Integrated Final
Environmental Impact Report/
Environmental Assessment

KING AND DOBBIN TRANSIT VILLAGE AND US 101 - OAKLAND/MABURY TRANSPORTATION DEVELOPMENT POLICY (PDC07-015, NR07-002 and PP07-172)

SCH# 2007062068

Volume I of III: EIR Text

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

November 2007

INTRODUCTION TO THE INTEGRATED FINAL EIR

This Integrated Final EIR document is a compilation of documents prepared individually and previously made available to the public. Consistent with normal practice in the City of San José, a First Amendment to the Draft EIR was prepared by the City prior to certification of the EIR. The First Amendment, together with the Draft EIR, constitutes the Final EIR for these projects. This Final EIR document integrates these two documents, but changes none of them. In conformance with Section 15132 of the CEQA Guidelines, this Final EIR contains the following, at the locations indicated:

(a) The Draft Environmental Impact Report in its entirety is found in the document which follows this page and in the separate volumes of the technical appendices (including Appendices A through K).

(b) The information included in the First Amendment to the Draft EIR is incorporated into the text of the Draft EIR (pages 1 through 228) which follows this page, and in Volume III of the Integrated Final EIR which includes the First Amendment to the Draft EIR (Appendix L) in its entirety.

(c) Resolutions of the Planning Commission certifying the Final EIR for the projects as complete and in conformance with CEQA (Appendix M).

(d) Resolutions of the City Council adopting findings for the US 101 – Oakland/Mabury Transportation Development Policy (Appendix N), and adopting findings and a Mitigation Monitoring and Reporting Program for the King and Dobbin Transit Village Planned Development Zoning project (Appendix O).

The Draft EIR was circulated to affected public agencies and interested parties for a 45-day review period. The First Amendment to the Draft EIR consists of comments received by the Lead Agency on the Draft EIR, responses to those comments, and revisions to the text of the Draft EIR. The First Amendment to the Draft EIR was circulated to the public and commenting public agencies 10 days prior to the EIR certification hearing. The text revisions identified in the First Amendment have been incorporated into the text of this Integrated Final EIR. All deletions are shown ~~with a line though the text~~ and all new text is shown with underlining.

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Department of Planning, Building and Code Enforcement
JOSEPH HORWEDEL, DIRECTOR

September 6, 2007

Ladies and Gentlemen:

SUBJECT:

A) King And Dobbin Transit Village Planned Development Zoning File No PDC07-015, SCH# 2007062068

B) US 101/Oakland/Mabury Transportation Development Policy Development File No PP07-172, SCH# 2007062068

The Planning Commission of the City of San Jose will hold a Public Hearing to consider the Draft Environmental Impact Report (DEIR) prepared for the project described below. A copy of the DEIR is attached for your review.

Your comments regarding the significant environmental effects of this project and the adequacy of the DEIR are welcome. **Written comments, submitted to the Department of Planning, Building and Code Enforcement by 5:00 p.m., October 29, 2007, will be included in the EIR and be considered by the Planning Commission at this public hearing.** *If you make comments through a state or regional clearinghouse, please send a copy of your comments to the contact person listed below to insure prompt consideration.* If we receive no comments (nor a request for an extension of time) from you by the specified date, we will assume you have none to make.

Project Description and Location:
Planned Development (PD) Zoning Project: The proposed Planned Development Zoning is located at the northeast corner of North King Road and Dobbin Drive. The rezoning will allow development of up to 1,287 residential units, between 10,000 and 25,000 square feet of commercial space, and an approximately one-acre park. The project proposes rezoning the site to allow densities ranging from 20 to 110 dwelling units per acre (DU/AC). The highest densities are proposed near North King Road and the lower densities are proposed on the eastern side of the site closer to the existing single-family neighborhood. The PD zoning will be developed with up to 138 affordable residential units, including a maximum of 100 affordable apartments and 38 emergency shelter units used for the San José Family Shelter to provide housing on an emergency basis for homeless families with children.

Transportation Development Policy: The proposed Transportation Development Policy (TDP) will address traffic congestion in the vicinity of the US 101 and Oakland Road interchange

corridor and the planned US 101 and Mabury Road interchange in San José. The Transportation Development Policy (TDP) is proposed to manage the traffic congestion associated with near term "smart growth" development in the US 101 – Oakland/Mabury area including Transit Oriented Development near the planned BART Berryessa Station, Japantown Neighborhood Business District, Jackson-Taylor Specific Plan, and Luna Park/13th Street Neighborhood Business District. The policy would create a "fair share" traffic impact fee structure to finance US 101/Oakland Road and US 101/Mabury Road interchange improvements.

Tentative Hearing Date: November 28, 2007

Contact Person:

Dipa Chundur
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street, Tower 3
San José CA 95113-1905
(fax) 408-292-6055
dipa.chundur@sanjoseca.gov

Sincerely,

Akoni Danielsen, Principal Planner

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PREFACE

This document has been prepared by the City of San José as the Lead Agency and Responsible Entity in conformance with the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). The purpose of this combined Environmental Impact Report/Environmental Assessment (EIR/EA) is to inform decision makers and the general public of the environmental effects of the proposed projects.

California Environmental Quality Act (CEQA)

This document provides a project-level environmental review appropriate for the proposed King and Dobbin Transit Village (PDC07-015) and environmental review for the US 101 – Oakland/Mabury Transportation Development Policy (PP07-172), in accordance with CEQA Guidelines Sections 15121, 15146 and 15151.

In accordance with CEQA, an EIR provides objective information regarding the environmental consequences of the proposed project, both to the decision makers who will be considering and reviewing the proposed project, and to the general public.

The following guidelines are included in CEQA to clarify the role of an EIR:

> **§15121(a). Informational Document.** An EIR is an informational document, which will inform public agency decision makers, and the public of the significant environmental effects of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project. The public agency shall consider the information in the EIR, along with other information which may be presented to the agency.
>
> **§15146. Degree of Specificity.** The degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR.
>
> (a) An EIR on a construction project will necessarily be more detailed in the specific effects of a project than will an EIR on the adoption of a local general plan or comprehensive zoning ordinance because the effects of the construction can be predicted with greater accuracy.
>
> (b) An EIR on a project such as the adoption or amendment of a comprehensive zoning ordinance or local general plan should focus on the secondary effects that can be expected to follow from the adoption or amendment, but the EIR need not be as detailed as an EIR on the specific construction project that might follow.
>
> **§15151. Standards for Adequacy of an EIR.** An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently considers environmental consequences. An evaluation of the environmental effects of the proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection, but for adequacy, completeness, and a good-faith effort at full disclosure.

National Environmental Policy Act (NEPA)

This Environmental Assessment (Planning File No. NR07-002) discusses the environmental impacts of the proposed King and Dobbin Transit Village, a mixed-use project including residential units, commercial space, and a park.

This Environmental Assessment has been prepared by the City of San José as the Responsible Entity, in conformance with Section 102(1) of NEPA (National Environmental Policy Act), all related laws and authority cited in 24 CFR Part 50, and all related laws and authority cited in 24 CFR Part 58 with respect to a project funded under Title II of the Cranston-Gonzalez National Affordable Housing Act (NAHA) of 1990, as amended. The requirements of the following environmentally-related processes have also been satisfied:

1. The National Historic Preservation Act of 1966 as amended (particularly Section 106)
2. Executive Order 11593: Protection and Enhancement of the Cultural Environment, 1971
3. Preservation of Historic and Archaeological Data Act of 1974
4. Flood Disaster Protection Act of 1973, Executive Order 11988: Floodplain Management
5. Executive Order 11990: Protection of Wetlands
6. Coastal Zone Management Act of 1972
7. Coastal Barrier Resources Act of 1982
8. Safe Drinking Water Act of 1974, as amended
9. The Endangered Species Act of 1973
10. Wild and Scenic Rivers Act
11. The Farmland Protection Policy Act of 1981
12. Clean Air Act as amended
13. Clean Water Act of 1977
14. The Solid Waste Disposal Act as amended
15. Noise Control Act of 1972 as amended
16. Executive Order 12898: Environmental Justice
17. HUD Environmental Standards per 24 CFR Part 51

Responsible Entity:	City of San José Department of Planning, Building, and Code Enforcement [24 CFR 58.2(a)(7)]
Certifying Officer:	Joseph Horwedel, Director of Planning, Building, and Code Enforcement [24 CFR 58.2(a)(2)]
Estimated Total Project Cost:	$57,500,000 Charities Housing Project: $42,500,000 Family Supportive Housing: $15,000,000
Grant Recipient:	Charities Housing [24 CFR 58.2(a)(5)]
Recipient Address:	465 South First Street San José, CA 95113
Project Representative:	Kathy Robinson
Telephone Number:	408-282-1133

Conditions for Approval: Refer to mitigation measures listed in the Summary Section to eliminate or minimize adverse environmental impacts for conditions of approval. These conditions shall be included in project plans, contracts, and other relevant documents as requirements. [24 CFR 58.40(d), 40 CFR 1505.2(c)]

Finding: [58.40(g)]

☒ **Finding of No Significant Impact**
(The project will not result in a significant impact on the quality of the human environment.)

☐ **Finding of Significant Impact**
(The project may significantly affect the quality of the human environment.)

Preparer Signature: _____ **Date:**_____
Name/Title/Agency: Judy Shanley, President, David J. Powers & Associates

RE Approving Official Signature: _____ **Date:**_____
Name/Title/Agency: Joseph Horwedel, Director of Planning, Building, and Code Enforcement

Document Availability

Copies of all documents referred to in this EIR/EA are available for public review at the Planning Division in the Office of the Department of Planning, Building, and Code Enforcement, located at 200 East Santa Clara Street, 3rd Floor, San José, California on weekdays during normal business hours.

Summary Description of the Proposed Projects

King and Dobbin Transit Village

The proposed PD zoning is located on an approximately 24.8-acre site on the north side of Dobbin Drive at North King Road in East San José. The project site is comprised of nine parcels that are currently developed with light industrial and warehouse buildings. The majority of the site is located within the Bay Area Rapid Transit (BART) Berryessa Station Area Node.

The proposed PD rezoning will allow development of up to 1,287 residential units, between 10,000 and 25,000 square feet of commercial space, and an approximately one-acre park. The project proposes rezoning the site to allow densities ranging from 20 to 110 dwelling units per acre (DU/AC). The highest densities are proposed near North King Road and the lower densities are proposed on the eastern side of the site closer to the existing single-family neighborhood. The proposed PD zoning will include up to 138 affordable residential units, including a maximum of 100 affordable apartments and 38 emergency shelter units used for the San José Family Shelter to provide housing on an emergency basis for homeless families with children.

US 101 – Oakland/Mabury Transportation Development Policy

The City of San José proposes a Transportation Development Policy (TDP) to manage the traffic congestion associated with near term "smart growth" development in the US 101 – Oakland/Mabury area including Transit Oriented Development near the planned BART Berryessa Station, Japantown Neighborhood Business District, Jackson-Taylor Specific Plan, and Luna Park/13th Street Neighborhood Business District. The policy would create a fair share traffic impact fee structure to finance US 101/Oakland Road and US 101/Mabury Road interchange improvements. The policy would allow the level of service (LOS) at intersections along the Oakland Road and US 101 interchange corridor to temporarily degrade below the City of San José's LOS standards, with a corresponding level of congestion, prior to the construction of improvements to the US 101/Oakland Road interchange and construction of the US 101/Mabury Road interchange. Development of up to approximately 6,000 residential units could occur within the vicinity of the Oakland Road and Mabury Road/US 101 interchanges, prior to construction of the interchange improvements, under the proposed policy. Further environmental review will be required for construction of the interchange improvements, as well as the future specific development projects utilizing the identified TDP improvements.

Summary of Impacts and Mitigation/Avoidance Measures			
Environmental Impact	**Significance Without Mitigation**	**Mitigation Measures**	**Impact After Mitigation**
2.1 LAND USE			
LU-1: The proposed project could result in significant land use conflicts and/or new limitations on the existing industrial development south of the project site.	S	No mitigation available.	SU
LU-2: The proposed residential development could result in exposure of future residents to impacts related to the surrounding industrial development.	S	**LU-2.1:** An emergency and protective action plan shall be prepared for the site to develop measures to protect residents in the event of a catastrophic chemical release from the Clean Harbors Environmental facility. The emergency and protective action plan shall be prepared in coordination with the project applicant, Clean Harbors Environmental, City of San José Fire Department, and Department of Planning, Building and Code Enforcement. The plan shall take into consideration evacuation, sheltering-in-place, the use of ventilation systems and smoke purge fans, and protective masks. The emergency and protective action plan prepared for the project shall be agreed upon prior to the issuance of occupancy permits for units on Parcels A, B, and C.	SU
2.2 TRANSPORTATION			
TRANS-1: The proposed project would result in significant LOS impacts to the Oakland Road/Commercial Street, US 101/Oakland Road (N), and US 101/Oakland Road (S) intersection under City of San José standards and the US 101/Oakland Road (N) and US 101/Oakland Road (S) intersections under CMP standards.	S	**TRANS-1.1:** The project proposes to pay the applicable traffic impact fees associated with the proposed US 101 – Oakland/Mabury Transportation Development Policy. The City of San José is proposing adoption of the US 101 – Oakland/Mabury Transportation Development Policy (TDP) because the interchange reconstruction is beyond the scope of most projects (see Section 1.3.2), including the proposed PD rezoning (refer to *Section 2.2.3.1*). As proposed, the new TDP would be a trip-based fee program. The applicable traffic impact fee will be paid prior to issuance of Public Works clearance for the proposed parcels. Since the proposed TDP is a process to fund the construction of the impacted intersections, the King and Dobbin Transit Village project's participation in the TDP will mitigate the project impacts to a less than significant level, although the timing of construction of the improvements is unknown and dependent upon securing full funding.	LTS

Summary of Impacts and Mitigation/Avoidance Measures			
Environmental Impact	**Significance Without Mitigation**	**Mitigation Measures**	**Impact After Mitigation**
		TRANS-1.2: In the event the payment of fees as part of the proposed US 101 – Oakland/Mabury TDP is not available as mitigation, the project could propose to implement one of the following measures: • Reconstruction of the US 101/Oakland Road interchange, including the Oakland Road/Commercial Street intersection at an estimated cost of $20 million would reduce the project's intersection LOS traffic impacts by providing additional capacity along this corridor to accommodate increases in traffic as a result of the project. • Reduce the amount of development proposed on the project site to a level that would not result in significant transportation impacts at any of the three identified intersections (refer to Reduced Scale Alternative). • Delay development of the site until the necessary intersection improvements are constructed by other projects.	
TRANS-2: The proposed project will contribute traffic in excess of one percent of segment capacity to four freeway segments already operating at LOS F during either the AM or PM peak hour and cause one freeway segment to operate at LOS F.	S	TRANS-2.1: Mitigation of significant project impacts on freeway segments would require roadway widening to construct additional through lanes, thereby increasing freeway capacity. Since it is not feasible for an individual development project to bear responsibility for implementing such extensive transportation system improvements and no comprehensive project to add thru lanes has been developed by Caltrans or the Valley Transportation Authority (VTA) the significant impacts on five freeway segments are significant and unavoidable. There are measures that could help to reduce these impacts; however, they are also infeasible for an individual development project to bear responsibility for implementing. The measures primarily consist of transit improvements and enhancements as outlined below: • Extension of BART to San José • Further expansion of the LRT system • Enhanced bus service These measures would provide options to commuters within the project study area. An enhanced transit system, with a major improvement such as the BART extension, would reduce auto usage. The reduction in auto usage	SU

Summary of Impacts and Mitigation/Avoidance Measures			
Environmental Impact	**Significance Without Mitigation**	**Mitigation Measures**	**Impact After Mitigation**
		would be most noticeable on freeways, since most transit trips would originate from outside the project study area. TRANS-2.2: When project mitigation measures on CMP facilities are not feasible or fail to improve the level of service to the CMP's LOS standard, then a CMP-approved Deficiency Plan must be prepared. According to the CMP TIA guidelines, pending adoption of the Countywide Deficiency Plan, if a project causes a transportation impact that cannot be reduced to a less than significant level, the Lead Agency (the City of San José) must implement, or require the project's sponsor to implement, the "Immediate Actions" listed in Appendix D of the Draft Countywide Deficiency Plan as part of the project's approval (refer to *Section 2.2.3.2*). Although the implementation of a TDM Program could incrementally reduce traffic, it would not reduce the identified impacts to a less than significant level. The project impacts on the five freeway segments, therefore, are significant and unavoidable.	
2.3 CULTURAL RESOURCES			
CULT-2: Construction of improvements to the substation may result in impacts to buried cultural resources.	S	CULT-2.1: Although no buried cultural resources have been identified on the site, given the general sensitivity of the area, the following measure would reduce impacts to cultural resources to a less than significant level: • A qualified archaeologist shall be retained during any grading and excavation at the PG&E substation site to spot-check monitor construction activities into native soils. A report summarizing the results of the monitoring activities will be submitted to the Environmental Principal Planner.	LTS
2.4 HAZARDS AND HAZARDOUS MATERIALS			
HM-1: Concentrations of TPHd and TPHmo were detected in groundwater and soil that may require remediation prior to construction on the site at 686 North King Road.	S	HM-1.1: Additional soil and groundwater testing will be required following demolition and removal of concrete and pavement from the site. Based on the findings of the additional investigation specific soil and groundwater remediation measure(s) will be identified.	LTS

Summary of Impacts and Mitigation/Avoidance Measures			
Environmental Impact	**Significance Without Mitigation**	**Mitigation Measures**	**Impact After Mitigation**
		HM-1.2: Soil and/or groundwater removed as part of construction activities shall be appropriately handled and disposed of to ensure compliance with applicable regulations. HM-1.3: Prior to construction, an evaluation of impacts shall be made with respect to work safety, and appropriate measures, if necessary, taken to ensure worker protection.	
HM-2: Concentrations of metals detected in the vicinity of the paint booths on the site exceed ESLs for residential use at 670 North King Road.	S	HM-2.1: Upon removal of the booths and painting equipment, demolition of the building, and removal of foundation and drain system, impacted soil that exceeds target soil concentrations should be excavated and properly disposed. Following equipment removal and demolition activities, inspection and testing of the shallow soil beneath the foundation and around the drain lines shall be performed for chromium, cobalt, and nickel to target specific areas of soil that exceed residential ESL values. Upon completion of soil removal action, if needed to meet these target levels, confirmation samples shall be analyzed and a report submitted for review to the Environmental Principal Planner in the Department of Planning, Building and Code Enforcement and the City's Environmental Compliance Officer prior to approval of grading permits in the sampling area. HM-2.2: Prior to construction, an evaluation of impacts shall be made with respect to work safety, and appropriate measures, if necessary, taken to ensure worker protection.	LTS
HM-3: The former railroad alignment contains several metals exceeding residential ESLs, including arsenic (APN: 254-04-098).	S	HM-3.1: Soils shall be excavated along the width of the former railroad track area (approximately 15 feet) from the area of samples RR-5 to RR-7 (approximately 250 in length) to a depth of one foot (refer to Appendix C) prior to grading or excavation on the site. The contaminated soils will be disposed of in accordance with state and local regulations. Following removal of contaminated soils, confirmation soil samples shall be analyzed and a report submitted for review to the Environmental Principal Planner in the Department of Planning, Building and Code Enforcement and the City's Environmental Compliance Officer prior to approval of grading permits in the sampling area.	LTS

Summary of Impacts and Mitigation/Avoidance Measures			
Environmental Impact	**Significance Without Mitigation**	**Mitigation Measures**	**Impact After Mitigation**
		HM-3.2: Prior to construction, an evaluation of impacts shall be made with respect to work safety, and appropriate measures, if necessary, taken to ensure worker protection.	
HM-4: Groundwater on-site contains petroleum hydrocarbons and soils on-site contain metals exceeding standards for residential use at 1875 Dobbin Drive.	S	**HM-4.1:** DTSC review and approval shall be obtained for specific mitigation measures to address impacted soil and groundwater. **HM-4.2:** Additional soil sampling shall be completed following building demolition and removal of concrete and paving, inspection and sampling for petroleum impact soil should be performed in the area of the impacted groundwater (southwest portion of building). **HM-4.3:** Soil and/or groundwater removed as part of construction activities shall be appropriately handled and disposed of to ensure compliance with applicable regulations. **HM-4.4:** Prior to construction, an evaluation of impacts shall be made with respect to work safety, and appropriate measures, if necessary, taken to ensure worker protection.	LTS
HM-5: Groundwater on the site contains elevated levels of TCE, TPHd, and TPHmo whose source is undetermined (APN: 254-55-010).	S	**HM-5.1:** Additional testing of contaminated groundwater on the site shall be completed prior to approval of a grading permit to determine the source of the contamination. The results of the additional groundwater testing and any mitigation measures necessary to make the site suitable for residential use shall be submitted to the Environmental Principal Planner in the Department of Planning, Building and Code Enforcement and the City's Environmental Compliance Officer prior to issuance of building permits on this portion of the site. **HM-5.2:** Soil and/or groundwater removed as part of construction activities shall be appropriately handled and disposed of to ensure compliance with applicable regulations. **HM-5.3:** Prior to construction, an evaluation of impacts shall be made with respect to work safety, and appropriate measures, if necessary, taken to ensure worker protection.	LTS

Summary of Impacts and Mitigation/Avoidance Measures			
Environmental Impact	**Significance Without Mitigation**	**Mitigation Measures**	**Impact After Mitigation**
HM-7: Residents of the project site may be impacted in the event a worst-case hazardous materials release occurred from a nearby industrial facility.	S	HM-7.1: An emergency and protective action plan shall be prepared for the site to develop measures to protect residents in the event of a catastrophic chemical release from the Clean Harbors Environmental facility. The emergency and protective action plan shall be prepared in coordination with the project applicant, Clean Harbors Environmental, City of San José Fire Department, Valley Transportation Authority, Caltrans, California Transportation Commission, and Department of Planning, Building and Code Enforcement. The plan shall take into consideration evacuation, sheltering-in-place, the use of ventilation systems and smoke purge fans, and protective masks. The emergency and protective action plan prepared for the project shall be agreed upon prior to the issuance of occupancy permits for units on Parcels A, B, and C. HM-7.2: The purchase/disclosure documents provided to all homeowners on the project site and contract documents provided to any renters on the project site shall include information regarding the presence of nearby industrial facilities using hazardous materials, and protocols to follow in the event of an accidental release of hazardous materials at the Clean Harbors Environmental facility. This informational document, based on the emergency and protective action plan, shall be prepared by a qualified hazardous materials consultant under contract with the property owner. HM-7.3: The Homeowners' Associations or property managers for the project shall include a safety coordinator who will coordinate with local public safety personnel, as necessary, and inform residents of any updates or alerts regarding hazardous materials incidents.	SU
2.5 NOISE			
NOI-4: Residential uses at portions of the project site would be exposed to exterior noise levels greater than 60 dBA DNL, which exceeds the noise and land use compatibility standards for multi-family residences set forth in the State Building Code. Interior noise levels would exceed 45 dBA DNL without the incorporation of noise insulation features into	S	NOI-4.1: Project-specific acoustical analyses are required to confirm that interior noise levels will be reduced to 45 dBA DNL or lower. Building sound insulation requirements would need to include the provision of forced-air mechanical ventilation for units proposed in noise environments exceeding 60 dBA DNL, so that windows could be kept closed at the occupant's discretion to control noise. Special building techniques (e.g., sound-rated windows and building facade treatments, STC 30-33) may be required to maintain interior noise levels at or below recommended levels. The specific	LTS

Summary of Impacts and Mitigation/Avoidance Measures			
Environmental Impact	**Significance Without Mitigation**	**Mitigation Measures**	**Impact After Mitigation**
the project's design.		determination of what treatments are necessary will be conducted on a unit-by-unit basis. Results of the analysis, including the description of the necessary noise control treatments, will be submitted to the City along with the building plans and approved prior to issuance of a building permit.	
2.7 HYDROLOGY AND WATER QUALITY			
HYDRO-2: Construction of the project could result in short-term water quality impacts due to sedimentation and pollutants in groundwater and stormwater runoff.	S	**HYDRO-2.1**: Mitigation measures, based on RWQCB Best Management Practices, are included in the proposed project to ensure compliance with NPDES permit requirements to reduce construction related water quality impacts (refer to *Section 2.7 Mitigation and Avoidance Measures for Hydrology and Water Quality Impacts*). **HYDRO-2.2**: Dewatering required as part of construction activities for below grade parking will be sampled and tested for contaminants. If groundwater contaminant levels are below RWQCB discharge thresholds, the project shall obtain a permit from the City of San José to discharge the groundwater pumped from the site into the City's storm drain system. This permit will specify the sediment removal measures to be implemented during dewatering (e.g., settling tank, particulate filters, etc.) and the frequency of ongoing water quality testing. If groundwater contaminant levels are above RWQCB discharge thresholds, the project shall obtain an NPDES permit from the RWQCB prior to discharging the water into the storm drain system. This permit will specify the groundwater treatment measures and the water quality treatment standards that shall be achieved prior to discharge into the storm drain system, the sediment removal measures to be implemented during dewatering (e.g., settling tank, particulate filters, etc.), and the frequency of ongoing water quality testing.	LTS
2.9 BIOLOGICAL RESOURCES			
BIO-1: The proposed PD zoning development could result in direct impacts to nesting raptors.	S	**BIO-1.1**: At the time of site redevelopment, the project shall implement the following measures: • A qualified ornithologist shall conduct a protocol-level, preconstruction survey for nesting raptors on-site not more than 30 days prior to the onset of ground disturbance or tree removal, if disturbance is to occur during the breeding season (February 1 to August 31).	LTS

Summary of Impacts and Mitigation/Avoidance Measures			
Environmental Impact	**Significance Without Mitigation**	**Mitigation Measures**	**Impact After Mitigation**
		• In a nesting raptor is detected, an appropriate construction buffer shall be established. The actual size of the buffer will be determined by the project ornithologist and will depend on species and type of construction activity that would occur in the vicinity of the nest. • A report summarizing the results of the pre-construction survey and subsequent efforts to protect nesting raptors (if found to be present) shall be submitted to the Director of Planning, Building and Code Enforcement. • All future development on the site would be required to conform to the California State Fish and Game Code and the provisions of the Migratory Bird Treaty Act.	
BIO-2: The proposed PD zoning may result in the removal of all trees from the site.	S	**BIO-2.1**: All trees that are to be removed should be replaced at the ratios listed in Table 2.9-2 of this EIR/EA. In the event the project site does not have sufficient area to accommodate the required tree mitigation, alternative measures will be implemented, to the satisfaction of the Director of Planning, Building & Code Enforcement, at the development permit stage (refer to *Section 2.9.3 Mitigation and Avoidance Measures for Biological Resources Impacts*). **BIO-2.2**: Trees proposed for retention or relocation on the site shall be protected under the guidelines contained in the tree report for the project (refer to Appendix G) and outlined in *Section 2.9.3 Mitigation and Avoidance Measures for Biological Resources Impacts.*	LTS
2.10 AIR QUALITY			
AQ-4: Construction activities such as demolition, clearing, excavation and grading operations, construction vehicle traffic and wind blowing over exposed earth would generate fugitive particulate matter emissions that could temporarily affect local air quality.	S	**AQ-4.1**: The BAAQMD has prepared a list of feasible construction dust control measures that can reduce construction impacts to a less than significant level. The dust control measures that shall be implemented by project contractors during demolition and on-site recycling of materials and shall be reflected as notes on the project plans prior to issuance of demolition permits are discussed in *Section 2.10 Mitigation and Avoidance Measures for Air Quality Impacts.*	LTS

Summary of Impacts and Mitigation/Avoidance Measures			
Environmental Impact	**Significance Without Mitigation**	**Mitigation Measures**	**Impact After Mitigation**
		AQ-4.2: The construction practices discussed in *Section 2.10 Mitigation and Avoidance Measures for Air Quality Impacts* shall be implemented during all phases of construction on the project site and shall be reflected as notes on the project plans prior to issuance of grading or building permits.	
3.3 SCHOOLS			
PS-3: The proposed PD zoning development would result in the need for additional school facilities.	S	**PS-3:** State law (Government Code Section 65996) specifies an acceptable method of offsetting a project's effect on the adequacy of school facilities as the payment of a school impact fee prior to issuance of a building permit. California Government Code Sections 65995-65998, sets forth provisions for the payment of school impact fees by new development as the exclusive means of "considering and mitigating impacts on school facilities that occur or might occur as a result of any legislative or adjudicative act, or both, by any state or local agency involving, but not limited to, the planning, use, or development of real property." [§65996(a)]. The legislation goes on to say that the payment of school impact fees "are hereby deemed to provide full and complete school facilities mitigation" under CEQA. [§65996(b)]. The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code. The school impact fees and the school districts' methods of implementing measures specified by Government Code 65996 would mitigate project-related increases in student enrollment.	LTS
4.1 CUMULATIVE LAND USE			
CUMUL-1: The proposed project would contribute to a significant cumulative land use compatibility impact.	S	No mitigation measures would reduce the cumulative land use compatibility impacts of the project to a less than significant level.	SU
4.2 CUMULATIVE TRANSPORTATION			
CUMUL-2: The proposed PD zoning would have a considerable contribution to a significant cumulative impact at the Oakland Road and Commercial Street intersection during the AM peak hour.	S	**CUMUL-2.1:** The project proposes to pay the applicable traffic impact fees associated with the proposed US 101 – Oakland/Mabury Transportation Development Policy to reduce its contribution to cumulative impacts at the Oakland Road and Commercial Street intersection to a less than significant level. **CUMUL-2.2:** In the event the payment of fees as part of the proposed US 101 – Oakland/Mabury TDP is not available as mitigation for cumulative impacts to the Oakland Road and Commercial Street intersection, the project	LTS

Summary of Impacts and Mitigation/Avoidance Measures			
Environmental Impact	**Significance Without Mitigation**	**Mitigation Measures**	**Impact After Mitigation**
		could propose to implement one of the following measures: • Reconstruction of the US 101/Oakland Road interchange, including the Oakland Road/Commercial Street intersection at an estimated cost of $20 million would reduce the project's intersection LOS traffic impacts by providing additional capacity along this corridor to accommodate increases in traffic as a result of the project. • Reduce the amount of development proposed on the project site to a level that would not result in significant transportation impacts at any of the three identified intersections. • Delay development of the site until the necessary intersection improvements are constructed by other projects.	
CUMUL-3: The proposed cumulative projects would result in a significant cumulative impact at the 13th Street and Hedding Street intersection during the AM peak hour. (Significant Cumulative Impact)	S	**CUMUL-3.1:** The intersection of 13th Street and Hedding Street would operate at an unacceptable LOS E during the AM peak hour under cumulative conditions. The improvements required to mitigate the impact at this intersection to a less than significant level during the AM peak hour are the addition of a separate westbound right-turn lane and conversion of the southbound approach to two left turns, a through lane, and a shared through-right lane. The modification of the southbound approach requires shifting the lanes of both the northbound and southbound approaches and signal modification to accommodate the northbound-southbound left-turns within the intersection. During the AM peak hour these modifications would reduce the increase in average critical delay and critical volume-to-capacity (V/C) below the impact thresholds.	LTS
CUMUL-4: The proposed cumulative projects would result in a significant cumulative impact at the Commercial Street and Berryessa Road intersection during the AM peak hour.	S	**CUMUL-4.1:** The intersection of Commercial Street and Berryessa Road would operate at an unacceptable LOS F during the AM peak hour under cumulative conditions. The poor level of service would be due entirely to the heavy future westbound right-turn volume. Accordingly, a separate westbound right-turn lane and a second receiving lane on the north leg of the intersection should be constructed in order to allow a free right-turn movement from westbound Berryessa Road onto northbound Commercial Street which would improve intersection operations to LOS C during the AM peak hour. This mitigation measure shall be incorporated into the proposed TDP and funded through the policy.	LTS

Summary of Impacts and Mitigation/Avoidance Measures			
Environmental Impact	**Significance Without Mitigation**	**Mitigation Measures**	**Impact After Mitigation**
CUMUL-5: The proposed PD zoning would have a considerable contribution to a significant cumulative impact at the Lundy Avenue and Berryessa Road intersection during the PM peak hour.	S	CUMUL-5.1: The intersection of Lundy Avenue and Berryessa Road would operate at an unacceptable LOS E during the PM peak hour under cumulative conditions. The EIR prepared for the Vision North San José project identified mitigation under Phase 4 project conditions which would improve the level of service to an acceptable LOS D during the PM peak hour.	ST
CUMUL-6: The proposed PD zoning would have a considerable contribution to cumulative traffic impacts on four freeway segments.	S	CUMUL-6.1: Mitigation of significant cumulative impacts on freeway segments would require roadway widening to construct additional through lanes, thereby increasing freeway capacity. No comprehensive project to add through lanes has been developed by Caltrans or VTA for the individual cumulative projects to contribute to and since it is not feasible for an individual development project to bear responsibility for implementing such extensive transportation system improvements due to the constraints in acquisition and cost of right-of-way, the project's significant cumulative impacts on the four directional freeway segments identified above would be significant and unavoidable. There are measures, however, that could help to reduce the impacts. The measures, while infeasible for individual development project to implement, primarily consist of transit improvements and enhancements as outlined below: • Extension of BART to San José • Further expansion of the LRT system • Enhanced bus service These measures would provide options to commuters from the cumulative projects. An enhanced transit system, with a major improvement such as the BART extension, would reduce auto usage. The reduction in auto usage would be most noticeable on freeways, since most transit trips would originate from outside the project study area.	SU
4.3 CUMULATIVE HAZARDOUS MATERIALS			
CUMUL-7: The project would result in a cumulatively considerable contribution to a significant cumulative hazardous materials	S	CUMUL-7.1: An emergency and protective action plan shall be prepared for the site to develop measures to protect residents in the event of a catastrophic chemical release from the Clean Harbors Environmental facility.	SU

Summary of Impacts and Mitigation/Avoidance Measures			
Environmental Impact	**Significance Without Mitigation**	**Mitigation Measures**	**Impact After Mitigation**
impact.		The emergency and protective action plan shall be prepared in coordination with the project applicant, Clean Harbors Environmental, City of San José Fire Department, and Department of Planning, Building and Code Enforcement. The plan shall take into consideration evacuation, sheltering-in-place, the use of ventilation systems and smoke purge fans, and protective masks. The emergency and protective action plan prepared for the project shall be agreed upon prior to the issuance of occupancy permits for units on Parcels A, B, and C.	
4.3.7.2 CUMULATIVE SCHOOLS			
CUMUL-13: The proposed project would result in significant cumulative impacts on school facilities.	S	CUMUL-13.1: State law (Government Code Section 65996) specifies an acceptable method of offsetting a project's effect on the adequacy of school facilities as the payment of a school impact fee prior to issuance of a building permit. California Government Code Sections 65995-65998, sets forth provisions for the payment of school impact fees by new development as the exclusive means of "considering and mitigating impacts on school facilities that occur or might occur as a result of any legislative or adjudicative act, or both, by any state or local agency involving, but not limited to, the planning, use, or development of real property." [§65996(a)]. The legislation goes on to say that the payment of school impact fees "are hereby deemed to provide full and complete school facilities mitigation" under CEQA. [§65996(b)]. The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code. The school impact fees and the school districts' methods of implementing measures specified by Government Code 65996 would mitigate project-related increases in student enrollment.	LTS

Notes:
LTS = Less Than Significant
S = Significant
SU = Significant Unavoidable
ST = Significant Temporary

Summary of Alternatives

CEQA requires that an EIR identify alternatives to a project as it is proposed. The CEQA Guidelines specify that the EIR should identify alternatives which "will feasibly attain most of the basic objectives of the project but will avoid or substantially lessen any of the significant effects of the project". *Section 8 Alternatives to the Proposed Project* of this EIR analyzes several alternatives to the proposed project. A brief summary of these alternatives and their impacts is provided below.

No Project Alternative

The CEQA Guidelines specifically require consideration of a No Project Alternative. The No Project Alternative should address both "the existing conditions, as well as what would be reasonably expected to occur in the foreseeable future if the project is not approved, based on current plans and consistent with available infrastructure and community services."

The project site is currently developed with warehouse building and light industrial buildings totaling approximately 421,000 square feet, surface parking lots, and landscaping. Under the No Project Alternative, the project site could remain developed with the existing light industrial buildings. This would avoid all of the proposed project's significant impacts. This would also avoid the need for approval of a Transportation Development Policy as proposed by the project. If no TDP were approved then other development in support of the BART extension and other City neighborhood plans (i.e. Jackson Taylor, 13th Street/Luna Park, Japantown), may also not move forward due to the LOS policy restrictions along the US 101/Oakland Road interchange corridor.

Overall, the No Project/No Redevelopment Alternative (assuming continued use of the existing development on-site) would be environmentally superior to the project because it would avoid all of the project's environmental impacts.

No Project/Redevelopment Alternative

The site was recently approved (December 2006) for the *Transit Corridor Residential (20+ DU/AC)* land use designation. Another alternative development scenario (No Project/Redevelopment) would involve development of the site with a different Transit-Oriented Development proposed on the site consistent with the recently approved General Plan Amendment (GPA). A different PD rezoning may be substantially larger than the currently proposed PD rezoning. Any near-term redevelopment of the site would require approval of an Area or Transportation Development Policy and the delay in approving the TDP, if the currently proposed project is denied, could result in other projects in support of the City's goals including the extension of BART to San José may also be delayed. The site was analyzed in the GPA EIR at a density of 55 dwelling units per acre (DU/AC) and commercial square footage of 248,800. Therefore, the No Project/Redevelopment Alternative evaluated below assumes the site could be proposed for this amount of redevelopment.

This alternative would allow for residential development on the site or support transit ridership on the planned BART extension and would meet the applicant's objectives for the site. The No Project/ Redevelopment Alternative could include an affordable housing component of the same size or larger than the proposed project.

The No Project/Redevelopment Alternative would accomplish the objectives of the proposed project; however, it would result in greater impacts than the proposed development.

Reduced Scale Alternative

The goal of a "Reduced Scale" alternative would be to add fewer additional dwelling units to the project site in order to reduce or avoid project impacts. One of the project's significant unavoidable impacts is due to a worsening of the intersection LOS at US 101/Oakland Road (N). This impact could be avoided if the number of dwelling units proposed by the project did not exceed 240 units. Development of 240 residential units on the site would require a General Plan Amendment (GPA) to change the land use designation on the site to *Medium Density Residential (8-16 DU/AC)* from the current designation of *Transit Corridor Residential (20+ DU/AC)*. The *Medium Density Residential (8-16 DU/AC)* land use designation is typified by patio homes, townhouses, and duplexes. This designation would also allow for some single-family residential development on the site, but would not allow for any commercial development.

The Reduced Scale Alternative would not meet the objective of creating transit-oriented residential development to encourage transit ridership on existing transit services and the planned BART extension. This alternative would not provide as many new dwelling units to assist the City in meeting housing production goals as the proposed project.

This alternative would not meet the applicant's objectives of providing a minimum of 800 high-density residential units on the site and may jeopardize or reduce the affordable housing component of the project due to inadequate funding. This alternative would also not conform to the General Plan land use designation for the site which is the City's desired future use of the site.

The Reduced Scale Alternative would reduce the traffic impacts of the project. This alternative would also reduce the biological resource since it may avoid the loss of some trees and public facilities impacts of the project due to a reduction in the number of students generated, however, these impacts would also require mitigation to reduce their impacts to a less than significant level. This alternative would not meet the applicant's objectives of providing at least 800 residential units on the site.

Location Alternative – San José Flea Market Site

The General Plan land use designations for the San José Flea Market site on the north and south side of Berryessa Road northwest of the project site include approximately 82.9 acres of *Transit Corridor Residential (20+ DU/AC)*. This site could accommodate development with approximately 1,287 dwelling units and 25,000 square feet of commercial space and may result in fewer environmental impacts.

Development at the Location Alternative would provide Transit-Oriented Development in support of transit ridership for the planned Berryessa BART station. This site would allow for development of a mix of housing types to help the City meet its housing goals. The Location Alternative would allow development of the same minimum and maximum number of residential units, commercial square footage, and park proposed for the project site. The Location Alternative would also allow for the development of affordable housing near transportation, jobs, and housing.

Development of the Flea Market site with approximately 1,287 residential units and 25,000 square feet of commercial uses may reduce some of the environmental impacts of the proposed project. Development of this alternative location, however, may result in some additional or greater impacts (vibration and biology) but it is believe these additional impacts could be mitigated to a less than significant level. This Location Alternative may result in additional impacts to air quality and historic

resources. The Location Alternative, therefore, may reduce some of the environmental impacts of the proposed project; however, it would not avoid the need for a Transportation Development Policy for project approval and may result in additional impacts when compared to the proposed project site.

Environmentally Superior Alternative

The CEQA Guidelines state that an EIR shall identify an environmentally superior alternative. The Reduced Scale Alternative would be the environmentally superior alternative because it would reduce the traffic and biological impacts of the project; however, it would not meet all of the objectives of the applicant and City for the project.

City-Preferred Design Alternative

A design alternative to the proposed project, which is preferred by the City staff, would include the same amount of development on the site and a two-acre park versus the one-acre park proposed by the applicant. The impacts of an alternative two-acre park on the project site would result in similar impacts from the project if the proposed maximum number of units on the site is maintained and density limits are increased.

Development of a two-acre park on the project site, while maintaining the same unit count, would require greater density and building heights to be shifted further east on the project site in order to meet the maximum number of units on the site. Greater density adjacent to existing single-family development may be less desirable than the proposed densities since setbacks and height limits would be increased. This alternative may result in additional shade and shadow impacts, visual intrusion impacts, and land use compatibility impacts than the proposed project.

The City-Preferred Design Alternative would not avoid or reduce any of the significant impacts of the proposed project. This alternative could, however, result in greater land use compatibility impacts than the proposed project. The applicant does not currently propose any additional park acreage on the site in excess of a one acre developed park site; however, the project may be conditioned to include the additional acreage.

SECTION 1 DESCRIPTION OF THE PROJECT

1.1 PROJECT OVERVIEWS

The proposed project is a Planned Development (PD) rezoning to allow construction of a mixed-use development of up to 1,287 residential units, between 10,000 and 25,000 square feet of commercial space, and an approximately one-acre park on a 24.8-acre site (PDC07-015, NR07-002).

