of-sight to Montague Expressway; therefore this portion could be exposed to noise levels of up to approximately 71 dBA L_{dn}. This portion of common area, however, includes the exterior stairway and a small overlook adjacent to the bathrooms, which are not considered functional common open space or a noise sensitive area. In addition, residents would have access to shielded portions of the common area that would be below 60 dBA L_{dn}.

The project would not result in any new or more significant exterior noise levels than were previously described in the certified 2005 NSJ FPEIR.

Interior Noise Levels

Future noise levels anticipated at the project site (up to 76 dBA L_{dn}) could result in interior noise levels in the proposed residential units that exceed the City and state standard of 45 dBA L_{dn}. The nearest proposed residential facades facing Montague Expressway (Blocks A and B) would be located approximately 50 feet from the edge of the roadway. Unshielded portions of the south-facing facades along Montague Expressway would be exposed to future traffic noise levels of about 79 dBA L_{dn}. In these units, interior noise levels would be approximately 54 dBA L_{dn} with windows kept closed and assuming standard California construction methods. Attaining the necessary noise reduction (approximately 34 dBA) from exterior to interior spaces is achievable with proper wall construction techniques, the selections of proper windows and doors, and the incorporation of forced-air mechanical ventilation systems.

Residential units on Blocks C and D are located approximately 300 to 500 feet from the roadway and partially shielded from roadway noise by buildings on Blocks A and B, which would provide five to 10 dBA of noise reduction. Units with direct line-of-sight to Montague Expressway would experience future noise levels of 64 to 67 dBA L_{dn} and would require the incorporation of an adequate forced air mechanical ventilation systems in the residential units to allow residents the option of controlling noise by maintaining the windows closed.

Units on Blocks C and D that do not have direct line-of-sight to Montague Expressway and units on Block E and F would meet the 45 dBA L_{dn} with standard California construction methods.

Impact NOI – 2: Units on Blocks A and B facing Montague Expressway and units on Blocks C and D with direct line-of-sight to Montague Expressway could experience interior noise levels above the City's interior noise goal of 45 dBA L_{dn}.

Mitigation Measure: The project proposes to implement the following mitigation measure to reduce interior noise impacts to a less than significant level:

MM NOI – 2.1: Complete project-specific acoustical analyses to ensure that the design of the proposed residential buildings and units shall reduce interior noise levels to 45 dBA L_{dn} or lower. Building sound insulation requirements shall include the provision of forced-air mechanical ventilation for all units with a direct line-of-sight to Montague Expressway.

- Special building construction techniques (e.g., sound-rated windows and building facade treatments) may be required for residential units on Blocks A and B facing Montague Expressway and units on Blocks C and D with direct line-of-sight to Montague Expressway. These treatments could include, but are not limited to, standard stucco-sided wall construction, windows and doors with STC ratings of 38 to 40 (provided that windows and doors are maintained closed). The specific determination of what treatments are necessary shall be determined on a unit-by-unit basis.
- Results of the project-specific acoustical analyses shall be submitted to the City along with the building plans prior to issuance of building permits.

4.11.2.3 *Noise Impacts within the Project*

As discussed in **Section 4.9 Land Use**, the proposed commercial uses would limit their hours of delivery, Monday through Sunday, from 7 AM to 7 PM to reduce land use compatibility and noise impacts between the proposed residential and commercial uses. The proposed commercial uses would not result in significant noise impacts to the proposed residential uses.

Avoidance Measure: The project proposes to implement the following avoidance measure:

- Restrict commercial deliveries to the hours of 7 AM to 7 PM, Monday through Sunday.

4.11.3 Conclusion

Impact NOI – 1: 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)**

Impact NOI – 2: The proposed project, with the implementation of the above mitigation measures, would not result in any new or more significant interior 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.

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 project site is designated for both industrial park and high density residential development (55+ du/ac) and ancillary commercial uses. The project proposes to construct between 481 and 580 residential units and up to 5,000 square feet of commercial uses. Because the proposed development would be consistent with the existing land use designation on the site, the proposed project would not induce growth beyond what is anticipated in the General Plan. The project is, however, new growth compared to existing conditions.

