

FINAL
Tiered Initial Study
Northpointe Project (PDC06-093 and PD07-033)
City of San José, Santa Clara County, California

Prepared for:



City of San José
200 East Santa Clara Street
3rd Floor Tower
San José, California 95113
408.535.7800

Contact: Rodrigo Orduña, Project Planner

Prepared by:

Michael Brandman Associates
2633 Camino Ramon, Suite 460
San Ramon, CA 94583
925.830.2733

Contact: Jason Brandman, Project Manager



September 4, 2007

TABLE OF CONTENTS

Section 1: Introduction and Purpose 1
 1.1 - Tiering of the Environmental Review 1

Section 2: Project Information 3
 2.1 - Project Title 3
 2.2 - Project Location 3
 2.3 - Property Owner/Proponent 3
 2.4 - Lead Agency Contact..... 3
 2.5 - Assessor’s Parcel Number(s)..... 3
 2.6 - General Plan Land Use Designation and Zoning Designation..... 3

Section 3: Project Description 11
 3.1 - Overview of the Proposed Project..... 11
 3.2 - Project Components..... 11

Section 4: Environmental Setting, Checklist, and Discussion Of Impacts..... 21
 4.1 - Aesthetics..... 23
 4.2 - Agricultural Resources 35
 4.3 - Air Quality..... 38
 4.4 - Biological Resources..... 42
 4.5 - Cultural Resources..... 49
 4.6 - Geology and Soils 52
 4.7 - Hazards/Hazardous Materials..... 57
 4.8 - Hydrology/Water Quality 74
 4.9 - Land Use/Planning 79
 4.10 - Mineral Resources 82
 4.11 - Noise 83
 4.12 - Population/Housing 87
 4.13 - Public Services..... 88
 4.14 - Recreation..... 91
 4.15 - Transportation/Traffic 93
 4.16 - Utilities/Service Systems..... 100
 4.17 - Mandatory Findings of Significance 101
 4.18 - Checklist Sources 103

Section 5: References..... 105

Section 6: Authors and Consultants 107

Appendix A: Tree Report

Appendix B: Site Assessments

- Appendix B-1: Phase I Environmental Site Assessment (TRC)
- Appendix B-2: Phase I Environmental Site Assessment (PES)
- Appendix B-3: Phase II Investigation Report
- Appendix B-4: Offsite Hazardous Material Facilities Survey

Appendix C: Geology and Engineering Report

Appendix D: Traffic Study

LIST OF TABLES

Table 4-1: Letter Codes of Environmental Issues	21
Table 4-2: Potential Hazardous Materials Sources Near the Project Site	68
Table 4-3: Facilities With Potential to Impact the Site.....	72
Table 4-4: Project Trip Generation.....	95
Table 4-5: Vehicle Queuing Analysis	97

LIST OF EXHIBITS

Exhibit 2-1: Regional Location Map	5
Exhibit 2-2: Project Vicinity Map	7
Exhibit 2-3: Aerial Photograph with Surrounding Land Uses	9
Exhibit 3-1: Existing General Plan Land Use Map	13
Exhibit 3-2: Land Use Plan	15
Exhibit 3-3: Site Plan.....	17
Exhibit 3-4: Landscape Concept.....	19
Exhibit 4-1: Site Photographs 1 and 2	27
Exhibit 4-2: Site Photographs 3 and 4	29
Exhibit 4-3: Site Photographs 5 and 6	31
Exhibit 4-4: Site Photographs 7 and 8	33
Exhibit 4-5: Worst-Case Accidental Release Scenario Impact Areas	63

SECTION 1: INTRODUCTION AND PURPOSE

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

This Initial Study evaluates the potential environmental impacts, which might reasonably be anticipated to result from the proposed project. The project proposes to rezone the project site to A(PD)-Planned Development to allow development of up to 704 dwelling units and up to approximately 20,000 square feet of auxiliary commercial uses. The overall gross density of the proposed residential development would be 70.39 dwelling units per acre (du/ac), and the overall net density would be 75.39 du/ac. The residences would include apartments (1 to 3 bedrooms) and condominiums (1 to 3 bedrooms).

1.1 - 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 also 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 No. 2004102067) certified by the City Council in June 2005 (hereinafter referred to as the NSS FPEIR).

SECTION 2: PROJECT INFORMATION

2.1 - Project Title

Northpointe (Rezoning application PDC06-093 and Planned Development Permit application PD07-033)

2.2 - Project Location

The approximate 10-acre project site is located at the northwest corner of Zanker Road and East Tasman Drive in the City of San José. The project site is bounded by East Tasman Drive to the south, Zanker Road to the east, and industrial buildings on the north and west sides. The Guadalupe River is located approximately 0.75 mile west of the project site, and Coyote Creek is located approximately 1.0 mile to the east. Exhibit 2-1 shows the regional location of the project site, and Exhibit 2-2 shows the project vicinity. Exhibit 2-3 is an aerial view of the project site and vicinity.

2.3 - Property Owner/Proponent

FF Development LP
Dan Milich
5510 Morehouse Drive, Suite 200
San Diego, CA. 92121
858.626.8335

2.4 - Lead Agency Contact

City of San José
Department of Planning, Building, and Code Enforcement
Rodrigo Orduña, Project Planner
200 East Santa Clara Street, Third Floor
San José, CA 95113-1905
408.535.7890

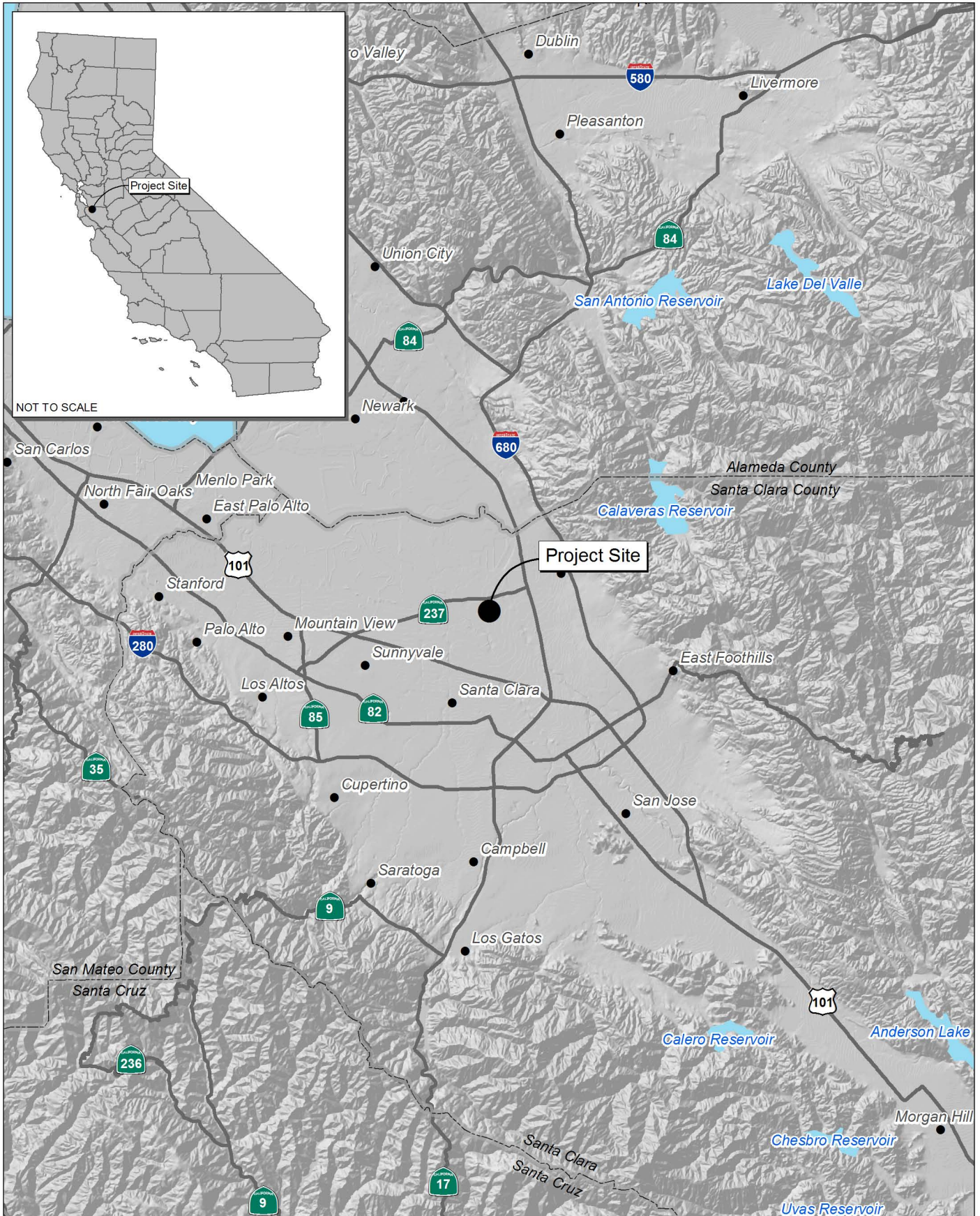
2.5 - Assessor's Parcel Number(s)

097-07-086

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



Source: Census 2000 Data, The CaSIL, MBA GIS 2007.



Michael Brandman Associates

26760002 • 08/2007 | 2-1_regional.mxd

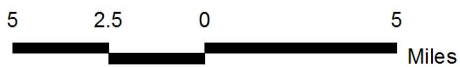
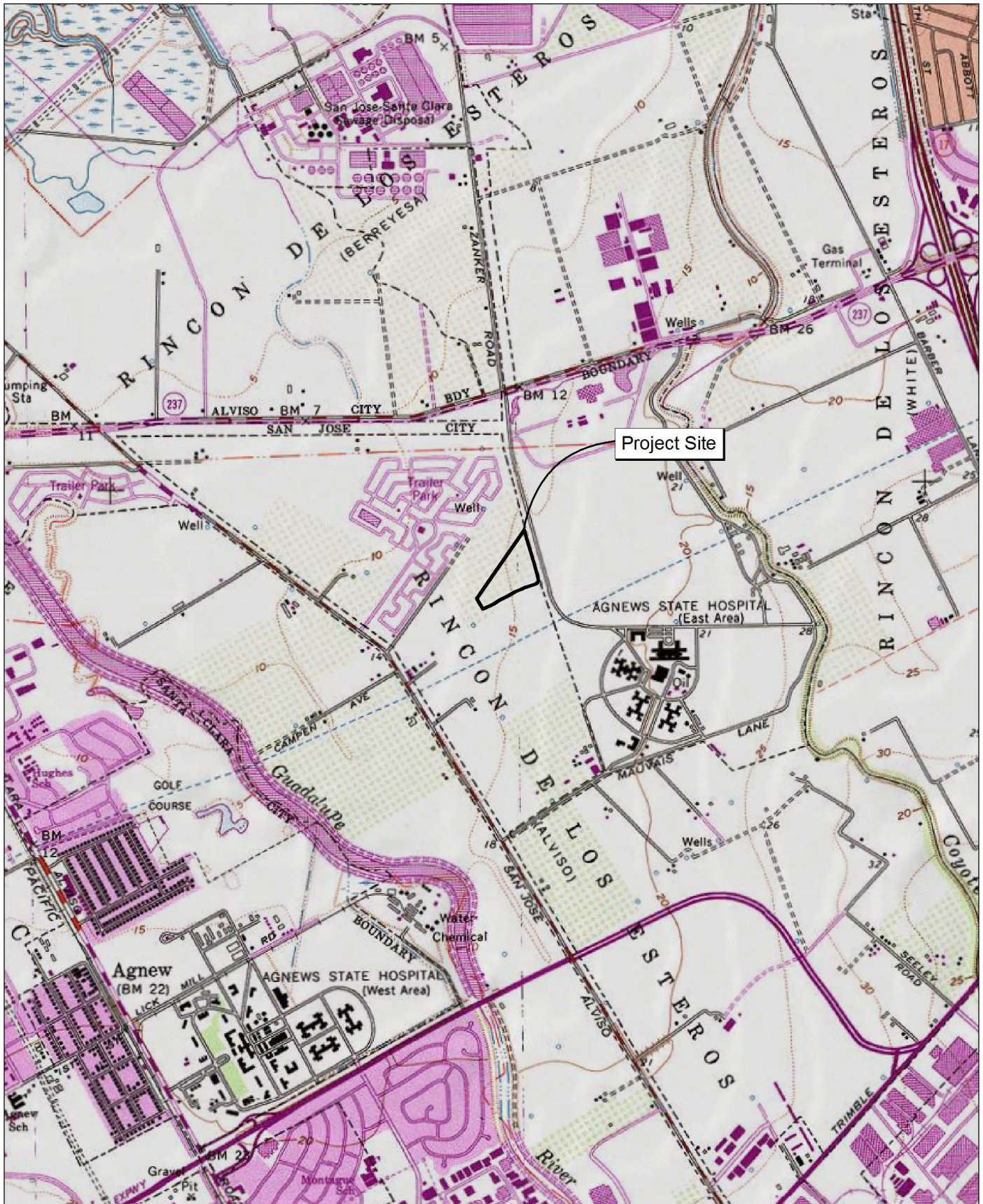


Exhibit 2-1 Regional Location Map



Source: TOPOI USGS Milpitas (1980) 7.5' DRG.





Source: Santa Clara County NAIP, 2005.



Michael Brandman Associates

26760002 • 08/2007 | 2-3_aerial.mxd

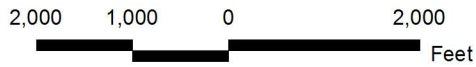


Exhibit 2-3 Aerial Photograph with Surrounding Land Uses

SECTION 3: PROJECT DESCRIPTION

3.1 - Overview of the Proposed Project

Currently, the approximately 10-acre project site is designated as IP-Industrial Park with a Transit/Employment Residential District Overlay (55-plus du/ac) and zoned IP-Industrial Park (Exhibit 3-1). The project proposes to rezone the project site to A(PD)-Planned Development to allow development of up to 704 dwelling units and up to approximately 20,000 square feet of auxiliary commercial uses. The overall gross density of the proposed residential development would be 70.39 du/acre, and the overall net density would be 75.39 du/ac. The residences would include apartments (1 to 3 bedrooms) and condominiums (1 to 3 bedrooms).

As shown in Exhibit 3-2, the project site would be bisected by a new public street that runs north to south. On the eastern side of the project site there would be 498 apartment units, and on the western side there would be 206 condominium units. Also on the eastern side, up to approximately 20,000 square feet would be dedicated for retail uses. Parking for both sides of the project site would be provided at above-grade and below-grade levels. Private open space would be created on both the eastern and western sides and would connect residential units to the northern boundary of the project site (Exhibit 3-2). The effective building height for the residential units (both condominiums and apartments) would be 55 feet.

3.2 - Project Components

3.2.1 - Residential Development

The project proposes to develop up to 704 multi-family residential units onsite. The overall net density (Exhibit 3-3) would be 75.39 du/ac. The project proponent proposes constructing 498 apartment units and 206 condominium units. Units would have from one to three bedrooms.

3.2.2 - Commercial Development

The project proposes to develop up to approximately 20,000 square feet of the project site for retail businesses. The retail portion of the project would be located in the southeastern corner of the site.

3.2.3 - Open Space/Landscaping

Private open space would be created on both the eastern and western sides, and would connect residential units to the northern boundary of the project site (Exhibit 3-2). Landscaping would include groundcover, shrubs, and trees and would be located in the open space corridors, along the new public street that would bisect the site, and along the project boundaries (Exhibit 3-4).