The proposed residential units include up to 138 affordable apartments, of which up to 38 residential units will be constructed for the relocation of the San José Family Shelter. The applicant proposes to use HOME funds to construct up to 138 affordable apartment units. Other U.S. Housing and Urban Development (HUD) program funds that could also potentially be used in the future include, but are not limited to, Emergency Shelter grants (ESG), Supportive Housing Program, Shelter Plus Care Program, Project-Based Voucher Program, and Safe Haven for Homeless Individuals Program. A Planned Development (PD) Permit file no. PD07-067 was filed for the San José Family Shelter portion of the project on 1.72 acres of the site.

A Transportation Development Policy is proposed to allow redevelopment in the vicinity of the US 101/Oakland Road interchange corridor and provide a funding mechanism for improvements to the US 101/Oakland Road interchange and construction of the US 101/Mabury Road interchange (PP07-172).

1.2 PROJECT LOCATIONS

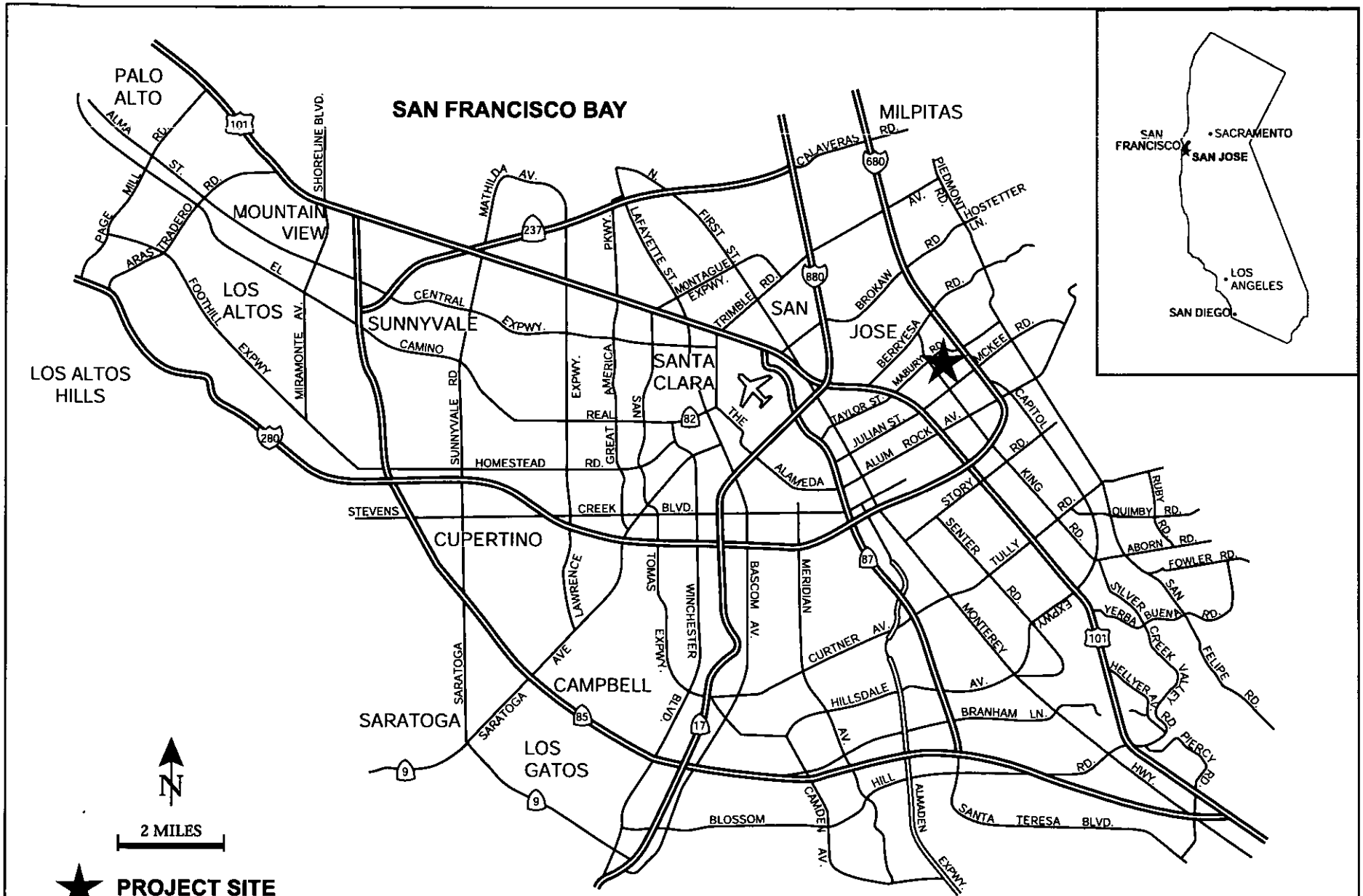
The proposed PD zoning is located on an approximately 24.8-acre site on the north side of Dobbin Drive at North King Road in East San José. The project site is comprised of nine parcels [Assessor's Parcel Numbers (APNs): 254-04-076, 254-04-079, 254-04-080, 254-04-082, 254-04-87, 254-04-088, 254-04-098, 254-55-006, 254-55-010] that are currently developed with light industrial and warehouse buildings. The site is bordered to the north and east with single-family residential uses and to the south and west by light industrial uses (refer to Figures 1-3).[1] The majority of the site is located within the Bay Area Rapid Transit (BART) Berryessa Station Area Node.[2]

The proposed Transportation Development Policy (TDP) will address traffic congestion in the vicinity of the US 101 and Oakland Road interchange corridor and the planned US 101 and Mabury Road interchange in San José (refer to Figure 4).

1.2.1 Background

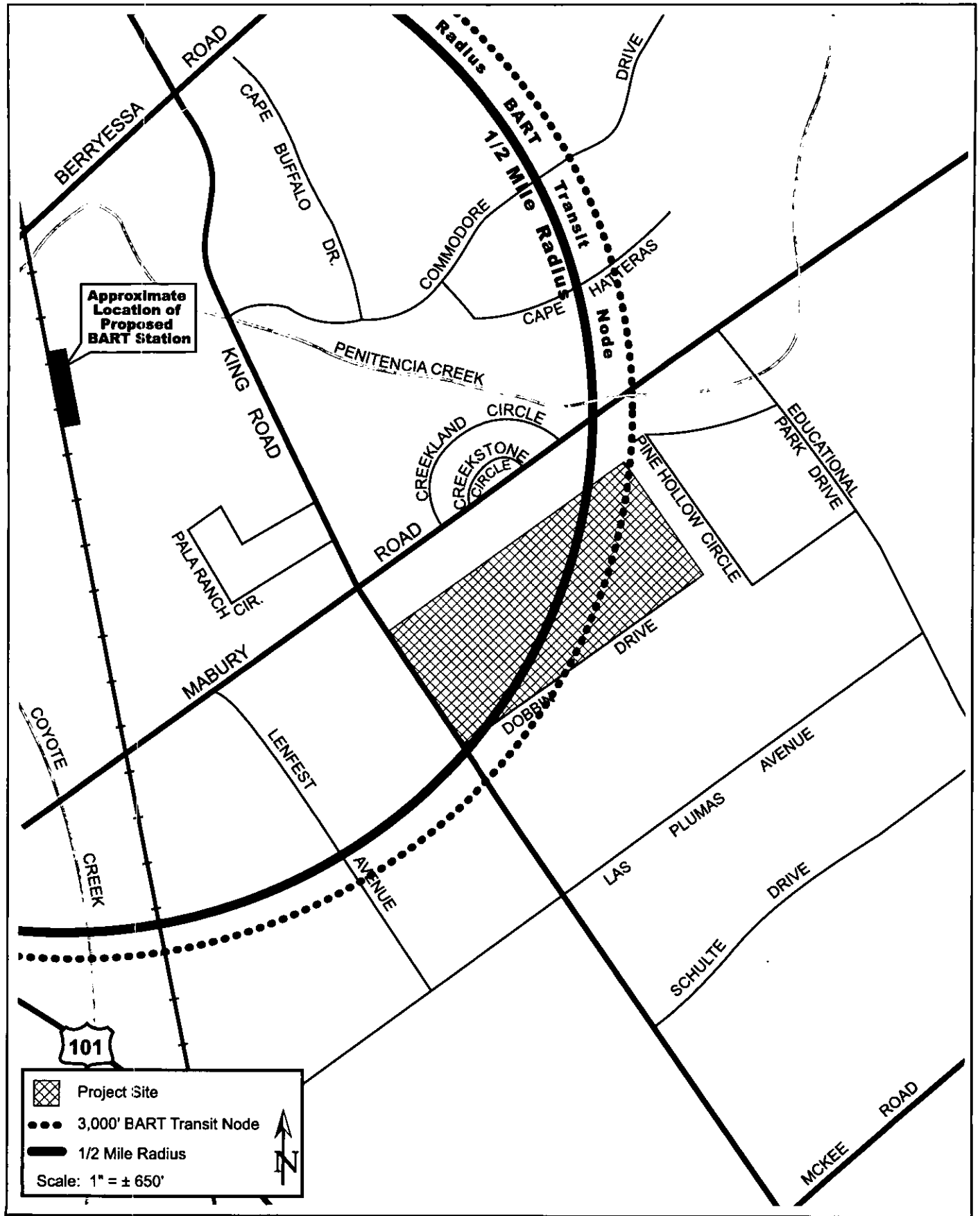
A General Plan Amendment (GP06-03-01) converting the land uses on the site from *Light Industrial* to *Transit Corridor Residential (20+DU/AC)* on the City's Land Use/Transportation Diagram was approved by the City Council in December 2006. An Environmental Impact Report was prepared for the General Plan Amendment which identified, at a program-level, significant unavoidable impacts under the subjects of land use, transportation, hazardous materials, air quality, and cumulative impacts. The City Council adopted a statement of overriding considerations and approved the General Plan Amendment on December 12, 2006.

[1] Due to the physical orientation of the site, true north is towards the Mabury Road and Educational Park Drive intersection. For the purposes of this report, however, Mabury Road will be considered north of the project site.
[2] A Station Area Node is a place in the City where a BART transit station is a focal point of the surrounding area. The general purpose of the BART Station Area Nodes is to direct transit-oriented and pedestrian friendly land use development in close proximity to BART stations. The BART Berryessa Station Area Node is planned for a mix of job generating land uses, high density residential and supportive commercial uses, and parks/open space.



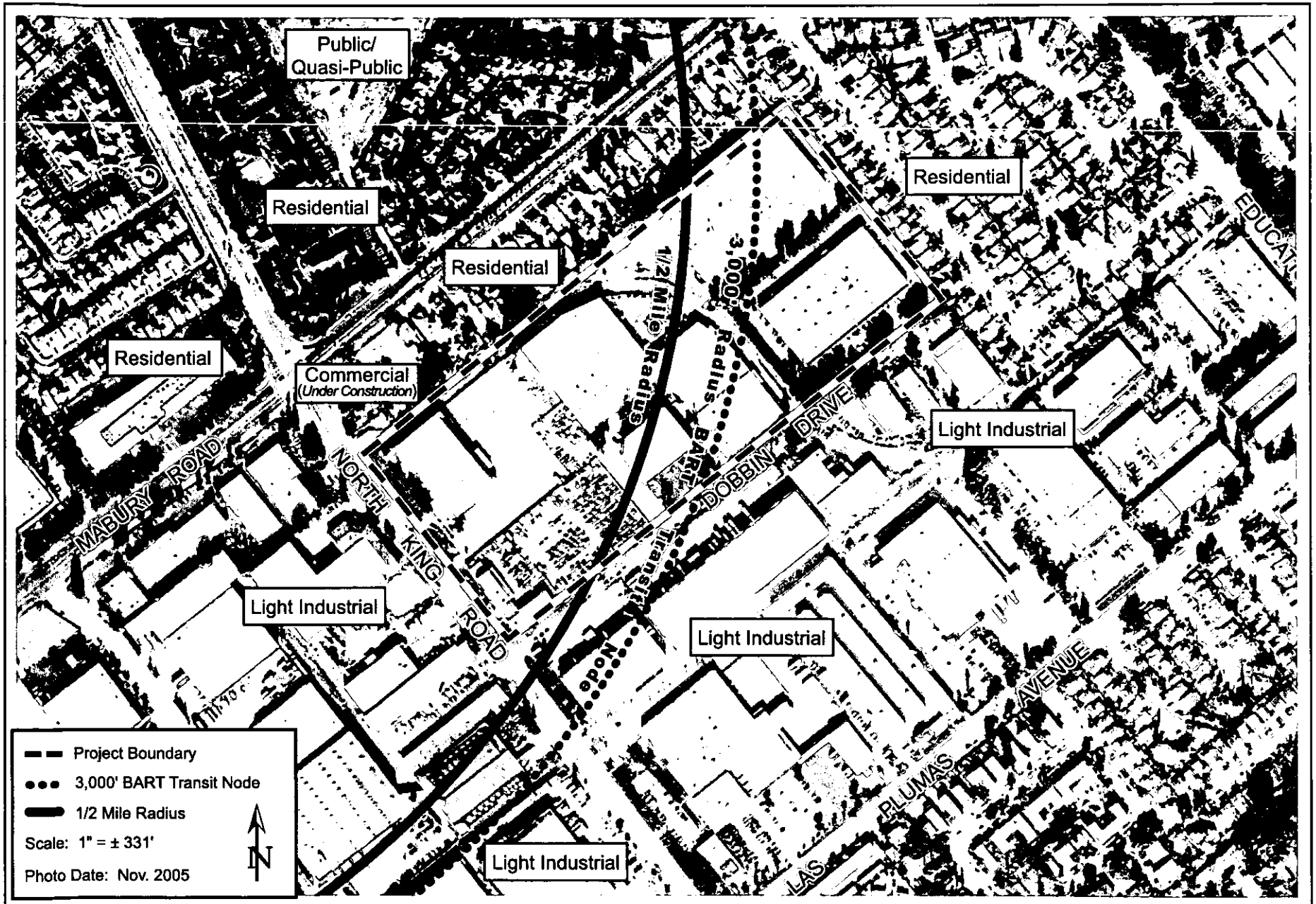
REGIONAL MAP

FIGURE 1

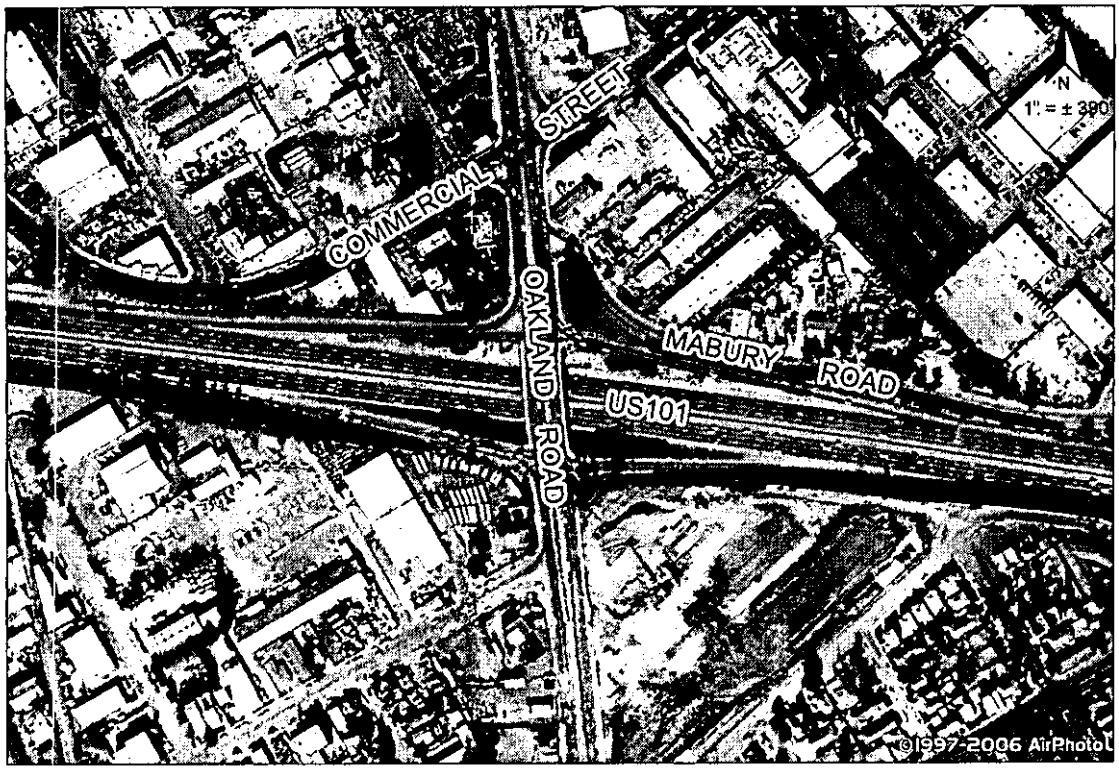


VICINITY MAP

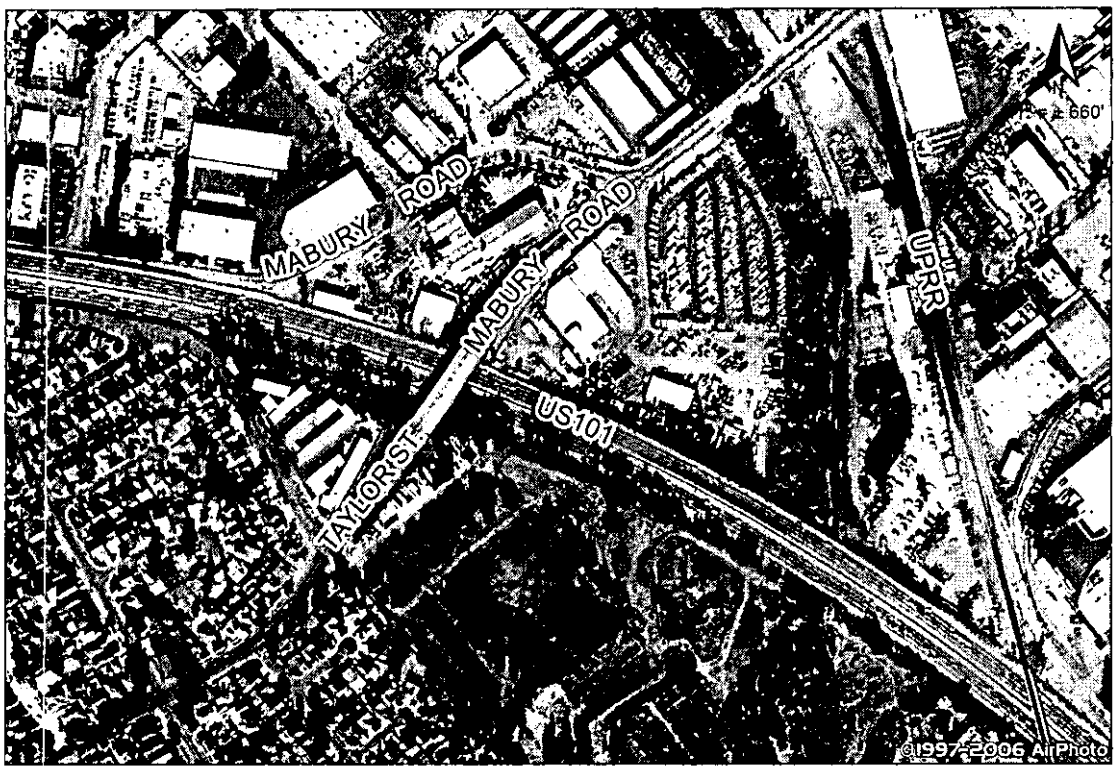
FIGURE 2



AERIAL PHOTOGRAPH AND SURROUNDING LAND USES FIGURE 3



US101 / Oakland Road Interchange Corridor



Planned US101 / Mabury Road Interchange Location

TRANSPORTATION DEVELOPMENT POLICY INTERCHANGE LOCATIONS FIGURE 4

1.3 DESCRIPTION OF THE PROPOSED PROJECTS

The proposed PD rezoning will allow development of up to 1,287 residential units, between 10,000 and 25,000 square feet of commercial space, and an approximately one-acre park. The project proposes rezoning the site to allow densities ranging from 20 to 110 dwelling units per acre (DU/AC). The highest densities are proposed near North King Road and the lower densities are proposed on the eastern side of the site closer to the existing single-family neighborhood. For the purposes of this project description, the site is discussed as eight parcels identified as Parcels A-H (refer to Figure 5).

1.3.1 Proposed Land Uses

1.3.1.1 *Commercial Development*

The project proposes to develop a minimum of 10,000 square feet and a maximum of 25,000 square feet of commercial space along the King Road and Dobbin Drive frontage of the project site (Parcels A and B). The commercial space would be integrated into a mixed-use commercial and residential structure. Commercial uses would be located on the ground floor with residential units on the upper floors of the buildings. The commercial space developed as part of the project would be limited to Parcels A and B of the site.

1.3.1.2 *High Density Residential Parcels*

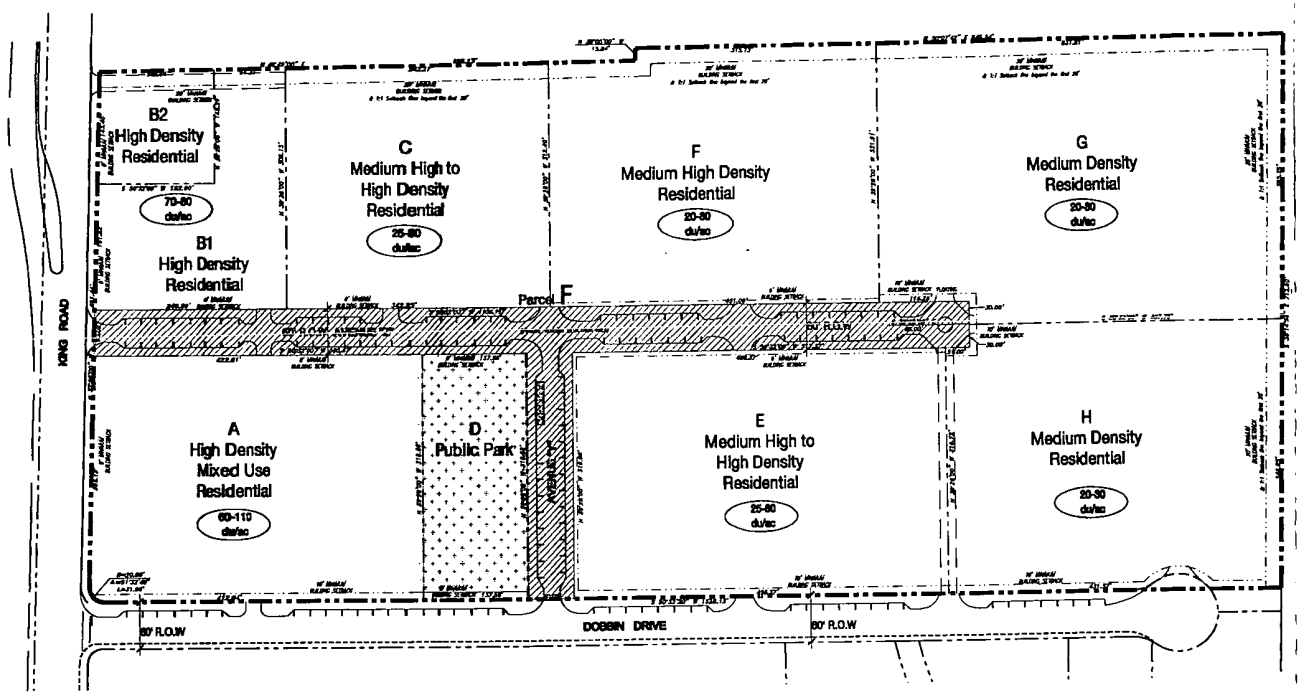
Parcels A, B, C, and E would be developed with high density residential units (approximately 25 DU/AC to 110 DU/AC). The density of Parcels A and B would range from 60 to 110 DU/AC. Parcels C and E would be developed at a density range of 25 to 80 DU/AC. The allowed maximum building height for Parcel A would not exceed 120 feet. Building heights on Parcel B and E would not exceed 90 feet. Building heights on Parcel C would not exceed 60 feet. Buildings proposed on Parcels B and C would be set back 20 feet from the northern property line. Parcels A and B could be built up to the property line (zero setback) on North King Road. Parcels A and E would have a ten foot setback from the Dobbin Drive property line. Parcels A, B, C, and E would have up to two levels of below grade parking on each separate parcel.

Parcel A

The conceptual plan for Parcel A includes a total of 320 dwelling units and approximately 15,000 square feet of ground floor commercial uses incidental to the proposed residential uses. The proposed commercial uses would be located on the North King Road and Dobbin Drive street frontages (refer to Figure 6). The proposed building would include approximately six stories above two levels of below grade parking and an interior courtyard.

Parcel B

The conceptual plan for Parcel B includes approximately 130 dwelling units, of which 94 units would be affordable apartments and 36 units would be used for short-term emergency housing for homeless families (refer to *Section 1.3.1.9*). The conceptual plan for the shelter includes approximately 5,000 square feet of supportive services and common areas. Day care and after school programs, along with other support services will be provided on this portion of the site. The 94 affordable apartments would be rented to families earning five percent to 45 percent of the area



LEGEND:

- Primary Private Street
- Public Park
- Property Line
- New Parcel Line
- Perimeter Setback

Proposed Land Use

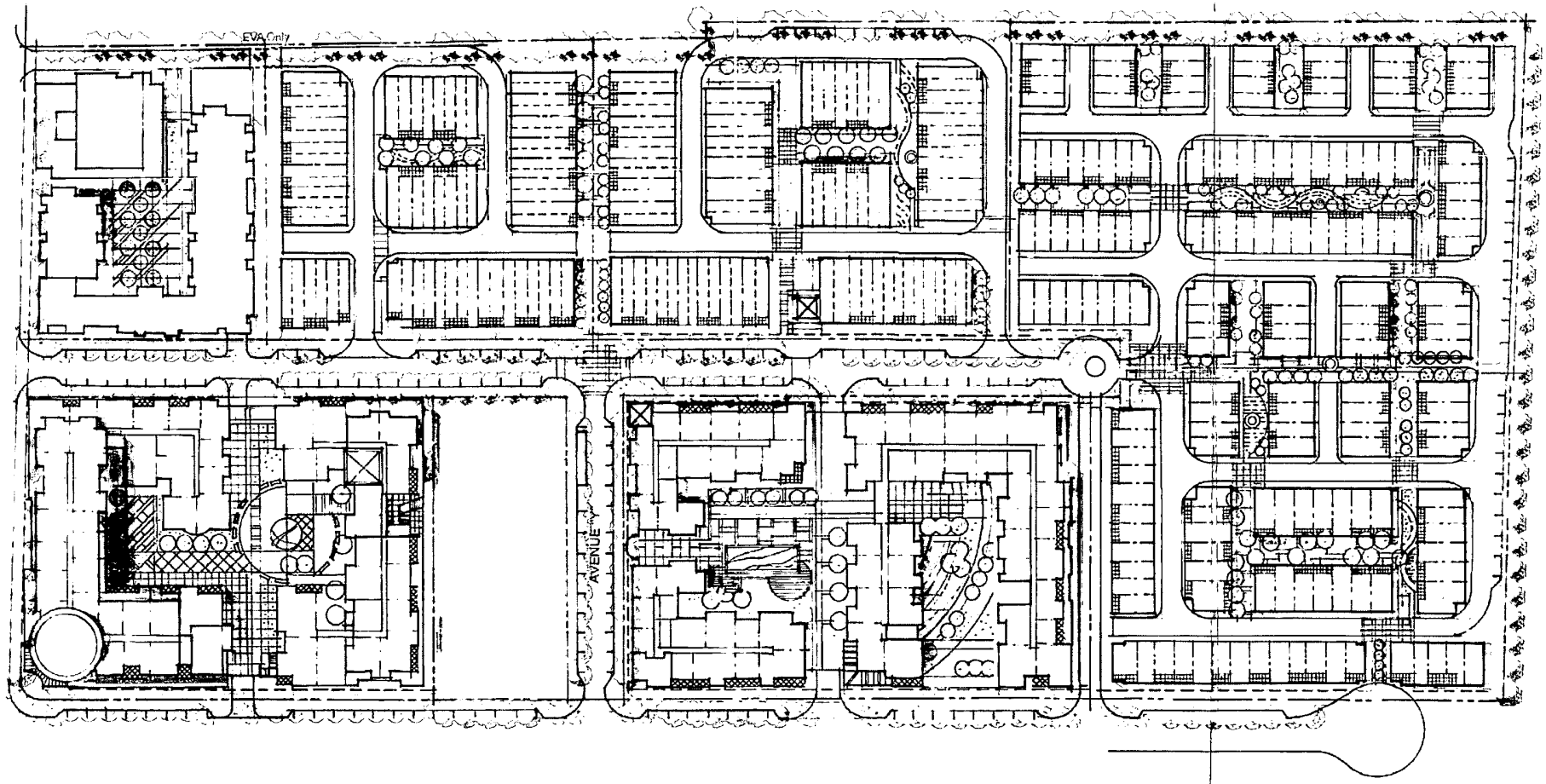
Parcel	Proposed Land Uses	Product Type	Approx Acres*1	Density (du/ac)	Commercial Square Footage
A	High Density Mixed Use Residential	Mixed Use - High Density Flats	3.103	60-110	10,000-25,000sf
B	High Density Residential	High Density Flats	1.720	70-80	
C	Medium High to High Density Residential	High Density Town Homes or Flats	2.438	25-80	
D	Public Open Space	Park	1.000		
E	Medium High to High Density Residential	High Density Town Homes or Flats	3.536	25-80	
F	Medium High Density Residential	Medium or High Density Town Homes	3.227	20-30	
G	Medium High Density Residential	Medium or High Density Town Homes	4.329	20-30	
H	Medium High Density Residential	Medium or High Density Town Homes	3.442	20-30	
I	Streets		2.002		

* Minimum total unit site wide is 800 units
* Minimum project density to be achieved by means of a phasing plan

Source: McLarand, Vasquez, Emsiek & Partners Inc., 2007.

PROPOSED LAND USE PLAN

FIGURE 5



Source: McLarand, Vasquez, Emsiek & Partners Inc., 2007.

CONCEPTUAL SITE PLAN

FIGURE 6

median income. The conceptual plan for the building on this site includes a four- to five-story structure above one level of below grade parking and an interior courtyard.

Parcel C

The conceptual plan for Parcel C includes approximately 64 dwelling units. The conceptual plans show six townhouse buildings. The buildings on this parcel would be approximately four stories above grade with one level of below grade parking. These units would be accessed from private driveways extending throughout the parcel.

Parcel E

The conceptual plan for Parcel E includes approximately 208 dwelling units. The conceptual plan for this parcel includes a five-story podium structure with two centrally located courtyards. Parking could be provided in either an at-grade or below grade parking structure.

1.3.1.3 *Medium High Density Residential Parcels*

Residential densities would be lower on Parcels F, G, and H which are located on the eastern portion of the site closer to an existing single-family neighborhood (refer to Figure 5). The residential densities proposed on these parcels would range from 20 to 30 dwelling units per acre. Building heights would not exceed 50 feet on these parcels. These parcels would be set back a minimum of twenty feet from the property lines north and east of the site. Parcel H would be set back a minimum of ten feet from the Dobbin Drive property line. Parcel F would have up to one level of below grade parking. No underground parking is proposed on Parcels G and H.

Parcel F

The conceptual plan for Parcel F includes approximately 90 dwelling units. The conceptual plan includes six buildings of attached townhouses. The townhouses would be accessed from private driveways extending throughout the parcel (refer to Figure 6). The buildings on this parcel would be up to four stories above grade (50 feet) with parking on the ground level.

Parcels G and H

The conceptual plans for Parcels G and H include approximately 100 and 71 dwelling units, respectively. These units would consist of attached townhouses accessed from private driveways on the site. These buildings would be three stories in height with ground level parking.

1.3.1.4 *Proposed Park*

Parcel D is located on the western side of the site between Parcels A and E (refer to Figure 5). Parcel D will be developed with a one-acre public park. Access to the park would be provided from Avenue "Z", Avenue "Y" and Dobbin Drive (refer to Figure 5).

1.3.1.5 *Site Access and Circulation*

Access to the project site will be provided from North King Road and Dobbin Drive. A new primary private street (Avenue Z) will be constructed from North King Road through the center of the site and will terminate north of the property line between Parcels E and H. A second primary private

street (Avenue Y) will connect Avenue Z to Dobbin Drive between the park and Parcel E. Private drives will be located on the north side of Parcels B, C, F, and G, and between Parcels C and F, Parcels F and G, and Parcels G and H. Conceptual plans also show private drives throughout Parcels E through H (refer to Figure 5). A private drive with only emergency vehicle access will be provided between Parcels E and H. A right-in and right-out only driveway will be located on North King Road, north of Parcel B, to provide access to the below grade parking for the emergency shelter. This private drive will provide emergency vehicles access only on the north side of Parcel B.[3]

1.3.1.6 *Parking*

The proposed PD zoning will provide adequate parking to meet the City's parking standards. A parking reduction of ten percent may be used per the City's Zoning Ordinance for Transit-Oriented Development. The majority of the site is located within the BART Berryessa Station Area Node.[4]

The proposed project could include up to two levels of below grade parking on Parcels A, B, C, and E. One level of below grade parking is proposed on Parcel F. Parcels G and H would provide parking in a garage below a podium structure or in garages for each individual unit. Parallel parking would be provided on Dobbin Drive and the proposed primary private streets (Avenues Y and Z). Parallel parking may also be located on the private driveways between Parcel C and F, E and H, and G and H; however, the configuration of on-street parking spaces will be determined at the time PD Permit applications are filed for the individual parcels.

The emergency family shelter on Parcel B will provide one parking space per unit. Approximately eight surface parking spaces will be provided for the shelter on Parcel B. The affordable apartment development will provide parking as specified in the City's Zoning Ordinance in a parking garage beneath the podium structure proposed for this parcel.

1.3.1.7 *Grading and Demolition*

Preliminary estimates show the project will require the excavation of approximately 70,000 cubic yards of soil to allow construction of the proposed below grade parking garages.

The project will require demolition of the existing development on the site. Concrete from the demolition of the existing development will be crushed on site. Some of this material may be suitable for use as base rock but the amount of material to be used on site is not known at this time.

1.3.1.8 *Utility Improvements*

The project site is served by existing water, sanitary sewer, storm drain lines, telephone, natural gas, and electricity lines. The existing sanitary sewer lines on North King Road and Dobbin Drive may be upgraded as part of the proposed project. The project may replace the existing eight-inch lines in North King Road and Dobbin Drive with larger sanitary sewer lines to accommodate existing level of service deficiencies and the project-generated increase in sewage generation.

The project will require the installation of approximately 100 feet of a four-inch gas main within North King Road to connect with a four-inch main south of Dobbin Drive.

[3] Non-emergency vehicle access on the northernmost private drive will be restricted through the use of bollards.
[4] BART Station Area Nodes are areas defined by a circle with a radius of 3,000 feet from a planned BART station and are intended for higher residential densities, more intensive job generating uses, and mixed-use development to support BART ridership.

The project will also require capacity upgrades to the existing overhead distribution lines along North King Road between the project site and the Pacific Gas and Electric (PG&E) Mabury substation on North King Road east of Schulte Drive. The increased electrical load due to the project may require upgrades to the Mabury Substation. It is currently anticipated that these upgrades would be provided within the existing substation property line.

No other off-site utility improvements will be necessary to serve the proposed PD zoning.

1.3.1.9 *Drainage Improvements*

The project will include numerically-sized treatment control measures to treat stormwater runoff from the site. The Regional Water Quality Control Board and the City prefer and encourage landscape-based solutions to the maximum extent practicable. The project proposes to provide treatment of stormwater runoff through a combination of landscape-based measures and mechanical filtration units. The project will include landscape-based treatment control measures to the maximum extent practicable. The public park on Parcel D will be 90 percent pervious. Landscape-based solutions for the entire project (PDC07-015) as well as the 1.72 gross acre portion that is the subject of Planned Development Permit application file no. PD07-067 for the Family Shelter may be required to isolate runoff and drainage from groundwater. This will be determined as part of future Planned Development Permits and prior finalizing PD07-067.

1.3.1.10 *Proposed Affordable Housing*

Parcel B of the proposed PD zoning will be developed with up to 138 affordable residential units, including a maximum of 100 affordable apartments and 38 emergency shelter units used for the San José Family Shelter to provide housing on an emergency basis for homeless families with children. The proposed buildings on Parcel B may be developed with federal funds from the U.S. Department of Housing and Urban Development (HUD) HOME Investment Partnerships Program (HOME) authorized by Title II of the Cranston-Gonzalez National Affordable Housing Act (NAHA) and, therefore, is subject to NEPA environmental review.

The proposed emergency shelter will include up to 38 units and approximately 5,000 square feet of space will be constructed for the shelter to provide supportive services and common areas meeting the needs of both residents of the shelter, the formerly homeless families who have moved into permanent housing, and the families who are participating in a transitional housing program. These services will include a daycare program for approximately 20 small children (ages two months to school-aged), an after-school homework program, an evening activity program, computer laboratory, employment center, and individual case management and counseling rooms. Common areas will include a commercial kitchen and dining room, reception area, restrooms, staff offices, and an exam room to be used for on-site nurse/doctor visits.

One hundred affordable family apartment units will also be constructed on Parcel B. This portion of the development will include a variety of community spaces including a multipurpose room, staff and service provider offices, community kitchen, fitness center, laundry and public restrooms. The units will be affordable to families making five percent to forty-five percent of the area median income. Parcel B is located approximately 180 feet from the proposed public park site and near local transit routes on North King Road and Mabury Road, as well as the future BART station on the San José Flea Market site.

A Planned Development Permit (PD07-067) is on file for the proposed affordable housing project.

1.3.2 Proposed US 101 – Oakland/Mabury Transportation Development Policy

The City of San José proposes a Transportation Development Policy (TDP) to manage the traffic congestion associated with near term "smart growth" development in the US 101 – Oakland/Mabury area including Transit Oriented Development near the planned BART Berryessa Station, Japantown Neighborhood Business District, Jackson-Taylor Specific Plan, and Luna Park/13th Street Neighborhood Business District. The policy would create a fair share traffic impact fee structure to finance US 101/Oakland Road and US 101/Mabury Road interchange improvements. The policy would allow the level of service (LOS) at intersections along the Oakland Road and US 101 interchange corridor to temporarily degrade below the City of San José's LOS standards, with a corresponding level of congestion, prior to the construction of improvements to the US 101/Oakland Road interchange and construction of the US 101/Mabury Road interchange (refer to Figure 4). Development of up to approximately 6,000 residential units could occur within the vicinity of the Oakland Road and Mabury Road/US 101 interchanges, prior to construction of the interchange improvements, under the proposed policy. Further environmental review will be required for construction of the interchange improvements, as well as the future specific development projects utilizing the identified TDP improvements. A copy of the proposed policy is included as Appendix A in this EIR.

1.3.2.1 *General Plan Text Amendment*

The project includes a proposed Text Amendment to the General Plan to add the following text to Chapter V. Land Use Plan, Special Strategy Areas, Area Development Policies.

US 101 – Oakland/Mabury Transportation Development Policy

The US 101 – Oakland/Mabury Transportation Development Policy was adopted on December 18, 2007 to support development in the US 101/Oakland Road and US 101/Mabury Road corridor. The Transportation Development Policy identifies freeway interchange improvements needed to accommodate future development and does not have specific area boundaries. The intent of the policy is to identify the appropriate interchange improvements, to allow development to proceed ahead of the improvements, and to require payment of a traffic impact fee by new development. The Level of Service (LOS) of a few intersections within the corridor could experience interim congestion below LOS D before the completion of the freeway interchange improvements.

1.4 PROJECT GOALS AND OBJECTIVES

The project applicant, San José Transit Village Partners, LLC, has identified the following basic objectives for the proposed Planned Development rezoning project:

- Construct a minimum of 800 residential units and up to 1,287 residential units, between 10,000 and 25,000 square feet of commercial space, and a park on a site in East San José proximate to existing and planned mass transit.
- Construct up to 138 residential affordable housing units in support of the City's affordable housing policies.

- Construct an affordable housing complex on the periphery of an existing residential neighborhood close to schools, transportation, and job opportunities to provide for the relocation of the San José Family Shelter.

- Support Transit-Oriented Development and encourage transit ridership by constructing a mixed use development within the Berryessa BART Station Area Node.

- Help the City fulfill its housing production goals by constructing a range of housing types at an infill site with access to mass transit and in proximity to jobs in Downtown and North San José.

The City of San José has identified the following basic objectives for the projects:

- Development of approximately 1,300 residential units, 25,000 square feet of commercial space, and a two- to three-acre park.

- Adoption of a Transportation Development Policy to collect fair share traffic impact fees for the construction of improvements to the US 101/Oakland Road interchange and the construction of the US 101/Mabury Road interchange.

1.5 USES OF THE EIR/EA

This EIR/EA will provide decision makers in the City of San José and the general public with relevant environmental information to use in considering the proposed projects. It is proposed that this EIR/EA be used for appropriate project-specific discretionary approvals necessary to implement the project, as proposed. These discretionary actions include the following:

- Planned Development (PD) Rezonings
- Planned Development (PD) Permit(s)
- Vesting Tentative Maps and Final Maps
- Storm Water Pollution Prevention Plan
- Tree Removal Permit(s)
- Public Works Clearance
- Demolition Permit(s)
- Grading and Building Permits
- Adoption of a Transportation Development Policy
- HUD Environmental Review for Compliance with NEPA (per 24 CFR 58.36)

1.6 LEVEL OF ENVIRONMENTAL REVIEW

This Environmental Impact Report/Environmental Assessment (EIR/EA) provides project-specific environmental review for the development of up to 1,287 residential units and 25,000 square feet of commercial space, and a park on the approximately 24.8-acre project site north of Dobbin Drive (refer to Figure 5). The EIR/EA provides NEPA environmental review for the construction of up to 138 affordable housing units on Parcel B of the proposed PD rezoning using HUD HOME funding. Following construction of the project use of funding from other HUD programs may be used for the operation of the affordable housing project on the site (refer to *Section 1.1 Project Overviews*). The EIR/EA also analyzes the City's Preferred Design Alternative to the proposed PD rezoning which includes the same amount of development as the PD rezoning and a two-acre park (refer to *Section 8 Alternatives to the Proposed Project*).