The proposed project would not result in any new or more significant population growth and/or housing impacts than were described in the certified 2005 NSJ FPEIR.

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

The fire, police, school, and park services and facilities have not changed since the certification of the 2005 NSJ FPEIR.

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 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 project site is located within the Santa Clara Unified School District (SCUSD), which is comprised of 16 elementary schools, three middle schools, two high schools, one kindergarten through grade eight school, and one continuation high school.[20] Students in the project area likely attend Montague Elementary School located at 750 Laurie Avenue in Santa Clara, approximately 1.2 miles southwest of the project site, Cabrillo (Juan) Middle School located at 2550 Cabrillo Avenue in Santa Clara, approximately 3.7 miles southwest of the project site, and Wilcox (Adrian) High School located at 3250 Monroe Street in Santa Clara, approximately 3.7 miles southwest of the project site.

It was estimated that the buildout of the development assumed in the certified 2005 NSJ FPEIR would result in a total of approximately 1,829 new students, including 1,112 elementary students, 349 middle school students, and 368 high school students. It was concluded in the certified 2005 NSJ FPEIR that the total number of students generated from the development assumed would require the construction of approximately three new elementary schools to accommodate the growth in student population and that the Santa Clara Unified School District may be able to accommodate the middle and high school students without requiring the construction of new facilities.

The certified 2005 NSJ FPEIR concluded that the construction of new schools in north San José would not necessarily result in significant adverse environmental impacts. Future development of new school facilities in the project area, however, would require supplemental environmental review which could consist of an Addendum or Supplemental EIR to the certified 2005 NSJ FPEIR, depending on the location and size of the school. There are also specific requirements set by the state for constructing a new school that would have to be met.

The proposed project would generate between approximately three percent of the students anticipated from the buildout of the development assumed in the certified 2005 NSJ FPEIR, and therefore, would not result in any new or more significant school impacts than were described in the certified 2005 NSJ FPEIR.[21]

State law (Government Code Section 65996) specifies an acceptable method of offsetting a project's effect under CEQA on the adequacy of school facilities as the payment of a school impact fee prior to the issuance of a building permit. The affected school district(s) are responsible for implementing the specific methods for mitigating school effects under the Government Code, including setting the school impact fee amount consistent with state law. The school impact fees and the school districts' methods of implementing measures specified by Government Code 65996 would partially offset project-related increases in student enrollment. The proposed project would increase the number of

[20] Santa Clara Unified School District. Website. Accessed: 18 July 2006. Available at: http://www.scu.k12.ca.us/

[21] The project site is located within the Santa Clara Unified School District (SCUSD). Based on Santa Clara Unified School District's student generation rates, the proposed project would generate between approximately 53 to 64 new students, including 34 to 41 elementary school students, 10 to 12 middle school students, and 10 to 12 high school students. Source: Adams, Rod. Santa Clara Unified School District. "Re: Student Generation Rates." E-mail to David J. Powers and Associates, Inc. 12 July 2004.

school children attending public schools in the project area, but would mitigate its impact through compliance with state law regarding school mitigation.

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

- In accordance with California Government Code Section 65996, the developer shall pay a school impact fee to offset the increased demands on school facilities caused by the proposed project.

4.13.2.3 *Parks*

The City of San José has adopted the *Parkland Dedication Ordinance* (PDO) (Municipal Code Chapter 19.38) and *Park Impact Ordinance* (PIO) requiring residential developers to dedicate public parkland or pay in-lieu fees, or both, to offset the demand for neighborhood parkland created by their housing developments. Each new residential project is required to conform to the PDO and PIO. The acreage of parkland required is based upon the Acreage Dedication Formula outlined in the PDO.[22] Based upon this formula, the proposed project would be required to dedicate or provide for between approximately 3.3 to 4.0 acres of parkland.

It is anticipated that the buildout of the development evaluated in the certified 2005 NSJ FPEIR would result in the incremental increase in the need for parks and recreational facilities, which are to be developed in the project area concurrently with the proposed residential development. It was concluded in the certified 2005 NSJ FPEIR that the development of new parks and recreation facilities in the project area would not result in significant adverse environmental impacts different or greater than the impacts of all the development evaluated in the EIR. Future development of new park and recreation facilities in the project area, however, would require supplemental environmental review which could consist of an Addendum or Supplemental EIR to the certified 2005 NSJ FPEIR.