3.2.4 - Site Access

East Side

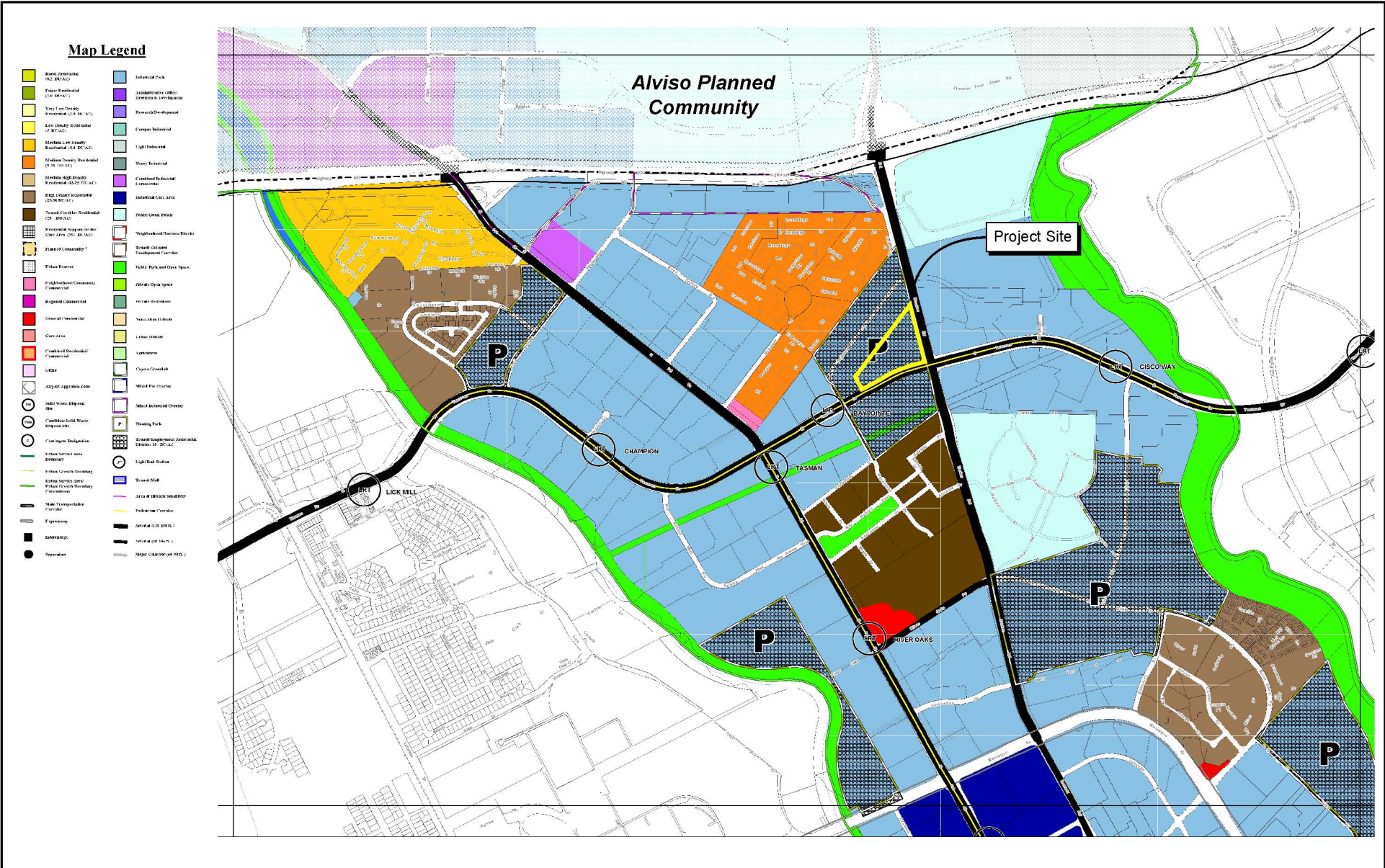
Two driveways will provide access from the new public street. Additional access would be provided with two driveways on the east side of the project site from Zanker Road. Emergency access would be provided along the northwestern boundary of the property.

West Side

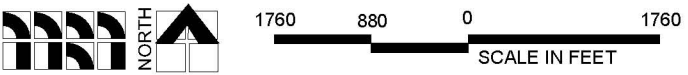
One driveway would provide access from the new public street. Additional access would be provided by a driveway located at the westernmost end of the condominium complex; access to this driveway would come from Tasman Drive. Emergency access would be provided along the southwestern boundary of the property.

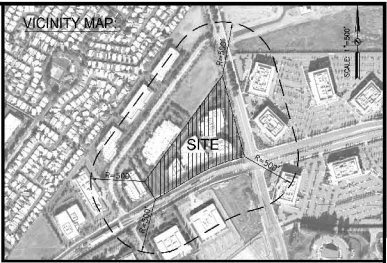
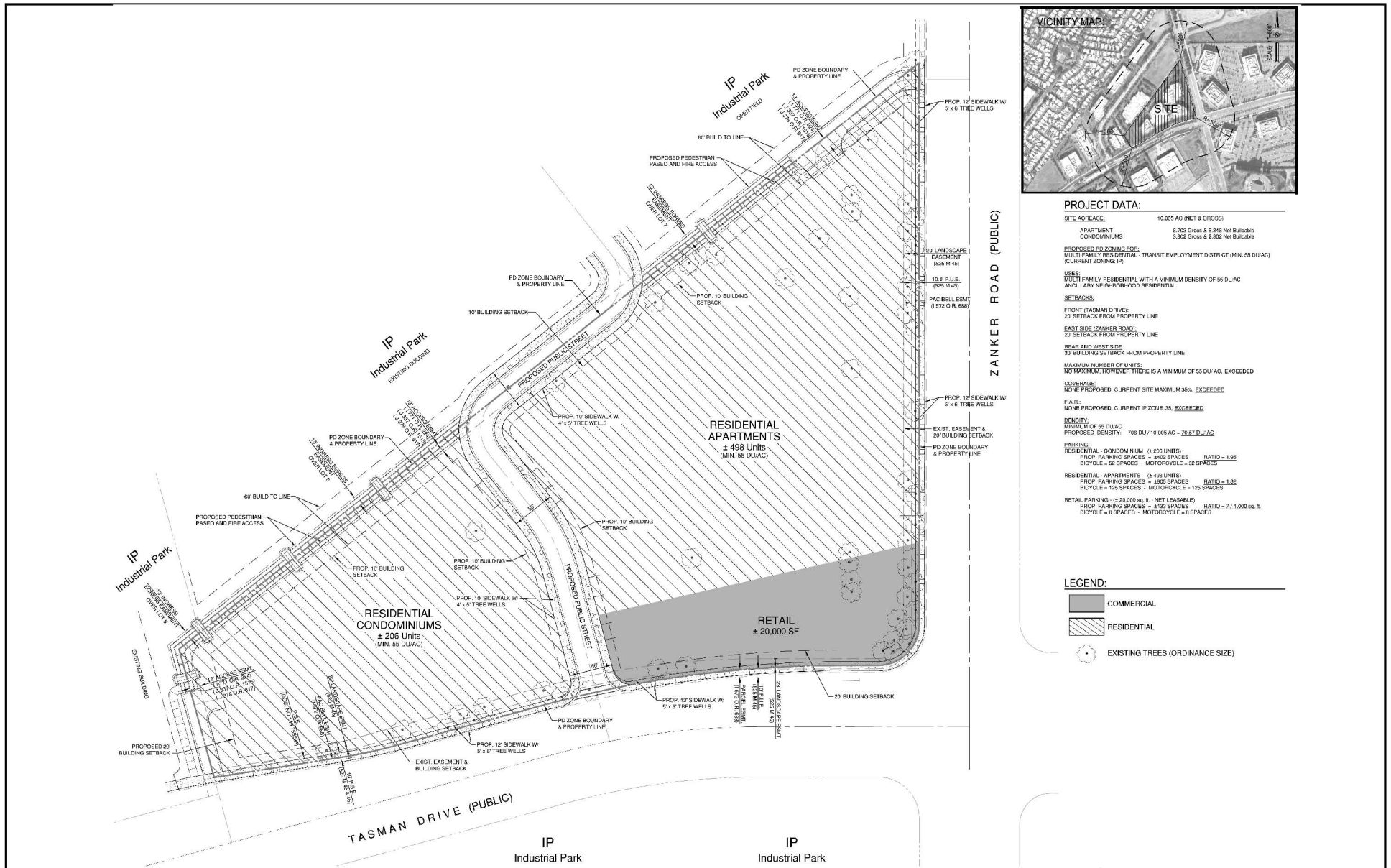
3.2.5 - Parking

All parking spaces would be in structured parking. The proposed project would require 1136 residential parking spaces while providing 1307 residential parking spaces. Therefore, the proposed project would exceed the City's minimum parking requirements.



Source: City of San Jose, Planning Services Division, January 2007.





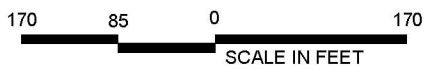
PROJECT DATA:

SITE ACRESAGE:	10.005 AC (NET & GROSS)
APARTMENT CONDOMINIUMS:	6,703 Gross & 5,348 Net Buildable 3,302 Gross & 2,302 Net Buildable
PROPOSED PD ZONING FOR:	MULTI-FAMILY RESIDENTIAL - TRANSIT EMPLOYMENT DISTRICT (MIN. 65 DU/AC) (CURRENT ZONING: IP)
USE:	MULTI-FAMILY RESIDENTIAL WITH A MINIMUM DENSITY OF 55 DU/AC ANGULARLY NEIGHBORHOOD RESIDENTIAL
SETBACKS:	FRONT (TASMAN DRIVE): 20' SETBACK FROM PROPERTY LINE EAST SIDE (ZANKER ROAD): 20' SETBACK FROM PROPERTY LINE REAR AND WEST SIDE: 30' BUILDING SETBACK FROM PROPERTY LINE
MAXIMUM NUMBER OF UNITS:	NO MAXIMUM, HOWEVER THERE IS A MINIMUM OF 55 DU/AC, EXCEEDED
COVERAGE:	NONE PROPOSED, CURRENT SITE MAXIMUM 35%, EXCEEDED
F.A.B.:	NONE PROPOSED, CURRENT IP ZONE 35, EXCEEDED
DENSITY:	MINIMUM OF 55 DU/AC PROPOSED DENSITY: 708 DU / 10.005 AC = 70.67 DU/AC
PARKING:	RESIDENTIAL - CONDOMINIUM (± 206 UNITS) PROP. PARKING SPACES = 442 SPACES RATIO = 1.95 BICYCLE = 62 SPACES - MOTORCYCLE = 62 SPACES
RESIDENTIAL - APARTMENTS (± 498 UNITS)	PROP. PARKING SPACES = 1806 SPACES RATIO = 1.86 BICYCLE = 128 SPACES - MOTORCYCLE = 128 SPACES
RETAIL PARKING (± 20,000 sq. ft. - NET LEASABLE)	PROP. PARKING SPACES = 433 SPACES RATIO = 7.1,000 sq. ft. BICYCLE = 6 SPACES - MOTORCYCLE = 6 SPACES

LEGEND:

	COMMERCIAL
	RESIDENTIAL
	EXISTING TREES (ORDINANCE SIZE)

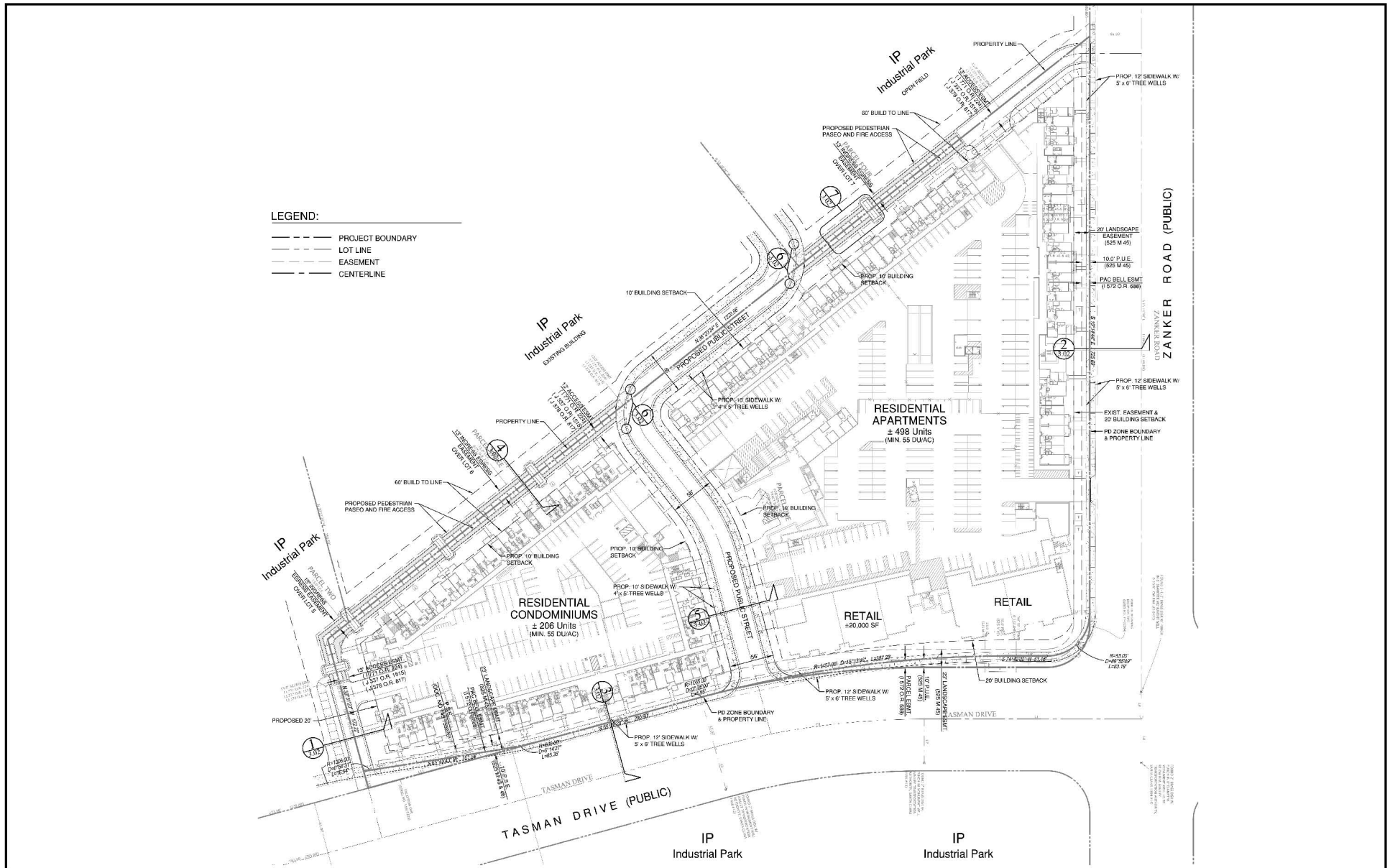
Source: Borm Civil Engineering, February 2007.



Michael Brandman Associates

26760002 • 08/2007 | 3-2_landuse.cdr

Exhibit 3-2 Land Use Plan



Source: Borm Civil Engineering, February 2007.



Michael Brandman Associates

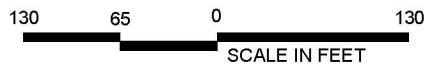
26760002 • 08/2007 | 3-3_siteplan.cdr

Exhibit 3-3
Site Plan

FF DEVELOPMENT L.P. • NORTHPOINTE PROJECT
INITIAL STUDY



Source: SB Architects, February 2007.



Michael Brandman Associates

26760002 • 08/2007 | 3-4_landscape.cdr

Exhibit 3-4 Landscape Concept

FF DEVELOPMENT L.P. • NORTHPOINTE PROJECT
INITIAL STUDY

SECTION 4: 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 (2006 NSJ FPEIR) (approved December 2006). The amount of residential development proposed was included and analyzed in the certified 2006 NSJ FPEIR, and the FPEIR evaluated, at a program level, developing residential uses on the project site.

This section, Section 4, 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 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 2006 NSJ FFEIR) 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 responses to each question. The sources cited are identified at the end of this section.