This EIR/EA also provides environmental review for the adoption of the US 101 – Oakland/Mabury Transportation Development Policy. No project-specific environmental review is provided for the construction of any improvements to the US 101/Oakland Road interchange or the US 101/Mabury Road interchange. Specific information on the design of the proposed improvements is not currently available and the construction of the identified improvements would be completed under the jurisdiction of Caltrans who would be the lead agency for future environmental review of the interchange improvements. No program or project-specific environmental review is provided for any land use change or rezoning of property in connection with the level of development analyzed for the proposed Transportation Development Policy.

1.7 STATEMENT OF PURPOSE AND NEED

The purpose of the proposal is to construct approximately 100 affordable multi-family residential units and 38 multi-family emergency shelter units within the City of San Jose (the "City"), in furtherance of the City's General Plan Major Strategy for providing housing within the City.

The construction of 138 affordable and emergency shelter housing units is consistent with the City's overall housing objective to provide a wide variety of housing opportunities to meet the needs of all the economic segments of the community in neighborhoods that are stable and have adequate urban services.[5] The General Plan identified the City's goals and policies for maintaining and increasing housing opportunities to meet current and projected housing needs, including expanding the existing supply of housing affordable to the very low-, low- and moderate-income households (Housing Policy #13).

The project site is located in an area with predominantly industrial land uses. In the event the project is not approved, it is likely that the site would remain in industrial use for several years with some buildings on the site remaining vacant. A General Plan Amendment changing the land use designation on the site to *Transit Corridor Residential (20+DU/AC)* was approved in December 2006. The project site is located in proximity to a planned BART station, the construction of which would likely lead to the site eventually being developed with residential land uses.

[5] City of San José. San José 2020 General Plan. "Housing Major Strategy" pp.49-50. June 27, 2006.

SECTION 2 ENVIRONMENTAL SETTING, IMPACTS, AND MITIGATION

2.1 LAND USE

2.1.1 Setting

2.1.1.1 *Existing Land Uses*

The existing General Plan land use designation on the 24.8-acre project site is *Transit Corridor Residential (20+ DU/AC)*. The site is currently zoned for *Light Industrial* uses. The project site is currently developed with seven light industrial and warehouse buildings totaling approximately 421,000 square feet. Various businesses occupy the buildings on-site including an auto towing company, furniture warehouse, printer, and a metal finishing company. The majority of the site is paved, with landscaping scattered throughout the site adjacent to the existing buildings and in parking areas (refer to Figure 3).

2.1.1.2 *Surrounding Land Uses*

The project site is located in an area with predominantly industrial land uses. The site is bordered by single-family residences to the north and east. Light industrial land uses are located south and west of the site along Dobbin Drive and North King Road. Although residential areas do exist to the north and east of the site, the project site is oriented towards the adjacent industrial uses on Dobbin Drive and North King Road.

2.1.1.3 *Site Constraints*

The project site is located in an urban area with a mix of industrial and residential land uses. The project would construct residential land uses in proximity to existing industrial businesses that currently use and store hazardous materials. The project site is served by existing infrastructure including roadways and utilities. The project would demolish all buildings on the site. Physical conditions on or adjacent to the project site that might affect its suitability for the proposed development include the following:

- The presence of loud noise sources including automobile and truck traffic noise on adjacent roadways.
- Proximity of existing industrial businesses that use and store hazardous materials.

Noise from the adjacent roadways is discussed in *Section 2.5 Noise* of this EIR/EA. Hazardous materials issues are discussed in *Section 2.4 Hazards and Hazardous Materials* of this EIR/EA.

2.1.2 Land Use Impacts

2.1.2.1 *Thresholds of Significance*

For the purposes of this EIR, a land use impact is considered significant if the project would:

- Physically divide an established community; or
- Place incompatible land uses adjacent to existing uses; or

- 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, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect; or
- Result in substantial shading of a public park or open space area.

2.1.2.2 *Land Use Conflicts*

Land use conflicts can arise from two basic causes: 1) a new development or land use may cause impacts to persons or the physical environment in the vicinity of the project site or elsewhere; or 2) conditions on or near the project site may have impacts on the persons or development introduced onto the site by the new project. Both of these circumstances are aspects of land use compatibility. Potential incompatibility may arise from placing a particular development or land use at an inappropriate location, or from some aspect of the project's design or scope. Depending on the nature of the impact and its severity, land use compatibility conflicts can range from minor irritations and nuisance to potentially significant effects on human health and safety. The discussion below distinguishes between potential impacts from the proposed "project" upon persons and the physical environment, and potential impacts from the project's surroundings upon the project itself.

Impacts from the Proposed Project

The project site is located within an established light industrial area. Occupants of the proposed mixed-use development may complain about the industrial development primarily to the south of the project site on Dobbin Drive. North King Road provides a substantial buffer between the project site and the existing industrial uses on the west side of North King Road. New residential development located adjacent to established industrial uses may cause restrictions to be placed on the industrial businesses that are near the development and could limit the types of operations that are acceptable in the adjacent industrial developments. Industrial uses can and frequently do include substantial outdoor activities, heavy truck use, hazardous materials delivery, use, and storage (refer to *Section 2.4 Hazards and Hazardous Materials*), generation of noise, dust, odors, litter, and similar potential sources of annoyance to residential properties. No records of any past or current complaints have been identified for existing industrial users adjacent to the project site. Introducing a residential population adjacent to the established industrial uses south of the site, however, may result in complaints about use of hazardous materials, noise, and other byproducts of industrial operations. The proposed PD rezoning, however, would be more compatible with the existing residential uses to the north than the light industrial uses currently on the site.

If complaints result in restrictions being placed on the existing industrial uses, this would create a land use conflict. Even though such complaints identify effects that are only annoyances (as opposed to threats to human health and safety), they must be resolved by oversight jurisdictions, which could include the City, County, Bay Area Air Quality Management District (BAAQMD), or other entities. Introducing additional residents into the area, therefore, could result in limitations (such as restrictions on hours of operation, number of deliveries, etc.) being imposed on the existing industrial uses south of the project site. It should be noted that the light industrial uses south of the project site operate in close proximity to existing residences on Las Plumas Avenue and Pine Hollow Circle. The project would comply with the Residential Design Guidelines with regard to setbacks from incompatible uses. Given that the orientation of the site is towards the existing light industrial uses to the south and that the primary access to the site for both the project and industrial uses is from Dobbin Drive, it is likely that future residents may complain about the activities of the adjacent light industrial uses to the south of the project site.

Impact LU-1: The proposed project could result in significant land use conflicts and/or new limitations on the existing industrial development south of the project site. **(Significant Impact)**

Impacts to the Proposed Project

Constructing residential developments near existing light industrial uses could expose future residents to impacts from truck traffic, operation of heavy equipment, proliferation of parked and stored vehicles, outdoor lighting, dust and litter, noise, and the use of hazardous materials. These potential impacts on future residents, and the feasible mitigations for them, are discussed in *Sections 2.4 Hazards and Hazardous Materials, 2.5 Noise,* and *2.10 Air Quality* of this EIR/EA. The proposed PD rezoning does conform to the identified setbacks between residential development and incompatible uses in the City's Residential Design Guidelines. However, developing residential units near industrial uses conflicts with General Plan policies related to separating industrial and residential uses for the purpose of avoiding noise, hazardous materials, and traffic effects (*Residential Land Use Policy #2*). The project site is separated from industrial uses to the west by North King Road and to the south by Dobbin Drive. The proposed residential development would be more compatible with the existing residences north and east of the site than the existing industrial uses on the project site.

Future residents of the project could experience occasional disturbances and annoyances from spillover effects from the existing and/or future industrial uses in the project area. The proposed project cannot restrict the types, quantities, or locations of hazardous materials that may be stored at, used on, or transported on and off existing, nearby industrial properties. Hazardous materials may be kept on some of these industrial properties in sufficient quantities where their accidental release could result in off-site consequences. The impacts that could result from such a release on the proposed sensitive receptors are discussed in more detail in *Section 2.4 Hazards and Hazardous Materials* of this EIR/EA.

The delivery, storage, use, and disposal of hazardous materials by industrial uses are required to adhere to various local, state, and federal requirements, including the City of San José fire code, California Code of Regulations, and National Fire Protection Association's Flammable and Combustible Liquids Code.

Four industrial facilities that use, handle, and/or store hazardous materials in quantities that would have the potential to impact residents of the site under a worst-case accidental release scenario were identified as part of the environmental review for the General Plan amendment on the project site. In addition, several of these facilities previously have had reported release(s) of hazardous substances to the environment. Under a more likely alternative release scenario two of these facilities, Clean Harbors Environmental and Ecolab, use chemicals that have the potential to impact residents of the project site. These facilities and impacts are discussed in more detail in *Section 2.4 Hazards and Hazardous Materials* of this EIR/EA.

The use and storage (particularly outside storage) of large quantities of hazardous materials in proximity to the project site is considered incompatible with the proposed residential development. In addition to the release scenarios analyzed in the hazardous materials section of this EIR/EA (*Section 2.4*), there may be other, more likely events and/or accidents that could cause release of lesser amounts of chemicals that could be detectable by residents. For example, the Clean Harbors Environmental facility accepts and transfers solvent waste and could have an accidental release similar to a recent release at the Romic Environmental Technology facility in East Palo Alto. In June

2006, approximately 4,000 gallons of mixed solvents reacted within a tanker truck, triggering an emergency release pressure valve, and causing a large vapor plume to be released.[6] This release prompted officials to issue a shelter-in-place warning to residents within one-half mile of the facility.[7] Although not common, increasing the residential population in an area proximate to industrial use(s) where large quantities of hazardous materials, such as strong acids, solvents (flammables) and toxic liquids or gases, are used may result in similar land use compatibility impacts.

Impact LU-2: The proposed residential development could result in exposure of future residents to impacts related to the surrounding industrial development. **(Significant Impact)**

2.1.2.3 *Shade and Shadow Impacts*

Shade and shadow impacts occur when a structure reduces access to natural sunlight. In an urban environment, virtually all land uses are subject to shading from adjacent properties to some extent. During summer, shading may even be desirable. The City of San José has typically identified significant shade and shadow impacts as occurring when a building or other structure substantially reduces natural sunlight on existing public parks and open spaces, measured midday on the first day of winter and on the two equinoxes.[8]

The project site is located within the Berryessa BART Station Area Node. The PD rezoning proposes maximum building heights of 120 feet on Parcel A and 90 feet on Parcels B and E. The proposed building heights could result in shading of private yards of residences on Mabury Road and the residence fronting on North King Road during late morning between fall and spring and midday during the winter months. Residences on Pine Hollow Circle could also have their private yards shaded during the late afternoon between fall and spring. Private residences often shade their own yards and therefore this condition is not considered an adverse impact. The proposed redevelopment would not shade any existing public open space; however, it would shade the proposed public park entirely at midday and afternoons during the winter months and the majority of the public park after one o'clock in the afternoon in the fall and spring. Typically, the threshold of significance for shading impacts focuses on impacts to existing public open spaces and not to a project shading itself. The project, therefore, would result in less than significant shade and shadow impacts.

Impact LU-3: The proposed project would not shade any existing public open spaces. **(Less Than Significant Impact)**

2.1.2.4 *Visual Intrusion*

The proposed PD rezoning will allow up to 120 foot tall residential and mixed-use buildings on a site currently occupied by one- to two-story light industrial and warehouse buildings. The housing densities proposed across the project site will require construction of substantially taller buildings than the adjacent residential development north and east of the site. The project proposes minimum setbacks of 20 feet from the northern property line for Parcels B, C, F, G, and H. Parcels G and H

[6] Cote, John. San Francisco Chronicle. EPA Investigating Chemical Release. June 9, 2006.

[7] Shelter-in-place is a term that generally means occupants stay inside, with the windows closed and air conditioners turned off, until they are directed otherwise.

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

will also have minimum setbacks of twenty feet from their eastern property lines. The proposed building heights could result in residents with units along the northern and eastern perimeter of the site having direct views into the private yards of the adjacent residential properties which is fairly common in urban residential neighborhoods.

Detailed designs of the proposed buildings on Parcels B, C, F, G, and H are not currently available. The Environmental Impact Report for the General Plan Amendment approved for the site in December 2006 assumed implementation of the building height restrictions and setbacks identified in the City's *Residential Design Guidelines* in order to avoid environmental impacts from land use conflicts. The proposed maximum development envelope of each parcel under the PD rezoning would not adhere to the City's *Residential Design Guidelines* that identify a two to one (2:1) setback to building height ratio where residential structures greater than three-stories in height are located adjacent to single family rear yards, however strict adherence to the City's *Residential Design Guidelines* is not evidence of a significant environmental impact since Guidelines are suggested setbacks and not environmental thresholds. The development standards for the proposed PD rezoning include a one to one (1:1) setback to building height ratio for Parcels C, F, G, and H where these parcels are adjacent to single family development. The City has no adopted policy for considering a visual intrusion impact significant and, therefore, the project would not conflict with a policy adopted for the purpose of avoiding an environmental impact.

Impact LU-4: Although the PD rezoning proposes maximum allowable development exceeding the City's adopted design guidelines, in regard to setbacks and building heights between the adjacent properties, the project includes measures to ensure an acceptable interface with adjacent residential development. **(Less Than Significant Impact)**

2.1.2.5 *NEPA – Federal Statute Compliance*

NEPA requires compliance with *7 CFR 658, Farmland Protection Policy Act*, whenever HUD financial assistance is proposed for a project that has the potential to impact farmlands. The project site is in an urbanized area and will not affect any farmland. [Source: City of San José General Plan]

NEPA requires compliance with *24 CFR 51D, Airport Clear Zones and Accident Potential Zones*, whenever HUD financial assistance is proposed for a project that has the potential to place people within any airport clear zones or accidental potential zones. The project site is not within any airport clear zones or accident potential zones. [Source: Santa Clara County Airports Land Use Commission Land Use Plan, September 1992]

Environmental Justice

The proposed project would not cause a minority or low-income population a disproportionate share of the possible negative environmental consequences resulting from the location of the project site. The proposed affordable apartment building and emergency family shelter would not be subject to any different or greater impacts due to their location on the site than the other proposed market-rate units on the North King Road frontage. The land use compatibility impacts to the affordable housing project from the nearby industrial development have the same potential to impact proposed market-rate units on Parcel A. As a result, this impact does not adversely affect any one segment of the population (i.e. minorities or low-income populations). The project would contribute to the revitalization of the project area. The proposed PD rezoning includes a one acre park and commercial space to serve residents of the project site and surrounding neighborhood. For these

reasons the project would not result in any impacts related to environmental justice. The project, therefore, would comply with Executive Order 12898.

2.1.3 Mitigation and Avoidance Measures for Land Use Impacts

2.1.3.1 *Mitigation for Land Use Compatibility Impacts*

MM LU-2.1: An emergency and protective action plan shall be prepared for the site to develop measures to protect residents in the event of a catastrophic chemical release from the Clean Harbors Environmental facility. The emergency and protective action plan shall be prepared in coordination with the project applicant, Clean Harbors Environmental, City of San José Fire Department, and Department of Planning, Building and Code Enforcement. The plan shall take into consideration evacuation, sheltering-in-place, the use of ventilation systems and smoke purge fans, and protective masks. The emergency and protective action plan prepared for the project shall be agreed upon prior to the issuance of occupancy permits for units on Parcels A, B, and C.

2.1.3.2 *Avoidance Measures for Visual Intrusion Impacts*

AM LU-4.1: The project proposes the following measures to avoid visual intrusion impacts to adjacent residential properties:

- The height of new buildings adjacent to rear yards of single family houses should be limited to no more than one foot in height for every one foot of setback from the common property line.
- Roofs will be designed to minimize wall heights along property lines (e.g. orient eaves rather than gables toward the neighboring property). Use of steeply pitched roofs should be minimized adjacent to existing single family residences.
- Prohibit upper floor balconies facing rear yards of existing single family residences.
- Require that upper floor windows facing rear yards of existing single family houses are 1) clerestory windows (sill height above 5'); or 2) have obscure glazing if larger windows are needed to meet building code egress requirements.
- Require planting of non-deciduous trees, at regular intervals, along northern and eastern perimeter property lines to provide a visual buffer between the project site and existing single family residences.
- Construction of a six foot tall solid fencing with two foot lattice screen extension ~~around the perimeter of the site adjacent to the existing single family residences.~~ where the project site abuts single-family residential development.
- Where feasible, primary windows will be located (living room and bedroom windows) on walls that are at 90 degree angles to the property line.

- Where new buildings are fronting on North King Road, and adjoining the side yards of existing single family residences care should be taken to locate primary windows (living room and bedroom windows) on walls that are at 90 degree angles to the property line adjoining the side yards of the single-family residences.

AM LU-4.2: Proposed development shall be reviewed in detail, prior to the issuance of a Planned Development (PD) permit, to ensure buildings proposed on individual parcels conform to the intent of the *Residential Design Guidelines*, applicable General Plan policies, and the mitigation measures identified above in AM LU-4.1.

2.1.4 Conclusion

Impact LU-1: The proposed project could result in significant land use conflicts and/or new limitations on the existing industrial development south of the project site that can not be reduced to a less than significant level. **(Significant Unavoidable Impact)**

Impact LU-2: The proposed project, with the implementation of the above identified mitigation measures, would be subject to accidental chemical releases from nearby industrial facilities. **(Significant Unavoidable Impact)**

Impact LU-3: The proposed project would not shade any existing public open spaces. **(Less Than Significant Impact)**

Impact LU-4: The proposed project would not result in significant land use compatibility impacts due to visual intrusion. **(Less Than Significant Impact)**

NEPA: The proposed project would comply with federal statutes 7 CFR 658, Farmland Protection Policy Act, 24 CFR 51D, Airport Clear Zones and Accident Potential Zones, and Executive Order 12898.

2.2 TRANSPORTATION

The following discussion is based on a Transportation Impact Analysis (TIA) prepared by *Hexagon Transportation Consultants* in September 2007. A copy of the report is included as Appendix B in this EIR/EA.

2.2.1 Setting

The major roadways providing access to the project site are identified below and shown graphically in Figure 7.

2.2.1.1 *Regional Access*

Regional access to the site is provided by US 101, Interstate 680 (I-680), and I-880 which are described below.

US 101 is a north-south freeway with six mixed-flow lanes and two high-occupancy-vehicle (HOV) lanes through most of San José. US 101 extends northward through San Francisco and southward through Gilroy. Access to and from the project site is provided via its interchange with McKee Road/Julian Street in the south and Oakland Road in the north.

I-680 is an eight-lane north-south freeway that extends from Contra Costa County south to Santa Clara County, where it connects to I-280 at the interchange with US 101. Access to and from the project site is provided via interchanges at Berryessa Road and McKee Road.

I-880 is a north-south freeway providing regional access from East Bay cities to San José, where it ultimately becomes State Route (SR) 17 and extends into Santa Cruz. Access to the project site from I-880 is provided via interchanges with US 101 and Old Bayshore Highway.

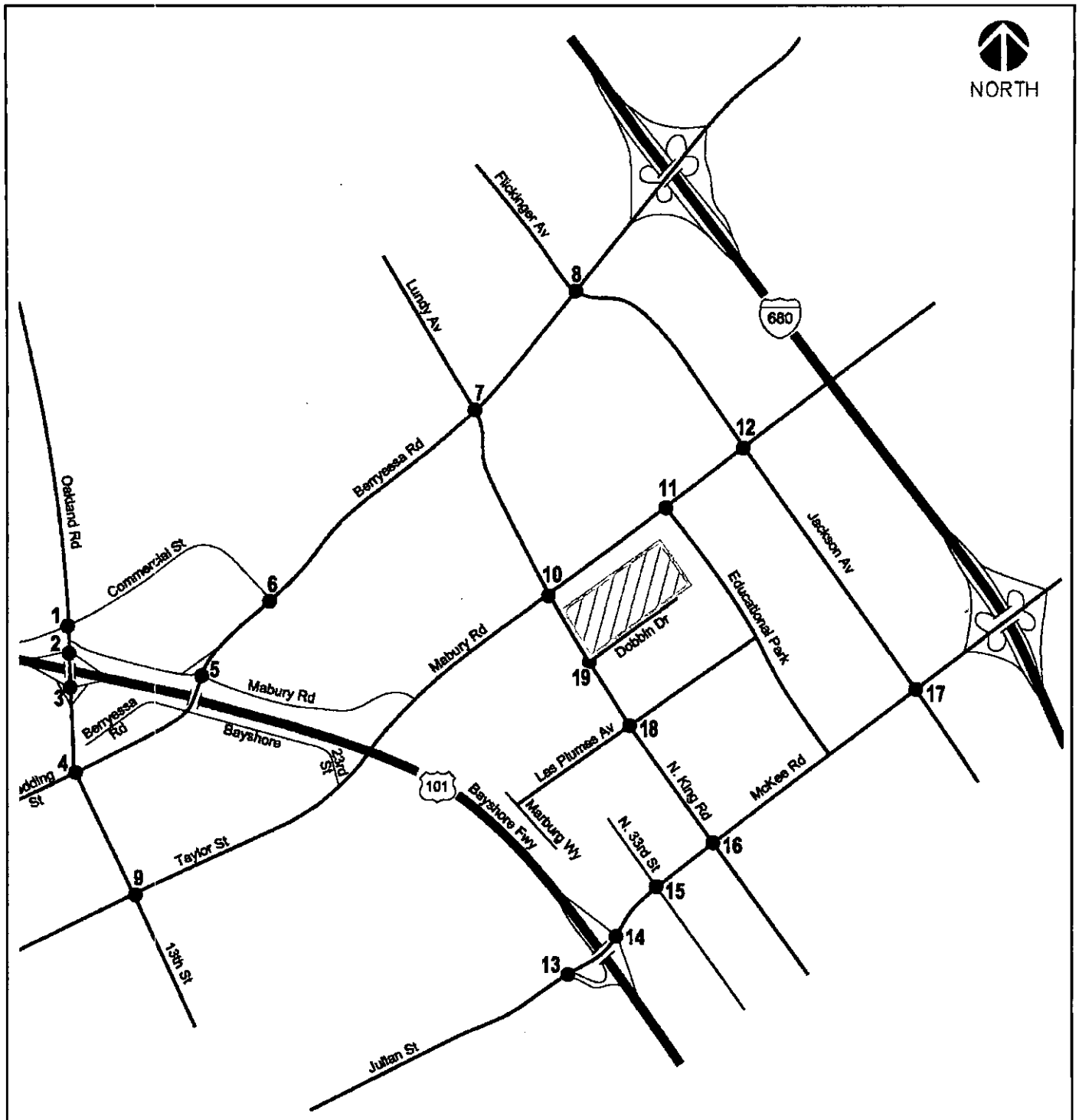
2.2.1.2 *Local Access*

Local access to the site is provided via the roadways described below.

King Road is a north-south two- to four-lane arterial that begins at Berryessa Road as a transition from Lundy Avenue, and extends southward to Aborn Road where it changes designation to Silver Creek Road. King Road transitions back and forth between a two-lane and a four-lane roadway. North of Mabury Road, King Road narrows from four lanes to two lanes and then widens back to four lanes at Berryessa Road. King Road has one lane in each direction with a two-way center left-turn lane south of McKee Road and then widens again to four lanes south of Alum Rock Avenue. King Road has sidewalks on both sides of the street, except for the section of the road which crosses over Penitencia Creek and the west side of the road at its intersection with McKee Road.

Jackson Avenue is primarily a north-south four-lane arterial. Jackson Avenue extends from Story Road in the south to Berryessa Road in the north, where it changes designation to Flickinger Road and ultimately terminates within the residential neighborhood north of Hostetter Road. Jackson Avenue has sidewalks and bike lanes.

Berryessa Road is an east-west arterial that begins near the east foothills at Piedmont Road where it transitions from Suncrest Avenue. Berryessa Road is a six-lane roadway east of North King Road. This roadway narrows to four lanes west of King Road and becomes Hedding Street after crossing



EXISTING ROADWAY NETWORK AND STUDY INTERSECTIONS FIGURE 7

over US 101. Berryessa Road contains bike lanes on both sides of the street. There are sidewalks on both sides of the street, except for the segment between Jackson Avenue and I-680, where there are no sidewalks on the south side of the street.

Mabury Road is an east-west arterial that begins as a local street east of White Road, and extends westward to US 101, where it becomes Taylor Street. Mabury Road is a two-lane roadway with bike lanes east of Jackson Avenue, and is a four-lane divided roadway with bike lanes west of Jackson Avenue. Mabury Road contains sidewalks on both sides of the street in the vicinity of the project site.

McKee Road is a six-lane divided arterial east of King Road and is a four-lane road with a two-way center left-turn lane west of King Road. There are no bike lanes on McKee Road but sidewalks are located on both sides of the street.

Oakland Road is a north-south arterial that begins at East Hedding Street in the south, where it transitions from North 13th Street, and continues to Montague Expressway in the north, where it becomes South Main Street. North of US 101, Oakland Road is primarily a two lane roadway with a two-way center left-turn lane within the vicinity of the project. South of US 101, Oakland Road is a four lane roadway until East Hedding Street, where it becomes a two lane roadway.

Commercial Street is a two-lane collector that links Oakland Road with Berryessa Road.

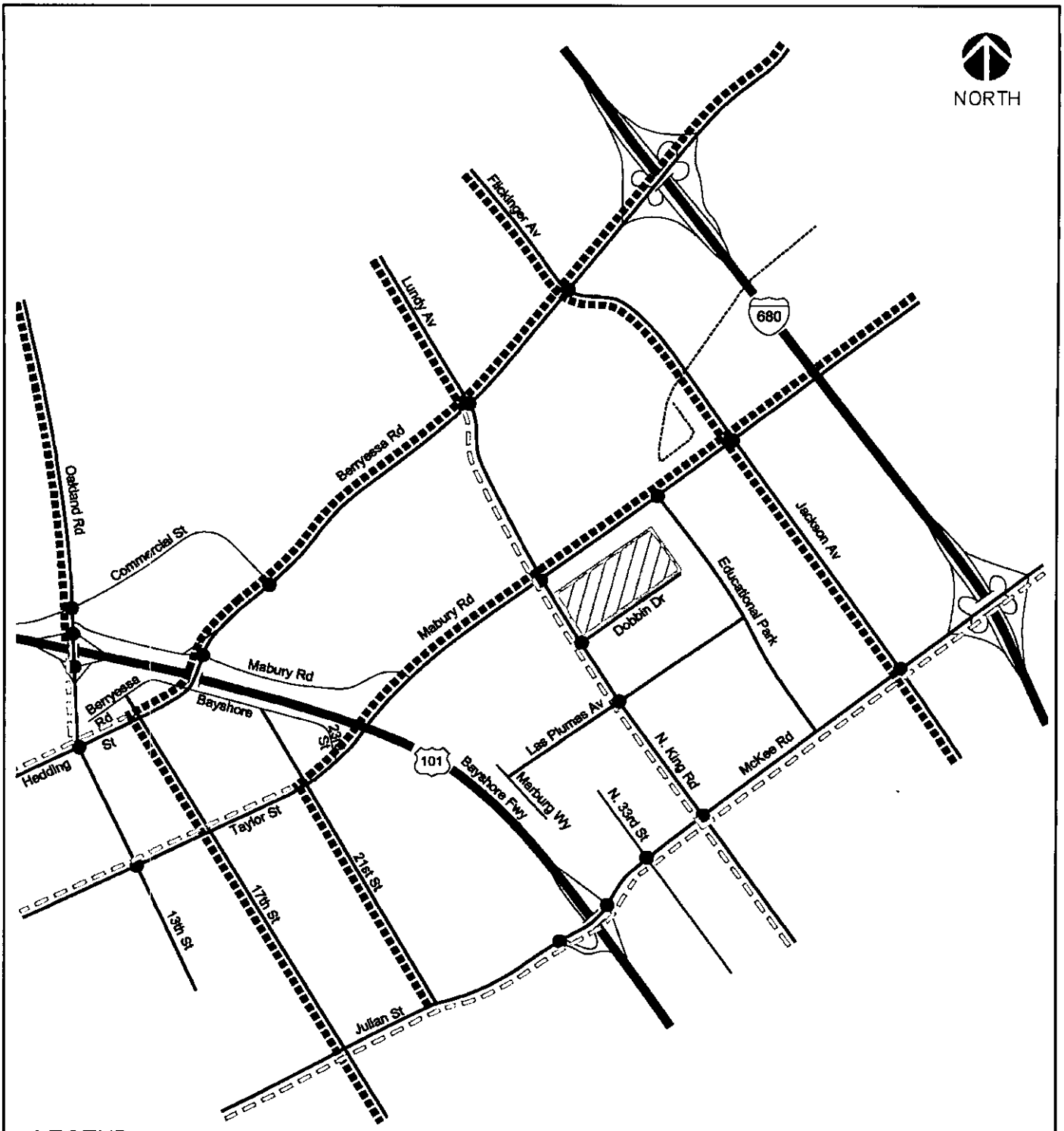
Dobbin Drive provides direct access to the project site. Dobbin Drive is a local two-lane roadway with sidewalks and parking on both sides of the street. The only access to Dobbin Drive is provided via King Road.

2.2.1.3 *Existing Bicycle Facilities*

According to the City of San José Transportation Bicycle Network (TBN) and the Santa Clara Valley Transportation Authority (VTA) Bikeways Map, bike lanes exist on the following roadway segments in the study area.

- Jackson Avenue between Capitol Expressway and Hostetter Road.
- Berryessa Road has bicycle lanes between I-680 and 17th Street.
- 17th Street south of Berryessa Road.
- Mabury Road between White Road and 21st Street.
- 21st Street between Mabury Road and Julian Street.
- Lundy Avenue north of Berryessa Road.
- Oakland Road north of US 101.

Northeast of the project site is the Penitencia Creek Trail, a four mile multi-use trail providing access to Penitencia Creek Park and Alum Rock Park. The trail is incomplete at this time; however, a majority of the trail is developed and is open to public use. Between Alum Rock Park and Noble Avenue, trail users must use the road shoulder. This is also the case between Noble Avenue and White Road/Piedmont Road; however, sidewalks and bike paths fill in the trail gaps. The trail from White Road/Piedmont Road to Jackson Avenue/Mabury Road is continuous, except for the on-street crossings at Capitol Avenue and Jackson Avenue. Figure 8 shows the existing bicycle facilities near the project site.



LEGEND

= Project Site

= Study Intersection

= Bike Lane

= Bike Route

= Bike Path (Off Street)

EXISTING BICYCLE FACILITIES FIGURE 8

2.2.1.4 *Existing Pedestrian Facilities*

Pedestrian facilities in the study area consist of sidewalks along all of the local roadways, except where noted in the roadway descriptions. Crosswalks with pedestrian signal heads and push buttons are located at all signalized intersections in the study area.

2.2.1.5 *Existing Transit Service*

Existing transit service to the study area is provided by the Valley Transportation Authority (VTA). The existing transit service is described below and shown on Figure 9.

VTA Bus and Light Rail Service

Line 12 provides service between Eastridge Mall and the San Jose Civic Center. It operates along King Road and Berryessa Road on Saturday and Sundays only from 9:30AM to 6:30PM with 30-minute headways.

Line 36 provides service between Penitencia Creek Transit Center and Valley Fair/Vallco Park. It runs from 6:30AM to 7:00PM with 30- to 60-minute headways during the commute hours and 30- to 45-minute headways during the midday hours. Line 36 operates along King Road near the site.

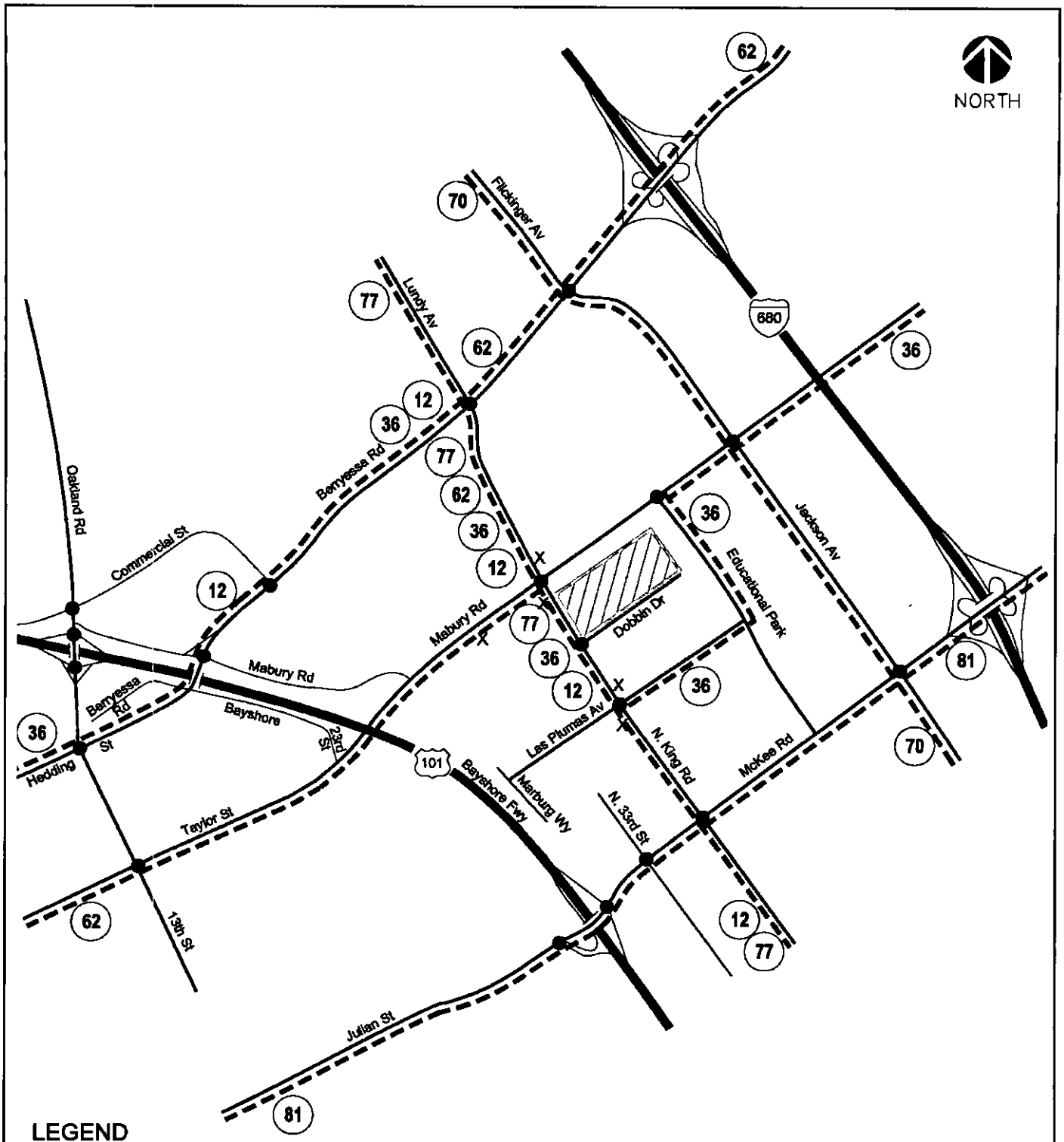
Line 62 provides service between Good Samaritan Hospital and the Penitencia Creek Transit Center. It runs from 5:30AM to 10:30PM with 20- to 40-minute headways during the commute and midday hours and 30- to 60-minute headways after 7:00PM. Line 62 operates along King Road and Mabury Road near the site.

Line 70 provides service between the Capitol LRT Station and the Great Mall/Main Transit Center. It runs from 5:00AM to 11:30PM with 15-minute headways during the commute and midday hours, and 30- to 60-minute headways after 7:00PM. Line 70 operates along Jackson Avenue near the site.

Line 77 provides service between the Eastridge Transit Center and the Great Mall in Milpitas. It runs from 5:30AM to 9:30PM with 15- to 30-minute headways during the commute hours, 30-minute headways during midday hours, and 30 to 60-minute headways after 7:00PM. Line 77 operates along King Road near the site.

Line 81 provides service between McKee/Capitol and Vallco Fashion Park. It runs from 5:00AM to 10:00PM with 15- to 30-minute headways during the commute hours, 20- to 40-minute headways during midday hours, and 30- to 60-minute headways after 7:00PM. Line 81 operates along McKee Road near the site.

The bus stop nearest the site is located across North King Road from the site on the southwest corner of the North King Road and Mabury Road intersection. The next closest bus stop is located at the northeast corner of the North King Road and Mabury Road intersection. Additional bus stops near the site are located on the southwest and northeast corners of the North King Road and Las Plumas Avenue intersection (refer to Figure 9).



EXISTING TRANSIT SERVICE FIGURE 9

The project site is located within one and one-half miles of the Penitencia Creek LRT station. The light rail provides service between Alum Rock and Santa Teresa via Baypointe from 4:30AM to 2:00am with 15-minute headways during the commute and midday hours and 15- to 60-minute headways after 7:00PM.

Planned BART Service

The planned BART project is a 16.3-mile extension of the regional BART system. The extension would begin just south of the planned Warm Springs BART Station in Fremont, extend along the Union Pacific Railroad line to Milpitas, pass adjacent to the San José Flea Market site, and then continue to 28th and Santa Clara Streets in San José. From there, BART would leave the railroad right of way, tunneling under downtown San José to the Diridon Caltrain Station. The BART extension would then turn north under the Caltrain line and terminate near the Santa Clara Caltrain Station.

2.2.1.6 *Existing Roadway Conditions*

Study Intersections

An analysis of AM and PM peak hour traffic conditions for eighteen signalized intersections, one unsignalized, and nine freeway segments in the vicinity of the project site. The study intersections and freeway segments are identified below and shown on Figure 7.

1. Oakland Road and Commercial Street
2. Oakland Road and US 101 North Ramps *
3. Oakland Road and US 101 South Ramps *
4. 13th Street and Hedding Street
5. Mabury Road and Hedding Street
6. Commercial Street and Berryessa Road
7. Lundy Avenue and Berryessa Road *
8. Flickinger Avenue and Berryessa Road
9. 13th Street and Taylor Street
10. King Road and Mabury Road
11. Educational Park and Mabury Road
12. Jackson Avenue and Mabury Road
13. US 101 South Ramps and Julian Street
14. US 101 North Ramps and McKee Road
15. 33rd Street and McKee Road
16. King Road and McKee Road
17. Jackson Avenue and McKee Road
18. King Road and Las Plumas Avenue
19. King Road and Dobbin Drive (unsignalized)

* Denotes a CMP intersection.

Traffic conditions at the study intersections were analyzed for the weekday AM and PM peak hours of traffic. The AM peak hour of traffic is generally between 7:00 and 9:00 AM. The PM peak hour of traffic is typically between 4:00 and 6:00 PM. It is during these periods that the most congested traffic conditions occur on an average weekday.

Methodology for Signalized Intersections

Traffic conditions at the study intersections were evaluated using level of service (LOS). Level of Service is a qualitative description of operating conditions ranging from LOS A, or free-flow conditions with little or no delay, to LOS F, or jammed conditions with excessive delays. The various analysis methods are described below.

Signalized Intersections

The signalized study intersections are subject to the City of San José level of service standards. The City of San José level of service methodology is TRAFFIX, which is based on the Highway Capacity Manual (HCM) 2000 method for signalized intersections. TRAFFIX evaluates signalized intersection operations on the basis of average control delay time for all vehicles at the intersection. Since TRAFFIX also is the CMP-designated intersection level of service methodology, the City of San José methodology employs the CMP default values for the analysis parameters. The City's level of service standard for signalized intersections is LOS D or better. Table 2.2-1 shows the correlation between delay and level of service.

Table 2.2-1
Signalized Intersection Level of Service Definitions

Level of Service	Description	Average Control Delay Per Vehicle (sec.)
A	Signal progression is extremely favorable. Most vehicles arrive during the green phase and do not stop at all. Short cycle lengths may also contribute to the low vehicle delay.	10.0 or less
B	Operations characterized by good signal progression and/or short cycle lengths. More vehicles stop than with LOS A, causing higher levels of average vehicle delay.	10.1 to 20.0
C	Higher delays may result from fair signal progression and/or longer cycle lengths. Individual cycle failures may begin to appear at this level. The number of vehicles stopping is significant, though may still pass through the intersection without stopping.	20.1 to 35.0
D	The influence of congestion becomes more noticeable. Longer delays may result from some combination of unfavorable signal progression, long cycle lengths, or high volume-to-capacity (V/C) ratios. Many vehicles stop and individual cycle failures are noticeable.	35.1 to 55.0
E	This is considered to be the limit of acceptable delay. These high delay values generally indicate poor signal progression, long cycle lengths, and high volume-to-capacity (V/C) ratios. Individual cycle failures occur frequently.	55.1 to 80.0
F	This level of service is considered unacceptable by most drivers. This condition often occurs with oversaturation, that is, when arrival flow rates exceed the capacity of the intersection. Poor progression and long cycle lengths may also be major contributing causes of such delays.	Greater than 80.0

Source: *Transportation Research Board, 2000 Highway Capacity Manual* (Washington, D.C., 2000).

Three of the study intersections are CMP intersections and, therefore, will be analyzed according to the CMP requirements. The CMP level of service methodology is the same as that used by the City of San José. The CMP level of service standard for signalized intersections is LOS E or better.

Existing Intersection Levels of Service

Existing intersection levels of service (LOS) were calculated based on counts contained in the City of San José TRAFFIX database. Existing traffic volumes were supplemented with manual turning–movement counts at intersections where existing volumes were either unavailable or outdated. The existing level of service results for all of the signalized intersections in the study area are summarized in Table 2.2-2.