Since the proposed project would result in approximately two percent of the residential development assumed in the 2005 NSJ FPEIR, the proposed project would not result in any new or more significant park impacts than were described in the certified 2005 NSJ FPEIR.

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

- Conform to the City's *Park Impact Ordinance* (PIO) and *Parkland Dedication Ordinance* (PDO) by dedication of parkland or payment of in-lieu fees (Municipal Code Chapter 19.38).

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. **(No New Impact)**

[22] Minimum Acreage Dedication = (0.003 acres) x (number of dwelling units) x (average persons per household per Census data). Proposed project = (0.003 acres) x (between 481 and 580 units) x (2.29 persons per household in San Jose per Census data) = approximately 3.3 to 4.0 acres.

4.14 RECREATION

4.14.1 Setting

The park and recreational facilities have not changed since the certification of the 2005 NSJ FPEIR.

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

As discussed in **Section 4.13 Public Services**, the City of San José has adopted the PDO and PIO requiring residential developers to dedicate public parkland or pay in-lieu fees, or both, to offset the demand for neighborhood parkland created by their housing developments. Based on the Acreage Dedication Formula outlined in the PDO, the proposed project would be required to dedicate between 3.3 and 4.0 acres of parkland.[23]

As concluded in the certified 2005 NSJ FPEIR, the buildout of the development assumed would not result in significant, adverse environmental park and recreation impacts. Since the project proposes approximately two percent of the residential development assumed in the certified 2005 NSJ FPEIR, the proposed project would not result in any new or more significant recreation impacts than were described in the certified 2005 NSJ FPEIR.

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

- Conform to the City's *Park Impact Ordinance* (PIO) and *Parkland Dedication Ordinance* (PDO) by dedication of parkland or payment of in-lieu fees (Municipal Code Chapter 19.38).

[23] Minimum Acreage Dedication = (0.003 acres) x (number of dwelling units) x (average persons per household per Census data). Proposed project = (0.003 acres) x (between 481 and 580 units) x (2.29 persons per household in San Jose per Census data) = approximately 3.3 to 4.0 acres.

4.14.3 Conclusion

The proposed project, with the implementation of the above standard measure, would not result in significant impacts to recreational facilities than those addressed in the certified 2005 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.

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
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) 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
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
5) Result in inadequate emergency access?	☐	☐	☐	☒	☐	1,2
6) Result in inadequate parking capacity?	☐	☐	☐	☒	☐	1,,2
7) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	☐	☐	☐	☒	☐	1,2

4.15.2.1 *Roadway, Transit, and Pedestrian Facilities*

The project proposes to construct between 481 and 580 residential units and up to 5,000 square feet of auxiliary commercial uses. The traffic impacts from the proposed residential and commercial development has already been analyzed and accounted for in the certified 2005 NSJ FPEIR. Therefore, the proposed project would not result in additional traffic trips beyond what was assumed in the certified 2005 NSJ FPEIR. For these reasons, the proposed project would not result in any new roadway, transit, or pedestrian impacts or impacts of greater severity than were already disclosed in the 2005 NSJ FPEIR.

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

- Comply with the City's *North San José Area Development Policy Traffic Impact Fee Ordinance*.

4.13.2.2 *Parking*

The project proposes to provide parking for the residential uses in garages located under podiums and buildings. The City's *Residential Design Guidelines* and Zoning Ordinance specify the parking requirements for residential uses. A 10 percent reduction in parking requirements can be applied if the proposed project is located within 2,000 feet of a proposed or existing light rail station (Municipal Code 20.90.220A). As shown in Figure 3.0-1, the project site is located within 2,000 feet of the River Oaks and/or Orchard light rail stations. Parking for the commercial uses and visitors would be provided along the proposed public and private streets on-site.

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

- Comply with the City's parking requirements (refer to Table 3.0-3)

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 2005 NSJ FPEIR.