In addition, each impact is numbered using an alphanumeric 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 4-1: Letter Codes of Environmental Issues

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

Table 4-1 (Cont.): Letter Codes of Environmental Issues

Code	Environmental Issue
POP	Population and Housing
PS	Public Services
REC	Recreation
TRAN	Transportation
UTIL	Utilities and Service Systems

4.1 - Aesthetics

4.1.1 - Setting

According to the NSJ FPEIR, the predominant character of the visual and aesthetic environment in the project area is that of an industrial area. There are differences, especially between the older, heavier industrial land uses in the southeasterly portion of the project area and the newer industrial parks along the North First Street and Zanker Road corridors. The older industrial development is generally characterized by single-story buildings, and many are warehouses or include warehouses. There is less landscaping and less parking and the floor area ratios (FARs) are higher. The industrial park developments built within the last 20 years along North First Street and Zanker Road are mostly one- and two-story buildings. These newer industrial areas have a higher percentage of office buildings and multi-tenant small commercial buildings. These newer sites have substantially more surface parking and landscaping than older developments. Photographs in Exhibits 4-1 through 4-4 depict existing visual conditions.

The newest developments, which are scattered but generally located along North First Street or on Zanker Road north of Trimble Road, include taller buildings (three to five stories). Most of the properties have substantial building setbacks, with landscaping and parking adjacent to the streets. Building architecture varies widely.

4.1.2 - Environmental Checklist and Discussion of Impacts

Environmental Issues	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 Sources/ Discussion Location
Aesthetics						
<i>Would the project:</i>						
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic building within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3

Scenic Vista

The project site is currently developed and includes industrial uses. The predominant character of the visual and aesthetic environment in the project area is that of a modern industrial neighborhood. There are no prominent viewpoints (other than buildings) within or adjacent to the project site; this portion of the Santa Clara Valley is flat. The baylands that surround San Francisco Bay are located approximately 0.5 mile to the north, but neither the baylands nor the San Francisco Bay is visible from within North San José south of State Route (SR) 237. The most visually prominent scenic resources in this region are the hillsides that border Santa Clara Valley on three sides (east, south, and west). The hills closest to North San José are those to the east. Under existing conditions, views of the eastern foothills for people within North San José are partially obstructed by buildings, trees, and utility poles.

Impact

Impact AES-1 Because of the existing visual character of the project site, there would not be a substantial effect on scenic vistas. **(Same Impact As Approved Project)**

Mitigation Measure

None required.

Scenic Resources

There are no state scenic highways along any of the roads that border the project site. The nearest scenic highways in the region are located along Highway 680 in Fremont, and Highway 9 in between Saratoga and Los Altos.

Impact

Impact AES-2 Due to the fact that there are no state scenic highways along any of the roads that border the project site there would be no impact to trees, rock outcrops, or historic buildings along a scenic highway. **(Same Impact As Approved Project)**

Mitigation Measure

None required.

Visual Character

As discussed in the 2006 NSJ FPEIR, the proposed project would increase mass and density as compared to the existing uses onsite. The proposed project would increase the effective height of residential buildings to up to 60 feet above existing grade. All of the buildings would be subject to architectural review as part of the Planned Development Permit process prior to development, and would be required to comply with existing applicable design guidelines for residential, mixed-use, and North San José development. Because of the developed character of the project site and vicinity, the proposed project would not substantially degrade the existing visual character or quality of the site.

Impact

Impact AES-3 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. **(Same Impact as Approved Project)**

Standard Measure

The following standard 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:

- 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 9 – Landscaped Areas*: 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.
 - *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.

Light or Glare

The project site is currently developed for industrial uses, and is surrounded by other industrial uses. The proposed project would involve residential development with a portion of the project site dedicated to commercial retail uses. The NSJ FPEIR anticipates an incremental increase in light and glare.

Impact

Impact AES-4 The proposed project would incrementally increase light and glare but would not affect daytime or nighttime views from nearby proposed residences. **(Same Impact As Approved Project)**

Standard Measure

The project applicant would be required to comply with the City’s Policy 4-3, to reduce or avoid impacts associated with light or glare. Policy 4-3 states that lighting shall be low-pressure sodium fixtures along walkways, parking areas, entrance areas, and common outdoor areas.

Shade and Shadow Impacts

Impacts caused by shade and shadow occur when a building or structure reduces access to natural sunlight. As discussed in the certified 2006 NSJ FPEIR, the City of San José typically identifies significant shade and shadow impacts as occurring when a building substantially reduces natural sunlight on private or public open spaces as measured at midday on the first day of winter (December 21) and on the vernal and autumnal equinoxes (March 21 and September 21).

Most of the shadows cast by the proposed project would be within the project boundaries and would not impact buildings or structures located adjacent to the project. In winter, when the shadows are the longest, the proposed project would primarily cast morning shadows on Zanker Road and Tasman Drive. Zanker Road and Tasman Drive are located to the east and southeast of the project site respectively. During the afternoon hours, shadows would be cast on the parking area behind the existing industrial building located to the west of the project site. Currently, a row of trees shades this area, and there is landscaping up against the industrial building on the side facing the project site; therefore, shadows cast by the project would not be significantly different than those being cast by the existing landscaping. During the vernal and autumnal equinoxes, the proposed project would result in shading the same areas but to a lesser degree. Therefore, the project would not result in new or more significant shade or shadow impacts than described in the certified 2006 NSJ FPEIR.

4.1.3 - Conclusion

With implementation of the above mentioned standard measures all impacts to visual resources would be the same as those addressed in the NSJ FPEIR. The project site is currently developed for industrial use, does not offer unobstructed views of scenic vistas, is not bounded by any state scenic highways, would not substantially degrade the existing visual character of the area, and would not create a new source of substantial light and glare that would affect day and nighttime views.



Photograph 1: View of project site from the northern boundary.



Photograph 2: View of project site from the northern boundary.

Source: Michael Brandman Associates, 2007.



Michael Brandman Associates

26760002 • 08/2007 | 4-1_photo1and2.cdr

Exhibit 4-1 Site Photographs 1 and 2

FF DEVELOPMENT L.P. • NORTHPOINTE PROJECT
INITIAL STUDY



Photograph 3: View of project site from the eastern boundary.



Photograph 4: View of project site from the eastern boundary.

Source: Michael Brandman Associates, 2007.



Michael Brandman Associates

26760002 • 08/2007 | 4-2_photo3and4.cdr

Exhibit 4-2 Site Photographs 3 and 4

FF DEVELOPMENT L.P. • NORTHPOINTE PROJECT
INITIAL STUDY



Photograph 5: View of project site from the southern boundary.



Photograph 6: View of project site from the southern boundary.

Source: Michael Brandman Associates, 2007.



Michael Brandman Associates

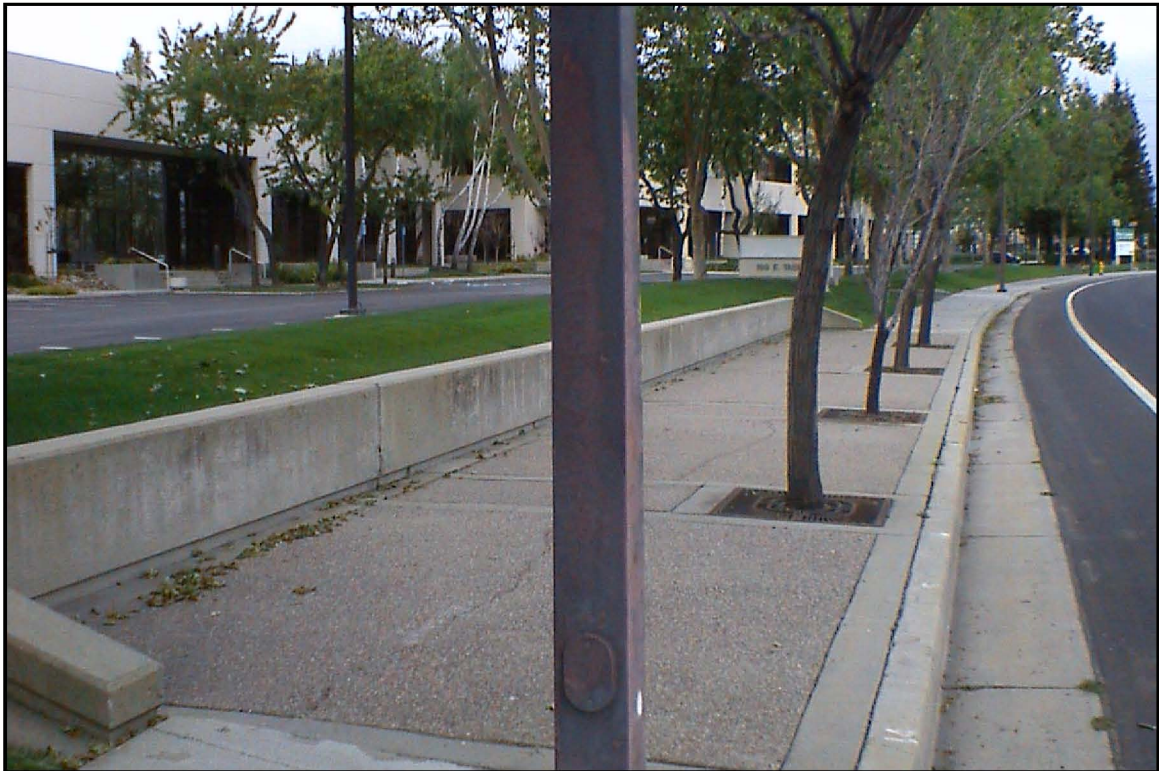
26760002 • 08/2007 | 4-3_photo5and6.cdr

Exhibit 4-3 Site Photographs 5 and 6

FF DEVELOPMENT L.P. • NORTHPOINTE PROJECT
INITIAL STUDY



Photograph 7: View of project site from the western boundary.



Photograph 8: View of project site from the western boundary.

Source: Michael Brandman Associates, 2007.



Michael Brandman Associates

26760002 • 08/2007 | 4-4_photo7and8.cdr

Exhibit 4-4 Site Photographs 7 and 8

FF DEVELOPMENT L.P. • NORTHPOINTE PROJECT
INITIAL STUDY

4.2 - Agricultural Resources

4.2.1 - Setting

All of the land within the project area has been designated for urban uses for over 30 years, and all of the land south of SR-237 and between the two waterways has been within a Redevelopment Project area for over 20 years. There are no Williamson Act contracts remaining within the project area. In 1998, an FEIR was prepared for the Moitozo Ranch Residential Project on a 94.7-acre parcel at the northeast corner of North First Street and River Oaks Parkway. The project proposed to develop the northern 60 acres of the site immediately and the southern 34.7 acres at a later date. The southern 34.7 acres remains undeveloped at this time and is the only Prime Farmland remaining in the North San José project area. The project approved on that site was found to result in a significant and unavoidable land use impact due to the loss of agricultural land. Findings adopted by the San José City Council identified overriding considerations that warranted approval of the project despite this impact. Since the approval of the original rezoning for 94.7 acres, most of the Moitozo Ranch property has been developed.

The project site is urban built-up and does not contain any active agricultural uses and is zoned IP-Industrial Park. The project site is surrounded by an undeveloped parcel to the north and urban development to the west, east, and south.

4.2.2 - Environmental Checklist and Discussion of Impacts

Environmental Issues	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 Sources/ Discussion Location
Agriculture Resources <i>In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland.</i> <i>Would the project:</i>						
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
c) Involve other changes in the existing environment which, due to their location or nature,	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3

Environmental Issues	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 Sources/ Discussion Location
could result in conversion of Farmland, to non-agricultural use?						

Convert Farmland to Non-Agricultural Use

The project site contains urban built-up uses. No active farmland or other agricultural uses are present onsite. This condition precludes the conversion of Important Farmland to non-agricultural uses.

Impact

Impact AG-1 The proposed project would not result in the conversion of Important Farmland to non-agricultural uses. **(Same Impact as Approved Project)**

Mitigation Measure

None required.

Conflict with Existing Zoning or Williamson Act Contract

The project site is zoned for IP-Industrial Park. Because the project site does not contain agricultural uses, it is not eligible for a Williamson Act contract. Therefore, the proposed project would not result in any significant impacts related to conflicts with agricultural zoning or conflicts with Williamson Act contracts.

Impact

Impact AG-2 There would not be any conflicts with existing zoning or a Williamson Act contract. **(Same Impact As Approved Project)**

Mitigation Measure

None required.

Other Changes Resulting in Farmland Conversion to Non-Agricultural Use

The project site is surrounded by an undeveloped parcel to the north and urban development to the west, east, and south. No agricultural land uses are on or in the project vicinity. This condition precludes the possibility of the proposed project creating pressures to convert surrounding agricultural properties to non-agricultural use.

Impact

Impact AG-3 The proposed project would not result in other changes that convert farmland to non-agricultural use. **(Same Impact As Approved Project)**

Mitigation Measure

None required.

4.2.3 - Conclusion

The project site and vicinity are developed for industrial uses. These areas are zoned for IP-Industrial Park, and do not have any Williamson Act Contracts. There are no agricultural properties in the project vicinity.

4.3 - Air Quality

4.3.1 - Setting

Background Information

The ambient and regulatory requirements regarding air quality have largely remained unchanged since the approval of the 2006 NSJ FPEIR. However, on January 4, 2006, the Bay Area Air Quality Management District (BAAQMD) adopted the Bay Area 2005 Ozone Strategy, which updates vehicle miles traveled (VMT) and other assumptions in the 2000 Clean Air Plan (CAP) related to the reduction of ozone in the atmosphere and serves as the current CAP for the Bay Area.

The Bay Area 2005 Ozone Strategy is based upon Projections 2002, prepared by the Association of Bay Area Governments (ABAG), which the City’s General Plan also used. The City’s General Plan has recently been updated with the approval of the 2006 NSJ FPEIR. The growth assumed in the 2006 NSJ FPEIR, therefore, was not included in ABAG’s Projections 2002. While the development of high-density residential housing in close proximity to job centers and along transit corridors 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 2006 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.

Sensitive Receptors

BAAQMD defines sensitive receptors as facilities where sensitive receptor population groups (children, the elderly, and the acutely and chronically ill) are likely to be located. These land uses include residences, school playgrounds, child-care centers, retirement homes, convalescent homes, hospitals, and medical clinics. Sensitive receptors near the project site include the residential uses northwest, southeast, and southwest of the project site.

4.3.2 - Environmental Checklist and Discussion of Impacts

Environmental Issues	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 Sources/ Discussion Location
Air Quality <i>Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations.</i> <i>Would the project:</i>						
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
b) Violate any air quality standard or contribute substantially to an existing or projected air quality	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3

Environmental Issues	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 Sources/ Discussion Location
violation?						
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions, which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3

Regional and Local Air Quality Impacts

The development of the proposed project would contribute to the significant regional and local air quality impact identified in the certified 2006 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 NSJ FPEIR.

Impact

Impact AIR-1 The proposed project would result in impacts to regional and local air quality. **(Same as Approved Project)**

Mitigation Measure

MM AIR-1.1 This mitigation measure is identified as part of the certified 2006 NSJ FPEIR and proposed for the project. 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 located 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 the incomplete combustion of burning wood.

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

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 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 dust-fall and locally elevated levels of PM₁₀ 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 2006 NSJ FPEIR. The proposed project, however, would not result in any new or more significant construction-related air quality impacts than those described in the certified 2006 NSJ FPEIR.

Impact

Impact AIR-2 The proposed project would result in significant construction-related, short-term air quality impacts. **(Same Impact As Approved Project)**

Mitigation Measure

MM AIR-2.1 This mitigation measure is identified as part of the certified 2006 NSJ FPEIR and proposed for the project. All active construction areas should be watered at least twice daily.