Table 2.2-2
Existing and Background Intersection Levels of Service

Intersection	Peak Hour	Existing		Background	
		Average Delay	LOS	Average Delay	LOS
Oakland Road and Commercial Street	AM	38.1	D	65.5	E
	PM	45.1	D	51.7	D
US 101 and Oakland Road (N)*	AM	61.8	E	142.5	F
	PM	22.9	C	46.0	D
US 101 and Oakland Road (S)*	AM	22.4	C	24.1	C
	PM	33.6	C	77.2	E
13th Street and Hedding Street	AM	46.9	D	46.5	D
	PM	43.3	D	42.2	D
Mabury Road and Hedding Street	AM	21.9	C	21.8	C
	PM	18.5	B	19.3	B
Commercial Street and Berryessa Road	AM	24.0	C	32.6	C
	PM	23.4	C	24.1	C
Lundy Avenue and Berryessa Road*	AM	44.1	D	45.1	D
	PM	48.2	D	51.2	D
Flickinger Avenue and Berryessa Road	AM	36.9	D	38.5	D
	PM	35.6	D	37.9	D
13th Street and Taylor Street	AM	13.4	B	14.2	B
	PM	13.8	B	14.8	B
King Road and Mabury Road	AM	39.5	D	40.1	D
	PM	38.1	D	39.5	D
Educational Park and Mabury Road	AM	14.2	B	14.2	B
	PM	12.8	B	12.8	B
Jackson Avenue and Mabury Road	AM	37.6	D	37.5	D
	PM	32.0	C	32.6	C
US 101 (S) and Julian Street	AM	19.8	B	20.3	C
	PM	20.1	C	20.8	C
US 101 (N) and McKee Road	AM	20.3	C	21.2	C
	PM	23.5	C	22.4	C
33rd Street and McKee Road	AM	25.4	C	25.2	C
	PM	24.3	C	25.2	C
King Road and McKee Road	AM	42.9	D	41.0	D
	PM	42.5	D	42.9	D
Jackson Avenue and McKee Road	AM	38.2	D	38.8	D
	PM	39.9	D	42.1	D
King Road and Las Plumas Avenue	AM	17.3	B	16.6	B
	PM	21.0	C	20.0	C

*Denotes a CMP intersection.

City of San Jose Intersections

The results of the signalized intersection LOS analysis show that, measured against the City of San José level of service standards, the signalized intersection of US 101 and Oakland Road (North) currently operates at an unacceptable LOS E during the AM peak hour. All other signalized intersections in the study area currently operate at an acceptable LOS D or better during both the AM and PM peak hours of traffic.

CMP Intersections

The results of the LOS analysis show that, measured against the CMP level of service standards, the three CMP intersections in the study area currently operate at an acceptable LOS E or better during both the AM and PM peak hours of traffic.

Study Freeway Segments

The TIA evaluated traffic conditions on eight directional freeway segments in the vicinity of the project site. These freeway segments included:

- US 101, I-280 to Alum Rock Avenue/Santa Clara Street
- US 101, Alum Rock Avenue/Santa Clara Street to McKee Road/Julian Street
- US 101, McKee Road/Julian Street to Oakland Road
- US 101, Oakland Road to I-880
- US 101, I-880 to Old Bayshore Highway
- I-680, McKee Road to Berryessa Road
- I-680, Berryessa Road to Hostetter Road
- I-880, North First Street to US 101
- I-880, US 101 to Brokaw Road

The level of service for freeway segments is calculated based on vehicle density, taking into account vehicle speed as well as the number of vehicles on a segment. The CMP defines an acceptable level of service for freeway segments as LOS E or better. Freeway level of service criteria is shown in Table 2.2-3, on the following page.

Table 2.2-3
Freeway Level of Service Definitions Based on Density

Level of Service	Description	Density (vehicles/ mile/lane)
A	Average operating speeds at the free-flow speed generally prevail. Vehicles are almost completely unimpeded in their ability to maneuver within the traffic stream.	0-11
B	Speeds at the free-flow speed are generally maintained. The ability to maneuver within the traffic stream is only slightly restricted, and the general level of physical and psychological comfort provided to drivers is still high.	>11-18
C	Speeds at or near the free-flow speed of the freeway prevail. Freedom to maneuver within the traffic stream is noticeably restricted, and lane changes require more vigilance on the part of the driver.	>18-26
D	Speeds begin to decline slightly with increased flows at this level. Freedom to maneuver within the traffic stream is more noticeably limited, and the driver experiences reduced physical and psychological comfort levels.	>26-46
E	At this level, the freeway operates at or near capacity. Operations in this level are volatile, because there are virtually no usable gaps in the traffic stream, leaving little room to maneuver within the traffic stream.	>46-58
F	Vehicular flow breakdowns occur. Large queues form behind breakdown points.	>58

Source: Santa Clara County 2004 CMP (Based on *Highway Capacity Manual* (2000) Washington, D.C.).

Existing Freeway Levels of Service

Traffic volumes on freeway segments in the vicinity of the site were obtained from the Santa Clara County Congestion Management Program 2005 Annual Monitoring Report. The results of the analysis, which are summarized in Table 2.2-4 show that the following freeway segments currently operate at LOS F in at least one direction during at least one of the peak hours of traffic, as indicated below.

- US 101, northbound between I-280 and Santa Clara Street – AM peak hour
- US 101, southbound between I-280 and Santa Clara Street – PM peak hour
- US 101, northbound between Santa Clara Street and McKee Road – AM peak hour
- US 101, southbound between Santa Clara Street and McKee Road – PM peak hour
- US 101, northbound between McKee Road and Oakland Road – AM peak hour
- US 101, southbound between McKee Road and Oakland Road – PM peak hour
- US 101, northbound between Oakland Road and I-880 – AM peak hour
- US 101, southbound between Oakland Road and I-880 – PM peak hour
- US 101, northbound between I-880 and Old Bayshore Highway – AM peak hour
- US 101, southbound between I-880 and Old Bayshore Highway – PM peak hour
- I-680, southbound between Hostetter Road and Berryessa Road – PM peak hour
- I-880, southbound between US 101 and Brokaw Road – PM peak hour
- I-880, southbound between US 101 and North First Street – PM peak hour

Table 2.2-4
Existing Freeway Levels of Service

Freeway	Segment	Direction	Peak Hour	Mixed-Flow Lanes	HOV Lanes
				LOS	LOS
US 101	I-280 to Santa Clara Street	NB	AM	F	F
			PM	C	B
	Santa Clara Street to McKee Road	NB	AM	F	F
			PM	C	C
	McKee Road to Oakland Road	NB	AM	F	F
			PM	D	B
	Oakland Road to I-880	NB	AM	F	E
			PM	C	A
	I-880 to Old Bayshore Highway	NB	AM	F	F
			PM	B	A
I-680	McKee Road to Berryessa Road	NB	AM	E	--
			PM	C	--
	Berryessa Road to Hostetter Road	NB	AM	D	--
			PM	C	--
I-880	North First Street to US 101	NB	AM	D	--
			PM	D	--
	US 101 to Brokaw Road	NB	AM	E	--
			PM	D	--
US 101	Old Bayshore Highway to I-880	SB	AM	B	A
			PM	F	F
	I-880 to Oakland Road	SB	AM	C	A
			PM	F	E
	Oakland Road to McKee Road	SB	AM	C	A
			PM	F	D
	McKee Road to Santa Clara Street	SB	AM	C	A
			PM	F	D
	Santa Clara Street to I-280	SB	AM	B	A
			PM	F	D
I-680	Hostetter Road to Berryessa Road	SB	AM	C	--
			PM	F	--
	Berryessa Road to McKee Road	SB	AM	C	--
			PM	D	--
I-880	Brokaw Road to US 101	SB	AM	C	--
			PM	F	--
	US 101 to North First Street	SB	AM	D	--
			PM	F	--

Source: Santa Clara Valley Transportation Authority Congestion Management Program Monitoring Study, 2005.

2.2.1.7 *Background Roadway Conditions*

Background Intersection Levels of Service

Background Traffic Volumes

Background conditions represent traffic conditions that would occur after all approved projects in the area are completed and producing traffic on the street system. For intersections in and around the North San José area, the City has applied a growth adjustment factor to the existing traffic volumes to account for current vacancy rates of work-based land uses in the North San José area. The small increases in traffic volumes attributable to the growth factors represent "potential trips" that generally would exist under typical thriving economic conditions. The added traffic from approved developments was obtained directly from the City of San José TRAFFIX database in the form of the Approved Trips Inventory (ATI).

The current ATI includes both Phase 1 of the North San José Development Policies Update project and Phase 1 of the Downtown Strategy 2000 project. Additional ATI was generated by taking the existing estimated trip generation based on full occupancy of the light industrial buildings on the site and subtracting the actual trip generation observed through traffic counts. The resulting trips due to the existing vacant industrial space were then added to the ATI. Background peak hour traffic volumes were estimated by adding to existing peak hour volumes both traffic volumes contained in the City's ATI and the estimated trips associated with the vacant light industrial space. The results of the level of service analysis under background conditions are summarized in Table 2.2-2.

Background Transportation Network

The background conditions traffic analysis assumes that the transportation network under background conditions would be the same as the existing transportation network, with the exception of the addition of second eastbound and westbound left-turn lanes at both the intersections of 13th Street/Hedding Street and King Road/McKee Road.

City of San José Intersections

The results of the level of service analysis show that, measured against City of San José standards, the signalized intersections of Oakland Road/Commercial Street, US 101/Oakland Road North Ramps, and US 101/Oakland Road South Ramps would operate at an unacceptable LOS E or worse during the AM and/or PM peak hour under background conditions. All other study intersections would operate at an acceptable LOS D or better during both the AM and PM peak hours of traffic.

CMP Intersections

The results of the level of service analysis show that, measured against CMP standards, the CMP intersection of US 101 and Oakland Road North Ramps would operate at an unacceptable LOS F during the AM peak hour under background conditions. The other two CMP study intersections would operate at an acceptable LOS E or better during both the AM and PM peak hours of traffic.

2.2.2 Transportation Impacts

2.2.2.1 *Thresholds of Significance*

For the purposes of this EIR, a near-term transportation impact is considered significant if the Planned Development (PD) rezoning will:

- Cause the level of service at a study intersection to deteriorate from an acceptable LOS D or better under background conditions to an unacceptable LOS E or F under project conditions, or
- Cause both the critical-movement delay at an intersection with an unacceptable LOS E or F under background conditions to increase by four (4) or more seconds and the demand-to-capacity ratio (V/C) to increase by .01 or more,[9] or
- Cause the level of service at a CMP intersection to deteriorate from an LOS E or better to LOS F or cause critical movement delay at such an intersection already operating at LOS F to increase by four seconds or more and the critical V/C value to increase by 0.01 or more, or
- Cause the level of service on a freeway segment to operate at an unacceptable LOS F under project conditions or contribute in excess of one percent of segment capacity to a freeway segment already operating at LOS F; or
- Conflict with adopted plans or policies supporting alternative transportation; or
- Impede the development or function of planned pedestrian or bicycle facilities; or
- Result in inadequate parking capacity; or
- Create an operational safety hazard.

2.2.2.2 *Near-Term Planned Development Rezoning Level of Service Analysis*

Planned Development Rezoning Trip Estimates

The magnitude of traffic produced by a new development and the locations where that traffic would appear are estimated using a three-step process: (1) trip generation, (2) trip distribution, and (3) trip assignment. In determining project trip generation, the magnitude of traffic entering and exiting the site is estimated for the AM and PM peak hours. As part of the project trip distribution, an estimate is made of the directions to and from which the project trips would travel. In the project trip assignment, the project trips are assigned to specific streets and intersections.

Trip Generation

The magnitude of traffic added to the roadway system by a particular development is estimated by multiplying the applicable trip generation rates by the size of the development. The recommended trip generation rates for use in the City of San José are detailed in *the Interim Guidelines for Traffic Impact Analysis of Land Use Developments*, 1994.

Based on the trip rates recommended by the City of San José, the project would generate 10,449 gross daily vehicle trips, with 965 gross trips occurring during the AM peak hour and 1,035 gross trips occurring during the PM peak hour. Since the proposed mixed-use development would replace existing light industrial buildings currently on the site, the trips generated by the existing development were subtracted at each study intersection prior to adding the estimated project traffic to

[9] An exception to this rule applies when the addition of project traffic reduces the amount of average stopped delay for critical movements (i.e., the change in average stopped delay for critical movements is negative). In this case, the threshold of significance is an increase in the critical V/C value by .01 or more.

the roadway network. The peak hour trips for the existing light industrial uses were estimated using standard ITE rates. It should be noted that in some cases the existing light industrial uses are generating a greater number of trips than the proposed project would for some of the intersection turning-movements due to opposite peak hour travel patterns. As a result, there is a reduction in trips for some turning-movements at some study intersections as a result of the land use conversion. Thus, it is not uncommon to have net project trips that are negative for some of the individual intersection turning-movements when trip credits are applied for existing uses.

A retail pass-by trip reduction of 25 percent was applied to the PM peak hour project trip generation estimates. Trip generation for retail uses typically are adjusted to account for pass-by-trips during the PM peak period of traffic. Pass-by-trips are trips that would already be on the adjacent roadways (and are therefore already counted in the background traffic) but would turn into the site while passing by. Justification for applying the pass-by-trip reduction is founded on the observation that such retail traffic is not actually generated by the retail development, but is already part of the ambient traffic levels. Pass-by-trips are therefore excluded from the PM peak hour traffic projections. A mixed-use trip reduction also was applied to account for internalization of trips due to the interaction between the residential and retail components of the project.

After applying the appropriate trip reductions and trip credits, the project would generate 7,354 net new daily trips, with 647 net new trips occurring during the AM peak hour and 623 net new trips occurring during the PM peak hour. Using the inbound/outbound splits recommended by the City of San José, the project would produce 85 additional inbound and 562 additional outbound trips during the AM peak hour, and 559 additional inbound and 64 additional outbound trips during the PM peak hour than the current light industrial uses on the site. The project trip generation estimates are presented in Table 2.2-5, on the following page.

Table 2.2-5
Planned Development Rezoning Trip Generation

Land Use	Size	Daily Rate[a]	Daily Trips	AM Peak Hour				PM Peak Hour			
				Peak Hour Rate[a]	In	Out	Total	Peak Hour Rate[a]	In	Out	Total
Proposed Use[b]											
Condominium/ Townhouse	1,151	7.5	8,633	0.75	302	561	863	0.75	561	302	863
Affordable Apartment	136	6.0	816	0.60	29	53	82	0.60	53	29	82
Specialty Retail	25,000 sq. ft.	40.0	1,000	0.80	14	6	20	3.60	45	45	90
Pass-by Reduction[c]									-11	-11	-22
Mixed-Use Internalized Reduction[d]			-260		-4	-2	-6		-12	-12	-24
Proposed Uses Total			10,189		341	618	959		636	353	989
Existing Uses											
Light Industrial[e]	420,795	6.74	2,835	0.74	256	56	312	0.87	77	289	366
Net Project Trips			7,354		85	562	647		559	64	623

Notes:
[a] Rate per unit for residential use; per 1,000 square feet for retail and light industrial uses.
[b] Rates for proposed residential uses based on City of San José *Interim Guidelines for Traffic Impact Analysis for Land Developments, "Common Vehicular Trip Generation Rates for the San José Area*, March 1994.
[c] A pass-by reduction of 25 percent was applied to the retail use during the PM peak hour.
[d] Based on the *Congestion Management Program TIA Guidelines*, a maximum 13 percent reduction was applied since the project is a mixed-use development with housing and retail components. The 13 percent reduction was applied to the smaller of the two generators (retail component). The trips generated by the larger generator (residential component) were reduced by the same number of trips reduced for the smaller trip generator.
[e] Rates for the existing light industrial uses based on *ITE Trip Generation Manual*, 7th edition, for Industrial Park (ITE Land Use 130). The fitted curve equation was applied.

Trip Distribution and Trip Assignment

The trip distribution patterns for the proposed mixed-use development (residential and commercial uses) and existing light industrial uses were provided by the City of San José and are based on the distribution patterns contained in the San José Flea Market traffic impact study, prepared by Fehr and Peers (April 2006). The peak hour trips generated by the existing light industrial uses and the proposed residential mixed-use development were assigned to the roadway system in accordance with the trip distribution patterns. The trip distribution patterns and trip assignment are shown graphically in Appendix B.

Planned Development Rezoning Intersection Levels of Service

Projected peak hour traffic volumes were estimated by adding to background traffic volumes the net project trips. Project conditions were evaluated relative to background conditions in order to determine project impacts.

The results of the signalized intersection level of service analysis under project conditions are summarized in Table 2.2-6. The results show that, measured against the City of San José and CMP level of service standards, three signalized study intersections would be significantly impacted by the project, as indicated below:

- Oakland Road and Commercial Street – AM peak hour (CSJ impact)
- Oakland Road and US 101 North Ramps – AM peak hour (CSJ and CMP impact)
- Oakland Road and US 101 South Ramps – PM peak hour (CSJ and CMP impact)

All other signalized study intersections would operate at acceptable levels of service under project conditions during both the AM and PM peak hours of traffic, according to City of San José and CMP standards.

Table 2.2-6
Planned Development Rezoning Intersection Levels of Service

Intersection	Peak Hour	Background		Project Conditions			
		Average Delay	LOS	Average Delay	LOS	Increase Critical Delay	Increase in Critical V/C
Oakland Road and Commercial Street	AM	65.5	E	**72.2**	**E**	**12.1**	**0.03**
	PM	51.7	D	52.5	D	0.7	0.01
US 101 and Oakland Road (N)*	AM	142.5	F	**164.1**	**F**	**35.5**	**0.08**
	PM	46.0	D	50.0	D	4.6	0.02
US 101 and Oakland Road (S)*	AM	24.1	C	24.2	C	-0.3**	0.04
	PM	77.2	E	**92.3**	**F**	**27.7**	**0.07**
13th Street and Hedding Street	AM	46.5	D	48.2	D	2.6	0.06
	PM	42.2	D	43.2	D	2.6	0.07
Mabury Road and Hedding Street	AM	21.8	C	22.6	C	1.0	0.01
	PM	19.3	B	20.4	C	1.8	0.05
Commercial Street and Berryessa Road	AM	32.6	C	39.1	D	12.1	0.04
	PM	24.1	C	24.6	C	0.9	0.03
Lundy Avenue and Berryessa Road*	AM	45.1	D	45.7	D	2.2	0.04
	PM	51.2	D	53.8	D	4.3	0.05
Flickinger Avenue and Berryessa Road	AM	38.5	D	38.6	D	0.1	0.00
	PM	37.9	D	37.7	D	0.1	0.00
13th Street and Taylor Street	AM	14.2	B	15.0	B	1.0	0.04
	PM	14.8	B	14.8	B	0.1	0.00
King Road and Mabury Road	AM	40.1	D	39.8	D	1.1	0.05
	PM	39.5	D	40.5	D	1.8	0.07
Educational Park and Mabury Road	AM	14.2	B	14.4	B	0.2	0.00
	PM	12.8	B	12.7	B	-0.1**	0.00
Jackson Avenue and Mabury Road	AM	37.5	D	37.8	D	0.5	0.01
	PM	32.6	C	32.6	C	0.0	0.00
US 101 (S) and Julian Street	AM	20.3	C	21.3	C	1.6	0.08
	PM	20.8	C	20.6	C	-0.2**	-0.01
US 101 (N) and McKee Road	AM	21.2	C	20.7	C	-0.9**	0.04
	PM	22.4	C	23.6	C	2.9	0.02
33rd Street and McKee Road	AM	25.2	C	24.6	C	-0.6**	0.05
	PM	25.2	C	24.7	C	-3.6**	0.01
King Road and McKee Road	AM	41.0	D	44.5	D	6.5	0.12
	PM	42.9	D	46.1	D	6.6	0.07
Jackson Avenue and McKee Road	AM	38.8	D	38.9	D	0.1	0.00
	PM	42.1	D	42.1	D	-0.1**	0.00

Table 2.2-6
Planned Development Rezoning Intersection Levels of Service

Intersection	Peak Hour	Background		Project Conditions			
		Average Delay	LOS	Average Delay	LOS	Increase Critical Delay	Increase in Critical V/C
King Road and Las Plumas Avenue	AM	16.6	B	17.4	B	0.7	0.01
	PM	20.0	C	19.2	B	0.0	0.00

*Denotes a CMP intersection.
**Since the project proposes residential development to replace the existing light industrial development, the trip generation and peak hour traffic directionality would change between these two land use types. Because the project receives trip credits for the existing on-site uses, the result can be lower peak hour volumes for some critical intersection turning movements. The vehicle delays at some of the study intersections would improve slightly due to the land use conversion.
Bold text indicates a significant impact.

The City has identified operational problems along Oakland Road at the US 101 interchange. The operational deficiencies are primarily due to the capacity constraints of the interchange. The interchange's current configuration is inadequate to serve the vehicular demand due to it serving as the main gateway into the Oakland Road area and only route across US 101. Significant impacts have been identified at the interchange ramps with several projects recently approved and currently in process. Most notably, the Vision North San José, Downtown San José Strategy 2000, San José Flea Market, and Goodwill-DAL projects all identified significant traffic impacts at the interchange.

Impact TRANS-1: The proposed project would result in significant LOS impacts to the Oakland Road/Commercial Street, US 101/Oakland Road (N), and US 101/Oakland Road (S) intersection under City of San José standards and the US 101/Oakland Road (N) and US 101/Oakland Road (S) intersections under CMP standards. **(Significant Impact)**

Planned Development Rezoning Freeway Segment Level of Service Analysis

The results of the CMP freeway level of service analysis are summarized in Table 2.2-7, on the following page. Traffic volumes on the study freeway segments under project conditions were estimated by adding project trips to the existing volumes obtained from the 2005 CMP Annual Monitoring Report. The results of the CMP freeway analysis show that the project would cause significant increases in traffic volumes (adding more than one percent of freeway capacity) on the following five directional freeway segments:

- US 101, northbound between Oakland Road and I-880 – AM peak hour
- US 101, northbound between I-880 and Old Bayshore Highway – AM peak hour
- US 101, southbound between Oakland Road and I-880 – PM peak hour
- US 101, southbound between I-880 and Old Bayshore Highway – PM peak hour
- I-880, northbound between US 101 to Brokaw Road – AM peak hour

Table 2.2-7
Planned Development Rezoning Freeway LOS and Percent Contribution of Segment Capacity

Freeway	Segment	Direction	Peak Hour	Mixed-Flow Lanes		HOV		Significant Impact
				LOS	% Capacity	LOS	% Capacity	
US 101	I-280 to Santa Clara Street	NB	AM	F	0.8	F	0.8	NO
			PM	C	1.6	B	1.7	NO
	Santa Clara Street to McKee Road	NB	AM	F	0.8	F	0.8	NO
			PM	C	1.6	C	1.7	NO
	McKee Road to Oakland Road	NB	AM	F	0.5	F	0.6	NO
			PM	D	0.3	B	0.3	NO
	Oakland Road to I-880	NB	AM	F	**2.1**	E	2.2	**YES**
			PM	C	1.0	A	1.1	NO
	I-880 to Old Bayshore Highway	NB	AM	F	**1.0**	F	**1.0**	**YES**
			PM	B	0.5	A	0.5	NO
I-680	McKee Road to Berryessa Road	NB	AM	E	0.1	N/A	N/A	NO
			PM	C	0.0	N/A	N/A	NO
	Berryessa Road to Hostetter Road	NB	AM	D	0.7	N/A	N/A	NO
			PM	C	0.3	N/A	N/A	NO
I-880	North First Street to US 101	NB	AM	D	0.3	N/A	N/A	NO
			PM	D	0.6	N/A	N/A	NO
	US 101 to Brokaw Road	NB	AM	**F**	0.9	N/A	N/A	**YES**
			PM	D	0.4	N/A	N/A	NO
US 101	Old Bayshore Highway to I-880	SB	AM	B	0.5	A	0.5	NO
			PM	F	**1.0**	F	1.0	**YES**
	I-880 to Oakland Road	SB	AM	C	1.0	A	1.1	NO
			PM	F	**2.1**	E	2.2	**YES**
	Oakland Road to McKee Road	SB	AM	C	0.4	A	0.4	NO
			PM	F	0.8	D	0.9	NO
	McKee Road to Santa Clara Street	SB	AM	C	1.7	A	1.8	NO
			PM	F	0.8	D	0.8	NO
	Santa Clara Street to I-280	SB	AM	B	1.7	A	1.8	NO
			PM	F	0.8	D	0.8	NO
I-680	Hostetter Road to Berryessa Road	SB	AM	C	0.3	N/A	N/A	NO
			PM	F	0.6	N/A	N/A	NO
	Berryessa Road to McKee Road	SB	AM	C	0.0	N/A	N/A	NO
			PM	D	0.1	N/A	N/A	NO
I-880	Brokaw Road to US 101	SB	AM	C	0.4	N/A	N/A	NO
			PM	F	0.9	N/A	N/A	NO
	US 101 to North First Street	SB	AM	D	0.6	N/A	N/A	NO
			PM	F	0.3	N/A	N/A	NO

Bold text indicates a significant impact.

Impact TRANS-2: The proposed project will contribute traffic in excess of one percent of segment capacity to four freeway segments already operating at LOS F during

either the AM or PM peak hour and cause one freeway segment to operate at LOS F. **(Significant Impact)**

2.2.2.3 *Other Transportation Facilities*

Transit Facilities

The three local bus lines that operate along King Road adjacent to the project site during the peak commute periods are bus lines 36, 62, and 77. Due to the convenient location of nearby bus stops (refer to Figure 9), it is assumed that some residents would utilize the existing transit service for commuting purposes. Assuming up to five percent transit mode share equates to approximately 50 new transit riders during the AM and PM peak hours of traffic. Assuming the existing transit service would remain unchanged with the three closest bus lines providing service with 30-minute headways on average, the number of new transit riders during the AM and PM peak commute periods would equate to about six riders per bus. These new riders could be accommodated by the current available ridership capacity of the existing bus service in the study area.

Impact TRANS-3: No improvements to the existing transit service in the vicinity of the PD rezoning site would be necessary with the project. **(No Impact)**

Bicycle Facilities

Bike lanes do not exist adjacent to the site on King Road; however, it is a designated bike route that connects with many other roadways in the project area that do have bike lanes. The nearby multi-use Penitencia Creek Trail provides a safe off-street bicycle route. The combination of bike lanes, bike routes, and off-street paths within the project study area creates an extensive network for bicyclists to utilize. Due to the substantial bicycle network, it can be assumed that some residents will choose to commute by bicycle to and from their workplace. A reasonable assumption for bicycle commute trip generation would be a one percent mode share. This calculates to approximately ten bicycle trips during both the AM and PM peak periods of traffic.

Impact TRANS-4: The proposed PD rezoning would not impede the development of bicycle facilities in the vicinity of the site. **(Less Than Significant Impact)**

Pedestrian Facilities

Pedestrian traffic primarily would be generated by residents walking to and from local schools, public parks, bus stops, and nearby retail centers. The majority of roadways in the project area currently have sidewalks on both sides of the street, with crosswalks and pedestrian signal heads at all of the signalized intersections. However, King Road has no sidewalks along the segment that crosses over Penitencia Creek and on the west side of King Road at its intersection with McKee Road. Additionally, the segment of Berryessa Road between Jackson Avenue and I-680 has sidewalks on the north side of the street only. Overall the sidewalks within the study area have good connectivity.

Impact TRANS-5: The extensive network of sidewalks within the project area would provide residents with a safe connection between the project site and the other surrounding land uses in the area. **(No Impact)**

Parking

The proposed PD zoning will provide adequate parking to meet the City's parking standards. A parking reduction of ten percent may be used per the City's Zoning Ordinance for Transit-Oriented Development. The majority of the site is located within the BART Berryessa Station Area Node.

The proposed project could include up to two levels of below grade parking on Parcels A, B, C, and E. One level of below grade parking is proposed on Parcel F. Parcels G and H would provide parking in a garage below a podium structure or in garages for each individual unit. Parallel parking would be provided on Dobbin Drive and the proposed primary private streets (Avenues Y and Z). Parallel parking may also be located on the private driveways between Parcel C and F, E and H, and G and H; however, the configuration of on-street parking spaces will be determined at the time PD Permit applications are filed for the individual parcels.

The emergency family shelter on Parcel B will provide one parking space per unit. Approximately eight surface parking spaces will also be provided for the shelter on Parcel B. The affordable apartment development will provide parking as specified in the City's Zoning Ordinance in a parking garage beneath the podium structure proposed for this parcel.

Impact TRANS-6: The project proposes to comply with the parking space requirements contained in the City's Zoning Ordinance and therefore would have adequate parking for the proposed development. **(Less Than Significant Impact)**

2.2.2.4 *US 101 – Oakland/Mabury Transportation Development Policy (TDP)*

Purpose

The City of San José has identified operational deficiencies along the Oakland Road corridor at the US 101 interchange. The operational deficiencies are primarily due to the capacity constraints of the interchange. The interchange's current configuration is inadequate to serve the vehicular demand, because it serves as the main gateway into the Oakland Road area and as the only route across US 101. As a result, the City has identified two key capital improvement projects: 1) modification of the US 101/Oakland Road interchange, including improvements to the Oakland Road/Commercial Street intersection, and 2) construction of a new US 101/Mabury Road diamond interchange. Both interchange projects will create additional capacity for accessing and crossing US 101, which will be crucial to accommodate future growth in the vicinity, including the future BART station at the San José Flea Market site. To fund these necessary interchange improvements, the City has proposed the US 101 – Oakland/Mabury Transportation Development Policy (TDP). The TDP is intended to achieve all of the following: 1) manage traffic congestion generated by near-term development in the vicinity of the US 101/Oakland interchange; 2) promote General Plan goals for economic development and housing; and 3) improve the US 101/Oakland Road interchange and construct the new US 101/Mabury interchange to accommodate new development. The TDP recognizes and allows for interim traffic congestion resulting from ongoing development, while providing opportunities for new mixed-use commercial and residential development and providing incentives for new industrial development in the area. Key elements of the TDP are to:

- Define the improved interchange capacity available to accommodate the projected development.
- Identify existing deficiencies and the manner the existing deficiencies will be improved; describe the major transportation infrastructure required for the new development.

- Ensure the improvement and construction of the required transportation infrastructure for new development by establishing a traffic impact fee program on new development to fund that infrastructure.
- Promote new industrial land use or intensification of existing industrial land use by exempting a certain amount of new industrial development from the traffic impact fee program where other sources of funding have been identified.
- Allow the LOS of signalized intersections covered by the TDP to temporarily exceed City LOS standards.

A copy of the proposed Transportation Development Policy is attached as Appendix A.

Existing Operations

Due to limited access points for the US 101 freeway in the US 101 – Oakland/Mabury Transportation Development Policy area, future LOS impacts caused by new development are expected to occur at:

- the US 101/Oakland (N) intersection;
- the US 101/Oakland Road (S) intersection;
- the Oakland Road/Commercial Road intersection.

Studies of traffic flow and field observations indicate that two primary causes for the future operational deficiencies are:

- US 101 freeway-bound traffic, and
- Oakland Road local through traffic, because the two traffic streams compete for limited intersection capacity.

A summary of the existing Level of Service at these intersections in the Fall 2006 is included in Appendix A. New development is required to mitigate future LOS impacts. Additionally, the City will pursue other funding sources to help improve the operations at the interchange.

Planned Improvements

The TDP recognizes and identifies two major regional transportation projects that are necessary to provide adequate access to the US 101 freeway for new development and the planned BART station. The proposed improvements are summarized below.

<u>US 101/Oakland Road Interchange</u>

- Widening of Oakland Road between Commercial Street and US 101 freeway, including the US 101 over-crossing to eight lanes across, including dual left turn lanes for both northbound and southbound directions.
- Widening of US 101 on-ramps and off-ramps to accommodate additional turning lanes.
- Widening of eastbound Commercial Street to provide additional lanes.
- Signal modifications at intersections of the US 101/Oakland Road (N), the US 101/Oakland Road (S), and the Oakland Road/Commercial Street.

US 101/Mabury Road Interchange

- Construction of a new northbound US 101 diagonal off-ramp and a new US 101 loop on-ramp on the southeast quadrant of the US 101/Mabury Road interchange.
- Construction of a new southbound US 101 diagonal off ramp and a new US 101 loop on-ramp on the southwest quadrant of the US 101/Mabury Road interchange.
- Installation of new traffic signals at the Mabury Road intersections with the northbound ramps and southbound ramps.

There are five signalized intersections located within the sphere of influence of the TDP Policy Interchanges. The five Policy Interchange Intersections are:

- US 101/Oakland Road (N);
- US 101/Oakland Road (S);
- Oakland Road/Commercial Street;
- US 101/Mabury Road (E) (future); and
- US 101/Mabury Road (W) (future).

US 101/Oakland Road and US 101/Mabury Road Interchange Capacity Analysis

An Interchange Capacity Analysis was completed for the fully-improved US 101/Oakland Road and US 101/Mabury Road interchanges, in order to determine the future available capacity. Construction of the planned improvements will increase the interchange capacity at all five TDP intersections, identified above. The capacity analysis shows that with the reconstruction of the US 101/Oakland Road interchange and construction of a new US 101/Mabury Road interchange, approximately 1,153 additional peak hour vehicle trips could be accommodated by the proposed improvements (refer to Appendix B). The 1,153 peak hour trips are considered the "development capacity" of the TDP interchange improvements. Based upon the projected trip distribution of potential future development sites, the 1,153 peak hour trips translate to approximately 6,000 residential units. The TDP would create a fair share traffic impact fee structure for the approximately 6,000 housing units, to finance the identified interchange improvements. The policy fee would be based on the number of PM peak hour vehicular trips added to the US 101/Oakland Road interchange.

To address the temporary traffic effects of the proposed Transportation Development Policy (TDP) a worst-case scenario was analyzed. The worst-case scenario would allow for the approval of new development projects that would use the interchange prior to the construction of the identified improvements. A worst-case analysis, therefore, would be if the 1,153 peak hour vehicle trips were on the road, wanting to use the two subject interchanges, prior to the completion of the interchange improvements.

2.2.2.5 *TDP Intersection Level of Service Analysis*

The existing General Plan Transportation Level of Service (LOS) Policy states that,

> A development that would cause the performance of an intersection to fall below the minimum level of service needs to provide vehicular related improvements aimed at maintaining the minimum level of service.

The City Council's adopted Policy 5-3 states that a project having such impacts must identify and implement the mitigation measures necessary to bring the intersection back to an acceptable LOS or to offset the project's own impacts. Any project that does not do so is not consistent with the City's General Plan.[10]

The proposed TDP allows for temporary congestion to occur at levels that typically would not be allowed under the City's Level of Service Policy. The congestion would be temporary, in that it would persist only until the interchange improvement projects are fully funded and can be constructed. Specifically, the TDP would allow interim congestion at the following three Policy Interchange Intersections to temporarily exceed the standards of the Citywide LOS Policy:

- Oakland Road and US 101 North Ramps
- Oakland Road and US 101 South Ramps
- Oakland Road and Commercial Street

All applications for development in the TDP area will be subject to the City's standard LOS policy requiring mitigation for impacts to all other intersections.

US 101/Oakland Road Interchange Corridor Intersection LOS

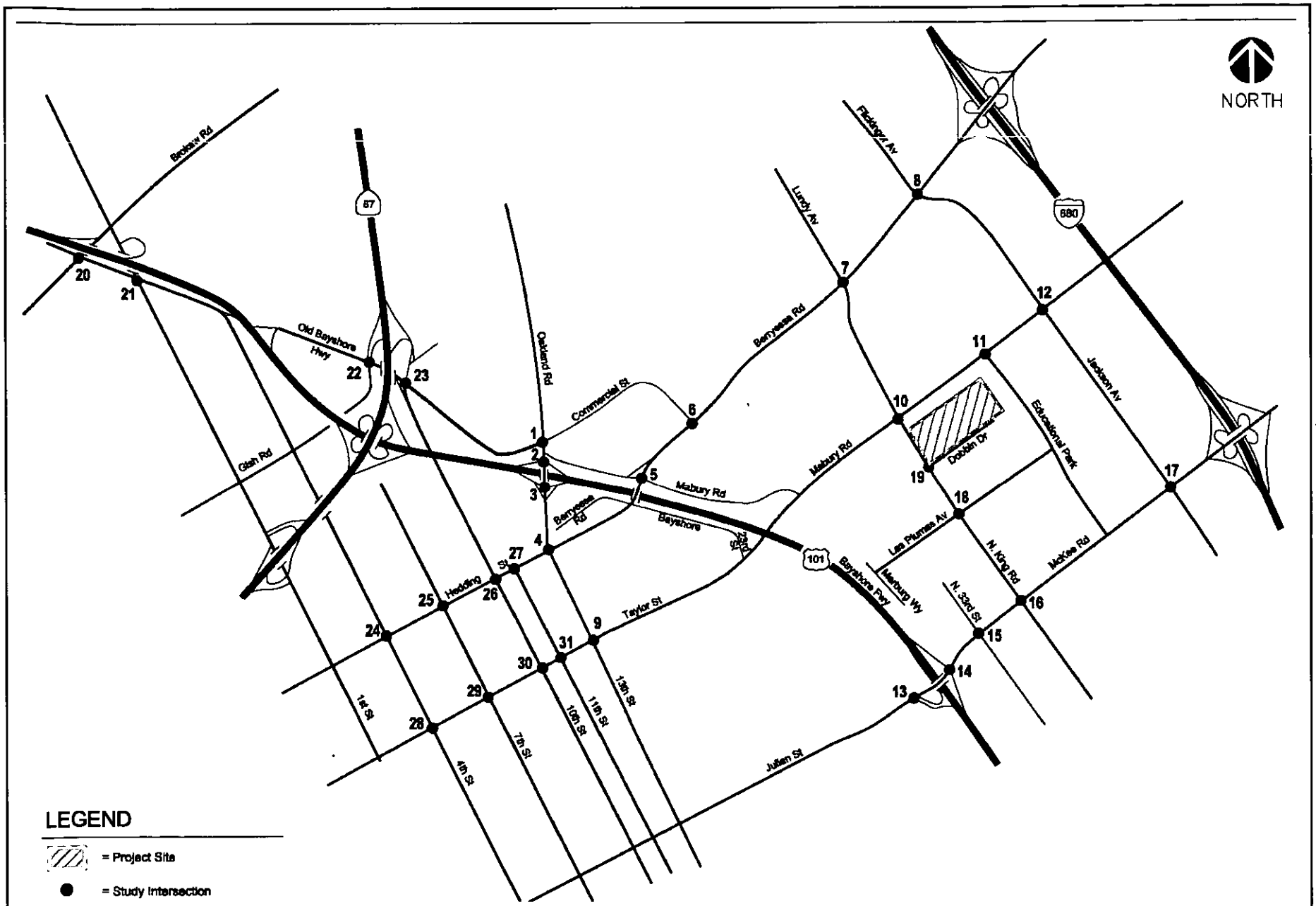
Table 2.2-8 shows the background conditions level of service (LOS) for intersections that would be affected by the TDP (refer to Figure 10). The background conditions scenario includes traffic from approved, but not yet occupied development, and includes Phase I and II traffic from the Vision North San José project and Phase I traffic from the Downtown Strategy 2000 project.

Interim Traffic Conditions Without TDP Improvements

In order to evaluate the potential temporary impact of the TDP adoption, a worst-case scenario would be that all 1,153 peak hour vehicle trips (interchange improvements development capacity) have been added to the US 101/Oakland Road interchange corridor, but that no improvements are constructed. "Worst-Case Scenario 1" in Table 2.2-8 shows the possible delays and corresponding temporary LOS at the three Policy interchange intersections and other surrounding intersections that would occur with the 1,153 peak hour trips added with no interchange improvements constructed.

Approval of the TDP does not ensure or facilitate approval of any development nor does it provide environmental clearance for traffic purposes for any level of development. Future developments will need to prepare and submit Traffic Impact Analyses (TIA); and each new development project will be required to mitigate significant impacts at other intersections, if any, following all relevant City Policies and guidelines. The levels of congestion at intersections other than the three listed above will therefore be substantially less than what is shown under the "Worst Case Scenario 1" in Table 2.2-8. Impacts at other intersections that appear to exceed the City's standard are shown as unmitigated because specific projects and project timing cannot be predicted at this time and the extent and design of project-specific mitigation measures is not known. No development project that would generate significant unmitigated impacts at unprotected intersections other than the three Policy interchange intersections listed above would be approved under this policy. Only the mitigation to those three intersections would be deferred.

[10] Policy 5-3 also describes specific instances in which the City's LOS standard does not have to be met. Those circumstances are not relevant in this instance and are therefore not discussed any further at this time.



TRANSPORTATION DEVELOPMENT POLICY STUDY INTERSECTIONS FIGURE 10

Interim Traffic Conditions Due to Redistribution of Trips Without TDP Improvements

Interim congestion at the three Policy interchange intersections may cause some traffic that would otherwise use those intersections to try alternate routes and redistribute to other intersections. This redistributed (also called reassigned), traffic may result in temporary congestion at some other, additional intersections (Table 2.2-8 TDP study intersections), since in reality many drivers will not tolerate such lengthy delays. "Worst Case Scenario 2" (see Table 2.2-8) accounts for an anticipated reassignment of 1,153 vehicle trips away from the US 101/Oakland Road interchange under congested traffic conditions.

The resulting redistribution of traffic may result in temporary congestion at some other, additional intersections, such as those noted in bold in Table 2.2-8 under Worst-Case Scenario 2. It is difficult to predict where future development projects will be located, and how much delay individuals will accept before changing their travel patterns. The interim results of approving the TDP are therefore likely to cause near term conditions nearest the interchange locations (TDP study intersections) to be at a level of congestion that is somewhere between that shown under TDP Worst-Case Scenario 1 and TDP Worst-Case Scenario 2, in Table 2.2-8.