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
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) 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
4) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☐	☒	☐	1,2
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
6) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☐	☒	☐	1,2
7) Comply with federal, state, and local statutes and regulations related to solid waste?	☐	☐	☐	☒	☐	1,2

The project proposes to construct between 481 and 580 residential units and up to 5,000 square feet of commercial uses. As concluded in the certified 2005 NSJ FPEIR, there is adequate water, sanitary sewer/wastewater treatment, storm drain, landfill, and electricity capacity to serve the proposed development. The proposed project would connect to existing utility lines in nearby streets. It is anticipated that the existing water, sanitary sewer, and storm drain lines in nearby streets are adequate to serve the proposed project.

4.16.2.1 *Senate Bill 610*

Senate Bill 610 (2001), codified at Water Code Section 10910 et seq., requires that certain water supply information be prepared for projects that are the subject of an EIR. Water Code Section 10912 defines a "project" as, *inter alia*, a proposed residential development of more than 500 dwelling units. The proposed project is considered a "project" as defined by Section 10912 because it proposes more than 500 dwelling units.

A water supply analysis was prepared in conformance with Water Code and included in the 2005 NSJ FPEIR . It was concluded that full implementation of the development addressed in the certified 2005 NSJ FPEIR would require the expansion of the existing recycled water system and continued implementation of the City's water conservation programs. The City recommends projects incorporate such programs including, but not limited to, the following where appropriate:

- Dual plumbing for both interior and exterior recycled water use;
- Construction standards that require high-efficiency fixtures (e.g., high-efficiency 1.2 gallons per flush toilets);
- Construction standards that require high-efficiency devices for outdoor water uses (e.g., self-adjusting weather-based irrigation controllers);
- The use of fully advanced treated recycled water for irrigation of large landscaped areas;
- Enforcement of the City's Model Water Efficient Landscape Ordinance (per AB325 1990); and
- Promotion and use of drought tolerant and native plantings in landscaping.

4.16.3 Conclusion

The proposed project would not exceed the capacity of existing utility systems. The proposed project would not result in new or more significant impacts to utilities and services systems than those addressed in the certified 2005 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. 17-93
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. 17-93
3) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☐	☒	☐	1,2, p. 17-93

The 2005 NSJ FPEIR analyzed the development of 26.7 million square feet of new industrial/office/R&D building space and the addition of 32,000 new dwelling units in the Rincon area. Since the approval and certification of the NSJ FPEIR in June 2005, only one project in the Rincon Area has been approved (file number PDC06-022, approved March 13, 2007). This project is located at Fourth Street and Gish Road and was approved for the development of up to 100 residential units.

The project analyzed in this Initial Study proposes to develop between 481 and 580 residential units and up to 5,000 square feet of commercial uses. The proposed development is within the amount of development analyzed in the 2005 NSJ FPEIR, therefore, the project would not result in new or more significant environmental impacts than those addressed in the certified 2005 NSJ FPEIR with the implementation of the standard, avoidance, and mitigation measures included in the project and described in the specific sections of this Initial Study (refer to **Section 4.0 Environmental Setting, Checklist, and Discussion of Impacts**, on pages 17-93 of this Initial Study).

The City of San José has determined that this project qualifies for an addendum to the 2005 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. California Department of Conservation. Santa Clara County Important Farmland 2004. Map.

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

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

6. Live Oak Associates, Inc. Biological Evaluation for the Montague-Guadalupe Project. 28 September 2005.

7. Archaeological Resource Service. Cultural Resources Evaluation. 20 July 2005.

8. Lowney Associates. Preliminary Geotechnical Investigation. 6 May 2005.

9. ToxiChem Management Systems, Inc. Screening Level Risk Appraisal. 5 September 2006.

10. Erler & Kalinowski, Inc. Summary of Preliminary Environmental Site Assessment and Conceptual Soil Management Plan Approach. 23 June 2006.

11. Erler & Kalinowski, Inc. Results of Additional Shallow Soil and Groundwater Investigation. 19 January 2007.

12. Federal Emergency Management Agency. Letter of Map Revision. 25 October 2006.

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

14. Illingworth & Rodkin. Environmental Noise Assessment. 4 March 2005.

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Adams, Rod. Santa Clara Unified School District. "Re: Student Generation Rates." E-mail to David J. Powers and Associates, Inc. 12 July 2004.

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