- MM AIR-2.2** This mitigation measure is identified as part of the certified 2006 NSJ FPEIR and proposed for the project. All stockpiles of debris, soil, sand, or other materials that can be blown by the wind will be watered or covered.
- MM AIR-2.3** This mitigation measure is identified as part of the certified 2006 NSJ FPEIR and proposed for the project. All trucks hauling soil, sand, and other loose materials will be covered or all trucks will maintain at least 2 feet of freeboard.
- MM AIR-2.4** This mitigation measure is identified as part of the certified 2006 NSJ FPEIR and proposed for the project. All paved access roads, parking areas, and staging areas at construction sites will be swept daily (preferably with water sweepers).
- MM AIR-2.5** This mitigation measure is identified as part of the certified 2006 NSJ FPEIR and proposed for the project. All streets will be swept daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.
- MM AIR-2.6** This mitigation measure is identified as part of the certified 2006 NSJ FPEIR and proposed for the project. Inactive construction sites will be hydro-seeded or treated with non-toxic soil stabilizers.
- MM AIR-2.7** This mitigation measure is identified as part of the certified 2006 NSJ FPEIR and proposed for the project. Exposed stockpiles (dirt, sand, etc.) will be enclosed, covered, watered twice daily, or treated with non-toxic soil binders.
- MM AIR-2.8** This mitigation measure is identified as part of the certified 2006 NSJ FPEIR and proposed for the project. Sandbags or other erosion control measures will be employed to prevent silt runoff to public roadways.
- MM AIR-2.9** This mitigation measure is identified as part of the certified 2006 NSJ FPEIR and proposed for the project. Vegetation will be replanted in disturbed areas as quickly as possible.

4.3.3 - Conclusion

The proposed project, with the implementation of the above-mentioned mitigation measures, would not result in any new or more significant regional or local air quality impacts than those addressed in the certified 2006 NSJ FPEIR.

4.4 - Biological Resources

Information on the numbers of and conditions of trees on the project site is based on a report prepared by Walter Levison, consulting arborist, dated August 23, 2006.

4.4.1 Setting

The primary habitat type on the project site is urban landscape. The project site is occupied by commercial buildings, parking lots, and ornamental landscaping including well-manicured trees, shrubs, and flowerbeds. Some of the more commonly used landscape trees include coast redwood (*Sequoia sempervirens*), Japanese black pine (*Pinus thunbergii*), Tasmanian blue gum (*Eucalyptus globulus*), and tulip tree (*Liriodendron styraciflua*). Hedges and landscape understory plants are equally conspicuous in the urban landscape. These species include oleander (*Nerium oleander*), and pittosporum (*Pittosporum* spp.). Many buildings are surrounded by plantings of turfgrass, such as bluegrass (*Poa pratensis*), or English ivy (*Hedera helix*).

The urban landscape habitats of the project area support a suite of wildlife species typical of developed areas in Santa Clara County. Most of the species found in this habitat are fairly common species due to heavy management (e.g., irrigation, mowing, trimming trees, etc.), presence of humans, and the abundance of non-native landscaped vegetation. Nonetheless, this habitat does support a variety of wildlife. Several bird species are typical of this type of habitat. A common invasive species is the European starling (*Sturnus vulgaris*), which presumably nest in trees within the project area. House sparrows (*Passer domesticus*) typically nest under eaves or in shrubs near human habitation. Other bird species commonly found in these urban landscape habitats within the project area include the American robin (*Turdus migratorius*), northern mockingbird (*Mimus polyglottos*), California towhee (*Pipilo crissalis*), and house finch (*Carpodacus mexicanus*). Mammals such as the Virginia opossum (*Didelphis virginiana*), deer mouse (*Peromyscus maniculatus*), raccoon (*Procyon lotor*), and striped skunk (*Mephitis mephitis*) will forage in this habitat, especially if undisturbed habitat is nearby. Raptors, such as the red-tailed hawk (*Buteo jamaicensis*) and barn owl (*Tyto alba*), may nest and/or roost in the taller trees of the area. Pocket gopher (*Thomomys bottae*) mounds are sometimes found in some landscaped areas.

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 means of conserving and protecting plant and animal species with limited distributions or declining population numbers. Species listed as threatened or endangered under provisions of the State and federal Endangered Species Acts, candidate species for listing, state species of special concern and some plants listed as endangered by the California Native Plant Society, are collectively referred to as species of “special status.” Projects that involve “take” of a listed species require permits from both CDFG and USFWS. Take of a listed species is defined in California as, to hunt, pursue, catch, capture, kill, or attempt to

hunt, pursue, catch, capture, kill said species (California Fish and Game Code, Section 86). Take is more broadly defined by the federal Endangered Species Act (ESA) 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 USC sc. 703, Supp. 1, 1989) prohibits killing, possessing, or trading in migratory birds, except in accordance with regulations prescribed by the Secretary of 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 State Fish and Game Code, Section 3503.3 (1992), which states it is “unlawful to take possess, or destroy any birds in the order Falconiformes or Strigiformes 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 considering “taking” by CDFG.

Wetlands and Other Jurisdictional Waters

Jurisdictional waters include rivers, creeks, and drainages with a defined bed and bank that may carry ephemeral flows, and include 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 the California Regional Water Quality Control Board (RWQCB).

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.

City of San José Tree Protection Ordinance

The City of San José Tree Removal Controls (San José City Code, Section 13.31.010- 13.32.100) serve to protect all trees having a trunk that measures 56 inches or more in circumference (18 inches in diameter) at the height of 24 inches above the natural grade or slope. The ordinance protects both native and non-native species. A tree removal permit is required from the City of San José for the removal of ordinance-sized trees. In addition, any tree found by the City Council to have special significance can be designated as a heritage tree, regardless of tree size or species. It is unlawful to vandalize, mutilate, remove, or destroy such heritage trees. In addition, the City of San José requires, prior to the issuance of any approval or permit for construction of any improvement on any project site, that all trees on the project site be inventoried and categorized according to size, species, and location.

4.4.1 - Environmental Checklist and Discussion of Impacts

Environmental Issues	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 Sources/ Discussion Location
Biological Resources						
<i>Would the project:</i>						
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
c) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3, 4
f) Conflict with the provisions of an adopted Habitat	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3

Environmental Issues	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 Sources/ Discussion Location
Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?						

Effect on Species

Since the project site is considered urban landscape habitat, there is low potential for special status species to occur on the site due to lack of suitable habitat. However, it is possible that the site contains suitable nesting habitat for several tree, shrub, and ground-dwelling avian species that are protected by the Migratory Bird Treaty Act and California Fish and Game Codes. The development of the proposed project would result in the removal of the nesting habitat and, therefore, could potentially result in significant adverse impacts to any birds nesting in the trees. Standard nesting bird construction mitigation is incorporated into the project that would reduce potentially significant impacts to a level of less than significant. This mitigation would only apply to vegetation removal activities that occur between February 1 and August 31; tree removal that occurs outside of this time would not require mitigation.

Impact

Impact BIO-1 The development of the proposed project could result in the removal of the nesting habitat and, therefore, could potentially result in significant impacts to any birds nesting in the trees. **(Same Impact as Approved Project With Mitigation Incorporated)**

Mitigation Measure

MM BIO-1.1 If mature trees are to be removed during the nesting season, from February 1 through August 31, a qualified biologist shall conduct a nesting bird survey to identify any potential nesting activity. If passerine birds are found to be nesting, or there is evidence of nesting behavior within 250 feet of the impact area, a 250-foot buffer shall be required around the nests. No vegetation removal or ground disturbance shall occur within the 250-foot buffer. For raptor species—birds of prey such as hawks and owls—this buffer shall be 500 feet. A qualified biologist shall monitor the nests closely until it is determined that the nests are no longer active, at which time construction activities may commence within the buffer area. Construction activity may encroach into the buffer area at the discretion of the biological monitor.

Riparian Habitat

As stated above the majority of the project site represents urban landscape type habitat. This habitat is not considered a sensitive natural community. In addition, the project site does not contain any riparian habitat. Therefore, the development of the proposed project would not result in impacts on riparian habitat or sensitive natural communities.

Impact

Impact BIO-2 The development of the proposed project would not result in impacts on riparian habitat or sensitive natural communities. **(Impact Same as Approved Project)**

Mitigation Measure

None required.

Federally Protected Wetlands

As stated above the majority of the project site represents urban landscape type habitat. The site does not support any natural water features, and does not contain any riparian habitat. Urban landscape habitat is not considered a sensitive natural community. Therefore, the development of the proposed project would not result in impacts on riparian habitat or sensitive natural communities.

Impact

Impact BIO-3 The development of the proposed project would not result in impacts on riparian habitat or sensitive natural communities. **(Impact Same as Approved Project)**

Mitigation Measure

None required.

Wildlife Movement

The project site is comprised of urban landscape habitat and is almost entirely surrounded by developed, industrial areas. There is a vacant lot adjacent to the northwestern portion of the project site. However, the site does not contain riparian areas, arroyos, or ridgelines that could be used for wildlife movement. Therefore, the proposed project would not interfere with movement of wildlife.

Impact

Impact BIO-4 The proposed project does not contain any features that facilitate wildlife movement. **(Impact Same as Approved Project)**

Mitigation Measure

None required.

Local Policies or Ordinances Protecting Biological Resources

A detailed tree survey was conducted for the proposed project (Appendix B). Results show there are eight Ordinance trees onsite, including trees #1100, 1101, 1118, 1146, 1147, 1148, 1149, and 1150.

No heritage trees were found. The first three of these Ordinance trees would be removed. The proposed project would contribute significant impacts to trees identified in the 2006 NSJ FPEIR. However, the proposed project would not result in new or more impacts to Ordinance trees described in the certified NSJ FPEIR. The remaining five trees should be retained if protection measures and special demolition specifications are adhered to during project construction.

Impact

Impact BIO-5 Three Ordinance trees would be removed, and replacement trees provided at the ratios identified in the NSJ FEIR. **(Same Impact as Approved Project)**

Mitigation Measure

MM BIO-5.1 The following replacement ratios shall be adhered to for loss of Ordinance trees.

- Nonnative trees greater than 18 inches in diameter, the replacement ratio is 4:1.
- Nonnative trees in between 12 and 18 inches in diameter, the replacement ratio is 2:1.
- Nonnative trees less than 12 inches in diameter, the replacement ratio is 1:1.
- Native trees greater than 19 inches in diameter, the replacement ratio is 5:1.
- Native trees in between 12 and 18 inches in diameter, the replacement ratio is 3:1.
- Native trees less than 12 inches in diameter, the replacement ratio is 1:1.

MM BIO-5.2 Applicant shall retain a consulting arborist prior to ground disturbing activities to develop a tree protection plan that outlines specific procedures to ensure the retained trees are protected during construction.

For retained trees in the immediate vicinity of construction or demolition areas, problems of soil compaction within the root zone resulting from construction shall be prevented. Barrier fencing shall be installed around the dripline of the trees or at the edge of construction areas. Any construction occurring within the tree dripline shall be done by hand or with light equipment.

Any limb or root pruning conducted on retained trees shall be approved and supervised by the consulting arborist and shall follow BMPs developed by the International Society of Arboriculture.

Conservation Plans

The project site is not within the boundaries of a Habitat Conservation Plan (HCP), or a Natural Communities Conservation Plan (NCCP). As a result, the proposed project would not conflict with provisions of an HCP or NCCP.

Impact

Impact BIO-6 The project is not within the boundaries of an HCP or NCCP. (**Same Impact As Approved Project**)

Mitigation Measure

None required.

4.4.2 - Conclusions

There would no new or more significant impacts to biological resources than those addressed in the certified 2006 NSJ FPEIR if the above mitigation measures are implemented.

4.5 - Cultural Resources

4.5.1 - Setting

The project site is located in the northern portion of San José where typically prehistoric archaeological resources are classified as midden sites formed through extensive human occupation, which modified the natural soil. Midden deposits are characterized by shellfish remains, fire-affected rock, charcoal, faunal remains, and ground stone artifacts. Native American burials are often present in these deposits. The certified 2006 NSJ FPEIR indicates that reburial locations may be present throughout North San José but are especially likely along North First Street within the Urban Industrial Core and in the vicinity of the Guadalupe River.

Historic Period resources in North San José area include locations from the Hispanic Era, the Hispanic/American Transition era, and the American Period. The American Period sites typically include residences, ranches, farms, and schools. In addition to structural remains, numerous parcels contain subsurface historic archaeological resources, such as privies and refuse deposits.

4.5.2 - Environmental Checklist and Discussion of Impacts

Environmental Issues	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 Sources/ Discussion Location
Cultural Resources						
<i>Would the project:</i>						
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3, 5
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3, 5
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3, 5
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3, 5

Historical Resource

The information gathered for the certified 2006 NSJ FPEIR indicates that no historic resources have been recorded at the project site. In addition, the Phase I Environmental Assessment (Appendix B) conducted for the site indicated that prior to 1954, the site was used for agricultural purposes such as row crops and orchards. The report also states that the property was first developed with commercial buildings sometime around 1971. Thus, the buildings' oldest age is 36 years, which is below the

minimum age requirement of 45 years for historic significance. Typically, properties are not evaluated for the National Register of Historic Places (NRHP) or the California Register of Historical Resources (CRHR) until they are 45 years old, unless the case is exceptional.

The buildings located within the project boundaries do not meet the minimum age requirement for historic significance.

Impact

Impact CUL-1 The proposed project would not impact historic resources. **(Same impact as Approved Project)**

Mitigation Measure

None required.

Archaeological Resources

The information gathered for the certified 2006 NSJ FPEIR indicates that the proposed project area is not an area considered highly sensitive for archaeological resources. In addition, the Phase I Environmental Assessment (Appendix B) conducted for the site indicated that prior to 1954, the site was used for agricultural purposes such as row crops and orchards. Typically, cultivation for row crops and orchards disturbs the ground surface to the point intact archaeological resources are rare. However, there is always the possibility that previously unknown, subsurface archaeological resources exist.

Although the project area is not one of the areas discussed in the certified 2006 NSJ FPEIR as being highly sensitive for archaeological resources, there is still the possibility for subsurface resources to be discovered during project excavation activities.

Impact

Impact CUL-2 If previously unknown prehistoric resources are discovered during project development, excavation for the proposed project could impact buried archaeological resources. **(Same Impact as Approved Project)**

Mitigation Measure

- In the event any significant cultural materials are encountered, all construction within a radius of 50 feet of the find would be halted, the Director of Planning, Building, and Code Enforcement would be notified, and a professional archaeologist will examine the find and make appropriate recommendations regarding the significance of the find and the appropriate mitigation. Recommendations could include collection, recordation, and analysis of any significant cultural materials.
- If human remains are discovered, the Santa Clara County Coroner will be notified. The Coroner would determine whether the remains are Native American. If the

Coroner determines that the remains are not subject to his authority, he would notify the Native American Heritage Commission, would attempt to identify “most likely” descendants of the deceased.

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

Human Remains

Although it is highly unlikely that the proposed project would result in impacting previously unknown human remains, there is always the possibility that burials exist below the ground surface.

Impact

Impact CUL-3 During excavation for the proposed project there may be discovery of previously unknown human remains. **(Same Impact as Approved Project)**

Mitigation Measure

MM CUL-3.1 In the event that human remains and/or cultural materials are found, all project-related construction shall cease within a 100-foot radius of the find. 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:

- a) 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 authority, he shall notify the Native American Heritage Commission who shall attempt 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 landowner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

4.5.3 - Conclusion

With the implementation of the above mitigation measures, the proposed project would not result in any new or more significant impacts to cultural resources than those addressed in the certified 2006 NSJ FPEIR.

4.6 - Geology and Soils

The following discussion is based on a preliminary geotechnical investigation completed for the project site by Construction Testing and Engineering Inc., in May 2006. A copy of this report is included in Appendix C of this Initial Study.

4.6.1 - Setting

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 composed of clay, silt, sand, and gravel. Below surface soils, older alluvial soils extend to depths greater than 950 feet.

Onsite Geologic Conditions

Soils and Groundwater

The site soils are generally consistent with previous explorations in the vicinity and recently published geologic mapping and reports (Seismic Hazard Zone Report for the Milpitas 7.5-minute quadrangle, Alameda and Santa Clara Counties, CGS SHZR 051, 2001, text revised 2004, et. al.) which describes soils at the site to be comprised of “broad, low-lying alluvial fan deposits of the Santa Clara Valley that slope gently toward the Bay.” Alluvial fan deposits were encountered below surface grade to the maximum explored depth of approximately 45.5 feet below grade (fbg). The site soils consisted of medium stiff to very stiff clay, silty clay, clayey silt, and sandy clay, although, between depth 14± and 38± feet loose to medium-dense sandy silt and silty/clayey sands and gravels were encountered.