Table 2.2-8
TDP Intersection LOS Analysis

Intersection	Peak Hour	TDP Background		TDP Worst-Case S1		TDP Worst-Case S2		Future with TDP Improvements	
		Average Delay	LOS	Average Delay	LOS	Average Delay	LOS	Average Delay	LOS
Oakland Road and Commercial Street	AM	70.4	E	**189.2**	**F**	**76.8**	**E**	55.0	D
	PM	52.7	D	**74.5**	**E**	54.8	D	55.0	D
US 101 and Oakland Road (N)*	AM	146.6	F	**290.6**	**F**	**146.6**	**F**	43.4	D
	PM	46.1	D	**98.2**	**F**	47.4	D	19.8	B
US 101 and Oakland Road (S)*	AM	24.0	C	34.5	C	24.0	C	28.5	C
	PM	78.8	E	**140.8**	**F**	**84.7**	**F**	30.3	C
US 101/Mabury Road (East) Future	AM	--	--	--	--	--	--	55.0	D
	PM	--	--	--	--	--	--	55.0	D
US 101/Mabury Road (West) Future	AM	--	--	--	--	--	--	35.7	D
	PM	--	--	--	--	--	--	49.8	D
13th Street and Hedding Street	AM	46.7	D	**56.2**	**E**	46.7	D	48.6	D
	PM	42.3	D	45.8	D	43.7	D	43.8	D
Mabury Road and Hedding Street	AM	21.7	C	28.2	C	28.0	C	24.6	C
	PM	19.2	B	24.2	C	22.8	C	23.1	C
Commercial Street and Berryessa Road	AM	32.6	C	**73.5**	**E**	**70.6**	**E**	**64.7**	**E**
	PM	24.5	C	32.6	C	27.3	C	29.6	C
Lundy Avenue and Berryessa Road*	AM	45.4	D	49.7	D	51.8	D	50.3	D
	PM	51.3	D	**60.7**	**E**	**69.9**	**E**	**65.2**	**E**
Flickinger Avenue and Berryessa Road	AM	38.6	D	38.7	D	38.7	D	38.7	D
	PM	38.2	D	37.9	D	37.8	D	37.9	D
13th Street and Taylor Street	AM	15.1	B	17.0	B	17.0	B	16.0	B
	PM	15.7	B	17.1	B	18.0	B	17.1	B
King Road and Mabury Road	AM	40.3	D	41.9	D	42.0	D	42.5	D
	PM	39.3	D	41.6	D	42.9	D	42.2	D
Educational Park and Mabury Road	AM	14.3	B	15.1	B	15.1	B	15.1	B
	PM	12.8	B	13.0	B	13.0	B	13.0	B
Jackson Avenue and Mabury Road	AM	37.6	D	38.2	D	38.2	D	38.2	D
	PM	32.6	C	32.7	C	32.7	C	32.7	C
US 101 (S) and Julian Street	AM	20.4	C	21.8	C	22.3	C	20.8	C
	PM	20.8	C	20.8	C	20.9	C	20.4	C

Table 2.2-8
TDP Intersection LOS Analysis

Intersection	Peak Hour	TDP Background		TDP Worst-Case S1		TDP Worst-Case S2		Future with TDP Improvements	
		Average Delay	LOS	Average Delay	LOS	Average Delay	LOS	Average Delay	LOS
US 101 (N) and McKee Road	AM	21.7	C	21.7	C	23.5	C	21.2	C
	PM	22.0	C	23.9	C	26.6	C	22.4	C
33rd Street and McKee Road	AM	25.2	C	24.4	C	24.1	C	25.0	C
	PM	25.3	C	24.9	C	25.4	C	25.5	C
King Road and McKee Road	AM	41.8	D	53.5	D	**71.7**	**E**	43.1	D
	PM	44.2	D	54.4	D	**75.9**	**E**	44.4	D
Jackson Avenue and McKee Road	AM	38.8	D	39.2	D	39.2	D	39.2	D
	PM	42.1	D	42.2	D	42.2	D	42.2	D
King Road and Las Plumas Avenue	AM	16.4	B	16.9	B	16.0	B	17.9	B
	PM	19.7	B	18.1	B	17.4	B	19.3	B
Airport Pkwy and Old Bayshore Hwy	AM	35.8	D	35.8	D	35.8	D	35.8	D
	PM	34.3	C	34.4	C	35.6	D	34.4	C
First Street and Old Bayshore Highway	AM	47.4	D	47.5	D	49.2	D	47.5	D
	PM	213.5	F	215.0	F	216.1	F	215.0	F
I-880 West Ramps & Old Bayshore Hwy	AM	31.1	C	31.7	C	33.0	C	31.7	C
	PM	37.4	D	39.5	D	40.2	D	39.5	D
I-880 East Ramps & Old Bayshore Hwy	AM	44.6	D	48.4	D	**75.6**	**E**	48.4	D
	PM	22.1	C	21.8	C	22.3	C	21.8	C
Fourth Street and Hedding Street**	AM	38.2	D	39.8	D	41.0	D	39.8	D
	PM	41.5	D	42.9	D	42.5	D	42.9	D
Seventh Street and Hedding Street	AM	14.3	B	14.6	B	14.2	B	14.6	B
	PM	10.2	B	10.4	B	9.7	A	10.4	B
Tenth Street and Hedding Street	AM	63.5	E	**83.7**	**F**	**87.8**	**F**	**83.7**	**F**
	PM	42.2	D	49.3	D	**67.7**	**E**	49.3	D
Eleventh Street and Hedding Street	AM	27.9	C	29.3	C	32.1	C	29.3	C
	PM	10.8	B	11.0	B	10.2	B	11.0	B
Fourth Street and Taylor Street	AM	36.8	D	38.5	D	38.2	D	38.5	D
	PM	39.3	D	42.7	D	41.6	D	42.7	D
Seventh Street and Taylor Street	AM	7.7	A	8.2	A	7.8	A	8.2	A
	PM	7.8	A	8.2	A	7.6	A	8.2	A
Tenth Street and Taylor Street**	AM	34.9	C	39.0	D	34.9	C	39.0	D
	PM	61.5	E	**72.2**	**E**	**82.7**	**F**	**72.2**	**E**
Eleventh Street and Taylor Street**	AM	89.6	F	**99.4**	**F**	**103.5**	**F**	**99.4**	**F**
	PM	60.9	E	**73.8**	**E**	**81.4**	**F**	**73.8**	**E**

*Denotes a CMP intersection.
**Denotes an intersection that is on the City of San José List of Protected Intersections.
Bold text indicates that the intersection would operate at a noticeably worse LOS when compared to background conditions.

Future Traffic Conditions With TDP Improvements

The impacts of allowing development to proceed in advance of the interchange improvements will be temporary. Both the increased levels of congestion at the three Policy interchange intersections and any spillover (redistributed) traffic that occurs during construction will be mitigated ultimately by completion of the interchange improvements.

The "Future Conditions with TDP Improvements" scenario shows the resulting levels of service at all TDP intersections following construction of the TDP improvements (refer to Table 2.2-8). As shown in Table 2.2-8, the Policy Interchange Intersections are expected to operate within acceptable Citywide LOS standards once the planned improvements are completed. The duration of time that

traffic will exceed the City's LOS standard of "D" at the three intersections depends on funding availability and the time needed for the planned improvements to be designed and constructed. Since much of the funding will come from impact fees paid by the developments that would be generating the anticipated traffic, delays in the developments will affect both the timing and the amount of traffic. As noted previously, impacts at non-Policy Interchange Intersections will be mitigated through project-specific mitigation measures as individual developments are proposed and their traffic impacts evaluated; this is not reflected in Table 2.2-8. No development project that would generate significant unmitigated impacts at unprotected intersections other than the three TDP intersections previously identified would be approved under this proposed Policy.

As shown in Table 2.2-8, the majority of intersections in the study area would return to operating at acceptable levels of service. The following intersections, however, would continue to operate at unacceptable levels of service.

- Commercial Street and Berryessa Road – AM peak hour
- Lundy Avenue and Berryessa Road – PM peak hour
- Tenth Street and Hedding Street (CSJ Protected) – AM and PM peak hours
- Tenth Street and Taylor Street (CSJ Protected) – PM peak hour
- Eleventh Street and Taylor Street (CSJ Protected) – AM and PM peak hour

There are improvements available for individual projects to mitigate their impacts at the non-protected intersections. These improvements are described below:

Commercial Street and Berryessa Road Improvements

The intersection of Commercial Street and Berryessa Road would operate at an unacceptable LOS E during the AM peak hour under future conditions with implementation of the TDP and all associated improvements. The poor level of service would be due entirely to the heavy future westbound right-turn volume. Accordingly, a separate westbound right-turn lane and a second receiving lane on the north leg of the intersection should be constructed in order to allow a free right-turn movement form westbound Berryessa Road onto northbound Commercial Street. This would improve the level of service to LOS C during the AM peak hour.

Lundy Avenue and Berryessa Road Improvements

The intersection of Lundy Avenue and Berryessa Road would operate at an unacceptable LOS E during the PM peak hour under future conditions with implementation of the TDP and all associated improvements. The EIR prepared for the Vision North San José project identified mitigation under Phase 4 project conditions which would improve the level of service to an acceptable LOS D during the PM peak hour. The timing of Phase 4 of the Vision North San José project is unknown at this time and potentially would not occur for several decades. The unacceptable LOS E conditions at this intersection, therefore, could persist until improvements under Phase 4 of the Vision North San José project are completed.

Protected Intersection Improvements

Three Protected Intersections would be negatively affected by future traffic from development resulting from approval of the TDP. The City of San José LOS Policy specifies that Protected Intersections consist of locations that have been built to their planned maximum capacity and where expansion of the intersection would have an adverse effect upon other transportation facilities (such

as pedestrian, bicycle, and transit systems). The Policy acknowledges that exceptions to the City's LOS Policy of maintaining a Level of Service D at local intersections will be made for certain Protected Intersections that have been built to their planned maximum capacity. If a development project has significant traffic impacts at a designated Protected Intersection, the project may be approved if offsetting Transportation System Improvements are provided that enhance pedestrian, bicycle and/or transit facilities to the community near the Protected Intersection. Therefore, since a unique Policy already exists for Protected Intersections, no physical improvements to the three Protected Intersections affected by the proposed TDP would be necessary.

Since the TDP Policy interchange intersections would return to operating within the City's standard LOS policy, and all other traffic impacts would be mitigated by individual developments in conformance with the existing General Plan LOS Policy, the proposed US 101 – Oakland/Mabury Transportation Development Policy would not result in any permanent significant unavoidable traffic impacts at unprotected intersections.

Impact TRANS-7: The proposed US 101 – Oakland/Mabury Transportation Development Policy would not result in any permanent significant unavoidable traffic impacts at unprotected intersections. **(Less Than Significant Impact)**

2.2.3 Mitigation Measures for Transportation Impacts

2.2.3.1 *Mitigation for PD Zoning Intersection LOS Impacts*

MM TRANS-1.1: The project proposes to pay the applicable traffic impact fees associated with the proposed US 101 – Oakland/Mabury Transportation Development Policy. The City of San José is proposing adoption of the US 101 – Oakland/Mabury Transportation Development Policy (TDP) because the interchange reconstruction is beyond the scope of most projects (refer to *Section 1.3.2*), including the proposed PD rezoning. The cost of reconstruction of the US 101/Oakland Road interchange (including the Oakland Road/Commercial Street intersection), is currently estimated at $20 million. The City has identified adoption of the US 101 – Oakland/Mabury Transportation Development Policy as a source of funding that would ensure the construction of the interchange improvements in the future. In addition to the reconstruction of the US 101/Oakland Road interchange, a new US 101/Mabury Road interchange is planned as part of the proposed TDP to further alleviate congested conditions at the US 101/Oakland Road interchange. The cost of constructing the future US 101/Mabury Road interchange is estimated at $49 million. Thus, the total cost of improvements is $69 million, of which the future BART line and regional funding are expected to contribute $30 million. Another $8 million is expected to come from the San Jose Redevelopment Agency in association with North San José and Downtown developments. The balance of $31 million would need to come from future developments in the study area, as stipulated in the US 101 – Oakland/Mabury TDP.

As proposed, the new TDP would be a trip-based fee program. Based on the new available capacity that would be created by construction of the interchange improvements, it is currently estimated that each new approved development would be required to contribute approximately $30,000 per each

new peak hour vehicle trip that it would add to the US 101/Oakland Road interchange. The applicable traffic impact fee will be paid prior to issuance of Public Works clearance for the proposed parcels.

Since the proposed TDP is a process to fund the construction of the impacted intersections, the King and Dobbin Transit Village project's participation in the TDP will mitigate the project impacts to a less than significant level, although the timing of construction of the improvements is unknown and dependent upon securing full funding.

MM TRANS-1.2: In the event the payment of fees as part of the proposed US 101 – Oakland/Mabury TDP is not available as mitigation, the project could propose to implement one of the following measures:

- Reconstruction of the US 101/Oakland Road interchange, including the Oakland Road/Commercial Street intersection at an estimated cost of $20 million would reduce the project's intersection LOS traffic impacts by providing additional capacity along this corridor to accommodate increases in traffic as a result of the project.
- Reduce the amount of development proposed on the project site to a level that would not result in significant transportation impacts at any of the three identified intersections (refer to *Section 8.3 Reduced Scale Alternative*).
- Delay development of the site until the necessary intersection improvements are constructed by other projects.

2.2.3.2 *Mitigation for Freeway LOS Impacts*

MM TRANS-2.1: Mitigation of significant project impacts on freeway segments would require roadway widening to construct additional through lanes, thereby increasing freeway capacity. Since it is not feasible for an individual development project to bear responsibility for implementing such extensive transportation system improvements, and no comprehensive project to add thru lanes has been developed by Caltrans or the Valley Transportation Authority (VTA) for individual projects to contribute to, the significant impacts on the five freeway segments, US 101 northbound between Oakland Road and I-880 (AM Peak Hour); US 101, northbound between I-880 and Old Bayshore Highway (AM Peak Hour); US 101 southbound between Oakland Road and I-880 (PM Peak Hour); US 101, southbound between I-880 and Old Bayshore Highway (PM Peak Hour); and I-880, northbound between US 101 to Brokaw Road (AM Peak Hour), must be considered significant and unavoidable. There are measures that could help to reduce these impacts; however, they are also infeasible for an individual development project to bear responsibility for implementing. The measures primarily consist of transit improvements and enhancements as outlined below:

- Extension of BART to San José
- Further expansion of the LRT system
- Enhanced bus service

These measures would provide options to commuters within the project study area. An enhanced transit system, with a major improvement such as the BART extension, would reduce auto usage. The reduction in auto usage would be most noticeable on freeways, since most transit trips would originate from outside the project study area.

MM TRANS-2.2: When project mitigation measures on CMP facilities are not feasible or fail to improve the level of service to the CMP's LOS standard, then a CMP-approved Deficiency Plan must be prepared. According to the CMP TIA guidelines, pending adoption of the Countywide Deficiency Plan, if a project causes a transportation impact that cannot be reduced to a less than significant level, the Lead Agency (the City of San José) must implement, or require the project's sponsor to implement, the "Immediate Actions" listed in Appendix D of the Draft Countywide Deficiency Plan as part of the project's approval.

Implementation of selected items from the "Immediate Implementation Action List" is therefore recommended. A copy of the list is presented in Appendix B of this EIR/EA. The selection of the final items from the list would be determined by the City of San José prior to the issuance of a Planned Development (PD) Permit. With implementation of these items, project mitigation would be in conformance with CMP guidelines.

Measures for a residential development include the following site design guidelines:

- Bike Facilities at Development Projects (G-2);
- Pedestrian Circulation System (G-4);
- Bike Storage (G-5); and
- Multi-Tenant Complex Transportation Demand Measure (TDM) Program.

Although the implementation of a TDM Program could incrementally reduce traffic, it would not reduce the identified impacts to a less than significant level. The project impacts on the five freeway segments, therefore, are significant and unavoidable.

2.2.4 Conclusion

Impact TRANS-1: The intersection LOS impacts of the proposed PD rezoning would be mitigated through the payment of fees outlined in the proposed Transportation Development Policy. **(Less Than Significant Impact with Mitigation)**

Impact TRANS-2: The proposed PD rezoning with the implementation of a TDM program would still result in significant and unavoidable LOS impacts on five freeway segments. **(Significant Unavoidable Impact)**

Impact TRANS-3: No improvements to the existing transit service in the vicinity of the PD rezoning site would be necessary with the project. **(No Impact)**

Impact TRANS-4: The proposed PD rezoning would not impede the development of bicycle facilities in the vicinity of the site. **(Less Than Significant Impact)**

Impact TRANS-5: The extensive network of sidewalks within the project area would provide residents with a safe connection between the project site and the other surrounding land uses in the area. **(No Impact)**

Impact TRANS-6: The project proposes to comply with the parking space requirements contained in the City's Zoning Ordinance and therefore would have adequate parking for the proposed development. **(Less Than Significant Impact)**

Impact TRANS-7: The TDP Policy interchange intersections would return to operating within the City's standard LOS policy and all other traffic impacts would be mitigated by individual developments in conformance with the existing General Plan LOS Policy; therefore, the proposed US 101 – Oakland/Mabury Transportation Development Policy would not result in any permanent significant unavoidable traffic impacts at unprotected intersections. **(Less Than Significant Impact)**

2.3 CULTURAL RESOURCES

The following discussion is based upon a Historic Properties Survey/Finding of Effect report prepared by *Basin Research Associates* and *Urban Programmers* in August 2007. The Historic Properties Survey/Finding of Effect report is included as Appendix C of this EIR/EA.

2.3.1 Setting

2.3.1.1 *Prehistoric and Historic Archaeological Resources*

Prehistoric Period

The project site is within an area favored by Native Americans for both occupation and hunting and collecting activities. The study area is on a flat alluvial plain traversed by Coyote Creek and a nearby tributary, Miguelita Creek, located south of the project site. Upper Penitencia Creek is located north of the project site. This area provided a favorable environment during the prehistoric period with riparian and inland resources readily available and the bayshore in relative close proximity. Native American occupation and use of the general study area appears to extend over 5000-7000 years and maybe longer. The locations of native tribelets and settlements are inexact due to incomplete data; however, historic accounts suggest that several of the groups may have had temporary camps within the vicinity of the project area throughout the prehistoric period and into the Hispanic Period.

Historic Period

Spanish explorers in the late 1760s and 1770s were the first Europeans to traverse the Santa Clara Valley. The first party, led by Gaspar de Portola and Father Juan Crespi, arrived in the Alviso area in the fall of 1769. Sergeant Jose Francisco Ortega of their party explored the eastern portion of San Francisco Bay and likely forded both the mouth of the Guadalupe River and Coyote Creek. The following year, Pedro Fages led another party through the Santa Clara Valley and in 1772 Fages returned with Crespi. A few years later, in 1776, Juan Bautista de Anza and Father Pedro Font traveled through the region and their favorable reports led to the establishment of both Mission Santa Clara and the Pueblo San Jose de Guadalupe in 1777. The project area was probably used for grazing cattle as the export of tallow and hides was a major economic pursuit of the Santa Clara Valley and California during the Hispanic Period.

In the mid-19th century, the majority of the rancho and pueblo lands and some of the ungranted land in California were subdivided as the result of population growth, the American takeover, and the confirmation of property titles. Growth can be attributed to the Gold Rush (1848), followed by the completion of the transcontinental railroad (1869) and local railroads. Still later, the development of the refrigerator railroad car (ca. 1880s) used for the transport of agricultural produce to distant markets, had a major impact on the Santa Clara Valley. During the later American Period and into the Contemporary Period (ca. 1876-1940s), fruit production became a major industry. In recent decades this agrarian land-use pattern has been gradually displaced by residential housing, commercial centers, and the development of research and development and manufacturing associated with the electronics industry leading to the designation of the general region as the "Silicon Valley." A prehistoric and historic site record and literature search was completed for the project area by the California Historical Resources Information System, Northwest Information Center, Sonoma State University, Rohnert Park (CHRIS/NWIC File No. 05-686 dated March 3, 2006).

No prehistoric or historic era sites have been recorded in or adjacent to the project sites. Two sites, P-43-001716 and P-43-001719, buildings located at 777 and 771 North King Road, have been recorded within 0.25 mile of the project (Goetz and Kobza 1991a-b/forms). In addition, two informally reported "historic trash dumps per M. Wire" have been reported within 0.25 mile of the project.

Five cultural resource compliance reports on file with the CHRIS/NWIC include part of the project area (Dietz 1977/S-4198; Anastasio and Guedon 1985/S-7712) or adjacent areas (Edwards 1977/S-4187; Flynn 1978/S-4459; Parkman 1979/S-8514). These reports have not identified any cultural resources in the project area or adjacent areas. One report (Dietz 1977/S-4198) includes a survey of part of the project site adjacent to King Road. This report found no find evidence of cultural resources on the project site.

2.3.1.2 *Historic Buildings*

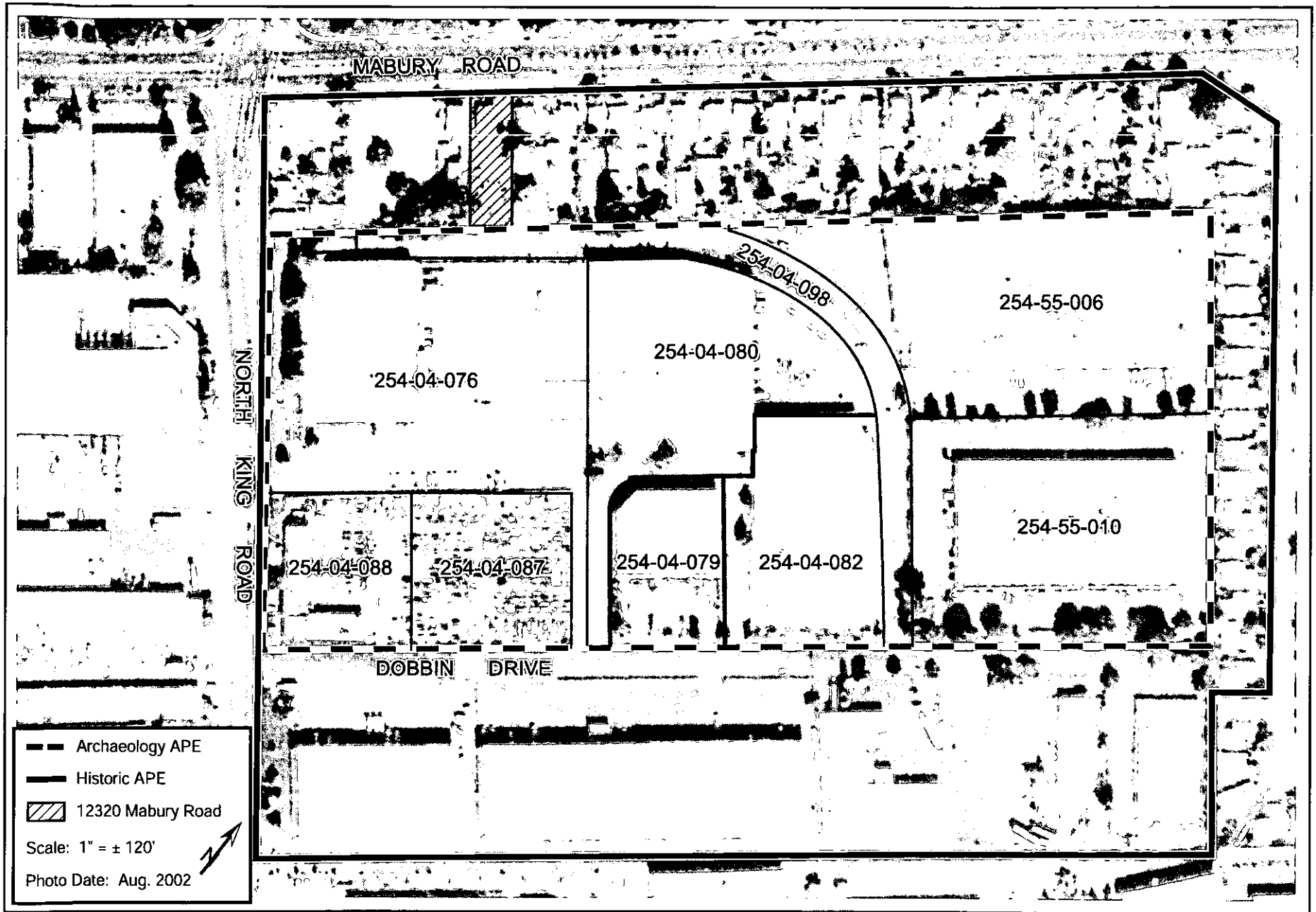
The earliest buildings constructed on the site were built in 1966. The existing buildings are typical concrete tilt-up industrial buildings from the second-half of the twentieth century. Buildings approaching 50 years of age (greater than 45 years old) would require an analysis for historic significance. No such buildings are present on the project site.

2.3.1.3 *NEPA – Federal Statute Compliance*

NEPA requires compliance with *36 CFR Part 800, Historic Preservation*, whenever HUD financial assistance is proposed for a project that has the potential to impact historic properties. The National Historic Preservation Act requires that all Federal agencies take into account the effects of their undertakings[11] on historic properties and provide the Council on Historic Preservation an opportunity to comment on proposed undertakings. As stated above, there are no buildings eligible for listing in the National Register of Historic Places on the project site. In order to comply with NEPA an area of potential effect (APE) that the undertaking may have on resources eligible for listing or are listed on the National Register of Historic Places must be identified. While federal funds are only proposed on a portion of the site (Parcel B), this NEPA review covers the entire PD zoning project. The archaeological APE is the project site; all areas of potential ground disturbance. For historic resources, the area of potential effect was determined to be all parcels either adjacent to or directly across Dobbin Drive from the entire 24.8-acre project site. The archaeological and historic APE are shown on Figure 11.

No properties on the south side of Dobbin Drive are eligible for listing on the National Register of Historic Places (National Register). These buildings were developed in the 1970s and 1980s. The buildings east of the project site are part of a single-family residential subdivision constructed in 1980-1981 and therefore are not eligible for the National Register. A row of single-family detached houses are located north of the site on Mabury Road. These houses were constructed between 1895 and 1999. The house located at 12320 Mabury Road appears eligible for the National Register and is discussed in greater detail below.

[11] Undertaking means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or with Federal financial assistance; those requiring a Federal permit, license or approval; and those subject to state or local regulation administered pursuant to a delegation or approval by a Federal agency.



AREA OF POTENTIAL EFFECT (APE)

FIGURE 11

12320 Mabury Road

The house at 12320 Mabury Road was constructed in 1896 by Anibali Frank Biaggi on land that was originally 500 acres of lot 47 of the Pueblo Lands. This acreage was owned by the Overfelt family, divided in the late 1800s, and had several owners before the Queen Anne Cottage style house was constructed in 1896 on a 9.5-acre lot. The house was sold in 1906 to Frank H. Castro, a farmer, and his wife, Mary, who died in 1925. The lot was sold by the Castro children in 1926 to Frank Azevedo who subdivided the property as the Mayflower Park Subdivision. The subdivision created 33 residential lots with five fronting onto North King Road and the remaining lots fronting Mabury Road. At the time of subdivision the lots were located in unincorporated Santa Clara County. The Castro house remains in the same location it was constructed on the property, becoming Lot 10 of the Mayflower Park Subdivision. This house was the only house on the land at the time of the subdivision. The remaining houses were constructed or moved to the parcels at different times, mostly between 1930 and 1941, although one house was rebuilt in 1999. Many of the buildings have been significantly altered and all have some modifications (refer to Appendix C).

The area of potential effect (APE) for the project extends to the houses north of the site on Mabury Road that were constructed as early as 1896. The Queen Anne Cottage with spindle-work, located at 12320 Mabury Road, was constructed in 1896, and retains integrity from that period. The building exhibits distinctive characteristics of the style also known as Victorian Gingerbread, and the method of construction from the period 1896, in a rural/orchard setting. The integrity is diminished by the loss of the orchard setting, yet the distinctive architecture and original design, material, workmanship, feeling and association remain evident. While many fine examples of this style exist in the urban center of the cities that were developed during the last quarter of the nineteenth century, this house is one of the few Queen Anne Cottages that remains where it was developed outside the urban core. The building is a significant example of the Queen Anne Cottage with Spindle-work architecture and is unusual in its location and degree of integrity.

The remaining buildings within the APE were compared to the National Register Criteria and considered for integrity. They were found to be less than 50 years old, do not exhibit significant physical design or construction methods, or have significant associations. These properties are not eligible for listing in the National Register of Historic Places (NRHP).

The original owners and occupants of the subdivision appear to have had little in common, except that they were part of the work force for industries in the County. Several of the houses have remained in the same families for two generations, while others changed owners every few years. The majority of the houses are owner occupied. When compared to the criteria of the National Register of Historic Places the buildings developed after the 1926 subdivision do not meet the level of significance required by the National Register. As a group the buildings were evaluated for historic district potential. It was determined that the group is not eligible when evaluating the subdivision within the historical context of the Interwar period 1917-1941, the subdivision does not retain sufficient historical integrity and there was no association with an important broad pattern, significant people or significant events. The Mayflower Park Subdivision does not exhibit significant architectural characteristics that would be necessary to meet the level significance under Criteria C.

2.3.2 Cultural Resources Impacts

2.3.2.1 *Thresholds of Significance*

For the purposes of this EIR, a cultural resources impact is considered significant if the project would:

- Cause a substantial adverse change in the significance of a historic resource as defined in §15064.5 of the CEQA Guidelines;
- Cause damage to an important archaeological resource as defined in §15064.5 of the CEQA Guidelines;
- Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature; or
- Disturb any human remains, including those interred outside of formal cemeteries.

2.3.2.2 *Prehistoric and Historic Archaeological Resources*

No prehistoric sites have been recorded in or adjacent to the project or within 0.25 mile of the project (CHRIS/NWIC File No. 05-686). The setting of the project area may have flooded frequently due to nearby creeks or may have been unsuitable for prehistoric occupation. Alternatively, repeated flooding of the area and/or land subsidence may have scoured away (removed) or buried prehistoric and protohistoric archaeological remains.

Although a portion of the project site is mapped within an archaeologically sensitive area of San José, no Native American villages, traditional or contemporary use areas have been identified in or adjacent to the project site. The general distribution of recorded sites suggests the presence of prehistoric trails along Coyote Creek and crossing Penitencia Creek in the study area.

Impact CULT-1: Although unknown subsurface resources could potentially be present on the site, the proposed redevelopment would not result in impacts to any known prehistoric archaeological resources. **(Less than Significant Impact)**

Standard Measures: The project proposes to implement the following standard measures to avoid any impact to buried archaeological resources on the project site:

SM CULT-1: If any significant cultural materials are exposed or discovered during site preparation or subsurface construction activities, operations should stop within 50 feet of the find and a qualified professional archaeologist contacted for evaluation and further recommendations. The archaeologist's recommendations shall be presented to the Director of Planning, Building, and Code Enforcement for consideration. Potential recommendations could include evaluation, collection, recordation, analysis, and reporting of any significant cultural materials.

SM CULT-2: Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall

be notified and shall make a determination as to whether the remains are Native American.

If the Coroner determines that the remains are not subject to his/her authority, the Native American Heritage Commission shall be notified to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

SM CULT-3: If the Director of Planning, Building, and Code Enforcement finds that the archaeological discovery 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.

A final report would be prepared when a find is determined to be significant archaeological site, and/or when Native American remains are found on the site. The final report would include background information on the completed work, a description and list of identified resources, the disposition and curation of these resources, any testing, other recovered information, and conclusions. The report would be submitted to the Director of Planning, Building, and Code Enforcement for review and approval.

PG&E Mabury Substation Site

The proposed project may require improvements to PG&E's Mabury Substation located on the west side of North King Road near Schulte Drive. No recorded historic or prehistoric archaeological resources are located on the substation site. The site is however located adjacent to Silver Creek and is within an archaeologically sensitive area.

Impact CULT-2: Construction of improvements to the substation may result in impacts to buried cultural resources. **(Significant Impact)**

2.3.2.3 *Historic Buildings*

No historic era sites have been recorded on the project site. Two buildings have been formally recorded and two "historic trash dumps" have been informally reported within 0.25 miles of the site.

No known Hispanic Era expeditions, adobe dwellings, or other structures, or features, have been reported in or adjacent to the site. No potential historic era archaeological sites have been identified in or adjacent to the site.

The historic maps reviewed for this report indicate no significant architectural resources are located on the project site. Residences adjacent to the site were constructed from the late nineteenth century to the late twentieth century. None of the adjacent buildings appear on the City's Historic Resources Inventory. Given the existing development on the site, future redevelopment is not anticipated to impact the historic context of adjacent structures approaching 50 years of age (greater than 45 years old). The earliest buildings on the site were constructed in 1966 and are, therefore, not considered potentially significant historical resources.

Impact CULT-3: The proposed project would not result in any impacts to historic resources. **(No Impact)**

2.3.2.4 *NEPA – Federal Statute Compliance*

The Area of Potential Effect (APE) of the project includes one house, at 12320 Mabury Road, that is considered eligible for listing on the NRHP. This structure is located north of the project site, and fronts onto Mabury Road. The 12320 Mabury Road property backs up to Parcel C of the proposed PD zoning. The project would have a significant impact under NEPA if the project were to alter the characteristics of 12320 Mabury Road that qualify it for inclusion on or eligibility for the National Register (36CFR Part 800.16). The project proposes a change in use of the project site from one- and two-story industrial manufacturing and warehousing with extensive truck traffic and activity to multi-family residential use with neighborhood serving retail/commercial spaces along North King Road. The proposed development on Parcel C will be set back at least 20 feet from the rear property line of 12320 Mabury Road. The development proposed on Parcel C, adjoining the rear property line of the National Register eligible property would be approximately two-stories at the twenty foot setback and could be as tall as 60 feet with a 60 foot setback from the northern property line. Landscaping along the property line will provide a buffer between the two properties. The National Register eligible property is 228 feet deep with the Queen Anne Cottage at the front of the property facing Mabury Road, approximately 120 feet from the rear property line.

The potential for the project to affect the eligible property appears limited to the visual change from the existing fence, industrial buildings and parking lot to the proposed landscaping and the potential to see the upper floors of the proposed buildings on the project site. The proposed residential development will be more compatible, in character, with the eligible structure than the existing development. The proposed project and visual changes in the project area would not result in an adverse effect on the building at 12320 Mabury Road. For the reasons described above, the proposed project would comply with Section 106 of the National Historic Preservation Act and 36 CFR Part 800.

2.3.3 Mitigation Measures for Cultural Resource Impacts

MM CULT-2.1: Although no buried cultural resources have been identified on the site, given the general sensitivity of the area, the following measure would reduce impacts to cultural resources to a less than significant level:

- A qualified archaeologist shall be retained during any grading and excavation at the PG&E substation site to spot-check monitor construction activities into native soils. A report summarizing the results of the monitoring activities will be submitted to the Environmental Principal Planner.

2.3.4 Conclusion

Impact CULT-1: The proposed project, including the implementation of the identified standard measures, would not result in a significant impact to archaeological resources. **(Less than Significant Impact)**

Impact CULT-2: Implementation of the identified mitigation measure would reduce impacts to buried cultural resources to a less than significant level. **(Less Than Significant Impact with Mitigation)**

Impact CULT-3: The proposed project would not result in any impacts to historic resources. **(No Impact)**

NEPA: Based upon the above discussion, the project, as proposed, would not result in a significant adverse impact to archaeological or historic cultural resources. A Finding of No Effect is warranted since the undertaking would not affect any historic properties within or adjacent to the APE that are listed, eligible, or evaluated as eligible for inclusion on the National Register of Historic Places (36 CFR Part 800.4 and 800.5). The proposed project would not result in a significant impact to a National Register eligible property and, therefore, would comply with Section 106 of the National Historic Preservation Act and 36 CFR Part 800.

2.4 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based upon Phase I and Phase II Environmental Site Assessments and Soil and Groundwater Investigation Reports prepared for the project site by *AEI Consultants* between December 2005 and March 2007. These reports are included as Appendix D in this EIR/EA. The discussion of hazardous materials users near the site is based on a Vicinity Hazardous Materials Users Survey and Further Evaluation by *Belinda P. Blackie, P.E., R.E.A.* in June 2006 and November 2006, respectively, and a Screening-Level Consequence Analysis of a Potential Toxic and Flammable Substance Accidental Release prepared by *ENVIRON International Corporation* in April 2007. These reports are included as Appendix E in this EIR/EA.

2.4.1 Setting

The project proposes to construct a residential and commercial development on a site comprised of nine parcels that are currently developed with light industrial uses. Each of the parcels is described below and shown in Figure 12.

2.4.1.1 *686 North King Road (APN: 254-04-076)*

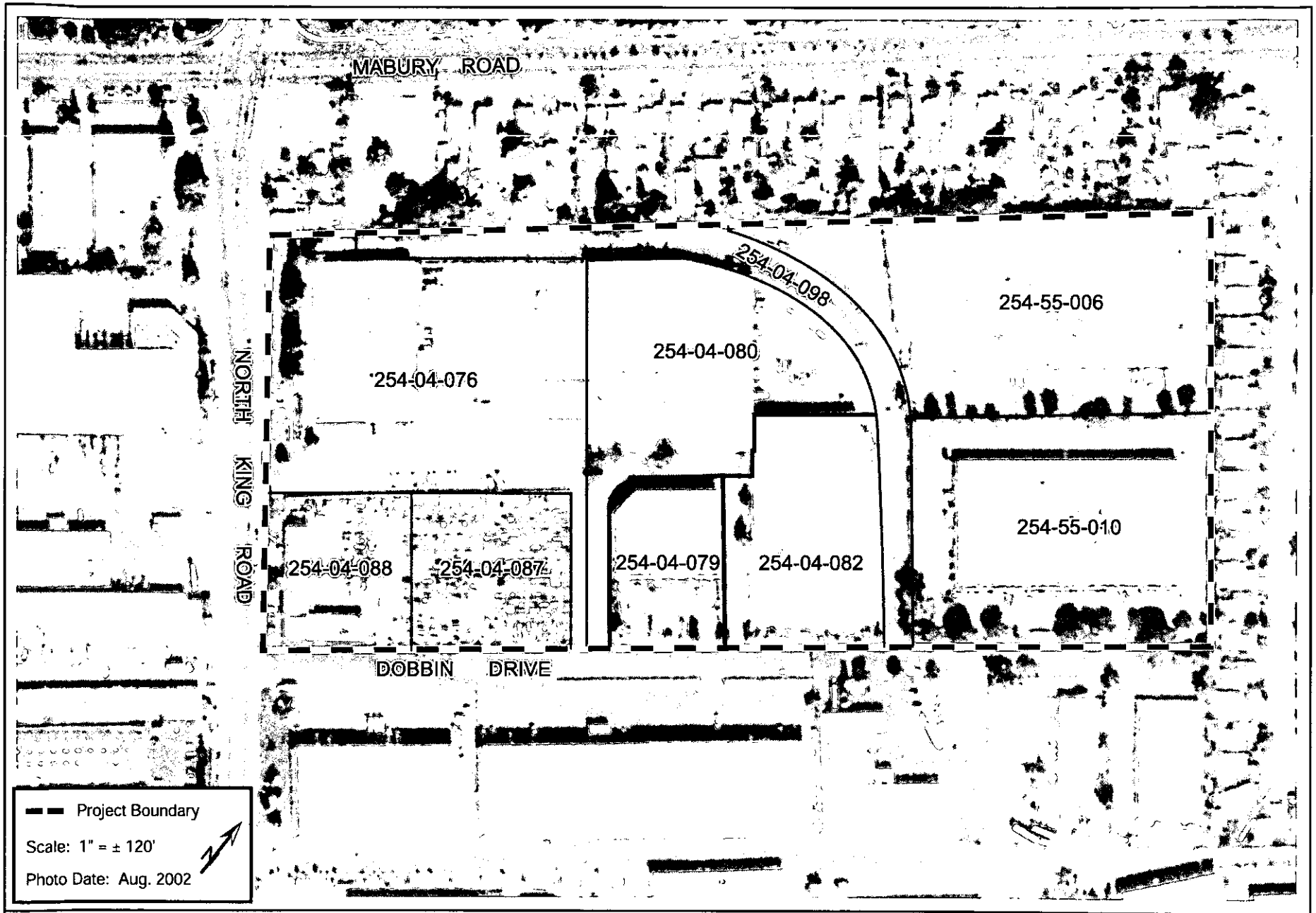
Historic Uses

The existing building on this parcel was developed in 1966. Prior to construction of the existing building, the site was used for agricultural purposes. The building on site was most recently occupied by the corporate offices of Pied Piper Exterminators and Fox Electronics, an electronics recycler. Prior users of the site include an envelope manufacturer, soap products manufacturer, a roofing company, fumigation company, and wholesaler. In January 1989, two 10,000-gallon underground storage tanks (USTs) that contained ethylene glycol-monobutyl and one 3,000-gallon UST that contained isopropyl alcohol were removed from the site. Six soil samples were taken from below the tank and no contamination was identified. In June 1993, a release of benzene, toluene, ethylbenzene, and xylene (BTEX) from the previously removed USTs was reported on the site. In April 1994, sampling results showed that BTEX was no longer detected on the site. Due to the age of the building on site, there is a potential for asbestos-containing materials (ACMs) and lead-based paint to be present.

Soil and Groundwater Sampling

Soil sampling was completed on the site to identify any solvent or petroleum product releases related to the previous industrial uses on the site. Shallow soil samples were also collected to identify any contamination resulting from the previous agricultural use of the site.

Concentrations of the pesticides DDD, DDE, and DDT detected in samples on the site were compared to the San Francisco Regional Water Quality Control Board (RWQCB) Environmental Screening Levels (ESLs) for shallow soils at residential properties. Although the ESLs are not statutory cleanup goals, they are risk-based values that have been identified to assist in the evaluation as to whether a particular chemical presents an environmental risk. The pesticide concentrations present on this parcel are well below the residential ESLs and not indicative of a significant risk to human health.



ASSESSOR'S PARCEL NUMBERS

FIGURE 12

Arsenic, lead, and mercury were detected in the soil within a range that is representative of naturally occurring concentrations. Although the concentration of arsenic on the site exceeded the residential ESL, the concentration is within naturally-occurring background levels for the project area.

Groundwater samples taken from the vicinity of the former USTs on the site found total petroleum hydrocarbons diesel (TPHd) and total petroleum hydrocarbons motor oil (TPHmo) exceeding RWQCB ESLs for both drinking water toxicity and non-drinking water.