Groundwater was encountered between 9 to 13 feet below ground surface which is generally consistent with historic high groundwater depths indicated in the vicinity (per Santa Clara Valley Water District Depth-to-Water Index Well Hydrograph for Well Id: 07S01E07R013) and “Seismic Hazard Zone Report for the Milpitas 7.5-Minute Quadrangle” (CGS, SHZR 051, 2001) which indicates slightly higher historic high groundwater levels in the site vicinity (on the order of 6 to 7 feet below ground surface). Groundwater levels were initially encountered approximately 5 feet below the levels indicated above; therefore, the upper clays may not be confining the groundwater to such levels.

Seismicity

Northern California is one of the most seismically active regions in the United States. Many faults exist in the San Francisco Bay area. Movement along one of these faults could affect the project site. Major faults in the region include the Hayward Fault, the Calaveras Fault, and the San Andreas Fault. The project area is approximately 6 miles southwest of the Hayward Fault, 8 miles southwest of the Calaveras Fault, and 12 miles northeast of the northern segment of the San Andreas Fault. The site does not lie within a Santa Clara County earthquake fault rupture zone. Hazards from fault rupture are not anticipated.

Ground Shaking

Strong ground shaking can be expected at the project site during a major seismic event on any of the regional faults in the area. This is common to virtually all developments in the San Francisco Bay area.

Liquefaction

The project site is located within a Santa Clara County Seismic Hazard Zone for liquefaction. Soil liquefaction is a condition where saturated granular soils near the ground surface undergo a substantial loss of strength during seismic events. Loose, water-saturated soils are transformed from a solid to a liquid state during ground shaking. Liquefaction can result in significant deformations. Soils most susceptible to liquefaction are loose, uniformly graded, saturated, fine-grained sands that lie close to the ground surface.

The clays encountered at the site are locally unconsolidated and have highly expansion potential (Expansion Index=112); they are generally considered “weak” and compressible under moderate-high surcharge pressures or loadings.

Lateral Spreading

Lateral spreading is a type of ground failure often associated with liquefaction. It consists of the horizontal displacement of flat-lying alluvial material toward an open area, such as the steep bank of a stream channel. Historical accounts indicate that lateral spreading has occurred along Coyote Creek near SR 237. In the vicinity of the SR 237 bridge over Coyote Creek, the ground failure zone from the 1906 earthquake was estimated to extend approximately 300 meters west of the creek. The project site is located approximately 1,200 meters from Coyote Creek.

4.6.2 - Environmental Checklist and Discussion of Impacts

Environmental Issues	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 Sources/ Discussion Location
Geology/Soils						
<i>Would the project:</i>						
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death involving:						
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3, 7
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3, 7
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3, 7
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3, 7
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3, 7
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3, 7
d) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3, 7
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3, 7

Soils and Groundwater

As discussed above, the onsite soils have a high expansion potential; they are generally considered “weak” and compressible under moderate-high surcharge pressures or loadings. The soils encountered are not considered adequate for support of conventional spread footing foundations. The inadequate soils, groundwater level, and the short distances to several capable faults are significant geotechnical concerns and these conditions could expose people and structures to geological hazards related to unstable geologic units or soils. The relatively flat topography of the site precludes the possibility of landslides, slope instability, or erosion. Implementation of the proposed project would expose more people and structures to geologic impacts from groundwater and other unstable soil conditions than current uses, though no more so than the approved project.

Impacts

Impact GEO-1 Groundwater could be encountered during site construction. **(Same Impact as Approved Project)**

Impact GEO-2 The site soils are not considered adequate for support of conventional foundations. **(Same Impact as Approved Project)**

Mitigation Measures

MM GEO-1.1 All buildings will be designed and constructed in accordance with a design-level geotechnical investigation prepared for the project site, which will identify 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-2.1 All buildings will be designed and constructed in accordance with a design-level geotechnical investigation prepared for the project site, which will identify 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.

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 2006 NSJ FPEIR.

Impact

Impact GEO-3 The project is subject to seismic and seismic-related hazards. **(Impact Same as Approved Project)**

Mitigation Measure

MM GEO-3.1 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.

4.4.2 Conclusion

The proposed project, with the implementation of the above-mentioned mitigation measures, would not result in any new or more significant geologic impacts related to groundwater or seismic or seismic-related hazards than those addressed in the certified 2006 NSJ FPEIR.

4.7 - Hazards/Hazardous Materials

The following discussion is based upon a Phase I Environmental Assessment and a Phase II Investigation Report, both prepared by PES Environmental, Inc. in June 2006, and the Off-Site Hazardous Material Facilities Survey, also prepared in 2006 by PES. Also referenced in this discussion is the Phase I Environmental Assessment, prepared by TRC Environmental Consultants, Inc. (TRC) in 1991. These reports are available in their entirety in Appendix B of this document. The purpose of these assessments was to identify recognized environmental conditions on the project site related to current and historic use of hazardous substances, including petroleum products.

4.7.1 - Setting

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, and 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.

Because 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 change for unintended releases and/or exposures to occur. Other programs set forth remediation requirements at any site where contamination has occurred.

Site Conditions

Historic Use

Based on a review of historic maps and aerial photographs, the project site consisted of agricultural fields (orchards) or undeveloped land.

Present Use

In 1985, the property was developed to its current configuration of four commercial structures surrounded by associated parking and landscaping.

Previous Environmental Investigations

1991 Phase I Environmental Assessment

In 1991, TRC performed a Phase I Environmental Assessment for the project site. At the time of TRC's site inspection, the buildings at 3801 and 3811 Zanker Road were occupied by ICOT Corporation (ICOT) although the 3811 Zanker Road building was vacant. Nara Technologies Corporation occupied 179 Tasman Drive, and Shipley occupied 199 Tasman Drive. TRC reported that ICOT assembled computer circuit boards, and tin-lead solder, isopropyl alcohol (IPA) and an organic flux. Shipley used the 199 Tasman Road building as a chemical distribution center, and handled acids, flammables, combustibles, solvents, and metals solutions. TRC did not note any

hazardous material use at the Nara Technologies facilities. TRC performed an asbestos survey at the project site; the results of the survey indicated that roof mastic contained detectable concentrations of asbestos greater than 1 percent. The material was not friable and TRC reported that it did not pose a health risk. Based on a review of environmental databases, TRC did not identify any offsite sources of environmental concern to the project site. TRC did not recommend any further investigation.

1994 Environmental Property Evaluation

In 1994, Clayton Environmental Consultants (Clayton) performed an environmental evaluation of the project site. In 1994, Hitachi Microsystems occupied 179 Tasman Drive, Centigram Communications occupied 199 Tasman Drive, ICOT occupied 3801 Zanker Road, and Fujitsu Computer Packaging occupied 3811 Zanker Road. Clayton did not identify any concerns regarding hazardous material use and storage at the subject property. Clayton noted the presence of three groundwater monitoring wells at the Fujitsu facility and indicated that Fujitsu personnel reported that no detectable contaminant concentrations had been identified in the wells in the past 12 months other than trace amounts of methylene chloride, which was believed to have been a laboratory contaminant. Based on a review of environmental regulatory databases, Clayton did not identify any offsite sources of environmental concern.

Fujitsu Groundwater Sampling Activities

Three groundwater monitoring wells were installed at 3811 Zanker Road on behalf of Fujitsu in 1991. Two soil samples from the two of the boring were collected and analyzed for pesticides, herbicides, and polychlorinated biphenyls (PCBs); no detections were reported. Groundwater samples were collected and analyzed for volatile organic compounds (VOCs); no detections were reported. The wells were sampled again in March 1993, October 1993, and March 1994 and analyzed for VOCs. In the October 1993 sampling event, xylenes, methylene chloride, and toluene were detected. In April 2004, MJO Earthscience Services sampled the three wells; no VOCs or semi-volatile organic compounds (SVOCs) were detected; however, antimony and thallium were detected at concentrations slightly above EPA drinking water maximum contaminant levels (MCLs). The three groundwater monitoring wells were removed in June 2004 in accordance with Santa Clara Valley Water District (SCVWD) requirements.

2004 Asbestos Inspection

In April 2004, Asbestos Inspectors performed an asbestos survey at 3811 Zanker Road. Thirty-five samples were collected and the results indicated that no asbestos was present in any of the materials sampled.

2004 Fujitsu Closure Activities

Closure activities were performed at the Fujitsu facility at 3811 Zanker Road during January to November 2004 by Anderson Environmental Management with oversight by the San José Fire Department (SJFD). Closure activities included removal of hazardous materials and waste, decontamination of hazardous material use and storage areas and process equipment, including

process lines and diction, and removal of all equipment. As required by the SJFD, soil sampling and analysis was performed beneath the wet process, coating, and testing bays and beneath the acid waste neutralization system vault and subchamber. Six samples were collected from this area and no VOCs or SVOCs were detected. One sample was collected from a landscaped area and it contained elevated metals (arsenic and selenium); it was suggested that the metals were not associated with Fujitsu operations and may have been related to pesticide use in the orchards formerly present on the project site. In June 2004, two soil samples were collected from beneath the acid waste neutralization vault. No VOCs or SVOCs were detected above laboratory reporting limits. Total chromium was detected but it was concluded that the concentration was within background levels.

Records Review

The following regulatory agency databases were searched and reported in the Phase I Environmental Assessment:

- EPA - Comprehensive Environmental Response Compensation, and Liability Information System (CERCLIS) - within 0.5 mile of the project site.
- EPA - CERCLA National Priority List (NPL) - with 1 mile of the project site.
- EPA - Resource Conservation and Recovery Information System (RCRIS), Treatment, Storage, or Disposal (TDS) facilities (within 0.5 mile of the subject property) and Small Quantity and Large Quantity Generators of hazardous waste (SQG and LQG) databases with 0.5 mile of the project site.
- EPA - Emergency Response Notification System (ERNS) - within 0.25 mile of the project site.
- EPA RCRA Corrective Action Report (CORRACTS) - within 1 mile of the project site.
- EPA Facility Index System (FINDS) - within 0.25 mile of the project site.
- EPA Toxic Chemical Release Inventory System (TRIS) - within 0.25 mile of the project site.
- U.S. Engineering Control Sites - within 0.5 mile of the project site.
- U.S. Institutional Control Sites - within 0.5 mile of the of the project site.
- California State Water Resources Control Board (SWRCB) - Leaking Underground Storage Tank (LUST) sites including Indian Land - within 0.5 mile of the of the project site.
- SWRCB - UST - within 0.5 mile of the project site.
- SWRCB - Voluntary Cleanup Sites (VCP) - within 0.5 mile of the project site.
- SWRCB - Solid Waste Facilities (SWF/LF) - within 0.5 mile of the project site.

Additionally, records were requested from the RWQCB, Department of Toxic Substances Control (DTSC), Santa Clara County Department of Environmental Health (SCCDEH), and SJFD. Though

the site was listed on several regulatory agency databases, no violations were noted with one exception. At 3811 Zanker Road, Fujitsu is listed on the RCRA-SQG database as having a general requirement violation in 1994 but compliance was achieved one week after the violation.

Soil Quality Evaluation

During the PES Phase II evaluation, soil samples were collected at nine exterior locations across the property to assess the presence of residential pesticides in soil as well as to evaluate the background concentrations of metals, primarily arsenic, chromium, and lead. Additionally, four soil samples were collected from 179 Tasman Drive where microcomputer chip design and fabrication was conducted; these samples were analyzed for total petroleum hydrocarbons quantified as motor oil (TPHmo), alcohol, and lead. Five soil samples were collected from 1999 Tasman Drive because this building was previously used as a chemical distribution center; these samples were analyzed for total purgeable petroleum hydrocarbons (TPPH), total extractable petroleum hydrocarbons (TEPH), VOCs, SVOCs, metals, alcohol, and hexavalent chromium. Three soil samples were collected from 3801 Zanker Road where computer board testing and wave solder operations previously occurred; soil samples were analyzed for alcohol and lead.

The results of the laboratory analysis of the shallow soil samples were compared to applicable screening levels developed for residential settings. Soil sample analytical results were compared to direct exposure Environmental Screening Levels (ESLs) developed by the RWQCB San Francisco Bay Region and the California Human-Health Exposure-Based Screening Levels (CHHSLs) developed by the California EPA Office of Environmental Health Hazard Assessment (OEHHA). Soil sample analytical results were also compared to background levels expected to occur in the vicinity of the subject property.

Relatively low levels of organochlorine pesticides were detected in four of nine exterior soil samples. The levels of pesticides detected were significantly lower than regulatory screening levels. The only petroleum hydrocarbon detected in the soil samples was total petroleum hydrocarbons as diesel (TPHd) collected from a location at the interior of the building at 1999 Tasman Drive; the detected TPHd concentration was well below the ESL for soil in a residential setting. Generally, the levels of metals detected in the soil samples from the building interiors did not exceed regulatory screening values or background levels.






With the exception of arsenic and cobalt, the concentrations of metals were below direct exposure residential screening levels. The Phase II report concluded that the concentrations of arsenic and cobalt are the result of naturally occurring arsenic and cobalt and therefore, represent background conditions. Remediation or mitigation of naturally occurring or background conditions is typically not required by regulatory agencies and, accordingly, is not warranted and not recommended.

Water Quality Evaluation

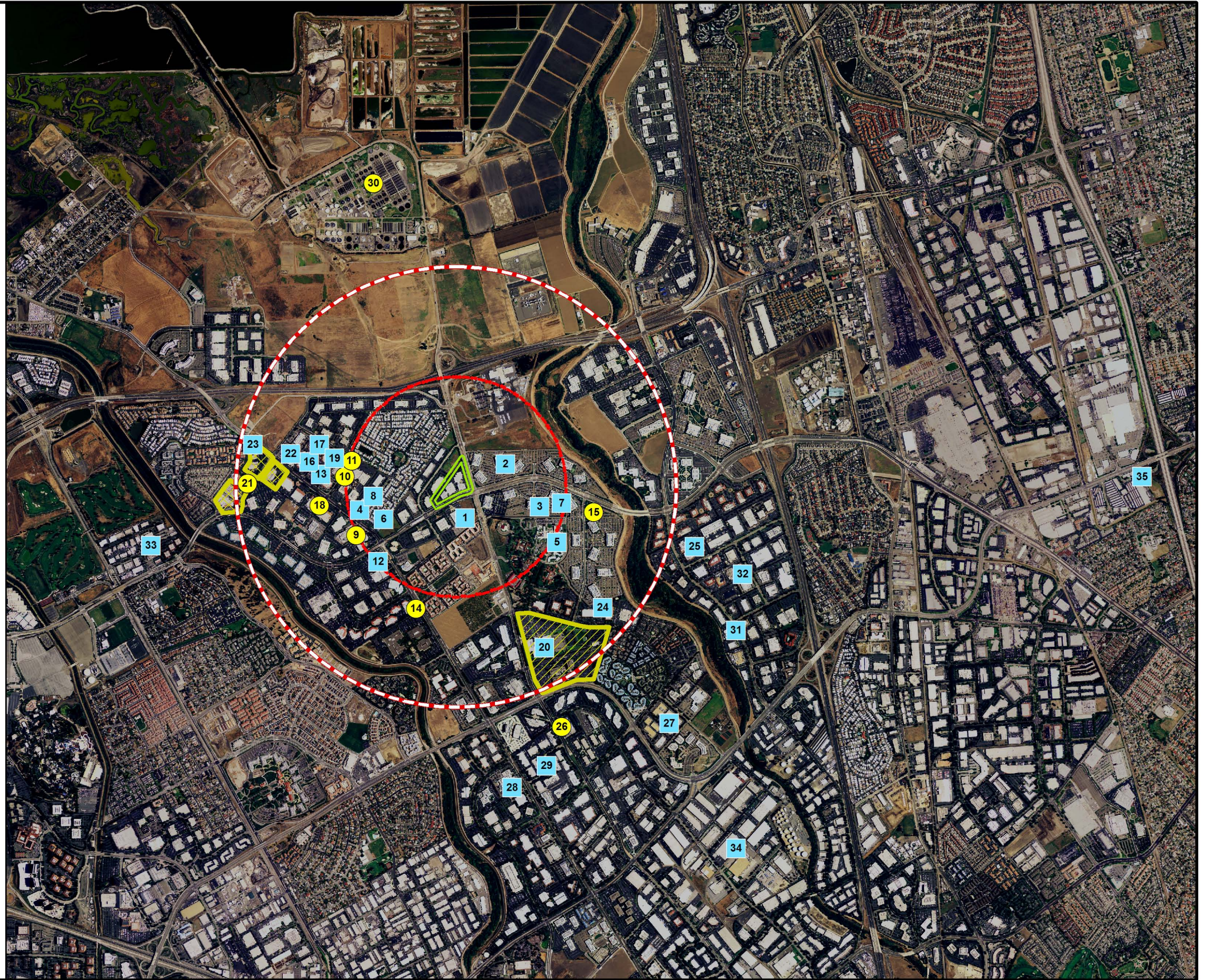
During the PES Phase II evaluation, grab ground water samples¹ were collected from seven of nine exterior soil borings. Groundwater was encountered at depths ranging from approximately 10 to 12 feet below ground surface. The samples were collected in locations up-gradient and down-gradient of the buildings relative to the direction of groundwater flow. Regional groundwater flow is towards the north and groundwater beneath the site had previously been determined to flow towards the north. VOCs were not detected in any of the seven grab groundwater samples. Detection of dissolved metals was limited to barium, lead, and molybdenum. Grab groundwater analytical results were compared to MCL for drinking water and all detected values were not found to exceed their respective MCLs.