2.4.1.2 *670 North King Road (APN: 254-04-087, 254-04-088)*

Historic and Existing Uses

The existing buildings on at 670 North King Road were constructed in 1977 for occupancy by Matos Auto Center. Previously the site was used for agricultural purposes and a portion of the site was used as a parking area for 686 North King Road. Drains on the site are directed toward an oil/water separator at the southeast corner of the site. Three of the drains located in the service bays were sealed in 1994. Based on the presence of paint products and solvents associated with current and historic operations on site, and the unknown integrity of the drain lines and separator system, the potential exists that this site has been impacted by these features. Hydraulic fluid contained in the one operating and one broken hydraulic lift in the service area of the building may contain potentially toxic polycholorinated biphenyls (PCBs). Pesticides associated with agricultural activities formerly on the site may still be present in near surface soils. Three USTs were removed from the site in 1990 and soil samples collected from beneath the gasoline tanks indicated detectable levels of lead, total petroleum hydrocarbons (TPHs), and BTEX. The soils were overexcavated to remove most of the impacted soils on the site. In 1993, soil and groundwater testing on the site revealed detectable levels of total petroleum hydrocarbons gasoline (TPHg) and xylene in groundwater. Three monitoring wells were installed to determine the groundwater gradient and monitor the groundwater contamination. In 1997, the Santa Clara Valley Water District (SCVWD) granted regulatory case closure and the groundwater monitoring wells on site were decommissioned. Due to the age of the building on site, there is a potential for asbestos-containing materials (ACMs) and lead-based paint to be present.

Soil and Groundwater Sampling

No significant concentrations of pesticides or elevated concentrations of lead or arsenic were detected on the site.

Groundwater samples were analyzed in the former area of the USTs removed from the site and identified total petroleum hydrocarbons (TPHs) that exceeded the San Francisco Regional Water Quality Control Board (RWQCB) environmental screening levels (ESLs) for drinking water. The shallow groundwater beneath the site will not be used for drinking water and the concentrations of TPHs identified would not exceed the ESLs for non-drinking water.

Sampling in the vicinity of the paint booths on this site identified elevated concentrations of metals, including chromium, nickel, and cobalt in samples four feet below ground surface (bgs) near the drains in front of the paint booths. These concentrations exceed ESLs for residential use. The concentrations of these metals decreased to background levels for the site at eight feet bgs.

2.4.1.3 *1855 Dobbin Drive (APN: 254-04-080, 254-04-082)*

Historic and Existing Uses

This portion of the project site contains two buildings totaling 139,163 square feet. Building A is located on the northwest side of this property and was constructed in 1971 as a warehouse. The site is currently occupied by BR Printers. Building B was originally constructed in 1977 with an addition constructed in 1987. Bacar Inc., a housewares distribution company, occupied the property from the early 1970s to 1993. Prior to construction of the existing buildings on site the property was used for agricultural purposes. Pesticides associated with agricultural activities formerly on the site may still be present in near surface soils. In June 1990, two USTs were removed from this portion of project site and soil samples were collected from the bottom of each tank. No contamination was noted during the inspection and a permanent tank closure plan and permit were completed for the removal of the tanks. BR Printers currently uses toners, small amounts of lubricating oils, and small amounts of adhesives. Due to the small quantities of the materials used on site, the materials are not expected to represent a significant environmental concern. Due to the age of Building A there is a potential for asbestos-containing materials (ACMs) and lead-based paint to be present.

Soil and Groundwater Sampling

The concentrations of three pesticides detected (DDD, DDE, and DDT) on the site were well below the residential ESLs for these pesticides.[12] Arsenic, lead, and mercury were detected in samples within a range of naturally-occurring concentrations. Although the concentration of arsenic on the site exceeded the residential ESL, the concentration is within naturally-occurring background levels for the project area.

2.4.1.4 *1745 Dobbin Drive (APN: 254-04-079)*

Historic and Existing Uses

The existing building on this site was constructed by 1984 for use by Atlas Van Line and Campbell Moving and Storage. Eastern Furniture, the current occupant, has been located on the site since the mid 1990s. Prior to the current development, the site was used for agricultural purposes. Based on the former agricultural use, pesticides may have been used, stored, and mixed on site. Soils on the site may be contaminated by the previous agricultural use. The building on site has the potential for asbestos-containing materials (ACMs) and lead-based paint to be present.

Soil and Groundwater Sampling

The concentrations of three pesticides detected (DDD, DDE, and DDT) on the site were well below the residential ESLs for these pesticides. Arsenic, lead, and mercury were detected in samples within a range of naturally-occurring concentrations. Although the concentration of arsenic on the site exceeded the residential ESL, the concentration is within naturally-occurring background levels for the project area.

[12] Although the ESLs are not statutory cleanup goals, they are risk-based values that have been identified to assist in the evaluation as to whether a particular chemical presents an environmental risk.

2.4.1.5 *Former Railroad Alignment (APN: 254-04-098)*

Historic Uses

The former railroad spurs on the project site were constructed in the late 1960s or early 1970s for shipping and receiving to the adjacent sites. The street crossing providing access to the site was removed in 2002 and the track materials on site were removed in 2004. Prior to the construction of the railroad, the site was used for agricultural production. The previous agricultural uses presumably involved the application, storage, and/or mixing of herbicides on site. Polychlorinated biphenyls (PCBs) and herbicides are typically associated with weed-control activities for railroad tracks. The previous uses on the site may have resulted in residual PCBs and herbicide contamination.

Soil Sampling

Previous soil samples taken along the former alignment of the railroad spur did not contain herbicides or PCBs. DDE and DDT were the only pesticides detected in soil samples. The concentrations of DDE and DDT on the site were below residential ESLs. Several metals, including antimony, arsenic, chromium, molybdenum, and nickel, exceed the residential ESLs along the former railroad alignment. Additional sampling was completed to further assess the extent and severity of the metals impacted soils. Arsenic was detected at concentrations exceeding residential ESLs and naturally-occurring concentrations several samples. Molybdenum and antimony concentrations on this portion of the site also exceeded residential ESLs. The additional analyses of chromium, nickel, and lead did not detect concentrations of these metals exceeding residential ESLs.

2.4.1.6 *1875 Dobbin Drive (APN: 254-55-006)*

Historic Uses

The existing warehouse building on site was developed between 1972-1973 for occupancy by Oscar Klein Company and Mercury Supply. The building was occupied by various tenants in the 1970s including, Klein Mercury, Inc., Northern Specialty Sales, and Solectron Corporation. Touche Manufacturing Company, Inc. and Serra Corporation, metal plating companies, occupied the property from the late 1980s to the early 2000s. Prior to the development of the existing warehouse the site was used for agricultural production. Former agricultural activities on the site may have resulted in the contamination of near surface soils from pesticide use. The site may contain PCBs and herbicides from the railroad spur located adjacent to the western boundary of the property. The building on site has the potential for asbestos-containing materials (ACMs) and lead-based paint to be present.

Soil and Groundwater Sampling

Soil testing completed in October 2005 indicated elevated concentrations of metals on the site. Additional sampling was completed around the outside of the building in March 2006. Acetone was detected in shallow groundwater on this portion of the site; however, it was well below the ESL for residential drinking water. No fuel USTs were identified historically or currently on the property, however, low concentrations of diesel TPHs and motor oil TPHs were detected in groundwater, along with naphthalene which is a common component of petroleum products.

Subsequent soil and groundwater sampling was completed in February 2007 in the interior of the building on this portion of the site. No petroleum hydrocarbons or volatile organic compounds

(VOCs) were detected in soils exceeding the residential ESLs. Metals exceeding the residential ESLs in soils include arsenic, chromium, cobalt, and nickel. Elevated chromium and nickel concentrations are present in shallow soils in the areas of the former plating line, wastewater treatment area, and former painting area. Elevated levels of cobalt generally coincide with the higher levels of chromium and nickel. Arsenic concentrations, although above residential ESLs, are consistent with naturally occurring levels.

Groundwater testing on this portion of the site detected elevated levels of TPHd and TPHmo exceeding residential ESLs for drinking water toxicity. These concentrations do not exceed non-drinking water ESLs. No records of petroleum product USTs were identified in historical records; however, petroleum products were used on site. It is likely that a spill near the southern corner of the building resulted in the petroleum hydrocarbons detected. Groundwater testing found all dissolved metal concentrations were below their respective ESLs.

2.4.1.7 *1881-1899 Dobbin Drive (APN: 254-55-010)*

Historical Uses

The existing building on site was developed in 1984. The building has been occupied by various cable assembly companies, a silk-screening company, and metal plating companies. Prior to construction of the current building the site was used for agricultural purposes. Numerous metal plating tanks, two evaporators, several large wastewater aboveground storage tanks (ASTs), acid ASTs, and oxidizer ASTs are located on a concrete secondary containment system on the northwest side of 1893 Dobbin Drive. The plating tanks and secondary containment system were installed in 2002 and the containment system was relined in 2005. No major violations were noted in a review of the files at the Santa Clara County Environmental Health Department or the San José Fire Department. The plating facility at 1893 Dobbin Drive has operated on the site for approximately three years and is currently undergoing facility closure proceedings through the San José Fire Department (SJFD). Several storm drains were observed in the parking area and loading docks of this property. Moderate oil staining was observed in the vicinity of the storm drain at the loading dock on the northeast side of the building. The drain is a potential conduit to the subsurface of the site. The building on site has the potential for asbestos-containing materials (ACMs) to be present.

Soil and Groundwater Sampling

Soil sampling on the site for pesticides revealed no contamination exceeding residential ESLs due to the previous agricultural use of the site. Arsenic, lead, and mercury were detected in soils at naturally-occurring levels. Arsenic was detected at levels above the residential ESLs; however, as previously mentioned, the concentration does not exceed naturally-occurring levels.

Groundwater samples detected trichloroethylene (TCE) and TPHd and TPHmo near both existing loading dock drains on this portion of the site. The concentrations of TCE detected did not exceed residential ESLs for drinking water toxicity. The concentrations of TPHd and TPHmo do not exceed ESLs for non-drinking water.

2.4.1.8 *Hazardous Materials Use and Storage in the Project Vicinity*

A visual survey of the businesses within approximately one-half mile of the project site was completed to identify facilities appearing likely to use, handle, and/or store significant quantities of hazardous substances. The San José Fire Department (SJFD) and/or the Santa Clara County Environmental Health Department (SCCEHD) files for businesses with hazardous materials use, storage, and/or waste generation were reviewed. Of the facilities observed within an approximately one-half mile radius of the project site, 35 reportedly use, handle, and store quantities of hazardous substances requiring hazardous materials waste oversight by the San José Fire Department (SJFD) and/or the Santa Clara County SCCEHD.

Based on the volume, type, and storage locations of materials reportedly present at the identified facilities, modeling was completed for a worst-case accidental chemical release scenario. Chemical releases can result from multiple situations, including tank rupture, equipment failure, mixing of incompatible chemicals, fire, earthquake, and flood. For the purpose of this study, possible worst-case chemical releases were evaluated per the City of San José Fire Department *Draft Guideline for Preparation of Risk Assessments*. This worst-case release scenario modeling does not consider engineering controls in place at the facilities that would likely reduce the severity of a worst-case release. Chemicals from the Ecolab, Inc., Strongwell, Clean Harbors Environmental[13], LSA Cleanpart[14], and California Department of Food and Agriculture facilities were found to result in significant impacts to residents of the site under the worst-case release scenario (refer to Appendix E).

2.4.2 Hazardous Materials Impacts

2.4.2.1 *Thresholds of Significance*

For the purposes of this EIR, a hazard and hazardous materials impact is considered significant if the project would:

- Create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials;
- Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment;
- Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances or waste within one-quarter mile of an existing or proposed school;
- 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;
- For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area;
- 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;

[13] Ibid.

[14] Based on a survey completed for the Flea Market site, which is located approximately 1,600 feet west of the project site, LSA Cleanpart was determined to use, handle, and/or store quantities of materials that would pose a threat to residents of the site if a release were to occur.

- Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan; or
- 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.

2.4.2.2 *686 North King Road (APN: 254-04-076)*

Groundwater sample analyses detected TPHd and TPHmo in several sample locations adjacent to the former UST area. No VOCs were detected, with the exception of a very low concentration of chloroform. The concentrations of TPHd and TPHmo were compared against the RWQCB ESLs for both drinking water toxicity (DWT) and non-drinking values. TPHd and TPHmo do exceed the drinking water criteria where detected but only exceed ceiling value ESLs for non-drinking water in SB-3. The concentration of chloroform is very low and considered insignificant in one sample at such a low level. The concentrations of petroleum hydrocarbons detected in groundwater would not pose a threat to human health to future occupants, given that groundwater will not be utilized for drinking water following development.

The highest detection of TPH occurred in the area of the former USTs which appear to be the source of the contamination. In addition, low concentrations of TPH-d and TPH-mo were detected in the soil from SB-3 in this area (refer to Appendix D). Further investigation will be necessary to confirm the location and nature of the source and assess the extent of impact to groundwater, including whether previous contents of the USTs resulted in the detections identified during the subsurface investigation. Depending on the findings of such additional investigation, mitigation may be necessary prior to construction for residential use.

Impact HM-1: Concentrations of TPHd and TPHmo were detected in groundwater and soil that may require remediation prior to construction on the site. **(Significant Impact)**

2.4.2.3 *670 North King Road (APN: 254-04-087, 254-04-088)*

A subsurface investigation in the area of the paint booths was completed in January 2007. The concentrations of chromium, cobalt, lead, and nickel detected in the soil samples collected during this sampling represent naturally-occurring conditions when compared to the residential ESLs. Nickel and lead concentrations are well below these values. Although the concentrations of cobalt (up to 15 mg/kg) slightly exceed the most conservative ESL (10 mg/kg), naturally occurring concentrations in the range of those detected are commonly observed in the project area. Chromium (non-speciated) was also detected slightly above the residential ESL. Based on the lack of hexavalent chromium[15] detected in soil borings in this area, no hexavalent chromium is expected to exist at the site and therefore a more appropriate screening value for chromium would be 110,000 mg/kg.

Concentrations of these metals detected in groundwater were all below their respective ESLs for drinking water although groundwater beneath the site will not be used for the planned development. Based on the results of the most recent subsurface investigation the impacted soil is limited to the area of the paint booths up to eight feet below ground surface (bgs).

[15] Hexavalent chromium is recognized as a human carcinogen via inhalation.

Impact HM-2: Concentrations of metals detected in the vicinity of the paint booths on the site exceed ESLs for residential use. **(Significant Impact)**

2.4.2.4 *Former Railroad Alignment (APN: 254-04-098)*

Several metals were identified on this portion of the site that exceeded residential ESLs. Metals exceeding residential ESLs included arsenic, molybdenum, and antimony. All other metals were found to not exceed residential ESLs.

Impact HM-3: The former railroad alignment contains several metals exceeding residential ESLs, including arsenic. **(Significant Impact)**

2.4.2.5 *1875 Dobbin Drive (APN: 254-55-006)*

This portion of the project site contains concentrations of total petroleum hydrocarbons in groundwater and elevated concentrations of several metals in soils which exceed residential ESLs. The Department of Toxic Substances Control (DTSC) has issued a letter indicating they will be further investigating the existing contamination on this site.

Impact HM-4: Groundwater on-site contains petroleum hydrocarbons and soils on-site contain metals exceeding standards for residential use. **(Significant Impact)**

2.4.2.6 *1881-1899 Dobbin Drive (APN: 254-55-010)*

Groundwater on this portion of the site contains elevated levels of TCE, TPHd, and TPHmo. The source of this release is presumed to be surface discharge to the drains and based on the low concentrations detected, the extent and magnitude of the release is expected to be minimal. Facility closure of the plating operation at 1893 Dobbin Drive is pending.

Impact HM-5: Groundwater on the site contains elevated levels of TCE, TPHd, and TPHmo whose source is undetermined. **(Significant Impact)**

2.4.2.7 *Asbestos and Lead-Based Paint*

ACMs and lead-based paint may be present in the existing buildings on-site. The National Emissions Standards for Hazardous Air Pollutants (NESHAP) guidelines require that all potentially friable asbestos containing materials be removed prior to building demolition or renovation that may disturb asbestos containing materials (ACMs).

Demolition of buildings that contain lead-based paint may create lead-based dust at concentrations that would expose workers and nearby receptors to potential health risks. State regulations require that air monitoring be performed during and following renovation or demolition activities at sites containing lead-based paint. If the lead-based paint is peeling, flaking, or blistered, it would need to be removed prior to demolition. It is assumed that such paint would become separated from the building components during demolition activities; it must be managed and disposed of as a separate waste stream. If the lead-based paint is still bonded to the building materials, its removal is not required prior to demolition. Currently, the EPA and the U.S. Department of Housing and Urban Development are proposing additional lead-based paint regulations.

Standard Measures: The project will conform to the following regulatory programs and implement the following standard measures to reduce potential impacts due to the presence of ACMs and/or lead-based paint to a less than significant level:

SM HM-1: A formal survey for ACMs and lead-based paint shall be conducted prior to demolition of structures on the site.

SM HM-2: Requirements outlined by Cal/OSHA Lead in Construction Standard, Title 8, CCR 1532.1 shall be followed during demolition activities, including employee training, employee air monitoring and dust control. Any debris or soil containing lead-based paint or coating shall be disposed of at landfills that meet acceptance criteria for the waste being disposed.

SM HM-3: All potentially friable ACMs shall be removed in accordance with NESHAP guidelines prior to building demolition or renovation that may disturb the materials. All demolition activities shall be undertaken in accordance with OSHA standards contained in Title 8 of the CCR, Section 1529, to protect workers from exposure to asbestos. Specific measures could include air monitoring during demolition and the use of vacuum extraction for asbestos-containing materials.

SM HM-4: A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site.

SM HM-5: Materials containing more than one percent (1%) asbestos are also subject to BAAQMD regulations. Removal of materials containing more than one percent (1%) asbestos shall be completed in accordance with BAAQMD requirements.

Impact HM-6: Demolition of the buildings on-site could expose construction workers or nearby receptors to harmful levels of ACMs or lead. Development on the site will conform to the above standard measures (SM HM-1 to SM HM-5) to reduce impacts related to ACMs and lead-based paint to a less than significant level. **(Less Than Significant Impact)**

2.4.2.8 *Potential Sources of Risk Due to Accidental Chemical Releases*

Four industrial facilities were identified as part of the environmental review for the General Plan amendment on the project site that use, handle, and/or store hazardous materials in quantities that would have the potential to impact residents of the site under a worst-case accidental release scenario. An additional facility approximately 2,700 feet from the site was identified as possibly impacting the site as part of the San José Flea Market FEIR. Several of these facilities previously have had reported release(s) of hazardous substances to the environment.

Seven of the chemicals of concern identified previously through the worst-case accidental release scenarios were reviewed and modeled using more refined modeling programs. The refined scenarios analyzed followed the U.S. Environmental Protection Agency's (EPA) Risk Management Program (RMP) Guidance. The technical modeling approach used is discussed in detail in Appendix E of this EIR/EA. Five of the chemicals of concern that were reviewed are stored as liquids and include hydrofluoric acid, nitric acid, naphtha, methylene chloride, and hydrochloric acid. These chemicals were modeled as evaporative releases from pools forming as a result of a liquid spill. Releases of propane and acetylene, which are stored as flammable gases, were also reviewed. The flammable

gases analysis assumed that the total quantity of the flammable substance was released from one tank and forms a vapor cloud in which ten percent of the flammable vapor in the cloud participates in an explosion.

The analysis using refined modeling of worst-case accidental release scenarios found the methylene chloride release from Clean Harbors Environmental to be the only chemical release that would impact residents of the project site. The portion of the site affected by this possible chemical release is shown in Figure 13.

Impact HM-7: Residents of the project site may be impacted in the event a worst-case hazardous materials release occurred from a nearby industrial facility. **(Significant Impact)**

2.4.2.9 *NEPA – Federal Statute Compliance*

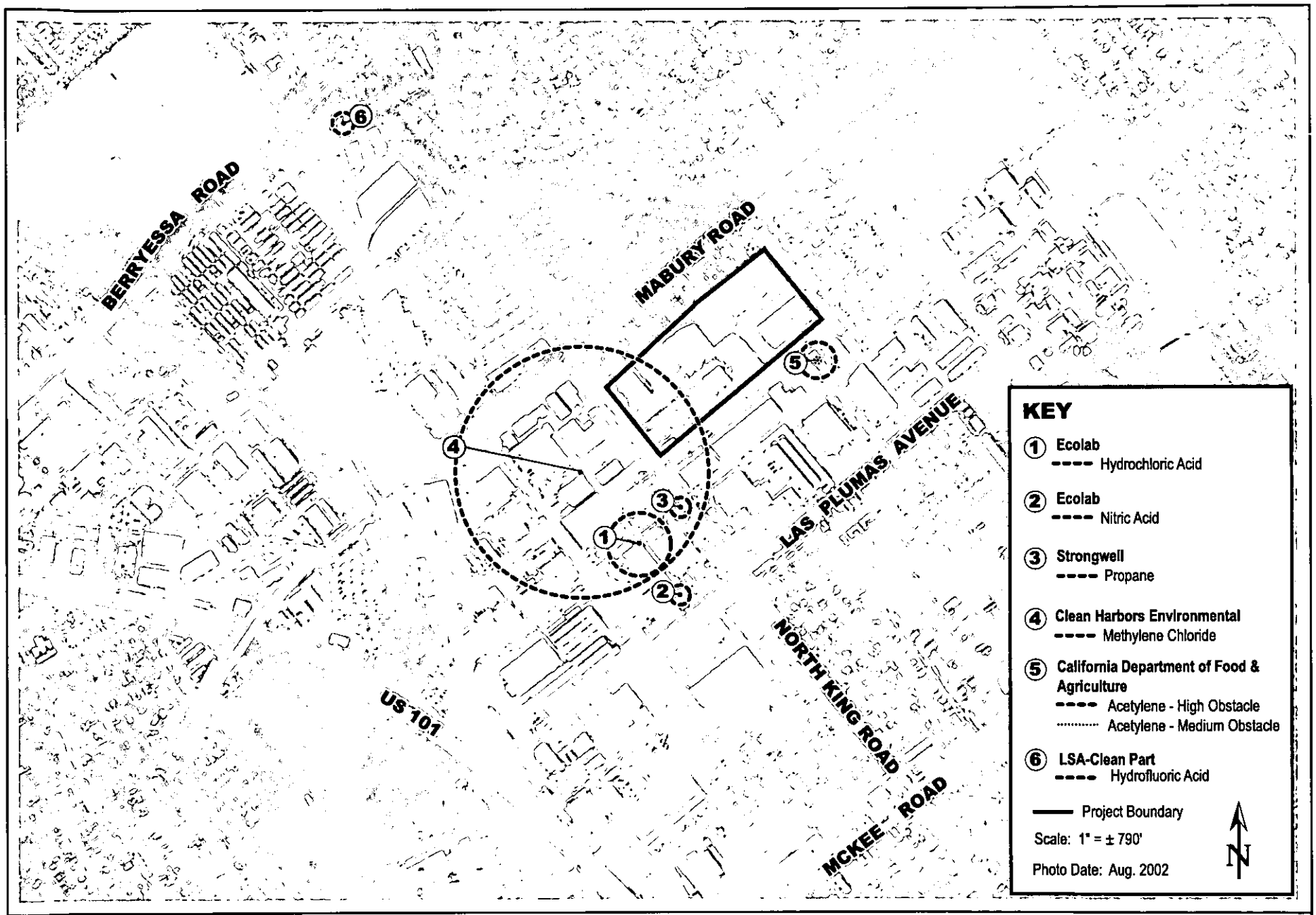
NEPA requires compliance with *24 CFR 51C, Explosives and Flammable Operations*, whenever HUD financial assistance is proposed for a project that has the potential to expose people to above ground explosive or flammable fuel containers.

HUD requires that all housing projects applying for federal funding be an acceptable distance from explosion and flammable hazard sources located within one mile of the project site. Facilities using hazardous materials in the vicinity of the project site were surveyed as described in *Section 2.4.1.8*.

The Strongwell facility located approximately 440 feet south of the site at 615 North King Road uses a 287 gallon propane storage tank. The ASD for a blast overpressure for a tank of this size is 145 feet. The tank is located at an acceptable distance from the proposed development. [Source: Vicinity Hazardous Materials Users Survey, April 2006]

Frank-lin Distillers is located at 625 North King Road, approximately 300 feet southwest of the project site. The largest tank within this facility is approximately 175,000 gallons in size; however, it is located within an approximately two-story concrete building which would shield the site from a flammability hazard. This facility transports ethyl alcohol by rail car along the rail line at the rear of the facility. Based on the flammability hazard of a 30,000 gallon rail car, the acceptable separation distance from the rail cars for a building would be approximately 240 feet and 1,150 feet for people. As previously stated, the rail cars being used for transportation of ethyl alcohol are located at the rear of this facility approximately 540 feet from the affordable housing site. Given the presence of the concrete building between the location of the rail cars and the proposed affordable housing development site (proposed Parcel B) the project would not be impacted by this facility. [Source: Vicinity Hazardous Materials Users Survey, April 2006]

NEPA requires compliance with *24 CFR 58.5 (2)(i), Hazardous, Toxic or Radioactive Materials & Substances*, whenever HUD financial assistance is proposed for a project that has the potential to expose people to hazardous, toxic, or radioactive materials. The potential sources of hazardous materials in the immediate project area are the localized soil and groundwater contamination on the project site and the industrial facilities on the south side of Dobbin Drive and west side of North King Road near the project site. The contamination existing on the project site would be mitigated through the measures identified in *Section 2.4.3*. A toxic air contaminant search was completed by BAAQMD for facilities within one-half mile of the site. The only facility of concern identified was Strongwell, located south of the project site at 615 North King Road. This facility emits styrene from off-gassing of its resin storage tanks. The emissions from this facility are negligible and, due to the



WORST-CASE ACCIDENTAL RELEASE SCENARIO IMPACT AREAS FIGURE 13

distance from the site, would not result in impacts to residents of the project site.[16] The proposed project will not expose people to hazardous, toxic, or radioactive materials or substances. [Source: Phase II Subsurface Investigations, March 2007]

NEPA requires compliance with *24 CFR 51D, Airport Clear Zones and Accident Potential Zones*, whenever HUD financial assistance is proposed for a project that has the potential to place people within any airport clear zones or accidental potential zones. The project site is not within any airport clear zones or accident potential zones. [Source: Santa Clara County Airports Land Use Commission Land Use Plan, September 1992]

NEPA: The proposed project complies with federal statutes 24 CFR 51C, Explosives and Flammable Operations, 24 CFR 58.5 (2)(i), Hazardous, Toxic or Radioactive Materials & Substances, and 24 CFR 51D, Airport Clear Zones and Accident Potential Zones.

2.4.3 Mitigation and Avoidance Measures for Hazardous Materials Impacts

2.4.3.1 *Mitigation for Soil and Groundwater Contamination*

The project includes the following measures to reduce impacts from existing contamination on the site to a less than significant level. For the following mitigation measures the appropriate regulatory agencies will be notified if contamination is found that exceeds reportable concentrations.

MM HM-1.1: Additional soil and groundwater testing will be required following demolition and removal of concrete and pavement from the site. Based on the findings of the additional investigation specific soil and groundwater remediation measure(s) will be identified.

MM HM-2.1: Upon removal of the booths and painting equipment, demolition of the building, and removal of foundation and drain system, impacted soil that exceeds target soil concentrations should be excavated and properly disposed. Following equipment removal and demolition activities, inspection and testing of the shallow soil beneath the foundation and around the drain lines shall be performed for chromium, cobalt, and nickel to target specific areas of soil that exceed residential ESL values. Appropriate ESL values that consider direct human exposure by both residents and construction workers would be 110,000 mg/kg for trivalent chromium (Cr III), 1.8 mg/kg for hexavalent chromium (Cr VI) (not expected to be present), 52 mg/kg for cobalt, and 1,000 mg/kg for nickel. Upon completion of soil removal action, if needed to meet these target levels, confirmation samples shall be analyzed and a report submitted for review to the Environmental Principal Planner in the Department of Planning, Building and Code Enforcement and the City's Environmental Compliance Officer prior to approval of grading permits in the sampling area.

MM HM-3.1: Soils shall be excavated along the width of the former railroad track area (approximately 15 feet) from the area of samples RR-5 to RR-7 (approximately 250 in length) to a depth of one foot (refer to Appendix D)

[16] Marc Nash. BAAQMD Air Quality Specialist. Personal communication. April 4, 2006.

prior to grading or excavation on the site. The contaminated soils will be disposed of in accordance with state and local regulations. Following removal of contaminated soils, confirmation soil samples shall be analyzed and a report submitted for review to the Environmental Principal Planner in the Department of Planning, Building and Code Enforcement and the City's Environmental Compliance Officer prior to approval of grading permits in the sampling area.

MM HM-4.1: DTSC review and approval shall be obtained for specific mitigation measures to address impacted soil and groundwater.

MM HM-4.2: Additional soil sampling shall be completed following building demolition and removal of concrete and paving, inspection and sampling for petroleum impact soil should be performed in the area of the impacted groundwater (southwest portion of building).

MM HM-5.1: Additional testing of contaminated groundwater on the site shall be completed prior to approval of a grading permit to determine the source of the contamination. The results of the additional groundwater testing and any mitigation measures necessary to make the site suitable for residential use shall be submitted to the Environmental Principal Planner in the Department of Planning, Building and Code Enforcement and the City's Environmental Compliance Officer prior to issuance of building permits on this portion of the site.

MM HM-1.2, 4.3, 5.2: Soil and/or groundwater removed as part of construction activities shall be appropriately handled and disposed of to ensure compliance with applicable regulations.

MM HM-1.3, 2.2, 3.2, 4.4, and 5.3: Prior to construction, an evaluation of impacts shall be made with respect to work safety, and appropriate measures, if necessary, taken to ensure worker protection.

2.4.3.2 *Mitigation for Accidental Chemical Releases*

The following mitigation is identified to reduce the impacts to the project of an accidental chemical release:

MM HM-7.1: An emergency and protective action plan shall be prepared for the site to develop measures to protect residents in the event of a catastrophic chemical release from the Clean Harbors Environmental facility. The emergency and protective action plan shall be prepared in coordination with the project applicant, Clean Harbors Environmental, City of San José Fire Department, Valley Transportation Authority, Caltrans, California Transportation Commission, and Department of Planning, Building and Code Enforcement. The plan shall take into consideration evacuation, sheltering-in-place, the use of ventilation systems and smoke purge fans, and protective masks. The emergency and protective action plan prepared for the project shall be agreed

upon prior to the issuance of occupancy permits for units on Parcels A, B, and C.

MM HM-7.2: The purchase/disclosure documents provided to all homeowners on the project site and contract documents provided to any renters on the project site shall include information regarding the presence of nearby industrial facilities using hazardous materials, and protocols to follow in the event of an accidental release of hazardous materials at the Clean Harbors Environmental facility. This informational document, based on the emergency and protective action plan, shall be prepared by a qualified hazardous materials consultant under contract with the property owner.

MM HM-7.3: The Homeowners' Associations or property managers for the project shall include a safety coordinator who will coordinate with local public safety personnel, as necessary, and inform residents of any updates or alerts regarding hazardous materials incidents.

2.4.4 Conclusion

Impact HM-1: Implementation of the identified mitigation measures would reduce the soil and groundwater impacts at 686 North King Road to a less than significant level. **(Less Than Significant Impact with Mitigation)**

Impact HM-2: Implementation of the identified mitigation measures would reduce the soil impacts at 670 North King Road to a less than significant level. **(Less Than Significant Impact with Mitigation)**

Impact HM-3: Implementation of the identified mitigation measures would reduce the soil impacts to a less than significant level. **(Less Than Significant Impact with Mitigation)**

Impact HM-4: Implementation of the identified mitigation measures will reduce soil and groundwater impacts to a less than significant level. **(Less Than Significant Impact with Mitigation)**

Impact HM-5: Implementation of the identified mitigation measures will reduce groundwater impacts to a less than significant level. **(Less Than Significant Impact with Mitigation)**

Impact HM-6: Demolition of the buildings on-site could expose construction workers or nearby receptors to harmful levels of ACMs or lead. Development on the site will conform to the above standard measures (SM HM-1 to SM HM-5) to reduce impacts related to ACMs and lead-based paint to a less than significant level. **(Less Than Significant Impact)**

Impact HM-7: The proposed project, with the implementation of the above identified mitigation, would not reduce the impact of an accidental chemical release from Clean Harbors Environmental on residents of the project site. **(Significant Unavoidable Impact)**

NEPA: The proposed project complies with federal statutes 24 CFR 51C, Explosives and Flammable Operations, 24 CFR 58.5 (2)(i), Hazardous, Toxic or Radioactive Materials & Substances, and 24 CFR 51D, Airport Clear Zones and Accident Potential Zones.

2.5 NOISE

The following discussion is based upon Environmental Noise Assessment prepared by *Illingworth & Rodkin, Inc.* in August 2007. This report is included as Appendix F in this EIR/EA.

2.5.1 Introduction and Regulatory Framework

2.5.1.1 *Background Information*

Noise is measured in "decibels" (dB) which is a numerical expression of sound levels on a logarithmic scale. A noise level that is ten dB higher than another noise level has ten times as much sound energy and is perceived as being twice as loud. Sounds less than five dB are just barely audible and then only in absence of other sounds. Intense sounds of 140 dB are so loud that they are painful and can cause damage with only a brief exposure. These extremes are not commonplace in our normal working and living environments. An "A-weighted decibel" (dBA) filters out some of the low and high pitches which are not as audible to the human ear. Thus, noise impact analyses commonly use the dBA.

Since excessive noise levels can adversely affect human activities (such as conversation, sleeping and human health) Federal, State, and local governmental agencies have set forth criteria or planning goals to minimize or avoid these effects. The noise guidelines are almost always expressed using one of several noise averaging methods such as L_{eq}, DNL, or CNEL.[17] Using one of these descriptors is a way for a location's overall noise exposure to be measured, realizing of course that there are specific moments when noise levels are higher (e.g., when a jet is taking off from Norman Y. Minute San José International Airport or a leaf blower is operating) and specific moments when noise levels are lower (e.g., during lulls in traffic flows or in the middle of the night).

2.5.1.2 *Applicable Noise Standards and Policies*

City of San José General Plan

The Noise Element of the City of San José General Plan contains noise guidelines for various land uses within the City, and identifies acceptable noise exposure levels for those uses in terms of the Day-Night Level (DNL) 24-hour descriptor. The DNL descriptor is used to define the noise conditions on a site over a 24-hour period, with a penalty for nighttime noise because of increased sensitivity to noise at night. The City's acceptable noise level objectives for residential uses are 55 dBA DNL as the long-range exterior noise quality level, 60 dBA DNL as the short-range exterior noise quality level, and 45 dBA DNL as the interior noise quality level. Outdoor uses on sites where the DNL is above 60 dBA should be limited to acoustically protected areas. It should be noted, however, that for areas adjacent to major roadways (such as the project site), even if noise in all outdoor use areas cannot feasibly be reduced to 60 dBA DNL the impact may be considered mitigated to a less than significant level if noise in at least one of the outdoor use areas can be reduced to at least 65 dBA DNL. The 65 dBA DNL or CNEL is considered consistent with residential land uses by the U.S. Department of Housing and Urban Development (HUD), the Federal

[17] **L_{eq}** stands for the Noise Equivalent Level and is a measurement of the average energy level intensity of noise over a given period of time such as the noisiest hour. **DNL** stands for Day-Night Level and is a 24-hour average of noise levels, with 10-dB penalties applied to noise occurring between 10 PM and 7 AM. **CNEL** stands for Community Noise Equivalent Level; it is similar to the DNL except that there is an additional five-dB penalty applied to noise which occurs between 7 PM and 10 PM. As a general rule of thumb where traffic noise predominates, the CNEL and DNL are typically within two dBA of the peak-hour Leq.

Aviation Administration (FAA), and the State of California whose standards take into account the impacts of noise on human health. [18]

CEQA Guidelines

CEQA does not define what project-generated noise level increases are significant. Typically, project-generated noise level increases of three dBA DNL or greater are considered significant where exterior noise levels would exceed the normally acceptable noise level standard (60 dBA DNL). Where noise levels would remain at or below the normally acceptable noise level standard with the project, noise level increases of five dBA DNL or greater would be considered significant.

Section 1208 of the 2001 California Building Code

New multi-family housing in the State of California is subject to the environmental noise limits set forth in Appendix Chapter 1208A.8.4 of the California Building Code. The noise limit is a maximum interior noise level of 45 dBA DNL. Where exterior noise levels exceed 60 dBA DNL, a report must be submitted with the building plans describing the noise control measures that have been incorporated into the design of the project to meet the noise limit.

HUD Noise Regulations

Under HUD noise regulations (Section 24 CFR 51B), residential land uses are acceptable if the exterior day-night average sound level does not exceed 55 decibels and the interior day-night average sound level does not exceed 45 decibels. However, the exterior day-night average sound level can exceed 65 decibels, but no more than 70 decibels, if the interior day-night average sound level can be reduced by an additional five decibels or more. In addition, the exterior day-night average sound level can exceed 70 decibels, but no more than 75 decibels, if the interior day-night average sound level can be reduced by an additional ten decibels or more. HUD site acceptability standards are summarized in Table 2.5-1.

Table 2.5-1
HUD Site Acceptability Standards

Noise Zone	DNL	Requirements
Acceptable	<65 dBA	None
Normally Unacceptable	>65 dBA and <75 dBA	Special Approvals, Environmental Review, Attenuation
Unacceptable	>75 dBA	Special Approvals, Environmental Review, Attenuation

Notes: Five decibels additional attenuation required for sites above 65 dBA but not exceeding 70 dBA and ten decibels additional attenuation required for sites above 70 dBA but not exceeding 75 dBA.

2.5.2 Setting

2.5.2.1 *Existing Noise Levels*

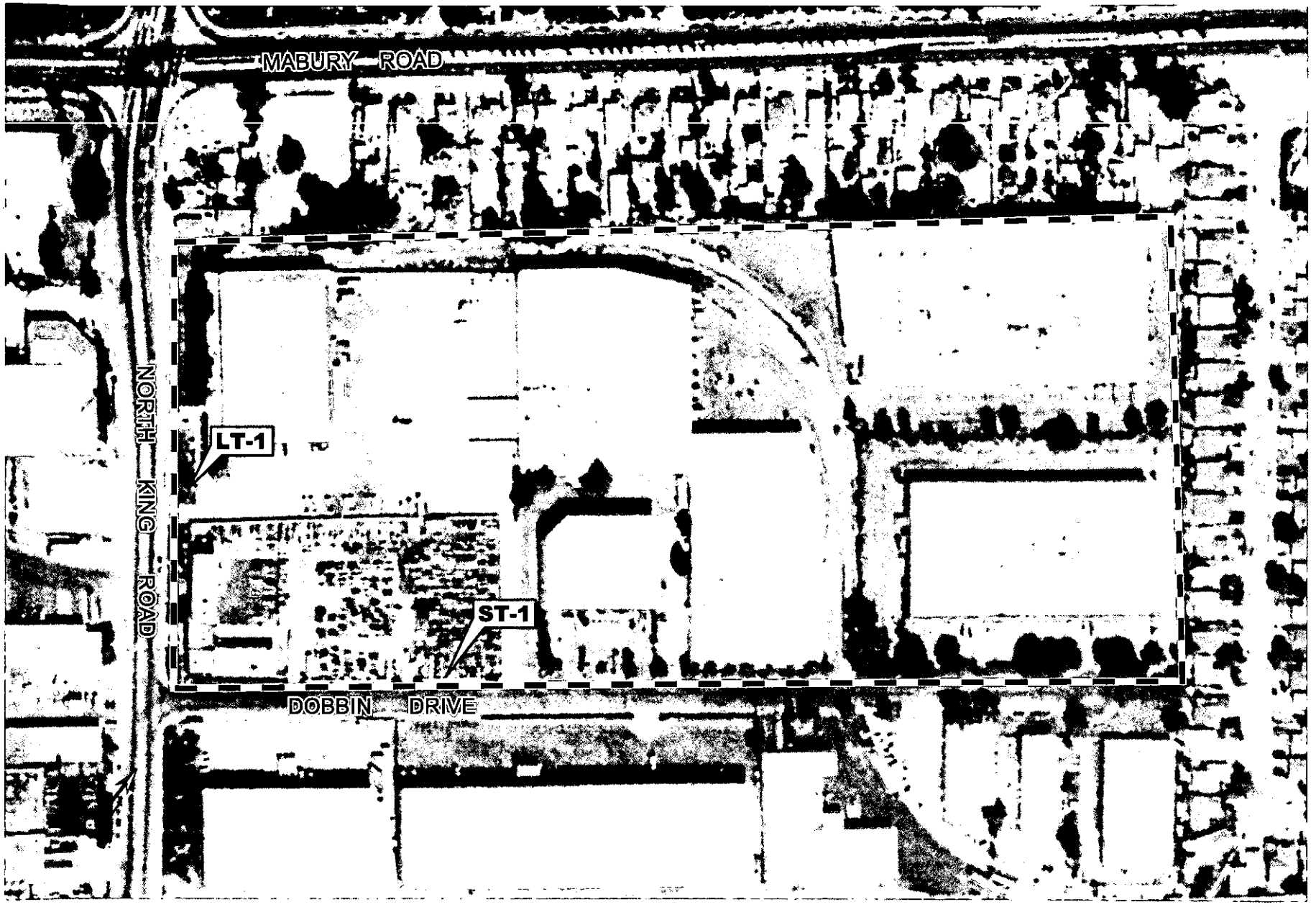
The project site is located east of downtown San José on North King Road south of Mabury Road. The site is currently developed with light industrial and warehouse buildings. The site is bordered to

[18] References: www.hud.gov/local/shared/working/r10/environment/noise.doc; www.opr.ca.gov and San José International Airport Master Plan Update EIR (1997).

the north and east by existing single-family residential development and to the south and west by Dobbin Drive and North King Road. The existing land uses on the opposite sides of North King Road and Dobbin Drive are light industrial.