¹ Grab groundwater sampling involves drilling into the soil until groundwater is encountered, at which point groundwater samples are obtained.

Legend

-  1-Mile Radius
-  1/2-Mile Radius
-  Project Boundary
-  Vista Montana Site
-  Sites with Identified Hazardous Material Use
-  Sites with Significant Potential to Affect Subject Site
-  Sony Site

Map ID	Off-Site Facility Name (reference)	Address	Approximate Distance (miles) from Site
1	Network General Corporation	178 East Tasman Drive	0.1
2	Cisco Systems	225 East Tasman Drive	0.2
3	Cisco Systems	260 East Tasman Drive	0.2
4	Perkin Elmer	75 Nicholson Lane	0.3
5	Agnew Development Center	3500 Zanker Road	0.3
6	Sprint PCS	3730 North First Street	0.3
7	Cisco Systems	10 West Tasman Drive	0.3
8	U.S. Telepacific Corporation	55 Nicholson Lane	0.4
9	Maxxim Integrated Products	3725 North First Street	0.4
10	JDS Uniphase	80 Rose Orchard Way	0.4
11	SDL, Inc.	90 Rose Orchard Way	0.4
12	Cisco Systems	350 East Tasman Drive	0.5
13	LTX Corporation	3930 North First Street	0.5
14	Wyse	3471 & 3475 North First Street	0.5
15	OLS Energy Agnews (Calpine)	3800 Cisco Way	0.5
16	Novellus Systems	3950 North First Street	0.6
17	Novellus Systems	3960 North First Street	0.6
18	Cypress Semiconductor	3901 North First Street	0.6
19	Granada Computer Services	3940 North First Street	0.6
20	Sony	3300 Zanker Road	0.8
21	Supertex	71 Vista Montana	0.8
22	Novellus Systems	4000 North First Street	0.8
23	Lamplighter Pump Station	3171 Lamplighter Way	0.9
24	Thermo Electron Corporation	355 River Oaks Parkway	0.9
25	Watkins Johnson	1504 & 1530 Mc carthy Boulevard	1.0
26	Neophotonics	2911 Zanker Road	1.2
27	Honeywell	677 & 679 River Oaks	1.3
28	Novellus Systems	3011 North First Street	1.4
29	Sigen	51 Dagget Drive	1.4
30	San Jose Water Pollution Control Plant	700 Los Esteros Road	1.4
31	Silicon Microstructures	1701 McCarthy Boulevard	1.4
32	Standard Mems	851 Buckeye Court	1.4
33	Nu-Metals Finishing	2262 Calle de Luna	1.5
34	Univar USA	2256 Junction Avenue	2.0
35	McCabes' Quality Foods	1029 Montague Expressway	3.5



Source: USDA NAIP Santa Clara County (2005), PES Environmental, Inc., and MBA GIS (2007).

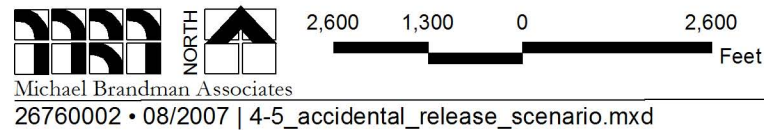


Exhibit 4-5
Worst-Case Accidental Release Scenario Impact Areas

4.7.2 - Environmental Checklist and Discussion of Impacts

Environmental Issues	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 Sources/ Discussion Location
Hazards/Hazardous Materials						
<i>Would the project:</i>						
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3,
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the likely release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3, 10
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3,
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3, 5, 6
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3,
f) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3

Environmental Issues	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 Sources/ Discussion Location
plan?						
h) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3

Accidental Release

The City of San José adopted the Toxic Gas Ordinance, or TGO (San José Municipal Code, Chapter 17.78) in April 1990. The purpose of the TGO was to protect the public from exposure to accidental releases of toxic gases and to supplement the Hazardous Materials Storage Ordinance, or HMSO (San José Municipal Code, Chapter 17.68) by identifying and requiring safety controls for toxic gases.

Worst-Case Scenario

The Environmental Protection Agency’s (EPA) Risk Management Program (RMP) has defined the Worst Case Scenario as the release of the largest quantity of a regulated substance from a single vessel or process line failure that results in the greatest distance to an endpoint under conservative meteorological conditions. Worst-case release scenarios represent the failure modes that would result in the worst possible offsite consequences, however unlikely.

Project Site Conditions

An Off-Site Hazardous Materials Survey (OHMS) of facilities that use hazardous materials in the vicinity of the project site was conducted to evaluate potential offsite hazardous materials facilities that may have the potential to impact the project site due to catastrophic release. The survey included a review of hazardous material users in the area and evaluated hazard risk assessments performed by others for nearby recent Initial Studies for residential redevelopment projects that included analyses of hypothetical releases of hazardous materials.

The OHMS included the following:

- Review of lists of hazardous material users within 0.5 mile of the project site that were obtained from an Environmental Data Resources (EDR) environmental database report
- Review of the list of Santa Clara County Toxic Gas Ordinance (TGO) facilities obtained from the San José Fire Department

- Review of the list of facilities subject to the California Accidental Release (CalARP) Prevention Program obtained from the Santa Clara County Department of Environmental Health, Hazardous Materials Compliance Division
- Review of the City of San José Fire Department (SJFD) database of listed hazardous material sites to obtain information regarding types and quantities of hazardous materials used at these facilities
- A drive-by survey of the area surrounding the project site to a distance of approximately 0.5 mile to note obvious users of significant quantities of hazardous materials
- Review of hazardous material and risk analysis and related information from Initial Studies prepared for the Vista Montana Park project (File Number PDC06-013, July 2007) located approximately 0.8 mile west of the project site and the Sony Project (File Number 06-038 & PD07-006, May 2007) located approximately 0.4 mile south of the project site

The results of the OHMS are presented in Table 4-2, which lists 35 sites that ranged from 0.1 to 3.5 miles from the project site. The locations of these facilities are presented on Exhibit 4-4. In addition, drive-by reconnaissance of the neighboring areas did not reveal the presence of additional facilities not already contained on the publicly available databases.

Table 4-2: Potential Hazardous Materials Sources Near the Project Site

Map ID	Offsite Facility Name	Address	Approximate Distance from Site (miles)	Chemical Inventory	Comments
1	Network General Corporation	178 East Tasman Drive	0.1	Diesel fuel (400 gal); sulfuric acid (40 gal)	
2	Cisco Systems	225 East Tasman Drive	0.2	Sixty batteries (0.57 gal per unit)	
3	Cisco Systems	260 East Tasman Drive	0.2	50–91% sulfuric acid (30 gal); small quantities of flammable chemicals	
4	Perkin Elmer	75 Nicholson Lane	0.3	Argon, acetylene, 4% hydrogen and argon, nitrous oxide, helium, nitrogen	
5	Agnew Development Center	3500 Zanker Road	0.3	2,000 gal gasoline and diesel ASTs	
6	Sprint PCS	3730 North First Street	0.3		No HMMP on file at SJFD. Appears to be office building
7	Cisco Systems	10 West Tasman Drive	0.3		No HMMP on file at SJFD. Appears to be office bldg.
8	U.S. Telepacific Corporation	55 Nicholson Lane	0.4	100-gallon diesel AST	
9	Maxxim Integrated Products	3725 North First Street	0.4	Phosphine (259 cf); chlorine (90 lbs); arsine (2.9 lbs); liquid hydrogen (900 gal)	
10	JDS Uniphase	80 Rose Orchard Way	0.4	Arsine (150 cf); phosphine (342 cf); ammonia (1,135 lbs); chlorine (81 cf), liquid hydrogen (1,500 gal)	
11	SDL, Inc.	90 Rose Orchard Way	0.4	Arsine (230 cf); ammonia (100 lbs); waste acid (600 gal)	
12	Cisco Systems	350 East Tasman Drive	0.5		No HMMP on file at SJFD. Appears to be office building.

Table 4-2 (Cont.): Potential Hazardous Materials Sources Near the Project Site

Map ID	Offsite Facility Name	Address	Approximate Distance from Site (miles)	Chemical Inventory	Comments
13	LTX Corporation	3930 North First Street	0.5		No HMMP on file at SJFD. Liquid nitrogen AST observed.
14	Wyse	3471 & 3475 North First Street	0.5	Chlorine (100 lbs)	
15	OLS Energy Agnews (Calpine)	3800 Cisco Way	0.5	Liquefied ammonia (58,000 lbs)	
16	Novellus Systems	3950 North First Street	0.6	Ammonia (1,125 cf); nitrogen trifluoride (239 cf); propane (80 gal)	
17	Novellus Systems	3960 North First Street	0.6	Methylene chloride (55 gal)	
18	Cypress Semiconductor	3901 North First Street	0.6	Phosphine (196 cf); chlorine (90 lbs); ammonia (272 cf); waste hydrochloric acid (525 gal); nitrogen	
19	Granada Computer Services	3940 North First Street	0.6		No HMMP on file at SJFD.
20	Sony	3300 Zanker Road	0.8	Small quantities of combustible liquids, and solids; indicated in 2002 hazardous material inventory	
21	Supertex	71 Vista Montana	0.8	Phosphine (131 cf); chlorine (1038 cf); assorted small quantities of liquid and gaseous hazardous materials	
22	Novellus Systems	4000 North First Street	0.8	Phosphine (64 cf); hydrofluoric acid (55 gal); nitrogen trifluoride (239 cf)	
23	Lamplighter Pump Station	3171 Lamplighter Way	0.9		No HMMP data - petroleum hydrocarbons and/or small quantities of other chemicals anticipated

Table 4-2 (Cont.): Potential Hazardous Materials Sources Near the Project Site

Map ID	Offsite Facility Name	Address	Approximate Distance from Site (miles)	Chemical Inventory	Comments
24	Thermo Electron Corporation	355 River Oaks Parkway	0.9	Waste solvents (55-gal containers); small quantities nitrogen, helium, methane, and argon	
25	Watkins Johnson	1504 and 1530 McCarthy Boulevard	1.0	2% arsine (260 cf); liquid hydrogen (775 gal)	
26	Neophotonics	2911 Zanker Road	1.2	Phosine (210 cf); ammonia (1,158 cf)	
27	Honeywell	677 and 679 River Oaks	1.3	Waste hydrofluoric acid solution (55 gal)	
28	Novellus Systems, Inc.	3011 North First Street	1.4	Nitrogen trifluoride (270 cf); 5% diborane (208 cf)	
29	Sigen	51 Dagget Drive	1.4	Diborane (130 cf); germane (111 cf)	
30	San José Water Pollution Control Plant	700 Los Esteros Road	1.4	Chlorine (180,000 lbs)	
31	Silicon Microstructures	1701 McCarthy Boulevard	1.4	Chlorine (540 cf)	
32	Standard Mems	851 Buckeye Court	1.4	Hydrogen chloride (60 lbs); 49% waste hydrofluoric acid (500 gal)	
33	Nu-Metals Finishing	2262 Calle de Luna	1.5	Arsine (150 cf); phosphine (342 cf); ammonia (1,135 lbs); chlorine (81 cf), nitric acid, liquid hydrogen	
34	Univar USA, Inc.	2256 Junction Avenue	2.0	Methyl bromide gas (875 lbs); vikane (1,250 lbs)	
35	McCabe's Quality Foods	1029 Montague Expressway	3.5	Anhydrous ammonia (12,000 lbs)	

Notes: gal = gallons, lbs = pounds, cf = cubic feet, AST = aboveground storage tank, HMMP = Hazardous Materials Management Plan,
Source: Off-Site Hazardous Materials Survey

Based on further evaluation of the sites presented in Table 4-2, nine facilities were identified that had the potential to produce significant chemical concentrations at the project site in the event of a catastrophic release. Facilities with potential to impact the project site were chosen on the basis of chemical inventories listed with the SJFD and maximum, chemical-specific threat zones identified in the Sony Project Initial Study and the Vista Montana Initial Study. According to the previous hazard risk assessments for the Sony and Vista Montana sites, maximum threat zones were derived using worst-case catastrophic hazardous material release assumptions. The nine facilities that could potentially impact the project site are shown in Table 4-3.

Table 4-3: Facilities With Potential to Impact the Site

Map ID	Facility Name	Address	Chemical of Concern	Maximum Threat Zone (miles)	Approximate Distance to Sony Site (miles)	Approximate Distance to Vista Montana Site (miles)	Approximate Distance to Northpointe Site (miles)
9	Maxxim Integrated Products	3725 North First Street	Chlorine (90 lbs)	0.78	0.8	0.4	0.4
10	JDS Uniphase	80 Rose Orchard Way	Arsine (150 cf) Phosphine (342 cf) Ammonia (1,135 lbs)	1.10 1.80 0.58	1.0	0.2	0.4
11	SDL, Inc.	90 Rose Orchard Way	Arsine (230 cf)	~1.20	1.0	0.2	0.4
14	Wyse	3471 & 3475 North First Street	Chlorine (100 lbs)	0.83	0.5	0.9	0.5
15	OLS Energy Agnews (Calpine)	3800 Cisco Way	Liquefied ammonia (58,000 lbs)	4.20	0.5	1.6	0.5
18	Cypress Semiconductor	3901 North First Street	Phosphine (260 cf) Chlorine (90 lbs)	1.30 0.78	1.0	0.2	0.6
21	Supertex	71 Vista Montana	Phosphine (131 cf) Chlorine (1038 cf)	Not reported ²	1.5	Adjacent	0.8
26	Neophotonics	2911 Zanker Road	Phosphine (210 cf)	1.40	0.3	1.7	1.2
30	San José Water Pollution Control Plant	700 Los Esteros Road	Chlorine (180,000 lbs)	3.40	1.8	1.1	1.2

NOTES: gal = gallons, lbs = pounds, cf = cubic feet, AST = aboveground storage tank, HMMP = Hazardous Materials Management Plan, SJFD = San José Fire Dept

(1) - Maximum Threat Zones provided in Initial Studies prepared for the Sony and Vista Montana sites.

(2) - Vista Montana Initial Study indicates that the Supertex site is slated for redevelopment for residential uses.

Source: Off-Site Hazardous Materials Survey

Relevance of Previous Studies

For the Vista Montana and Sony projects' Initial Studies, air dispersion modeling was performed to evaluate potential hazardous material impacts that were due to catastrophic releases of selected chemicals from offsite facilities. As a result of the risk modeling for those facilities, detailed catastrophic release scenarios have been performed for all of the hazardous material facilities listed in Table 4-3, with the exception of Supertex, which was noted in the Vista Montana Initial Study as being slated for residential redevelopment. Table 4.3 includes the facility name, address, chemicals of concern, and the maximum threat zone for the hypothetical catastrophic release that was derived by air dispersion modeling for each facility.

The risk assessments for the Sony and Vista Montana projects concluded that the probability of worst-case catastrophic releases was low and that engineering and administrative controls at the hazardous material facilities further minimize risks to offsite locations. As shown in Table 4-3, distances from the project site to the selected hazardous material sites are equal to or greater than the comparative distances listed for either the Sony or Vista Montana sites. Since the Sony and Vista Montana hazards analyses have already evaluated offsite catastrophic release analyses from these selected facilities, and the project site is no closer to these nine facilities than the Sony and/or Vista Montana sites, site-specific hazard risk assessment for the Northpointe site would not be expected to produce significantly different impacts than were found at these other sites.

4.7.3 - Conclusion

The proposed project would not result in new or more significant impacts to hazards and hazardous materials than those addressed in the certified 2006 NSJ FPEIR.

4.8 - Hydrology/Water Quality

4.8.1 - Setting

The existing drainage and regulatory requirements regarding hydrology and water quality are generally unchanged from the certified 2006 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), the City’s adoption of the Post-Construction Hydromodification Management (Policy 8-14), and the Guadalupe Flood Control Project.

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) and Treatment Control Measures (TCMs) to the extent practicable. This Policy also establishes specific design standards for Post-Construction TCMs for projects that create, add, or replace 10,000 square feet of 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 is likely to increase erosion, generate silt pollution, or have other impacts to local, rivers, streams, and creeks.

Policy 8-14 requires stormwater discharges from and new and redevelopment projects that create or replace one acre or more of impervious surfaces to be designed and built to control project-related hydromodification. The Policy establishes specified performance criteria for Post-Construction Hydromodification control measures and identified project exempt from HCM requirements.

4.8.2 - Environmental Checklist and Discussion of Impacts

Environmental Issues	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 Sources/ Discussion Location
Hydrology/Water Quality						
<i>Would the project:</i>						
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3,
b) 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	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3,

Environmental Issues	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 Sources/ Discussion Location
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?						
c) Substantially alter the existing drainage pattern of 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3,
d) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3,
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3,
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3,
g) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3,
h) Place within a 100-year flood hazard area structures, which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3,
i) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3,
j) Inundation by seiche, tsunami,	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3,

Environmental Issues	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 Sources/ Discussion Location
or mudflow?						

Water Quality

The NSJ FPEIR discusses water quality impacts for construction and post-construction activities.

Construction Related Impacts

The proposed project would involve building demolition, pavement removal, site grading, and earthmoving. These activities could expose disturbed soils to the erosive forces of wind and rain, resulting in offsite deposition of sediments that could clog storm drains or adversely affect the Guadalupe River and Coyote Creek downstream. In addition, hazardous materials such as fuel, oil, paint, and solvents are routinely used during construction, and the accidental spill or release of these substances could adversely affect water quality. While construction activities would be temporary in nature, the potential impacts to water quality could last beyond the duration of construction, depending on the extent of degradation. Development of the project site could increase some contaminants in stormwater runoff during construction, which could adversely affect the water quality of the Guadalupe River and Coyote Creek. However, the proposed project would not result in any more or new construction-related water quality impacts than those described in the certified 2006 NSJ FPEIR.

Impact

Impact HYD-1 The proposed project would result in construction-related impacts to water quality. **(Same Impact As Approved Project)**

Mitigation Measure

MM HYD-1.1 Compliance with the NPDES General Construction Activity Stormwater Permit administered by the Regional Water Quality Control Board. Prior to future construction or grading for the project with land disturbance of one acre or more, the applicant shall prepare a Notice of Intent (NOI) to comply with the General Permit and prepare a Stormwater Pollution Prevention Plan (SWPPP) that includes measures to minimize and control construction and post-construction runoff. The following measures typically included in a SWPPP:

- Prevent non-stormwater discharges to the stormwater drainage system.
- Incorporate effective, site-specific BMPs 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.
- Monitor discharges to the stormwater drainage system.

MM HYD-1.2 Comply with the City's Grading Ordinance.

Post-Construction-Related 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, and sediment and chemicals from landscaped areas. The project site is in a developed condition that contains impervious surfaces and is consistent with the certified NSJ FPEIR. The square footage of existing impervious surfaces is unknown; however, inspection of aerial photographs indicates that virtually the entire project site is covered with impervious surfaces. Although the uses on the project site would change, the amount of impervious surfaces would not be significantly greater. The proposed project would result in approximately 385,942 square-feet of impervious surfaces. All stormwater runoff would be treated, approximately 79 percent would be treated by bioswales, and the remaining 21 percent would be treated by a media filtration system. The treatment methods proposed comply with City's BMPs listed below. Therefore, the proposed project would not contribute any more or new significant post-construction water quality impacts than those described in the certified NSJ FPEIR.

The following mitigation measure is identified from the certified 2006 NSJ FPEIR.

Impact

Impact HYD-2 The proposed project would result in post construction-related impacts to water quality. **(Same Impact As Approved Project)**

Mitigation Measure

MM HYD-2.1 The project shall incorporate landscape and mechanical stormwater treatment measures that conform to City of San José Policies 6-29 and 8-14, and details of conformance shall be determined to the satisfaction of the Director of Public Works and the Director of Planning, Building, and Code Enforcement, at the Planned Development Permit stage of project review. Compliance will be achieved by incorporating BMPs to control non-point pollution, which may include the following:

- Direct roof drains to discharge and drain away from building foundations to unpaved areas to the extent possible.
- As necessary to comply with requirements of the NPDES Municipal Permit, 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 appropriate Homeowner's Association or property management entities thereafter.
- Filtration through landscape swales.

4.8.3 - Conclusion

With implementation of the above mentioned mitigation measures, there would not be any new of more significant impact to hydrology and water quality than those evaluated in the certified 2006 NSJ FPEIR.

4.9 - Land Use/Planning

4.9.1 - Setting

Currently the project site consists of one- or two-story, unoccupied light industrial buildings with loading docks, perimeter paved parking, landscape elements, and underground utilities.

4.9.2 - Environmental Checklist and Discussion of Impacts

Environmental Issues	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 Sources/ Discussion Location
Land Use/Planning <i>Would the project:</i>						
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
b) 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?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
c) Conflict with any applicable habitat conservation plan or natural communities conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3

Divide Established Community

The certification of the NSJ FPEIR in 2006 modified the City’s General Plan. One of the results of this modification is that the proposed project’s existing land use designation (Industrial Park) was modified to include a Transit/Employment Residential District (55+ du/ac) overlay, which changes land use but not zoning of the project site. This zoning designation allows development of residential uses as an alternative use at the minimum average density of 55 du/ac. Additionally, land within this overlay designation can be converted for construction of new schools and parks as needed to support residential development. The proposed project would add new residences to an area that is primarily composed of light industrial complexes. Most of the land uses adjacent to the project site are light industrial. The proposed project would not divide an established community.

Impact

Impact LU-1 Since adjacent land uses are industrial, the proposed project would not divide an established community. **(Same Impact As Approved Project)**

Mitigation Measure

None required.

Conflict with Applicable Plans, Policies, or Regulations

The proposed project residential development density would be set at a minimum 55 du/ac, which would be consistent with the current residential density requirement. Since the project requires rezoning from IP Industrial Park to A (PD)-Planned Development, it is not consistent with the existing zoning for the site. However, the zoning is consistent with the goals of the NSJ FPEIR in 2005.

The placement of new residential projects within established industrial neighborhoods may create a potential for conflicts between the two land uses. Residents frequently object to nighttime noise and more likely to object to very bright outdoor lighting, odors, and outdoor storage., The City of San José has adopted Residential Design Guidelines, which would apply to the proposed project. All new development in North San José will be subject to a design review process that would ensure compliance with the policies set forth in these guidelines. The proposed project would comply with the City's Residential Design Guidelines to avoid or reduce land use conflicts between new high-density and very high-density residential development and nearby land uses. In addition, the proposed project would include setbacks of between 25 to 30 feet from adjacent industrial uses. The perimeter of the proposed project would include abundant landscaping that includes trees; shrubs and ground cover (refer to Exhibit 3-4 Landscape Concept).

Impact

Impact LU-2 The proposed project could result in land use incompatibility issues between the proposed residences and adjacent industrial land uses. **(New Less Than Significant With Mitigation Incorporated)**

Mitigation Measure

The proposed project would implement the following avoidance measures.

- Residential structures of three stories or more are to be setback a minimum of 15 feet from incompatible uses. Residential structures of three stories or more are to be set back a minimum of 25 feet from public open space.
- 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.
- This chapter specifies minimum façade 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.

- 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.

Conflict with Conservation Plans

The City of San José, County of Santa Clara, Santa Clara Valley Transportation Authority (VTA), and Santa Clara Valley Water District (SCVWD) are preparing and plan to implement a countywide Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP). The long-range plan will include specified areas of the county where land development and survival of endangered species are in conflict. The goal of this plan is to provide the means for conservation of these species and at the same time allow compatible development to occur. At this writing, the complete list of projects to be covered by the HCP/NCCP is not yet final. Therefore, the proposed project would not conflict with any conservation plans.

Impact

Impact LU-3 The proposed project would not conflict with any conservation plans. **(Same Impact as Approved Project)**

Mitigation Measure

None required.

4.9.3 - Conclusion

The proposed project, with the implementation of the above mitigation measures, would not result in any new or more significant land use impacts than those addressed in the certified 2006 NSJ FPEIR.

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

Environmental Issues	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 Sources/ Discussion Location
Mineral Resources						
<i>Would the project:</i>						
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3

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 impact to mineral resources than were described in the certified 2006 NSJ FPEIR.

4.10.3 - Conclusion

The project would not result in any new or more significant impacts to mineral resources in than those addressed in the certified 2006 NSJ FPEIR.

4.11 - Noise

4.11.1 - Setting

The noise environment in the area primarily consists of vehicular traffic, light rail operation, and, to some extent, aircraft from the Norman Y. Mineta San José International Airport. The project site is not within the 65 dB CNEL Contour of the airport. According to the certified North San José Development Policies Update Program EIR (NSJ FPEIR), the proposed project is within the boundaries of the North San José Redevelopment Area, and as such, impacts from development in this area have been considered in the NSJ FPEIR. As part of the NSJ FPEIR, existing noise levels were measured at various locations in the redevelopment area. The closest measurement to the proposed project was taken at approximately 90 feet from the centerline of Tasman Drive, east of North First Street approximately 500 feet from the project site. Similar to North First Street, the San José Light Rail runs down the center of this section of Tasman Drive. The day-night average noise level (DNL) was 66 dBA. According to the North San José Development Policies Update Program EIR, residential land uses are considered “satisfactory” up to 60 dBA DNL as the short-range exterior noise quality level, and up to 55 dBA DNL as the long-range exterior noise quality level.

4.11.2 - Environmental Checklist and Discussion of Impacts

Environmental Issues	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 Sources/ Discussion Location
Noise <i>Would the project result in:</i>						
a) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
e) For a project located within an airport land use plan or, where	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3

Environmental Issues	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 Sources/ Discussion Location
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?						
f) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3

Noise Levels in Excess of Standards

Short-term Construction Impacts

Construction noise impacts primarily would 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 construction phases of the project require heavy equipment.

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., excavation). Construction-related noise levels are normally less during building erection, finishing, and landscaping phases.

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

Impact

Impact NOI-1 The proposed project could result in short-term increases in noise levels during the demolition and construction phases. **(Same as Approved Project)**

Mitigation Measure

The following mitigation measures are identified as part of the certified 2006 NSJ FPEIR

MM NOI -1.1 Limit all construction-related activities to the hours of 7 a.m. to 7 p.m. Monday through Friday for any onsite or offsite work within 500 feet of any residential unit. Construction outside these hours may be approved through a development permit based on a site-specific construction noise mitigation 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 residences. The plan shall identify a mean of coordinating with 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 noise complaints and implement reasonable measures to correct the problem. The telephone number for the disturbance coordinator would be clearly posted on the construction site.

Operational Related Impacts

The proposed project commercial uses would limit their hours of delivery to Monday through Sunday, from 7 a.m. to 7 p.m. to reduce land use compatibility and noise impacts between proposed residential and commercial (retail) uses. The proposed commercial uses would not result in significant noise impacts to the proposed residential uses.

Avoidance Measure

The proposed project would implement the following measures:

- Restrict commercial deliveries to the hours of 7 a.m. to 7 p.m., Monday through Sunday.

Long-Term Impacts

As previously mentioned, the day-night average noise level (DNL) was 66 dBA, which is in excess of satisfactory short-range and long-range exterior noise levels for residential uses. Therefore, implementation of the proposed project would expose new residents to unsatisfactory ambient noise levels. The NSJ FPEIR includes mitigation that would reduce these impacts to less than significant levels.

Impact

- Impact NOI-6** The proposed project would expose new residents to noise levels in excess of accepted satisfactory levels. **(New Less Than Significant With Mitigation Incorporated)**

Mitigation Measure

MM NOI-1.6

- Prior to the issuance of Planned Development Permit(s) for new residential development, retain a qualified Acoustical Engineer to identify areas of the site, which exceed the 60 DNL contour. The project design should then incorporate into the plan measures for minimizing or avoiding noise impacts, which could include a combination of open space buffer areas, sound barriers, and building/site design to create common and private outdoor use areas with noise exposures of 60 DNL or less. As an alternative, less sensitive land uses (such as parking, passive open space, commercial uses) should be located between more sensitive land uses and noise sources. Such uses would act to shield the more sensitive uses allowing for a compatible residential noise environment. To be consistent with transit-oriented development standards, building masses may need to be placed closer to the street to shield active open space areas from street noise
- During the Planned Development Permit review process, prepare for City review and approval of a design-specific study that illustrates how the project will achieve consistency with General Plan guidelines and State law.
- Prior to issuance of building permits, retain a qualified Acoustical Engineer to prepare for City review and approval a detailed acoustical analysis of exterior and interior noise reduction requirements and specifications for all project phases, in accordance with State and City standards. Project-specific acoustical analyses are mandated by the State for new multi-family uses. Appropriate noise control treatments necessary to achieve a compatible interior noise environment (45 DNL) shall be incorporated into the proposed structures located within the 60 DNL contour. Interior noise levels could be reduced to acceptable levels by including such measures as forced-air mechanical ventilation systems and/or sound-rated construction to allow occupants the option of controlling noise in interior spaces by maintaining the windows closed.

4.11.3 - Conclusion

With implementation of the above mitigation and avoidance measures, the proposed project would not result in any new or more significant short-term construction noise impacts or long-term operational noise impacts than those addressed in the certified 2006 NSJ FPEIR.

4.12 - Population/Housing

4.12.1 - Setting

The current and future population and housing estimates and assumptions have not changed since the certification of the NJS FPEIR. Currently, there are no residential uses onsite.

4.12.2 - Environmental Checklist and Discussion of Impacts

Environmental Issues	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 Sources/ Discussion Location
Population/Housing						
<i>Would the project:</i>						
a) Induce substantial population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
c) Displace substantial numbers of people necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3

The project site is designated for both commercial and high-density residential development (55+ du/ac) and ancillary commercial uses. The project proposes to construct up to 704 dwelling units and approximately 20,000 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 2006 NSJ FPEIR.

4.12.3 - Conclusion

The proposed project would result in any or more significant population growth or housing impacts than those addressed in the certified 2006 NSJ FPEIR.

4.13 - Public Services

4.13.1 - Setting

The fire, police, school, and park services and facilities have not changed since certification of the 2006 NSJ FPEIR.

4.13.2 - Environmental Checklist and Discussion of Impacts

Environmental Issues	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 Sources/ Discussion Location
Public Services <i>Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:</i>						
a) Fire Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
b) Police Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
c) Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
d) Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
e) Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3

Fire and Police Protection

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 San José Fire Department (SJFD) to ensure that it incorporates appropriate safety features to minimize criminal activity.

As discussed in the certified 2006 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 2006 NSJ FPEIR. The certified EIR concluded 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 impact

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 2006 NSJ FPEIR.