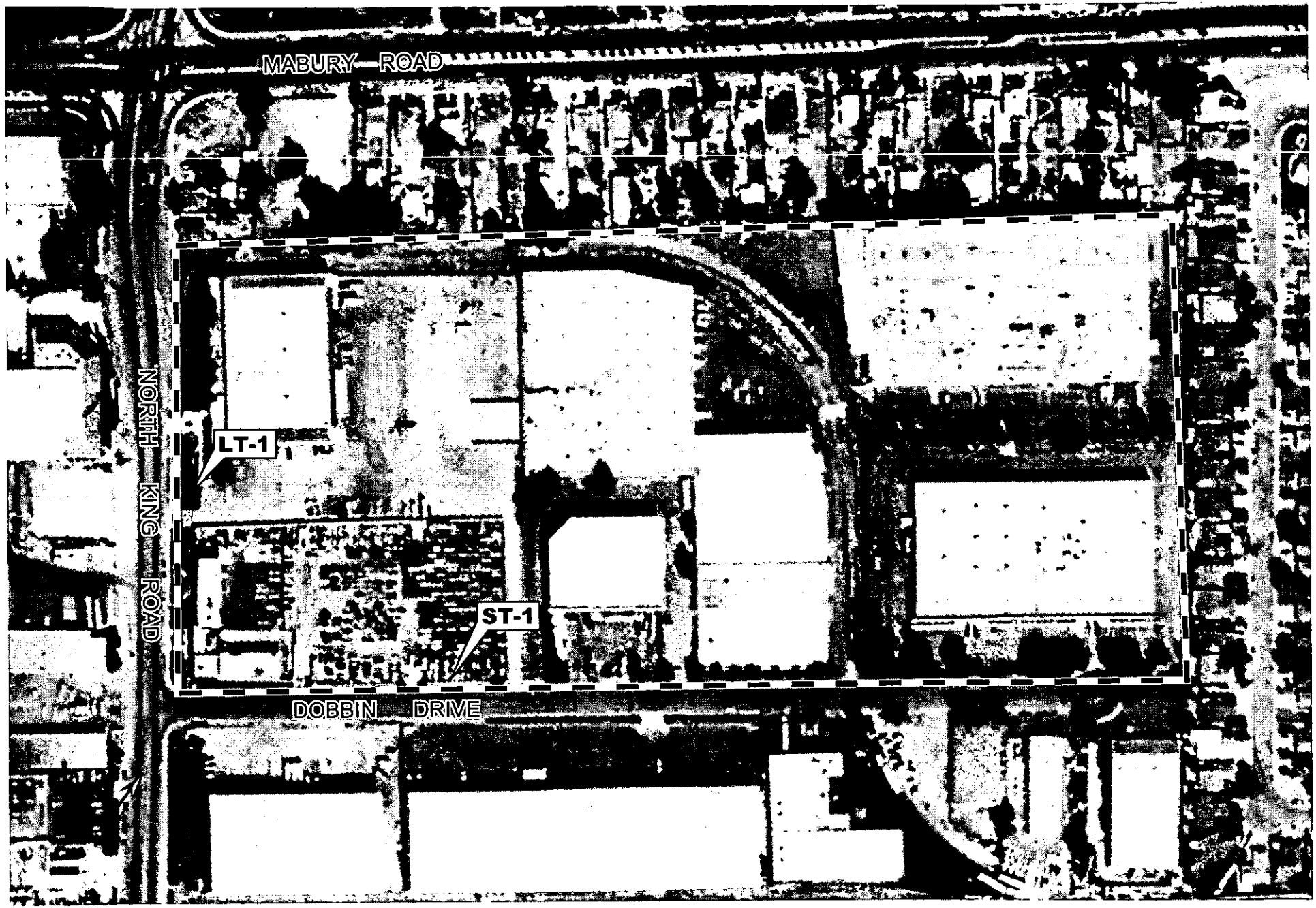
Ambient noise levels were measured on the project site on Wednesday, March 29, 2006 to Thursday, March 30, 2006. The noise survey included one long-term noise measurement and one short-term noise measurement. The noise measurement locations are shown on Figure 14. The long-term measurement was made along North King Road at a distance of 69 feet from the centerline of the road. Noise levels measured at this site resulted primarily from traffic on North King Road. Average daytime noise levels ranged from 60 to 69 dBA. Average nighttime noise levels ranged from 55 to 69 dBA. The day/night average noise level (DNL) was measured to be 70 dBA. The DNL for the site is higher than the measured noise levels due to a penalty added for nighttime noise because of increased sensitivity to noise at night.

One short-term measurement was also taken during the noise measurement survey. This measurement was conducted along the Dobbin Drive frontage of the site to quantify the noise generated by activity at the existing light industrial uses along Dobbin Drive. These include the North American Van Lines facility and various other warehouses which generate a fair amount of truck traffic. The short-term measurement at this location was conducted at a distance of 21 feet from the center of Dobbin Drive and 156 feet from the North American Van Lines building. The highest noise levels at this location were generated by truck traffic on Dobbin Drive. Noise levels reached 75 to 80 dBA. The average noise level between 12:20 and 12:30 in the afternoon was measured to be 62 dBA. Based on the distribution of noise levels measured at the long-term measurement site, the DNL at this location is estimated to be 65 dBA. The results of this measurement show that the DNL decreases on the project site along Dobbin Drive with increased distance from North King Road.



NOISE MEASUREMENT LOCATIONS

FIGURE 14



NOISE MEASUREMENT LOCATIONS

FIGURE 14

2.5.3 Noise Impacts

2.5.3.1 *Thresholds of Significance*

For the purposes of this EIR, a noise impact is considered significant if the project would:

- Expose persons to or generate noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies; or
- Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project; or
- Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.

2.5.3.2 *Noise Impacts from the Project*

Project-Generated Traffic Noise

Traffic volume data was reviewed to calculate the incremental increase in traffic noise levels generated by the project. Existing, Background, and Project traffic scenarios were reviewed at the nineteen project study intersections. A comparison of these three scenarios was made to identify roadway segments where traffic noise levels would be substantially increased (i.e., three dBA DNL or greater) with the project. Based on the results of this comparison, project-generated traffic would increase traffic noise levels by less than one dBA DNL. The calculated traffic noise increases would not be measurable or perceptible and therefore, this impact would be less than significant.

Impact NOISE-1: The proposed project would not generate traffic resulting in a significant increase in vehicular noise in the project. **(Less Than Significant Impact)**

Construction Noise

The proposed development on the site would generate noise and would temporarily increase noise levels at nearby residential receivers. Noise impacts resulting from construction depend on the noise generated by various pieces of construction equipment, the timing and duration of noise generating activities, and the distance between construction noise sources and noise sensitive receptors.

Construction activities generate considerable amounts of noise, especially during the demolition phase and during the construction of project infrastructure when heavy equipment is used. These phases of construction require heavy equipment that normally generates the highest noise levels over extended periods of time. Typical hourly average construction generated noise levels are about 81 dBA to 88 dBA measured at a distance of 50 feet from the center of the site during busy construction periods (e.g., earth moving equipment, impact tools, etc.). During demolition, concrete may be crushed on-site and recycled. Portable concrete crushing equipment can generate average noise levels of approximately 79 dBA L_{eq} at a distance of 50 feet from the concrete crusher. Construction-related noise levels are normally less during building erection, finishing, and landscaping phases. There would be variations in construction noise levels on a day-to-day basis. Construction generated noise levels drop off at a rate of about six dBA per doubling of distance between the source and receptor. Shielding by buildings or terrain often result in lower construction noise levels at distant receptors.

Noise impacts resulting from construction depend on the noise generated by various pieces of construction equipment, the timing and duration of noise generating activities, and the distance between construction noise sources and noise sensitive receptors. Construction noise impacts primarily result when construction activities occur during noise-sensitive times of the day (early morning, evening, or nighttime hours), the construction occurs in areas immediately adjoining noise sensitive land uses, or when construction durations last over extended periods of time.

Typically, small residential, commercial, or office construction projects do not generate significant noise impacts when standard construction noise control measures are enforced at the project site and when the duration of the noise generating construction period is limited to one construction season (typically one year) or less at a particular receiver or group of receivers. Construction noises associated with projects of this type are disturbances that are necessary for the construction or repair of buildings and structures in urban areas. Reasonable regulation of the hours of construction, as well as regulation of the arrival and operation of heavy equipment and the delivery of construction materials, are necessary to protect the health and safety of persons, promote the general welfare of the community, and maintain the quality of life.

The phasing of construction and schedule are not known at this time. It is likely that that the demolition, grading, and the construction of project infrastructure would be completed first. Residential units would then be constructed on the seven parcels. It is conceivable that the residential units constructed during early phases of the project would be occupied while subsequent phases of the project are completed. New residential uses would also be subject to elevated noise levels during the remainder of construction on site.

Project construction would be expected to generate worst-case hourly average noise levels of about 75 dBA to 82 dBA L_{eq} at the nearest noise-sensitive receivers when construction occurs at the north and east portions of the project site. At times, construction noise levels would exceed 60 dBA L_{eq} and the ambient noise environment by at least five dBA L_{eq}. As construction proceeds away from the nearest receivers, construction noise levels would be lower as a result of increased distance and shielding provided by the new development. The construction of the project would occur over several years, however, noise levels generated by project construction activities would not be expected to exceed 60 dBA L_{eq} and the ambient noise environment by at least five dBA L_{eq} at a particular receiver or group of receivers for a duration of one year or more. The proposed project would result in less than significant temporary construction noise impacts with the implementation of standard construction noise control measures.

Standard Measures: The project proposes to implement the following standard measures:

SM NOISE-1: Construction will be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site of off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific construction noise mitigation plan and a finding by the Director of Planning, Building, and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.

SM NOISE-2: Equip all internal combustion engine driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.

SM NOISE-3: Unnecessary idling of internal combustion engines should be strictly prohibited.

SM NOISE-4: Locate stationary noise generating equipment such as, portable concrete crushers, air compressors, or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise generating equipment when located near adjoining sensitive land uses.

SM NOISE-5: Utilize "quiet" air compressors and other stationery noise sources where technology exists.

SM NOISE-6: Control noise from construction workers' radios to a point that they are not audible at existing residences bordering the project site.

SM NOISE-7: The contractor shall prepare a detailed construction plan identifying the schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with the adjacent noise sensitive facilities so that construction activities can be scheduled to minimize noise disturbance.

SM NOISE-8: Designate a "disturbance coordinator" who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and will require that reasonable measures warranted to correct the problem be implemented. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

SM NOISE-9: Notify prospective residents of the project that subsequent phases of construction on site would generate noise levels that may be considered excessive or annoying.

Impact NOISE-2: Implementation of the standard construction noise control measures listed above will reduce temporary noise impacts resulting from construction of the proposed project to a less than significant level. **(Less than Significant Impact)**

2.5.3.3 *Noise Impacts to the Project*

Exterior Noise Levels

Noise levels at the project site would continue to result primarily from vehicular traffic along North King Road and Dobbin Drive. Residential uses proposed on portions of Parcels A, B, E, and H would be located in exterior noise environments exceeding 60 dBA DNL. Exterior noise levels would be as high as 73 dBA DNL at residential uses proposed nearest North King Road on Parcels A and B. Residential uses proposed nearest Dobbin Drive would be exposed to exterior noise levels of about 61 to 62 dBA DNL (Parcels E and H). Residential land uses proposed on Parcels C, F, and G would be shielded from traffic noise by residential units constructed on Parcels A, B, E, and H and

exterior noise levels would be less than 60 dBA DNL. Future noise contours at the project site, assuming the attenuation provided by proposed residential buildings, are shown in Figure 15.

Shared common use areas would be located in shielded courtyards on Parcels A-H. Future exterior noise levels in the shared courtyard areas would be less than 60 dBA DNL and would be consistent with City of San José exterior noise and land use compatibility guidelines. Units adjacent to North King Road and Dobbin Drive may also have small balconies with an uninterrupted view of the adjacent roadways. Such balconies are not normally subject to the exterior noise standards established by the City of San José recognizing the infrequent use of these spaces and the fact that noise levels in proposed common use areas would be acceptable. Exterior noise levels at balconies nearest Dobbin Drive would range from about 61 to 62 dBA DNL.

Impact NOISE-3: Exterior noise levels at balconies fronting on North King Road and Dobbin Drive would exceed the normally desired noise standard of 60 dBA DNL. The impact, however, is considered less than significant because noise levels in common outdoor open spaces would remain below the General Plan standard of 60 dBA DNL. **(Less Than Significant Impact)**

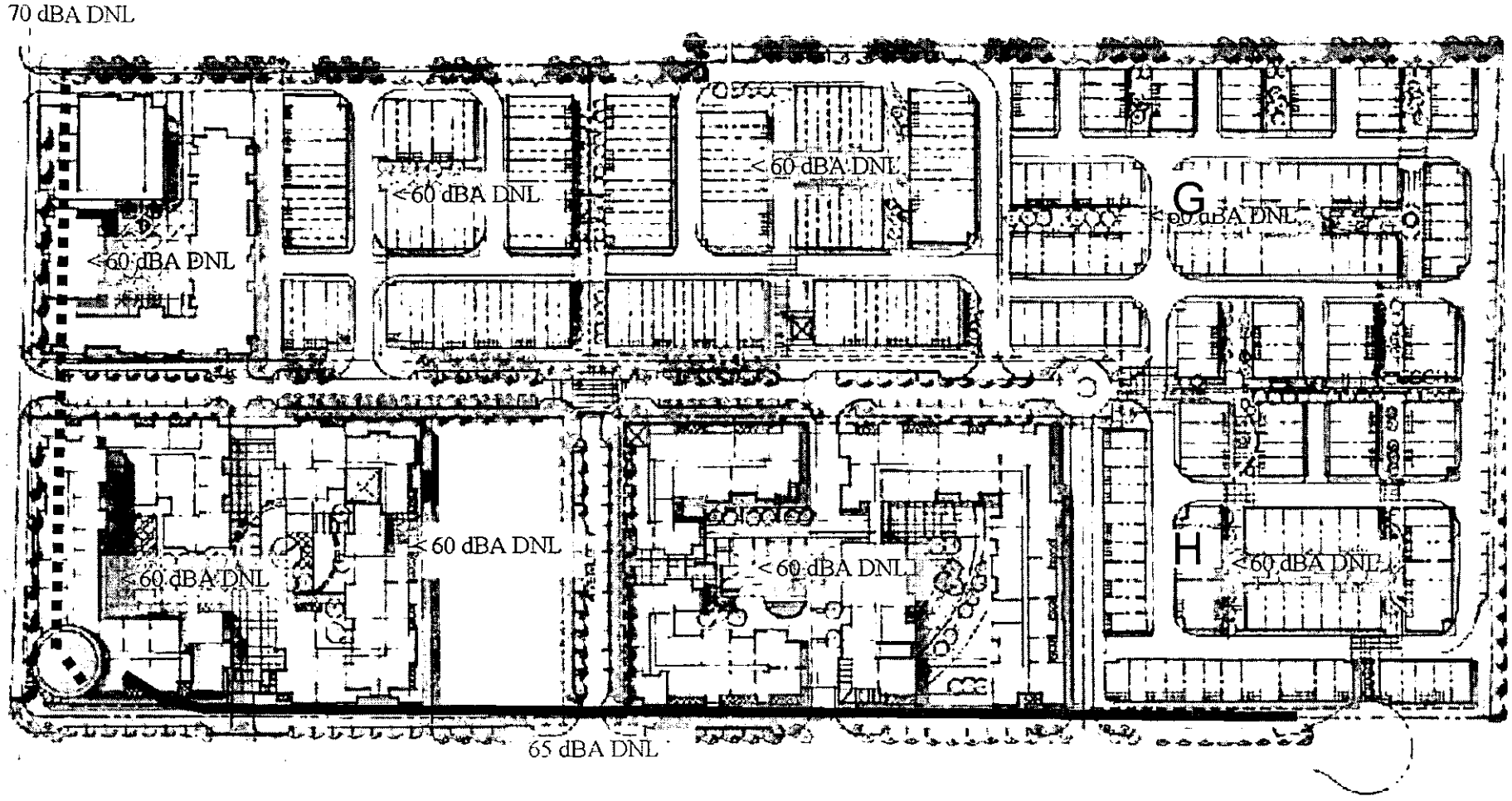
Interior Noise Levels

Exterior noise levels at the westernmost facades of residential units proposed on Parcels A and B would be as high as 73 dBA DNL. Interior noise levels are approximately 15 decibels lower than exterior noise levels assuming standard residential construction methods and the windows partially open for ventilation. Interior average noise levels would be expected to be about 20 to 25 dBA lower assuming the windows are closed to control noise, however, the residential units must be provided a satisfactory form of forced air mechanical ventilation that adequately ventilates the space. Depending upon the final building plans, sound rated windows and doors (STC 30-33) may be necessary to ensure that the 45 dBA DNL indoor standard is met in residential units adjoining North King Road (Parcels A and B).

Residential uses proposed nearest Dobbin Drive (Parcels E and H) would be exposed to exterior noise levels of approximately 61 to 62 dBA DNL. Standard residential construction plus a suitable form of forced-air mechanical ventilation would provide sufficient attenuation assuming the windows are closed to control noise.

Residential units proposed on Parcels C, F, and G would experience interior average noise levels less than 45 dBA DNL assuming standard residential construction methods with no special noise insulation features required.

Impact NOISE-4: Residential uses at portions of the project site would be exposed to exterior noise levels greater than 60 dBA DNL, which exceeds the noise and land use compatibility standards for multi-family residences set forth in the State Building Code. Interior noise levels would exceed 45 dBA DNL without the incorporation of noise insulation features into the project's design. **(Significant Impact)**



Source: McLarand, Vasquez, Emsiek & Partners Inc., 2007; Illingworth & Rodkin, 2007.

FUTURE PROJECT EXTERIOR NOISE CONTOURS

FIGURE 15

2.5.3.4 *Proposed Transportation Development Policy*

TDP-Generated Traffic Noise

As described in *Section 2.2 Transportation*, the proposed Transportation Development Policy (TDP) may result in additional traffic on roadways near the US 101/Oakland Road interchange corridor due to drivers using alternate routes to access the freeway. Traffic volume data was compared to existing and background traffic scenarios at thirty-one[19] study intersections in the US 101/Oakland Road/Mabury Road vicinity to identify where the TDP diverted traffic would result in substantially increased traffic noise levels. The traffic analysis assumed that all trips in the area allowed by the TDP would be rerouted away from the US 101/Oakland Road interchange since there is no available roadway capacity. Instead, these trips would either use the US 101/McKee Road or US 101/Old Bayshore Highway interchanges. The results of these comparisons indicate that the TDP would not result in perceptible noise increases of three dBA DNL or greater at sensitive receivers along affected roadway segments. The calculated traffic noise increases would not be substantial and the impact would be less than significant.

Impact NOISE-5: The proposed Transportation Development Policy will not significantly increase traffic noise levels along roadways in the vicinity of the US 101/Oakland Road interchange. **(Less Than Significant Impact)**

2.5.3.5 *NEPA – Federal Statute Compliance*

Exterior Noise Levels

Parcel B would consist of up to 138 affordable housing units in up to five-story buildings. Residential units would be set back approximately 50 feet from the center of North King Road, and exterior noise levels at unshielded residential facades would be approximately 73 dBA DNL. The proposed affordable housing site is located within the HUD Normally Unacceptable noise zone which requires noise attenuation measures be implemented by the project. Units adjacent to North King Road may have small balconies that would be rarely used by occupants for outdoor recreation. The exterior noise standards, designed to protect rear yards in single-family developments or common use areas in multi-family developments, are not normally applied to small decks/balconies associated with multi-family projects. Exterior noise levels at these balconies would exceed 65 dBA DNL, but this would not adversely affect the resident population, given the infrequent use of the space. Shared exterior use areas would be located in a courtyard that would be shielded from traffic noise by the residential buildings. Future exterior noise levels in the shared common open space area would be less than 65 dBA DNL given the shielding provided by the proposed wall of residential units along King Road. The project includes acoustically protected shared exterior use areas and, therefore, would conform to HUD exterior noise compatibility guidelines (refer to Figure 15).

Interior Noise Levels

Exterior noise levels at unshielded residential facades nearest North King Road would be approximately 73 dBA DNL. In Normally Unacceptable noise zones, greater than 65 dBA DNL but not exceeding 75 dBA DNL, HUD requires a minimum of 10 decibels additional sound attenuation (above the assumed "standard" 20 dBA attenuation) for buildings having noise sensitive uses. An exterior to interior noise reduction of 30 dBA would be required.

[19] Includes review of the unsignalized intersection of Dobbin Drive and North King Road.

To determine the expected interior noise levels resulting from exterior noise sources, calculations were made to estimate the transmission loss of the proposed building elements.[20] Units proposed along the westernmost portion of Parcel B would have bedrooms and living room areas oriented toward North King Road. The acoustical performance of buildings elements is characterized by a single number rating called the sound transmission class (STC) rating. The exterior wall construction of the units would be a standard wood stud wall with insulation, a single layer of gypsum board attached to the inside of the studs, and a stucco exterior finish. This type of exterior wall construction has a rating of STC 46. Various windows and sliding glass doors were tested to determine the necessary sound transmission class rating for these building elements. STC 28 windows and STC 31 sliding glass doors, in combination with the proposed wall construction, would achieve an outdoor-to-indoor composite noise reduction of STC 34 at the facades of the buildings immediately adjacent and parallel to North King Road. STC 26 windows and STC 28 sliding glass doors are recommended to achieve the required 30 dBA of noise reduction at the facades of the buildings perpendicular and nearest North King Road. The above building elements and some form of forced-air mechanical ventilation, satisfactory to the local building official, would maintain interior noise levels below 45 dBA DNL. The balance of the units can be constructed with windows and doors that do not include a special sound rating.

NEPA: The proposed project would comply with federal statute 24 CFR 51B, as required by NEPA.

2.5.4 Mitigation and Avoidance Measures for Noise Impacts

The following mitigation measures will reduce noise impacts to the project to a less than significant level:

2.5.4.1 *Interior Noise Levels*

MM NOISE-4.1: Project-specific acoustical analyses are required to confirm that interior noise levels will be reduced to 45 dBA DNL or lower. Building sound insulation requirements would need to include the provision of forced-air mechanical ventilation for units proposed in noise environments exceeding 60 dBA DNL, so that windows could be kept closed at the occupant's discretion to control noise. Special building techniques (e.g., sound-rated windows and building facade treatments, STC 30-33) may be required to maintain interior noise levels at or below recommended levels. The specific determination of what treatments are necessary will be conducted on a unit-by-unit basis. Results of the analysis, including the description of the necessary noise control treatments, will be submitted to the City along with the building plans and approved prior to issuance of a building permit.

MM NEPA-1: A final project-specific acoustical analysis shall be completed where exterior noise levels exceed 65 dBA DNL. The analysis shall meet the following noise reduction requirements. Interior noise levels shall be reduced to 45 dBA DNL or lower. Building sound insulation would need to provide a minimum of 10 decibels additional sound attenuation (minimum 30 dBA exterior to interior noise reduction). Special building construction techniques

[20] Charities Housing Apartments & Family Supportive Housing Project, Building Elevations and Floor Plans, Carrasco & Associates, July 10, 2007.

(e.g., sound-rated windows, doors, and building facade treatments) will be required for residential units adjacent to North King Road. These treatments include, but are not limited to, sound rated wall constructions, acoustical caulking, etc. Results of the analysis, including the description of the necessary noise control treatments, will be submitted to the Director of Planning, Building, and Code Enforcement along with the building plans and approved prior to the issuance of building permits.

MM NEPA-2: A form of forced-air mechanical ventilation, satisfactory to the local building official, will be provided to all residential units exposed to exterior noise levels greater than 60 dBA DNL to allow occupants the option of controlling noise by closing the windows.

2.5.5 Conclusion

Impact NOISE-1: The proposed project would not generate traffic resulting in a significant increase in vehicular noise in the project. **(Less Than Significant Impact)**

Impact NOISE-2: Implementation of the identified standard construction noise control measures will reduce temporary noise impacts resulting from construction of the proposed project to a less than significant level. **(Less than Significant Impact)**

Impact NOISE-3: Exterior noise levels at balconies fronting on North King Road and Dobbin Drive would exceed the normally desired noise standard of 60 dBA DNL. The impact, however, is considered less than significant because noise levels in common outdoor open spaces would remain below the General Plan standard of 60 dBA DNL. **(Less Than Significant Impact)**

Impact NOISE-4: Implementation of the mitigation measure identified above would reduce noise impacts on interior noise levels to a less than significant level. **(Less Than Significant Impact with Mitigation)**

Impact NOISE-5: Diverted traffic from the proposed Transportation Development Policy will not significantly increase traffic noise levels along roadways in the vicinity of the US 101/Oakland Road interchange. **(Less Than Significant Impact)**

NEPA: The project, which proposes to incorporate noise attenuation features, complies with HUD Environmental Criteria and Standards contained in federal statute 24 CFR 51 Subpart B – Noise Abatement and Control.

2.6 GEOLOGY AND SOILS

The following discussion is based upon a Geotechnical Investigation prepared by *TRC* in March 2007. A copy of this report is included as Appendix G in this EIR/EA.

2.6.1 Setting

2.6.1.1 *Topography and Soils*

Regional Geology

The project site is located in the Santa Clara Valley, an alluvial basin, bounded by the Santa Cruz Mountains to the west, the Diablo Range to the east, and the San Francisco Bay to the north. Bedrock in this area is made up of the Franciscan Complex, a diverse group of igneous, sedimentary and metamorphic rocks of 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. Overlaying the bedrock at substantial depths are marine and terrestrial sedimentary rocks of Tertiary and Quaternary age. The Santa Clara Valley was formed when sediments derived from the Santa Cruz Mountains and Diablo range were exposed by continued tectonic uplift and regression of the inland sea that had previously inundated the area.

Site Geology

The project site is relatively level and gently slopes from east to west. The project site contains very stiff lean clay with interbeds of silt, clayey sand, silty sand, and poorly graded sand with various thicknesses. These soils are present on the site to a depth of 50 feet. The eastern end of the site contains approximately three feet of fill below the existing pavement. Groundwater was encountered at approximately eight feet below ground surface (bgs) on the west end of the site to 13 feet below ground surface on the east end of the site. Historic high groundwater for the site is at approximately eight to ten feet below ground surface. Soils on the site are considered highly expansive.

2.6.1.2 *Seismicity*

The San Francisco Bay Area is one of the most seismically active regions in the United States. Many faults exist in the southern San Francisco Bay Area and some of them are capable of producing ground motions that would affect the site. The San Andreas Fault system is located approximately 14 miles southwest of the site. The southeast extension of the Hayward Fault and the Calaveras Fault are located approximately three miles and six miles northeast of the site, respectively.

The site is not located within a currently designated Alquist-Priolo Earthquake Fault Zone. No known surface expression of active faults is believed to cross the site and therefore, fault rupture through the site is unlikely.

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 site is located within State of California Seismic Hazard Zone for liquefaction.

Soil borings on the site encountered very stiff lean clay with interbeds of silt, clayey sand, silty sand, and poorly graded sand with various thicknesses to a depth of 50 feet below ground surface.

Lateral Spreading

Lateral spreading typically occurs as a form of horizontal displacement of soils toward an open face such as a body of water, channel, or excavation. There are no creeks or open bodies of water within an appropriate distance from the site for lateral spreading to occur on the site. The probability of lateral spreading occurring at the site during a seismic event is low.

2.6.2 Geology and Soils Impacts

2.6.2.1 *Thresholds of Significance*

For the purposes of this EIR, a geology and soils impact is considered significant if the project would:

- Result in substantial soil erosion or the loss of topsoil;
- 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;
- 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; or
- Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:
  - Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault,
  - Strong seismic ground shaking,
  - Seismic-related ground failure, including liquefaction, and/or
  - Landslides.

2.6.2.2 *Soils*

Existing fill and low density soils on the site may be unable to support the proposed structures. The project proposes subgrade parking. Excavation on the site required for the proposed subgrade parking may encounter wet and unstable subgrade soils from the high water table. Depending on the final depths of excavation proposed dewatering and stabilization of the excavation bottom may be required. Highly expansive soils on the site could damage potential at-grade structures.

Development on the site will not be exposed to slope instability, erosion, or landslide related hazards due to the flat topography of the site.

The project would be required to be constructed in accordance with standard engineering practices in the California Building Code, as adopted by the City of San José. In addition, the City of San José Department of Public Works requires a grading permit be obtained prior to the issuance of Public

Works clearance. These standard practices will ensure that future buildings on the site are designed properly to account for the existing soil conditions on the site.

Impact GEO-1: Implementation of standard engineering practices, including requirements in the California Building Code, as adopted by the City of San José, would avoid substantial impacts to the proposed development. **(Less than Significant Impact)**

2.6.2.3 *Seismic Hazards*

The proposed project site is located within the seismically-active San Francisco Bay Area and severe ground shaking is probable during the anticipated life of the project. While no active faults are known to cross the project site, ground shaking on the site could damage the proposed buildings and other structures and expose people to injury. Soils on the site are susceptible to liquefaction resulting in up to one and three-quarter inches of settlement.

The proposed project will be designed and constructed in conformance with the California Building Code guidelines for Seismic Zone 4 to avoid or minimize potential damage from seismic shaking and seismic-related hazards, including liquefaction, on the project site.

Impact GEO-2: Impacts associated with exposure of residents to seismic hazards will be reduced or avoided through conformance with the standards specified in the California Building Code and City of San José Municipal Code for Seismic Zone 4 and with the recommendations of a final design-level geotechnical investigation. **(Less Than Significant Impact)**

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

SM GEO-1.1, GEO-2.1: A final, design-level geotechnical investigation for the project shall be completed for the applicant by a qualified geotechnical consultant and shall be reviewed and approved by the City Geologist prior to Public Works clearance. The geotechnical investigation shall specify all engineering practices to be used to reduce or avoid geologic hazards on the site. The applicant shall implement the specific engineering practices that are recommended in the geotechnical report prepared for the site during detailed project design and construction.

2.6.3 Conclusion

Impact GEO-1: Implementation of standard engineering practices, including requirements in the California Building Code, as adopted by the City of San José, would avoid substantial impacts to the proposed development. **(Less than Significant Impact)**

Impact GEO-2: Impacts associated with exposure of residents to seismic hazards will be reduced or avoided through conformance with the standards specified in the California Building Code and City of San José Municipal Code for Seismic Zone 4 and with the recommendations of a final design-level geotechnical investigation. **(Less Than Significant Impact)**

2.7 HYDROLOGY AND WATER QUALITY

2.7.1 Introduction and Regulatory Framework

This section of the EIR/EA addresses the impact(s) of the proposed project with regard to the issues of drainage, flooding, water quality, and groundwater. As explained in the following paragraphs, these issues are the subject of various regulatory programs that are designed to avoid adverse impacts that include the following: 1) human injury/loss of life; 2) property damage/loss; 3) harm to fisheries as well as terrestrial wildlife; 4) degradation of plant communities; 5) economic losses; and 6) reduction in quality of life, including effects on recreational activities such as boating and swimming.

2.7.1.1 *Flooding*

The 100-year flood is the standard design level of protection set by the Federal Emergency Management Agency (FEMA), which is responsible for administration of the National Flood Insurance Program (NFIP). The 100-year flood, sometimes referred to as the one-percent flood, has a one percent probability of occurring in any one year. The occurrence of a 100-year flood does not change the probability of a 100-year flood occurring in succeeding years.

2.7.1.2 *Water Quality*

The federal Clean Water Act and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality. Regulations set forth by the U.S. Environmental Protection Agency (EPA) and the State Water Resources Control Board have been developed to fulfill the requirements of this legislation. EPA's regulations include the National Pollutant Discharge Elimination System (NPDES) permit program, which controls sources that discharge pollutants into waters of the United States (e.g., streams, lakes, bays, etc.). These regulations are implemented at the regional level by water quality control boards, which for the San José area is the San Francisco Bay Regional Water Quality Control Board (RWQCB).[21]

The Santa Clara Valley Urban Runoff Pollution Prevention Program, of which the City of San José is a participant, was developed in accordance with the requirements of the RWQCB's *San Francisco Bay Basin Water Quality Control Plan*, as well as the requirements of EPA's NPDES permit program.

Additional water quality control measures were approved in October 2001, when the RWQCB adopted an amendment to the NPDES permit for Santa Clara County. This amendment, which is commonly referred to as "C3" (referring to the applicable section of the permit amendment), requires all new and redevelopment projects that result in the addition or replacement of impervious surfaces totaling 10,000 square feet or more, to be designed with Best Management Practices (BMPs) that reduce stormwater pollution to the maximum extent practicable through source control measures and stormwater treatment measures. In turn, City of San José Policy Number 6-29 mandates compliance with the C3 regulations for projects that are located within its boundaries. The project's conformance with Policy 6-29 will be determined at the time the Development Permit application is filed.

[21] Historically, efforts to prevent water pollution have focused on "point" sources, meaning the source of the discharge was from a single location (e.g., a sewer treatment plant, power plant, factory, etc.). Recent efforts are focusing on pollution caused by "non-point" sources, meaning the discharge comes from multiple locations. The best example of this latter category is urban runoff, the source of which is a myriad of surfaces (e.g., roadways, rooftops, parking lots, etc.) that are found in a typical city.

In practical terms, the C3 requirements seek to reduce water pollution by both reducing the volume of stormwater runoff and the amount of pollutants that are contained within the runoff. The methods used to achieve these objectives vary from site to site, but can include measures such as a reduction in impervious surfaces, on-site detention facilities, biofiltratration swales, settlement/debris basins, etc.

Hydromodification Management Plan

Pursuant to C3 requirements, the Santa Clara Valley Urban Runoff Pollution Prevention Program prepared a Hydromodification Management Plan (HMP) for the purpose of determining how its member agencies plan to manage increases in the magnitude, volume, and duration of stormwater runoff from project sites, so as to protect streams from increased potential for erosion or other adverse impacts.[22] The control theory behind the HMP, which was approved by the RWQCB in 2005, is that downstream watercourses will not undergo any increased erosion potential if the "flow-duration" curve of stormwater runoff from a site is identical to the curve under existing runoff conditions. The HMP has determined that this standard is met if post-project stormwater discharge rates and durations match pre-project discharge rates and durations from 10 percent of the pre-project 2-year peak flow up to the pre-project 10-year peak flow.[23]

To implement the HMP, a Post-Construction HMP Policy (Policy 8-14) was adopted by the San José City Council on October 18, 2005. The HMP Policy applies to development projects located on sites equal to or exceeding 20 acres in size, which are located in subwatersheds that are less than 90% built out. Such projects are required to implement post-construction flow-control measures to reduce the volume, velocity, and duration of stormwater runoff, so that post-project runoff does not exceed pre-project conditions. Currently the Municipal Regional Permit is evaluating the possibility of reducing the threshold for a numerically sized HMP to once acre. The determination of compliance with Policy 8-14 including the threshold for completion of an HMP will be determined at the time Development Permit applications are filed.

2.7.2 Setting

2.7.2.1 *Hydrology*

The project site is located approximately 300 feet south of Penitencia Creek and approximately 1,500 feet north of Silver Creek. The site is located within the Coyote Creek watershed. The Coyote Creek watershed originates in the Diablo Mountain Range to the east and south of San José and flows northerly along the eastern side of Santa Clara Valley eventually emptying into Guadalupe Slough and San Francisco Bay.

[22] City Council Policy 6-29 mandates compliance with HMP requirements for projects located within the City of San José.

[23] Source: "Hydromodification Management Plan", Santa Clara Valley Urban Runoff Pollution Prevention Program, April 2005.

2.7.2.2 *Drainage*

The average annual rainfall in San José is approximately 14 inches, although precipitation can vary greatly year-to-year. Ninety-eight percent of the annual precipitation is received during the period from October through May. Storm runoff within the urbanized areas of the City of San José is discharged into local storm drains, which in turn flow to the creeks and ultimately to the Bay. The Santa Clara Valley Water District (SCVWD) has jurisdiction over most of the creek channels that collect runoff from the storm drains serving urban areas.

The project site drains to Silver Creek through an existing 15-inch storm drainage line in North King Road and a 30-inch storm drainage line in Dobbin Drive. Approximately 89 percent of the site is currently covered with impervious surfaces.

2.7.2.3 *Water Quality*

Urban runoff has been identified as a significant source of water pollution in the San Francisco Bay Area. Runoff from developed areas flows untreated to local creeks, rivers, and the Bay, carrying pollutants that are detrimental to the beneficial uses of these water bodies. Examples of pollutants commonly generated in the San Francisco Bay Area include: sediment from construction sites; products of internal combustion engine operation such as hydrocarbons from automobiles; heavy metals, such as copper from automobile brake pad wear and zinc from tire wear; dioxin as a product of combustion; mercury resulting from atmospheric deposition; and naturally-occurring minerals from local geology. Building roofs also generate hydrocarbons from atmospheric deposition, and heavy metals from roofing materials. In addition, pesticides, nutrients (from fertilizers and other landscape maintenance products), detergents, and trash are all common stormwater pollutants that can be expected from development.

The water quality of the creeks which flow out of the project area to the San Francisco Bay, including Silver Creek, depends upon the volume of water at a given time of the year. Water quality is also dependent upon the concentration of contaminants, which flow into the creeks as a component of urban runoff via storm drains. In sufficient concentrations, these contaminants have been found to adversely affect the aquatic habitat of these creeks and San Francisco Bay, into which the creeks flow.

Section 303(d) of the federal Clean Water Act requires that states develop a list of water bodies that do not meet water quality standards, establish priority rankings for waters on the list, and develop action plans, called Total Maximum Daily Loads (TMDLs), to improve water quality. Silver Creek is a tributary to two water bodies that are listed by the RWQCB and the EPA as impaired: Coyote Creek and San Francisco Bay. Coyote Creek is impaired due to diazinon that is contained in urban runoff. San Francisco Bay is impaired due to chlordane, DDT, dioxin, dieldrin, mercury, and PCBs, all of which are constituents of urban runoff.[24]

In addition to the pollution issue, the increased peak flows and volumes of stormwater associated with existing urbanization have led to adverse impacts such as bank erosion, flooding, channel modification and loss of the natural floodplain. This occurs because development typically increases the amount of impervious surface area within a watershed by converting natural ground cover to

[24] State Water Resources Control Board. Proposed 2006 CWA Section 303(d) List Of Water Quality Limited Segments. http://www.waterboards.ca.gov/tmdl/docs/303dlists2006/final/r2_final303dlist.pdf 10 April 2007.

impervious surfaces such as paved highways, streets, rooftops, and parking lots, thereby diminishing the stormwater retention, detention and purification characteristics provided by the vegetated soils.

Groundwater

Groundwater was encountered at approximately eight feet below ground surface (bgs) on the west end of the site to 13 feet below ground surface on the east end of the site. Historic high groundwater for the site is at approximately eight to ten feet below ground surface.[25]

2.7.2.4 *Flooding and Dam Inundation Potential*

According to the letter of Map Revision (LOMR) issued by the Federal Emergency Management Agency's (FEMA) on February 28, 2006, the project site is located within Zone B (Zone X on newer maps) which is an area of moderate flood hazard.

According to the Association of Bay Area Governments (ABAG), dam failure inundation area hazard map, the project site would not be subject to flooding due to dam failure.[26]

The site is not subject to seiche or tsunami.

2.7.3 Hydrology and Water Quality Impacts

2.7.3.1 *Thresholds of Significance*

For the purposes of this EIR, a hydrology and water quality impact is considered significant if the project would:

- Violate any water quality standards or waste discharge requirements;
- Substantially degrade or deplete groundwater resources or interfere with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level;
- Substantially alter the existing drainage pattern of the site or area, including through the alteration 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;
- Substantially alter the existing drainage pattern of the site or area, including through the alteration of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site;
- Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff;
- Provide substantial additional sources of polluted runoff or otherwise substantially degrade surface or groundwater quality;
- Place within a 100-year flood hazard area structures which would impede or redirect flood flows;
- 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; or
- Expose people or structures to inundation by seiche, tsunami, or mudflow.

[25] TRC. Feasibility Level Geotechnical Investigation. March 13, 2007. pages 2-3.
[26] Association of Bay Area Governments. Hazard Maps/Dam Failure Inundation Area. March 2007. http://gis.abag.ca.gov/website/dam_inundation/viewer.htm 10 April 2007.

2.7.3.2 *Long-Term Water Quality Impacts*

The RWQCB approved an amendment to the NPDES Permit Number CAS 029718 on July 20, 2005 to add more strict and more stringent standards to their old permit for the management of stormwater runoff which reduced the threshold for compliance from the addition or replacement of one acre of impervious surfaces to 10,000 square feet. As a result, on August 15, 2006, the City of San José updated their stormwater policy 6-29 to include a threshold for compliance of addition or replacement of 10,000 square feet of impervious surfaces. For all applicable projects[27], post-construction TCMs must be included and designed to meet one of two hydraulic sizing standards for the treatment of stormwater runoff from the impervious surface areas of the project. The two hydraulic sizing standards are:

- Volume Hydraulic Design which can include detention/retention units or filtration or infiltration devices.
- Flow Hydraulic Design which can include vegetative swales, sand filters, and wetlands.

The project applicant must provide the City with calculations prepared by a certified engineer showing that the design and sizing of the stormwater treatment system is sufficient to meet the requirements of the numeric sizing criteria.

The proposed project would decrease the amount of impervious surfaces on the site. Approximately 89 percent of the site is currently covered with buildings and pavement. The proposed project would result in approximately 74 percent of the site covered by impervious surfaces (refer to Table 2.7-1).

Table 2.7-1
Pervious and Impervious Surfaces Comparison

Site Surface	Existing SF	% of Site	Proposed SF	% of Site	Difference	% of Site
Impervious (Building Footprints, Parking, Driveways, Sidewalks, etc.)	963,981	89%	793,981	74%	-170,000	-15%
Pervious (Landscaping)	115,000	11%	285,000	26%	+170,000	+15%
Total	1,078,981	100%	1,078,981	100%		

The project will result in removal and replacement of more than 10,000 square feet of impervious surfaces and is subject to Provision C3 and City Policy 6-29 for post-construction stormwater treatment.

The project will include numerically-sized treatment control measures to treat stormwater runoff. The project proposes to treat stormwater by directing runoff to landscaped areas and using mechanical treatment units. The stormwater control plan will conform to applicable regulations at the time a Planned Development Permit application is filed. The project currently proposes to provide treatment of stormwater runoff through a combination of landscape-based measures and mechanical filtration units. The public park on Parcel D will be 90 percent pervious.

[27] An applicable project is defined as a new development project that creates 10,000 square feet or more of impervious surface area; new streets, roads, highways, and freeways built under the City's jurisdiction that create 10,000 square feet or more of impervious surface; and significant redevelopment projects (i.e., projects on a developed site that result in the addition or replacement of 10,000 square feet or more of impervious surfaces).