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 eighth grade school, and one continuation high school. Students in the project area likely attend Mayne Elementary School located at 5030 North First Street in Alviso, 1.7 miles northwest of the project site, Don Callejon Middle School located at 4176 Lick Mill Boulevard in Santa Clara, approximately 1 mile southwest of the project site, and Wilcox (Adrian) High School located at 3250 Monroe Street in Santa Clara, 4.8 miles southwest of the project site.

It was estimated that the buildout of the development assumed in the certified 2006 NSJ FPEIR would result in approximately 1,829 new students, including 1,112 elementary students, 349 middle school students, and 368 high school students for the NSJ FPEIR-approved project. The certified 2006 NSJ FPEIR concluded that the total number of students generated from the development assumed the construction of 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 2006 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 would consist of an Addendum or Supplemental EIR to the certified NSJ FPEIR, depending on the location and size of the school. There are also specific compliance requirements set by the state for the construction of a new school.

The proposed project would generate less than three percent of the students anticipated from the buildout (1,829 students) of the development assumed in the certified NSJ FPEIR, and therefore, would not result in any new or more significant school impacts than were described in the certified 2006 NSJ FPEIR.

Standard Measure

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 affect 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 the Government Code 65996 would partially offset project-related increases in student enrollment.

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 or PIO. The acreage of parkland required is based upon the Acreage Dedication Formula outlined in the PDO. Based upon this formula, the proposed project would be required to dedicate or provide 4.8 acres of parkland. This amount of parkland is based on the number of residential units (704) for the proposed project multiplied by the average number of occupants (2.29) per residence, which equals approximately 1613 residents. This figure is then multiplied by .003 and equals 4.8 acres. The proposed project would dedicate approximately 3.001 acres of parkland to the City to meet demand for parks. As this acreage does not meet the 4.8 acres necessary to offset the 1,613 additional residents of the proposed project, some payment of in-lieu fees would be necessary.

It is anticipated that the buildout of the development evaluated in the certified 2006 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 2006 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 by 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 in the certified 2006 NSJ FPEIR.

Since the proposed project would result in approximately three percent of the residential development assumed in the certified 2006 NSJ FPEIR, the proposed project would not result in any new or more significant park impacts than were described in the certified 2006 NSJ FPEIR.

Standard Measure

The project will 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). Project proposes dedication of approximately 3.001 acres and the payment of in-lieu fees to be used by City to acquire and/or improve parkland in the vicinity.

4.13.3 - Conclusion

The proposed project, with the implementation of the above standard measures, would not result in any new or more significant impact to public services or facilities than those addressed in the certified 2006 NSJ FPEIR.

4.14 - Recreation

4.14.1 - Setting

The park and recreational facilities have not changed since the certification of the 2006 NSJ FPEIR.

4.14.2 - Environmental Checklist and Discussion of Impacts

Environmental Issues	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 Sources/ Discussion Location
Recreation						
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3

Increase Use of Parks

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 4.8 acres of parkland.

As concluded in the certified 2006 NSJ FPEIR, the buildout of the development assumed would not result in significant, adverse environmental impacts to park and recreation resources. Since the project proposes approximately three percent of the residential development assumed in the certified 2006 NSJ FPEIR, the proposed project would not result in any new or more significant recreation impacts than were described in the certified 2006 NSJ FPEIR.

Standard Measure

The project will 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). Project proposes dedication of approximately 3.001 acres and the payment of in-lieu fees to be used by City to acquire and/or improve parkland in the vicinity.

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 2006 NSJ FPEIR.

4.15 - Transportation/Traffic

4.15.1 - Setting

With the development of the project, the existing roadway system in the immediate vicinity of the site was assumed to remain unchanged from its existing configuration. Zanker Road is a six-lane north-south roadway. Baypointe Parkway is a two-lane north-south loop roadway with a shared center left-turn lane. Tasman Drive is a four-lane east-west roadway with the Alum Rock to Santa Teresa Light Rail line running down the center. The site plan on which this analysis is based was prepared by Borm Civil Engineering and is dated July 6, 2007 (Exhibit 3-3).

Sidewalks are present along both sides of Baypointe Parkway, Zanker Road, and Tasman Drive.

Pedestrian crosswalks are present at the three study intersections listed below:

- Zanker Road and Baypointe Parkway
- Zanker Road and Tasman Drive
- Baypointe Parkway and Tasman Drive

Each crosswalk has pedestrian pushbuttons, pedestrian signal heads, and wheelchair-accessible ramps. The Baypointe Parkway and Tasman Drive intersection has pedestrian crosswalks in the north, south, and west legs of the intersection only. There are no countdown indicators at this intersection.

Bike routes are striped in the northbound and southbound directions of travel on Zanker Road north and south of Tasman Drive. They are also present in the eastbound and westbound lanes on Tasman Drive east and west of Zanker Road. There are no bike lanes on Baypointe Parkway.

Existing transit service to the study area consists of light rail and bus transit provided by VTA. Transit services within close proximity to the project site are described below. The Baypointe light rail station is located at the intersection of Baypointe Parkway and Tasman Drive. It provides access to the Alum Rock-Santa Teresa Line (Route 901), which operates between 5:00AM and 1:00AM with 15-minute headways northbound and southbound during commute hours. There are several bus stops near the project site. Bus routes on Tasman Drive are accessed by bus stops in the eastbound and westbound directions on Tasman Drive, adjacent to the Zanker Road/Tasman Drive intersection and north and south of the Baypointe light rail transit (LRT) station.

4.15.2 - Environmental Checklist and Discussion of Impacts

Environmental Issues	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 Sources/ Discussion Location
Transportation/Traffic <i>Would the project:</i>						
a) 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 on roads, or congestion at intersections)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3, 8
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3, 8
c) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
f) Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
g) Conflict with adopted policies, plans or programs supporting alternative transportation (e.g. bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3

Operational Impacts

The following discussion is based on the 163 Baypointe Parkway Residential Development Traffic Operational Analysis prepared by Hexagon Transportation Consultants, Inc. dated August 7, 2007. The report is provided in its entirety in Appendix D. The analysis considered impacts on intersection operations and queuing.

Intersection Operations

The magnitude of traffic generated by the proposed project was estimated by applying to the size of the development the applicable trip generation rates recommended by the City of San José Interim Guidelines for Traffic Impact Analysis (TIA) of Land Developments, June 1994. Since the project site is located within 2,000 feet of a light rail station, the total number of trips generated by buildout of the project can be reduced by 9 percent to account for transit ridership, according to the Congestion Management Program TIA Guidelines. Using trip generation rates for condominium/townhouse, apartment, and specialty retail land uses, it is estimated that the project would generate 4,986 daily trips, with 452 trips occurring during the AM peak hour and 476 trips occurring during the PM peak hour. The trip generation estimates are summarized in Table 4-3.

Table 4-4: Project Trip Generation

Land Use	Size	Daily Trip Generation Rate	Daily Trips	AM Peak Hour				PM Peak Hour			
				Peak Hour Factor	In	Out	Total	Peak Hour Factor	In	Out	Total
Condominiums Townhouse	206 units	7.5 trips/ unit	1,545	0.10	54	101	155	0.10	101	54	155
Apartments	498 units	6.0 trips/ unit	2,988	0.10	105	194	299	0.10	194	105	299
Specialty Retail	20,000 sq ft	40 trips/ 1,000 sq ft	800	0.02	11	5	16	0.09	36	36	72
(Passby Reduction)									-9	-9	-18
(Mixed Use Internalized Reduction)			-208		-2	-2	-4		-9	-9	-18
(Transit Reduction)			-139		-5	-9	-14		-9	-5	-14
Total Trips			4,986		163	289	452		304	172	476

Source: Hexagon Transportation Consultants, 2007.

The previously certified 2006 NSJ FPEIR analyzed intersection operations from buildout of the North San José Area Development Policy. Intersection operations impacts from vehicle trips generated by projects contemplated by the North San José Area Development Policy were considered. This includes the proposed project. The 2006 NSJ FPEIR requires that projects developed under the North San José Area Development Policy provide payments in accordance with the North San José Area Development Policy Traffic Impact Fee. This has been incorporated into the project as a standard measure. With this standard measure, the proposed project would not result in any new or more significant recreation impacts than were described in the certified 2006 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.

Queuing

Intersection left-turn movements to which a project would add traffic typically are evaluated to determine whether the existing left-turn pockets would be adequate to serve the estimated vehicle queue lengths. This analysis incorporated trips generated by this project, as well as the trips from an adjacent and concurrent project located on the north side of Baypointe Parkway, in order to provide a more thorough estimate of the left-turn queuing conditions that would occur under project conditions. The results of the vehicle queuing analysis are shown in Table 4.5. The results indicate that the left-turn vehicle storage would be adequate at every left-turn pocket to which the proposed project would add traffic.

Table 4-5: Vehicle Queuing Analysis

Measurement	Zanker/Tasman						Baypointe/Tasman						Baypointe/Zanker	
	Northbound Left		Southbound Left		Eastbound Left		Southbound Left		Eastbound Left		Westbound Left		Eastbound Left	
	AM	PM	AM	PM	AM	PM	AM	PM	AM	PM	AM	PM	AM	PM
Cycle Delay	125	141	125	141	125	141	100	100	100	100	100	100	100	100
Volume (vphpl)	122	173	413	319	67	123	43	26	67	68	136	106	109	179
Average Queue (vehicles)	4.2	6.8	14.3	12.5	2.3	4.8	1.2	0.7	1.9	1.9	3.8	2.9	3.0	5.0
Average Queue (feet)	85	136	287	250	47	96	24	14	37.2	38	76	59	61	99
95 th Percentile Queue (vehicles)	8	11	21	19	5	9	3	2	4	4	7	6	6	9
95 th Percentile Queue (feet)	160	220	420	380	100	180	60	40	80	80	140	120	120	180
Storage (feet)	250		520		250		120		180		180		140	
Adequate?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Notes: vphpl = vehicles per hour per lane Source: Hexagon Transportation Consultants, 2007.														

Site Access

The proposed project would provide one new public street running north-south through the center of the site. Access for the residential apartment units, retail uses, and parking on the east side would be provided by four driveways: two accessible from the new public street and two accessible from Zanker Road. Access to the condominiums and parking of the west side would be accessible from two driveways: one accessible from the new public street and one accessible off Tasman Drive. The Zanker Road driveways as well as the main driveway would be located at the existing driveway locations; however, they would be reconfigured to serve the new residential mixed-use development. The driveway off Tasman Road would be accessed by a small drive at the far west end of the project site. Both eastern and western portions of the project site would contain below-grade parking structures, as well as a small number of surface parking spaces and loading and garbage disposal areas. The below-grade parking structures would be accessed by two ramps, one located in the eastside surface parking area, and one located in the west-side surface parking area. Emergency access would be provided at two points; one located on the northwest property boundary, and one on the southwest property boundary.

4.15.3 - Roadway, Transit, and Pedestrian Facilities

The proposed project would construct 704 residential units and up to 20,000 square feet of retail uses. The traffic impacts from the proposed residential and commercial development have already been analyzed in the certified 2006 NSJ FPEIR. For these reasons, the proposed project would not result in any new roadway, transit, or pedestrian impacts, or any impacts greater than those analyzed in the 2006 NSJ FPEIR.

Impact

Impact TRAN-1 The proposed project would generate vehicle trips that may impact intersections previously analyzed in the 2006 NSJ FPEIR. **(Same Impact As Proposed Project)**

Standard Measure

The proposed project would implement the following standard measure:

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

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.

Impact

Impact TRAN-2 The proposed project would comply with the City's parking requirements.

Standard Measure:

The proposed project would implement the following standard measure

- Comply with the City's parking requirements.

4.15.4 - Conclusion

The proposed project would not result in any new or more significant impacts to traffic than those evaluated in the NSJ PFEIR.

4.16 - Utilities/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 2006 NSJ FPEIR.

4.16.2 - Environmental Checklist and Discussion of Impacts

Environmental Issues	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 Sources/ Discussion Location
Utilities/Service Systems						
<i>Would the project:</i>						
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
b) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
c) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
e) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3
g) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3

The project proposes to construct up to 704 dwelling units and approximately 20,000 square feet of auxiliary commercial uses. The certified 2006 NSJ FPEIR concludes that 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.

Senate Bill 610 (2001), codified at Water Code Section 10910 et seq., requires that certain water supply information be prepared for projects that are 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.

As water supply analysis was prepared in conformance with Water Code and included in the 2006 NSJ FPEIR. It was concluded that full implementation of the development addressed in the certified 2006 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)
- 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 2006 NSJ FPEIR.

4.17 - Mandatory Findings of Significance

The 2006 NSJ FEIR analyzed the development of 26.7 million square feet of new industrial/office/research and development building space and the addition of 32,000 dwelling units in the Rincon area. Since the approval and certification of the NSJ FPEIR in June 2005, no new development has occurred in the Rincon area that has not already been addressed in the NSJ FPEIR. The project proposes to develop 704 residential units and about 20,000 square feet for retail uses.

The proposed development is within the amount of development analyzed in the 2006 NSJ FPEIR. Therefore, the proposed project would not result in new or more significant environmental impacts than those addressed in the certified 2006 NSJ FPEIR with implementation of the standard, avoidance, and mitigation measures included in the proposed project and described in the specific sections of this Initial Study (refer to Sections 4.1 through 4.16 of this Initial Study.).

4.17.1 - Environmental Checklist and Discussion of Impacts

Environmental Issues	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 Sources/ Discussion Location
Mandatory Findings of Significance						
a) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 9
b) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 9
c) Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 9

4.18 - Checklist Sources

1. Professional judgment and expertise of the environmental specialists preparing this assessment, based upon a review of the site and surrounding conditions, and a review of the project plans.
2. City of San José. Final Environmental Impact Report, North San José Development Policies Update, June 2005.
3. City of San José. Administrative Draft Initial Study for Hyundai Site, March, 2007.
4. Assessment of 305 Trees at the Proposed Northpointe Project, Walter Levison, Consulting Arborist, August 23, 2006.
5. Phase I Environmental Assessment, Zanker North Point, TRC, March 12, 1991
6. Phase II Environmental Assessment, PES Environmental, Inc., September 26, 2006.
7. Geotechnical investigation completed for the Northpointe project site, Construction Engineering & Testing, Inc., May 2006.
8. Traffic Analysis, Hexagon Transportation Consultants, April 13, 2007.
9. This Initial Study, Sections 4.1 through 4.16.
10. Off-Site Hazardous Material Facilities Survey.

SECTION 5: REFERENCES

The following documents are the information sources referenced and used for this analysis.

Alameda and Santa Clara Counties. 2004. Seismic Hazard Zone Report for the Milpitas 7.5-minute quadrangle. (CGS SHZR 051, 2001).

City of San José North San José Development Policies Update Final Program EIR (2006 NSJ FPEIR) (approved December 2006).

Construction Engineering & Testing, Inc. May 2006. Preliminary Geotechnical Investigation.

Hexagon Transportation Consultants. August 7, 2007. Traffic Analysis.

PES Environmental, Inc. March 1991. Phase I Environmental Assessment.

PES Environmental, Inc. June 2006. Draft Phase II Investigation Report.

PES Environmental, Inc. 2006. Off-Site Hazardous Material Facilities Survey 179-199 Tasman Drive and 3801-3811 Zanker Road Northpointe Business Park San José, California. August

SB Architects, Site Plan. February 14, 2007.

SECTION 6: AUTHORS AND CONSULTANTS

Michael Brandman Associates - Environmental Consultant

Bishop Ranch 3
2633 Camino Ramon, Suite 460
San Ramon, CA 94583
Phone: 925.830.2733
Fax: 925.830.2715

Project Director	Jason M. Brandman
Project Manager	John Baas
Senior Technical Review.....	Chelsea Ayala
Environmental Planning Support	Tula Economou
Environmental Planning Support	Carrie Wills
Editor	Ed Livingston
GIS/Graphics	Mike Serrano
GIS/Graphics	Eric Osterling
Word Processing.....	Ed Livingston
Reprographics.....	Ray Muniz
Reprographics.....	Will Marin
Administrative Assistant	Alicia Yuen