A Planned Development Permit (No. PD07-067) for the construction of 36 homeless shelter studio residential units and 94 residential apartments on a 1.72 gross acre portion of the larger project site was recently filed. PD07-067 also includes at-grade and underground parking. The proposed development is a typical mid-size urban infill site proposing high density housing as required by the City's General Plan. Approximately 100 percent of the site is presently either paved or covered with a building. A numerically-sized below ground mechanical stormwater filtration/treatment unit has been proposed to treat 100 percent of the runoff from this portion of the larger site. NO landscape-based treatment for PD07-067 is proposed at this time though future versions of the proposal may include landscape-based solutions such as a greenroof or planters. Operation and maintenance of the proposed mechanical media filtration system will be included on the final approved and certified Stormwater Control Plan.

Landscape-based solutions for the entire project (PDC07-015) as well as the 1.72 gross acre portion of the site that is PD07-067 may be required to isolate runoff and drainage from groundwater. This will be determined as part of future Planned Development Permits and prior to finalizing PD07-067.

Impact HYDRO-1: The proposed project will reduce the amount of impervious surfaces and treat stormwater runoff from the site. **(Less Than Significant Impact)**

Standard Measures: The project proposes to implement the following standard measures:

SM HYDRO-1.1: The following mitigation measures, based on RWQCB Best Management Practices and City of San José requirements, are included in the proposed project to ensure compliance with NPDES permit requirements to reduce post-construction water quality impacts:

- When the construction phase is complete, a Notice of Termination (NOT) for the General Permit for Construction will be filed with the RWQCB and the City of San José. The NOT will document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a post-construction stormwater management plan is in place as described in the SWPPP for the project site.
- All post-construction TCMs will be installed, operated, and maintained by qualified personnel. On-site inlets will be stenciled in conformance with City requirements and cleaned out a minimum of once per year, prior to the wet season.
- The property owner/site manager/homeowners' association will keep a maintenance and inspection schedule and record to ensure that the TCMs continue to operate effectively for the life of the project. Copies of the schedule and record must be provided to the City upon request and must be made available for inspection on-site at all times.

2.7.3.3 *Short-Term Construction Water Quality Impacts*

Demolition of existing buildings and pavement and construction activities would temporarily affect the water quality of runoff from the site. Construction of the proposed project would disturb soils on the site, adjacent roadways, and possibly the PG&E Mabury substation, thereby increasing the potential for sediment runoff into project area storm drains. Eroded soil containing nutrients can trigger algal blooms when carried into surface water bodies; reducing water clarity, depleting oxygen, and creating odors. Additional pollutants which can be generated during construction of the

project would include oil, grease, and heavy metals released during operation of motorized construction equipment, as well as solvents, paints, and adhesives used in construction.

Impact HYDRO-2: Construction of the project could result in short-term water quality impacts due to sedimentation and pollutants in groundwater and stormwater runoff. **(Significant Impact)**

2.7.3.4 *Flooding*

Based on FEMA Flood Insurance Rate Maps, the project site is not located within a 100-year floodplain.[28] The project will not place housing within a 100-year flood hazard zone, or expose people to significant risks involving flooding.

Impact HYDRO-3: The proposed project will not result in any flood related impacts. **(Less Than Significant Impact)**

2.7.3.5 *NEPA – Federal Statute Compliance*

NEPA requires compliance with *24 CFR 55, Floodplain Management*, whenever HUD financial assistance is proposed for a project located in a special flood hazard area. The project site is not located within a FEMA designated 100-year floodplain. As previously discussed in *Section 2.7.2.4*, the project site is located within Zone X which is an area of moderate or minimal flood hazard. The project does not involve a critical action (e.g., emergency facility or facility for mobility impaired persons) and will not require mitigation to avoid impacts associated with the 500-year flood. [Source: Mirabel Aguilar, Project Engineer, Department of Public Works]

NEPA requires compliance with *40 CFR 149, Sole Source Aquifers*, whenever HUD financial assistance is proposed for a project that has the potential to affect groundwater aquifers. The project site is not located in an area designated by the Environmental Protection Agency (EPA) as being supported by a sole source aquifer. [Source: Designated Sole Source Aquifer Map, April 2007]

NEPA: The project would comply with federal statutes 24 CFR 55, Floodplain Management and 40 CFR 149, Sole Source Aquifers.

2.7.4 Mitigation Measures for Hydrology and Water Quality Impacts

2.7.4.1 *Construction Mitigation Measures*

MM HYDRO-2.1: The following mitigation measures, based on RWQCB Best Management Practices, are included in the proposed project to ensure compliance with NPDES permit requirements to reduce construction related water quality impacts:

- During construction, burlap bags filled with drain rock will be installed around storm drains to route sediment and other debris away from the drains.
- During construction, earthmoving or other dust-producing activities will be suspended during periods of high winds.
- During construction, all exposed or disturbed soil surfaces will be watered at least twice daily to control dust as necessary.
- During construction, stockpiles of soil or other materials that can be blown by the wind will be watered or covered.

[28] Federal Emergency Management Agency. Letter of Map Revision 05-09-A216P-060349. Panel 19 of 64. Community Panel Number 060349 0019E. February 28, 2006. http://msc.fema.gov/webapp/wcs/stores/servlet/CategoryDisplay

- During construction, all trucks hauling soil, sand, and other loose materials will be covered and/or all trucks will be required to maintain at least two feet of freeboard.
- During construction, all paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites will be swept daily (with water sweepers).
- During construction, vegetation in disturbed areas will be replanted as quickly as possible.
- Prior to construction grading for the proposed land uses, the applicant will file a "Notice of Intent" (NOI) to comply with the General Permit administered by the Regional Board and will prepare a Stormwater Pollution Prevention Plan (SWPPP) which identifies measures that would be included in the amendment to minimize and control construction and post-construction runoff. The following measures would be included in the SWPPP:

    - Preclude non-stormwater discharges to the stormwater system.
    - Effective, site-specific Best Management Practices for erosion and sediment control during the construction and post-construction periods.
    - Coverage of soil, equipment, and supplies that could contribute non-visible pollution prior to rainfall events or perform monitoring of runoff.
    - Perform monitoring of discharges to the stormwater system.

- The developer will submit a copy of the draft SWPPP to the City of San José for review and approval prior to construction on the project site. The certified SWPPP will be posted at the site and will be updated to reflect current site conditions.

MM HYDRO-2.2: Dewatering required as part of construction activities for below grade parking will be sampled and tested for contaminants. If groundwater contaminant levels are below RWQCB discharge thresholds, the project shall obtain a permit from the City of San José to discharge the groundwater pumped from the site into the City's storm drain system. This permit will specify the sediment removal measures to be implemented during dewatering (e.g., settling tank, particulate filters, etc.) and the frequency of ongoing water quality testing. If groundwater contaminant levels are above RWQCB discharge thresholds, the project shall obtain an NPDES permit from the RWQCB prior to discharging the water into the storm drain system. This permit will specify the groundwater treatment measures and the water quality treatment standards that shall be achieved prior to discharge into the storm drain system, the sediment removal measures to be implemented during dewatering (e.g., settling tank, particulate filters, etc.), and the frequency of ongoing water quality testing.

2.7.5 Conclusion

Impact HYDRO-1: The proposed project will reduce the amount of impervious surfaces and treat stormwater runoff from the site. **(Less Than Significant Impact)**

Impact HYDRO-2: Implementation of construction BMPs will reduce short-term water quality impacts to a less than significant level. **(Less Than Significant Impact with Mitigation)**

Impact HYDRO-3: The proposed project will not result in any flood related impacts. **(Less Than Significant Impact)**

NEPA: The project would comply with federal statutes 24 CFR 55, Floodplain Management and 40 CFR 149, Sole Source Aquifers.

2.8 POPULATION, JOBS, AND HOUSING

2.8.1 Setting

According to the Association of Bay Area Governments (ABAG) *Projections 2007: Forecasts for the San Francisco Bay Area to the Year 2030*, within the City of San José's Sphere of Influence the population in 2030 was projected to be 1,336,900 and the total number of households was projected to be 422,720, with an average of 3.20 persons per household.

Historically, San José has had a shortage of jobs compared to the number of employed residents living in the City, commonly referred to as a jobs/housing imbalance. A jobs/housing imbalance, especially when there is a relative deficit of jobs, can be problematic because it results in longer commutes as City residents travel to other locales for employment. This same imbalance might result in financial hardships for a city due to the costs associated with providing services to residential land uses in relation to revenue generated.

In recent years, consistent with the major strategies and objectives of the adopted General Plan, the City has been attempting to correct this imbalance. As of 2005, the City had 0.90 jobs per employed resident.[29] Buildout of the General Plan is anticipated to result in approximately 1.14 jobs per employed resident (refer to Table 2.8-1). The City has recently adopted some General Plan policies that allow for increased job and housing growth that would, if implemented, improve the overall jobs/housing imbalance. However, near-term trends of industrial-to-residential conversions continue to undermine the existing jobs/housing balance.

Table 2.8-1
Breakdown of Projected Jobs, Population, and Housing in San José

	Existing (2005)	General Plan Buildout
Households	309,400	355,900
Persons per Household	3.2	3.2
Population	993,000	1,140,100
Employed Residents per Household	1.3	1.6
Employed Residents	402,300	571,700
Jobs	363,400	652,200
Jobs per Employed Resident	0.90	1.14

Notes:
- In this table, "households" is used to represent "dwelling units". In reality, the two numbers are almost identical.
- Data for jobs, population, employed residents, and households are rounded to the nearest hundred.
- The San José General Plan Buildout Scenario includes amendments through June 2006. The June 2006 General Plan amendments included the North San José Development Policies (GP04-04-06), the Hitachi Campus (GP04-02-01), and the Downtown San José Strategy 2000 (GP05-03-01).

Sources: ABAG (*Projections 2007*), City of San José.

[29] Association of Bay Area Governments. *Projections 2007*. December 2006.

2.8.2 Population and Housing Impacts

2.8.2.1 *Thresholds of Significance*

For the purposes of this EIR, a population and housing impact is considered significant if the project would:

- 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); or
- Displace substantial numbers of existing housing or people, necessitating the construction of replacement housing elsewhere; or
- Result in a substantial conflict with the City's policies regarding an overall jobs/housing balance.

Population and Housing

The proposed PD zoning would allow development of up to 1,287 residential units on the site which may result in a population increase of approximately 4,118[30] residents. The increase in housing will slightly increase the residential population of San José above current levels. Based on current population projections, the increase in population within the City would be minimal.

The project site is currently developed with industrial uses. The proposed project would not displace people requiring the construction of replacement housing elsewhere. Although the project would allow for population growth, the redevelopment of an infill property located near transit would reduce impacts resulting from placing housing in areas requiring substantial commutes to reach job centers, or developing "Greenfield or greenbelt" areas currently in agriculture or open space for residential uses.

Impact PH-1: Although the proposed project would result in population growth in the project area, it would not result in substantial population growth within the City or displace people. **(Less than Significant Impact)**

Jobs and Employed Residents

The proposed project would worsen the City's present balance between the number of jobs and employed residents. The existing jobs per employed resident ratio is below one job per employed resident. The proposed project may result in the loss of employment lands and would increase the number of housing units in the City. Additional housing units would allow more residents to live in San José and find work in nearby cities due to the lack of sufficient jobs within the City. The proposed project would have a dual adverse effect on the jobs/housing balance; both reducing the number of jobs in the city and adding housing units. This would further increase the imbalance between jobs and employed residents in the City of San José. While in the near-term, the proposed project would worsen the City's present jobs/housing balance, over the full buildout of the City's General Plan the jobs/housing goal of one job per employed resident would be met.

Impact PH-2: Although the proposed project would increase the present jobs/housing imbalance, it would not reduce full buildout of the General Plan to a ratio below one job per employed resident. **(Less Than Significant Impact)**

[30] Based on ABAG *Projections 2007* estimates of 3.20 (rounded) persons per household in the City of San José in the year 2030.

2.8.3 Conclusion

Impact PH-1: Although the proposed project would result in population growth in the project area, it would not result in substantial population growth within the City or displace people. **(Less than Significant Impact)**

Impact PH-2: Although the proposed project would increase the present jobs/housing imbalance, it would not reduce full buildout of the General Plan to a ratio below one job per employed resident. **(Less Than Significant Impact)**

2.9 BIOLOGICAL RESOURCES

The following discussion is based in part on a Preliminary Tree Report prepared by *Concentric Ecologies* in February 2007. A copy of this report is included as Appendix H in this EIR/EA.

2.9.1 Setting

The proposed project site is developed with light industrial and warehouse buildings, paved parking lots, urban landscaping, and mature trees. Habitats in developed urban areas are extremely low in species diversity. Species that use this habitat are predominantly urban adapted birds, such as Rock Dove, Morning Dove, House Sparrow, and Starling. Based upon the habitats found on the site no special-status plant or animal species are expected to be present on the site.

City of San José Tree Ordinance

The City of San José maintains the urban natural landscape partly by regulating the removal of ordinance trees on private property. Ordinance-size trees are defined as trees over 56 inches in circumference (approximately 18 inches in diameter) at a height of 24 inches above natural grade. The City regulates removal of ordinance-size trees because removal of mature trees detracts from the scenic beauty of the City, causes erosion of topsoil, creates flood hazards, increases the risk of landslides, reduces property values, increases the cost of construction and maintenance of drainage systems through the increased flow and diversion of surface waters, and eliminates one of the prime oxygen producers and prime air purification systems in this area.

A tree survey was completed for the project site in February 2007 and is included as Appendix H in this EIR/EA. The survey found a total of 115 trees on the project site, of which 37 are ordinance-size and 78 are smaller than ordinance-size. Two native Coast Live Oaks were surveyed on the site along the former railroad right-of-way. A summary of the tree survey is included in Table 2.9-1.

Table 2.9-1
Tree Survey Summary

Common Name	Scientific Name	Diameter in Inches			Total # of Trees	Health					
		1-11	12-17	18+		0	1	2	3	4	5
Ash	*Fraxinus spp.*			7	7		1	1	5		
Birch	*Betula pendula*			1	1			1			
Cedar	*Cedrus deodara.*		1	4	5				5		
Coast Live Oak	*Quercus agrifolia*	2			2				2		
Eucalyptus	*Eucalyptus spp.*	2	2	13	17				17		
Eugenia	*Eugenia spp.*	6			6			3	3		
Guava	*Guava spp.*	3			3				3		
Palm	*Palmea washingtonia*		1	3	4				4		
Pepper	*Schinus molle*			2	2				2		
Plum	*Prunus spp.*	3			3				3		
Privet	*Ligustrum spp.*		1		1				1		
Purple-Leaf Plum	*Prunus atropurpurea*	12	2		14			12	2		
Redwood	*Sequoia sempervirens*	1	4	7	12				12		
Sweet Gum	*Liquidambar spp.*		1		1				1		

Table 2.9-1
Tree Survey Summary

Common Name	Scientific Name	Diameter in Inches			Total # of Trees	Health					
		1-11	12-17	18+		0	1	2	3	4	5
Sycamore	*Platanus platanaceae*	5	2		7				7		
Tree-of-Heaven	*Ailanthus spp.*	17			17				17		
Tristainia	*Lophostemon confertus*	13			13			11	2		
Totals		**64**	**14**	**37**	**115**		**1**	**28**	**86**		

Health: 0 = Dead, 1 = Poor, 2 = Fair, 3 = Average, 4 = Good, 5 = Excellent

2.9.2 Biological Resources Impacts

2.9.2.1 *Thresholds of Significance*

For the purposes of this EIR, a biological resources impact is considered significant if the project would:

- 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;
- Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations;
- 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;
- Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites; or
- Conflict with any local ordinances protecting biological resources, such as a tree preservation ordinance; or
- Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

2.9.2.2 *Special-Status Species*

Redevelopment of the urbanized project site, because it is located in an urbanized area, is not anticipated to have adverse effects on sensitive natural communities or Special-Status Plants.

Nesting Raptors

Although the site is primarily used by species accustomed to developed areas, some nesting raptors (i.e., falcons, hawks, eagles, owls) may use the site and are protected under provisions of the Migratory Bird Treaty Act and the California Department of Fish and Game (CDFG). The Federal Migratory Bird Treaty Act (MBTA; 16 U.S.C., §703, Supp. I, 1989) prohibits killing, possessing, or trading in migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. This act encompasses whole birds, parts of birds, and bird nests and eggs. Future

construction disturbance on the site during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment, a violation of the MBTA.

Migratory birds are also protected in California. The State Fish and Game Code §3503 emulates the MBTA and protects birds' nests and eggs from all forms of take. Disturbance that causes nest abandonment and/or loss of reproductive effort is considered "take" by the California Department of Fish and Game (CDFG).

Finally, raptors (e.g., eagles, hawks, and owls) and their nests are protected under both Federal and State laws and regulations. In addition to the Federal Migratory Bird Treaty Act birds of prey are protected in California under Fish and Game Code §3503.5. Section 3503.5 states that it is "unlawful to take, possess, or destroy any birds in the order Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto." In addition, the State Code includes a section enforcing the Migratory Bird Treaty Act.

Impact BIO-1: The proposed PD zoning development could result in direct impacts to nesting raptors. **(Significant Impact)**

2.9.2.3 *Mature Trees*

There are currently 37 ordinance-sized trees on the project site. The developable area on each parcel proposed by the PD zoning would result in the removal of all trees from the site. Depending on the design of buildings proposed for individual parcels on the site, the proposed PD zoning may require removal of all trees in this portion of the site due to the proposed subgrade parking. The removal of up to 37 ordinance-size trees and 78 trees that are less than ordinance-size is a significant impact.

Impact BIO-2: The proposed PD zoning may result in the removal of all trees from the site. **(Significant Impact)**

2.9.2.4 *NEPA – Federal Statute Compliance*

NEPA requires compliance with *50 CFR 402, Endangered Species Act (ESA)* of 1973, whenever HUD financial assistance is proposed for a project that has the potential to affect endangered species of critical habitat. The site is developed, located in an urbanized area, and does not offer habitat for federally-listed or proposed threatened or endangered species. The project will not affect any federally-listed or proposed threatened or endangered species, including plants, animals, fish, or invertebrates, or any designated or proposed critical habitat. [Source: Site Visit, Dobbin Drive General Plan Amendment FEIR, October 2006]

NEPA requires compliance with *Executive Order 11990, Wetland Protection*, whenever HUD financial assistance is proposed for a project within or adjacent to any existing wetland. The proposed project does not contain and is not adjacent to any existing wetland. The project will not result in any new construction within or adjacent to an existing wetland. [Source: Site Visit, Dobbin Drive General Plan Amendment FEIR, October 2006]

NEPA requires compliance with *Section 7(b) and (c), Wild and Scenic Rivers Act*, whenever HUD financial assistance is proposed for a project within one mile of the listed natural resource. The

project is not located within one mile of a wild/scenic river. [Source: National Wild and Scenic Rivers System, March 2007][31]

NEPA: The proposed project will comply with federal statutes 50 CFR 402, Endangered Species Act (ESA) of 1973, Executive Order 11990: Wetland Protection, and Section 7(b) and (c), Wild and Scenic Rivers Act.

2.9.3 Mitigation and Avoidance Measures for Biological Resources Impacts

2.9.3.1 *Nesting Raptors*

MM BIO-1.1: At the time of site redevelopment, the project shall implement the following measures:

- A qualified ornithologist shall conduct a protocol-level, preconstruction survey for nesting raptors on-site not more than 30 days prior to the onset of ground disturbance or tree removal, if disturbance is to occur during the breeding season (February 1 to August 31).
- In a nesting raptor is detected, an appropriate construction buffer shall be established. The actual size of the buffer will be determined by the project ornithologist and will depend on species and type of construction activity that would occur in the vicinity of the nest.
- A report summarizing the results of the pre-construction survey and subsequent efforts to protect nesting raptors (if found to be present) shall be submitted to the Director of Planning, Building and Code Enforcement.
- All future development on the site would be required to conform to the California State Fish and Game Code and the provisions of the Migratory Bird Treaty Act.

2.9.3.3 *Tree Replacement, Protection, and Relocation Measures*

MM BIO-2.1: All trees that are to be removed should be replaced at the following ratios:

Table 2.9-2:
Tree Replacement Ratios

Diameter of Tree to be Removed	Type of Tree to be Removed		Minimum Size of Each Replacement Tree
	Native	Non-Native	
18 inches or greater	5:1	4:1	24-inch box
12-17 inches	3:1	2:1	24-inch box
1-11 inches	1:1	1:1	15-gallon container

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

[31] National Wild and Scenic Rivers System. Wild & Scenic Rivers by State. March 26, 2007. http://www.rivers.gov/wildriverslist.html. March 26, 2007.

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

- The size of a 15-gallon replacement tree can be increased to 24-inch box and count as two replacement trees.

- An alternative site(s) will be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjacent properties for screening purposed to the satisfaction of the Director of the Department of Planning, Building, and Code Enforcement.

- A donation of $300 per mitigation tree to Our City Forest for in-lieu off-site tree planting in the community. These funds will be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting will be provided to the Planning Project Manager prior to issuance of a development permit.

MM BIO-2.2: Trees proposed for retention or relocation on the site shall be protected under the guidelines contained in the tree report for the project (refer to Appendix H) and outlined below.

- Physical barriers such as fencing should be erected around trees to prevent encroachment by construction equipment and avoid root damage. Barriers should be placed at least midway between the bole of the tree and the drip line. If construction equipment must pass close to the tree, a bridge should be constructed over the root system by placing a steel plate over railroad ties, which are placed at intervals along the ground as supports.

- Grade changes around trees should be avoided whenever possible. If fill must be placed over the root system of a tree, construction of a tree well will help minimize the impact of the fill. If the grade must be cut, this should be done outside the tree's root system.

- Prior to the initiation of construction, interfering lower limbs on trees to be saved should be pruned to allow access for construction equipment. Large deadwood also should be removed at this time in order to eliminate a possible safety hazard to construction workers. Trees remaining on the building lot may be pruned to compensate for damage to the root system that inevitably occurs during construction, if they are excessively damaged. The objective is to reduce the size of the crown to a level that the root system can support. If removing live limbs choose sucker growth, competing and conflicting limbs and low, interfering branches. Side branches should be cut back as necessary to further "lighten" the crown if root disturbance is severe. The crown should not be cut back harshly (topped). Corrective pruning can be undertaken either before construction begins or immediately following completion. Any pruning should not remove more than 15% of tree foliage.

- Trees suitable for relocation, including the two Coast Live Oaks on the site, may be considered for relocation on the site prior to issuance of development permits.

2.9.4 Conclusion

Impact BIO-1: Implementation of the identified mitigation measures will reduce project impacts on nesting raptors to a less than significant level. **(Less than Significant Impact with Mitigation)**

Impact BIO-2: Implementation of the tree replacement and tree protection measures would reduce impacts to mature trees to a less than significant level. **(Less than Significant Impact with Mitigation)**

NEPA: The proposed project will comply with federal statutes 50 CFR 402, Endangered Species Act (ESA) of 1973, Executive Order 11990: Wetland Protection, and Section 7(b) and (c), Wild and Scenic Rivers Act.

2.10 AIR QUALITY

The following discussion is based on an Air Quality Impact Analysis prepared for the project by *Don Ballanti Certified Consulting Meteorologist* in July 2007. This report is included as Appendix I of this EIR/EA.

2.10.1 Introduction and Regulatory Framework

Air pollution typically refers to air that contains chemicals in concentrations that are high enough to cause adverse effects to humans, other animals, vegetation, or materials. Air pollutants include those from natural sources (e.g., forest fires, volcanic eruptions, windstorms, etc.) and human sources (e.g., factories, transportation, power plants, etc.). In the Santa Clara Valley, vehicular emissions are the predominant source of air pollutants.

In recognition of the adverse effects of degraded air quality, Congress and the California Legislature enacted the Federal and California Clean Air Acts, respectively. As a result of these laws, the U.S. Environmental Protection Agency (EPA) and the California Air Resources Board (CARB) have established ambient air quality standards for what are commonly referred to as "criteria pollutants", because they set the criteria for attainment of good air quality. Criteria pollutants include carbon monoxide, ozone, nitrogen dioxide, sulfur dioxide, and particulate matter. In general, the California standards are more stringent than the federal standards. Table 2.10-1 lists these pollutants, their sources and effects, and the related standards.

The Bay Area Air Quality Management District (BAAQMD) oversees air quality in the San Francisco Bay Area. BAAQMD prepares various plans (e.g., *Bay Area 2005 Ozone Strategy*) that set forth the strategies and policies for the region to achieve and maintain compliance with the standards listed in Table 2.10-1. Its roles include the issuance of permits for stationary sources that emit pollutants, the development and oversight of pollutant reduction strategies, the monitoring of air quality, and the enforcement of air quality regulations.

BAAQMD also operates its Toxic Air Contaminant Control Program, which implements and enforces all Maximum Achievable Control Technology (MACT) standards and Airborne Toxic Control Measures (ATCMs) pertaining to the emission of such substances from stationary sources. This program also monitors the concentrations of toxic air contaminants at various locations in the Bay Area.

2.10.2 Existing Air Quality

Despite the substantial growth of the Bay Area in recent decades, overall air quality has been improving. The improvement is primarily due to the implementation of measures that have reduced emissions from both stationary sources (e.g., factories, power plants, refineries, etc.) and mobile sources (e.g., automobiles, buses, trucks, aircraft, etc.). Complementing source-control measures are a variety of strategies, policies, and programs that are designed to improve air quality. These include programs to buy-back older automobiles and gasoline-powered lawnmowers, incentives for replacing older wood-burning stoves and fireplaces, incentives/subsidies for transit riders/carpoolers, incentives for purchasing low-emission products, Spare-the-Air campaigns, and local land use policies that result in a reduction in the number/length of vehicle trips. The latter category includes locating jobs near housing, constructing mixed-use developments, and zoning land along rail corridors for higher densities.

Table 2.10-1
Major Criteria Air Pollutants and Standards

	Pollutant					
	Ozone	**Carbon Monoxide**	**Nitrogen Dioxide**	**Sulfur Dioxide**	**PM_{10}**	**$PM_{2.5}$**
Health Effects	Eye irritation, respiratory function impairment	Aggravation of cardio-vascular disease, fatigue, headache, confusion, dizziness, can be fatal	Increased risk of acute and chronic respiratory disease	Aggravation of lung disease, increased risk of acute and chronic respiratory disease	Aggravation of chronic disease and heart/lung disease symptoms	Aggravation of chronic disease and heart/lung disease symptoms
Major Sources	Combustion sources, evaporation of solvents and fuels	Combustion of fuel, combustion of wood in stoves and fireplaces	Motor vehicle exhaust, industrial processes, fossil-fueled power plants	Diesel exhaust, oil power plants, industrial processes	Combustion, cars, field burning, factories, unpaved roads, construction	Combustion, cars, field burning, factories, unpaved roads, construction
Federal Standard	1-hr: n/a 8-hr: .08ppm	1-hr: 35ppm 8-hr: 9ppm	1-hr: n/a AA: .05ppm	1-hr: n/a 24-hr:.14ppm AA: .03ppm	24-hr: 150 $\mu g/m^3$ AA: n/a	24-hr: 35 $\mu g/m^3$ AA: 15 $\mu g/m^3$
State Standard	1-hr: .09ppm 8-hr: .07ppm	1-hr: 20ppm 8-hr: 9ppm	1-hr: .18ppm AA: .03ppm	1-hr: .25ppm 24-hr:.04ppm AA: n/a	24-hr: 50 $\mu g/m^3$ AA: 20 $\mu g/m^3$	24-hr: n/a AA: 12 $\mu g/m^3$
Bay Area Attainment Status	federal – N state (8-hr) - N state (1-hr)- U	A	A	A	federal – U state - N	federal – U state – N

Attainment Status: A = attainment N = nonattainment, U = Unclassified
PM10 = particulate matter, 10 microns in size PM2.5 = particulate matter, 2.5 microns in size
ppm = parts per million µG/m3 = micrograms per cubic meter
AA = annual average 1-hr = 1-hour average 8-hr = 8-hour average
24-hr = 24-hour average n/a = not applicable
Source: California Air Resources Board, Ambient Air Quality Standards, February 2007.

As shown in Table 2.10-1, the Bay Area is designated as an "attainment area", meaning the area meets the relevant standards, for carbon monoxide, nitrogen dioxide, and sulfur dioxide. The region is classified as a "nonattainment area" for the federal eight-hour and state ozone standards, although a request for reclassification to "attainment" of the federal standard is currently being considered by the U.S. EPA. The region is unclassified for the state eight-hour ozone standard. The area does not meet the state standards for particulate matter.

As noted above, BAAQMD monitors air quality at various locations throughout the Bay Area. The closest multi-pollutant monitoring station to the project site is located in downtown San José on Jackson Street. Table 2.10-2 summarizes recent data for this station in terms of the number of days the applicable standard was exceeded.

Table 2.10-2
Summary of Recent Air Quality Monitoring Data in San José
[Expressed as Number of Days Exceeding the Standard]

Pollutant	Standard	2004	2005	2006
Ozone	State 1-hour	0	0	0
Ozone	State 8-hour	0	1	5
Ozone	Federal 8-hour	0	0	1
CO	State/Federal 8-hour	0	0	0
NO_2	State 1-hour	0	0	0
PM_{10}	Federal 24-hour	0	0	0
PM_{10}	State 24-hour	4	2	0
$PM_{2.5}$	Federal 24-hour	0	0	0

CO = carbon monoxide NO_2 = nitrogen dioxide PM = particulate matter
Source: Air Resources Board, Aerometric Data Analysis and Management (ADAM), 2007.

Toxic Air Contaminants

In addition to the criteria pollutants discussed above, Toxic Air Contaminants (TACs) are another group of pollutants of concern. There are many different types of TACs, with varying degrees of toxicity. Sources of TACs include industrial processes such as petroleum refining and chrome plating operations, commercial operations such as gasoline stations and dry cleaners, and motor vehicle exhaust. Cars and trucks release at least forty different toxic air contaminants. The most important, in terms of health risk, are diesel particulate, benzene, formaldehyde, 1,3-butadiene and acetaldehyde.

Public exposure to TACs can result from emissions from normal operations, as well as accidental releases. Health effects of TACs include cancer, birth defects, neurological damage and death. One facility in the vicinity of the site, Strongwell Corporation, was identified as an emitter of toxic air contaminants. This facility and other nearby sources of toxic air contaminants are discussed subsequently in *Section 2.10.3.4*.

2.10.3 Air Quality Impacts

2.10.3.1 *Thresholds of Significance*

For the purposes of this EIR, an air quality impact is considered significant if the project would:

- Violate an ambient air quality standard or contribute substantially to an existing or project air quality violation; or
- Result in substantial emissions or deterioration of ambient air quality; or
- Expose sensitive receptors or expose the general public to substantial levels of toxic air contaminants.

2.10.3.2 *Regional Air Quality Impacts*

Vehicle trips generated by the project would result in air pollutant emissions affecting the entire San Francisco Bay Air Basin. Regional emissions associated with project vehicle use have been

calculated using the URBEMIS2002 emission model. This analysis assumed the maximum residential buildout allowed under the proposed Planned Development rezoning.

The incremental daily emission increase associated with project land uses is identified in Table 2.10-3 for reactive organic gases and oxides of nitrogen (two precursors of ozone) and PM_{10}. Emissions from existing land uses that would be replaced are also shown. The Bay Area Air Quality Management District has an established threshold of significance for ozone precursors and PM_{10} of 80 pounds per day.

Table 2.10-3
Project Regional Emissions

	Reactive Organic Gases (ROG)		Nitrogen Oxides (NOx)		PM_{10}	
	Daily	Yearly	Daily	Yearly	Daily	Yearly
BAAQMD Significance Threshold	80.0 lbs/day	15 tons/yr	80.0 lbs/day	15 tons/yr	80.0 lbs/day	15 tons/yr
Proposed Project Emissions	92.9 lbs/day	17.0 tons/yr	92.7 lbs/day	16.9 tons/yr	94.2 lbs/day	17.2 tons/yr
Existing Light Industrial Development	36.1 lbs/day	6.6 tons/yr	36.6 lbs/day	6.7 tons/yr	30.9 lbs/day	5.6 tons/yr
Net Project Emissions	56.8 lbs/day	10.4 tons/yr	56.1 lbs/day	10.2 tons/yr	63.3 lbs/day	11.6 tons/yr

Impact AQ-1: Net project vehicle emissions for ROG, NOx, and PM_{10} would not exceed the identified thresholds of significance; therefore, the proposed project would not result in a significant impact to regional air quality. **(Less Than Significant Impact)**

2.10.3.3 *Local Air Quality Impacts*

On the local scale, the project would change traffic on the local street network, changing carbon monoxide levels along roadways used by project traffic. Carbon monoxide (CO) is an odorless, colorless poisonous gas whose primary source in the Bay Area is automobiles. Concentrations of this gas are highest near intersections of major roads.

Carbon monoxide concentrations under worst-case meteorological conditions have been predicted for signalized intersections affected by the project. These intersections were selected as having the worst intersection Level of Service and highest average delay. Peak hour traffic volumes were applied to a screening form of the CALINE- 4 dispersion model to predict maximum one-and eight-hour concentrations near these intersections. The model results were used to predict the maximum one- and eight-hour concentrations, corresponding to the one- and eight-hour averaging times specified in the state and federal ambient air quality standards for carbon monoxide.

Table 2.10-4 shows the results of the CALINE-4 analysis for the peak one-hour and eight-hour traffic periods in parts per million (PPM). The one-hour values are to be compared to the federal one-hour standard of 35 PPM and the state standard of 20 PPM. The eight-hour values are to be compared to the state and federal standard of nine PPM.

Table 2.10-4
Worst Case Carbon Monoxide Concentrations Near Selected Intersection (PPM)

Intersection	Existing		Background		Project	
	1-hr.	8-hr.	1-hr.	8-hr.	1-hr.	8-hr.
Commercial Street/Oakland Road	9.7	7.1	10.3	7.6	10.3	7.6
US 101 NB/Oakland Road	9.6	7.1	10.2	7.5	10.2	7.5
US 101 SB/ Oakland Road	9.5	7.0	9.8	7.2	9.9	7.3
Hedding Street/ 13th Street	8.9	6.6	9.3	6.9	9.4	6.9
Mabury Road/Berryessa Road	8.4	6.2	8.5	6.3	8.5	6.3
Lundy Avenue/Berryessa Road	9.9	7.3	9.6	7.1	9.6	7.1
Mabury Road/North King Road	8.7	6.5	10.2	7.5	10.3	7.5
Mabury Road/ Jackson Avenue	8.6	6.4	8.7	6.4	9.2	6.8
McKee Road/North King Road	9.4	7.0	9.9	7.3	10.1	7.4
Most Stringent Standard	20.0	9.0	20.0	9.0	20.0	9.0

Notes:
This analysis is based on a project of 1,287 residential units and 15,000 square feet of commercial space. The additional 10,000 square feet of commercial space currently proposed by the project would not affect the results of the CO analysis.

Table 2.10-4 shows that existing predicted concentrations near the intersections meet the one-hour and eight-hour standards. Background traffic increases would increase carbon monoxide concentrations by up to 1.5 parts per million (PPM). Traffic from the project would further increase CO concentrations by up to 0.5 parts per million (PPM). However, concentrations with background and project traffic growth would not exceed the state or federal ambient air quality standards.

Impact AQ-2: Project traffic would not cause any new violations of the one-hour or eight-hour standards for carbon monoxide, nor contribute substantially to an existing or projected violation, therefore, the project would not result in a significant increase in local carbon monoxide concentrations. **(Less Than Significant Impact)**

2.10.3.4 *Toxic Air Contaminant Emissions*

The project is located within a mixed light industrial and residential area. The current inventory of Toxic Air Contaminant emissions maintained by the Bay Area Air Quality Management District lists one source of TACs within one-fourth mile of the project. The Strongwell Corporation is located at 615 North King Road and emits styrene at levels below the toxic trigger level that would require a health risk screening analysis. This TAC source is not identified as a priority source requiring preparation of a health risk assessment or notification under the Air Toxics "Hot Spots" Information and Assessment Act.

The California Air Resources Board recently published an air quality/land use handbook. The handbook, which is advisory and not regulatory, was developed in response to recent studies that have demonstrated a link between exposure to poor air quality and respiratory illnesses, both cancer and non-cancer related. The CARB handbook recommends that planning agencies strongly consider proximity to these sources when finding new locations for "sensitive" land uses such as houses, medical facilities, daycare centers, schools and playgrounds. Air pollution sources of concern include freeways, rail yards, ports, refineries, distribution centers, chrome plating facilities, dry cleaners and large gasoline service stations.

The project site is located across Dobbin Drive from a North American Van Lines relocation and storage facility that could be considered a distribution center. Key recommendations in the handbook regarding locating sensitive receptors are:

- Avoid siting new sensitive land uses within 1,000 feet of a distribution center (that accommodates more than 100 trucks per day, more than 40 trucks with operating Truck Refrigeration Units (TRU) per day, or where TRU unit operations exceed 300 hours per week.
- Take into account the configuration of exiting distribution centers and avoid locating residences and other new sensitive land uses near entry and exist points.

The project would construct a residential development closer than 1,000 feet from the North American Van Lines facility. However, the CARB recommendation does not preclude residential development in such areas, as the recommendations are advisory and should not be interpreted as "buffer zones". The handbook recommends that a site-specific analysis be made whenever possible. The North American facility does not involve trucks with TRUs, and daily truck traffic is approximately 12 trucks per day.[32] Additionally, this facility is located southeast of the proposed site, which places it downwind of the project for prevailing north and northwest winds. For the above reasons, the approximately 150 foot setback between the proposed project and truck loading docks is considered adequate to prevent impacts from TACs.

Impact AQ-3: Emissions of toxic air contaminants from nearby facilities, including North American Van Lines, would not result in impacts to residents of the site. **(Less Than Significant Impact)**

2.10.3.5 *Construction Impacts*

Construction Dust Emissions

The proposed project would require demolition of existing buildings. The physical demolition of existing structures and other infrastructure are construction activities with a high potential for creating air pollutants. In addition to the dust created during demolition, substantial dust emissions could be created as debris is loaded into trucks for disposal or during on-site crushing and recycling of concrete and asphalt rubble. The control of emissions from processing of recycled materials is accomplished through the permit process of the Bay Area Air Quality Management District or the state's portable equipment statewide registration program (mitigations or permit conditions typically require Best Available Control Technology, which for portable equipment is defined as dust suppression through regular watering of debris piles and use of continuous water sprays on crushing equipment).

According to the BAAQMD CEQA Guidelines, emissions of ozone precursors (ROG and NOx) and carbon monoxide related to construction equipment are already included in the emission inventory that is the basis for regional air quality plans, and thus are not expected to impede attainment or maintenance of ozone and carbon monoxide standards in the Bay Area. Thus, the effects of construction activities would be increased dustfall and locally elevated levels of PM_{10} downwind of construction activity. Construction dust has the potential for creating a nuisance at nearby properties.

Impact AQ-4: Construction activities such as demolition, clearing, excavation and grading operations, construction vehicle traffic and wind blowing over exposed earth

[32] Sharon Avila, Director of Operations. Personal Communication. 30 April 2007.

on the site and at the PG&E substation would generate fugitive particulate matter emissions that could temporarily affect local air quality. **(Significant Impact)**

Construction Toxic Air Contaminant Emissions

In 1998 the California Air Resources Board identified particulate matter from diesel fueled engines as a toxic air contaminant (TAC). CARB has completed a risk management process that identified potential cancer risks for a range of activities using diesel-fueled engines. High volume freeways, stationary diesel engines and facilities attracting heavy and constant diesel vehicle traffic (distribution centers, truckstop) were identified as having the highest associated risk.

Health risks from Toxic Air Contaminants are function of both concentration and duration of exposure. Unlike the above types of sources, construction diesel emissions are temporary, affecting an area for a period of weeks at any one location. Additionally, construction related sources are mobile and transient in nature, and the bulk of the emission occurs within the project site at a substantial distance from most nearby residential receptors.

Impact AQ-5: Due to the short duration of toxic air contaminant emissions from construction, health risks from construction emissions of diesel particulates would not result in a significant air quality impact. **(Less Than Significant Impact)**

2.10.3.6 *Transportation Development Policy*

The proposed Transportation Development Policy creates a fair share traffic impact fee structure to finance US 101/ Oakland Road and US 101/Mabury Road interchange improvements. These improvements are included in the City's General Plan. The regional growth in the area of these interchanges and related vehicular air pollutant emissions was analyzed as part of the EIR prepared for the City's General Plan. The proposed TDP only addresses the timing of planned development and associated transportation improvements, and does not itself allow for traffic with the potential to result in regional air quality impacts. Individual projects will be required to analyze their impacts to regional air quality impacts as they are proposed and considered. The TDP does specifically allow for additional congestion to occur temporarily at three intersections on the US 101/Oakland Road interchange corridor. The TDP may also result in congestion at an additional eight intersections in the vicinity of the US 101/Oakland Road interchange corridor (refer to Table 2.2-8). The amount of congestion at these intersections could result in localized impacts on air quality due to carbon monoxide.

Carbon monoxide concentrations under worst-case meteorological conditions have been predicted for signalized intersections affected by the TDP diverted traffic. Fifteen intersections were selected for having the worst intersection Level of Service and highest average delay once TDP traffic volumes were added to background traffic conditions at these intersections. Peak hour traffic volumes were applied to a screening form of the CALINE- 4 dispersion model to predict maximum one-and eight-hour concentrations near these intersections. The results of this analysis are shown in Table 2.10-5.

Table 2.10-5 Worst Case Carbon Monoxide Concentrations Near Selected TDP Intersections (PPM)		
Intersection	**Transportation Development Policy**	
	1-hr.	**8-hr.**
Commercial Street/Oakland Road	10.4	7.6
US 101 NB/Oakland Road	10.2	7.5
US 101 SB/ Oakland Road	10.1	7.5
Hedding Street/ 13th Street	9.6	7.1
Mabury Road/Hedding Street	8.7	6.5
Lundy Avenue/Berryessa Road	11.1	8.1
Mabury Road/North King Road	10.3	7.5
Mabury Road/ Jackson Avenue	9.2	6.8
McKee Road/North King Road	10.7	7.8
Airport Pkwy/Old Bayshore Hwy	9.1	6.7
First Street/Old Bayshore Hwy	11.0	8.1
I-880 West Ramps/Old Bayshore Hwy	9.4	7.0
I-880 East Ramps/Old Bayshore Hwy	9.2	6.8
Fourth Street/Hedding Street	8.9	6.6
Tenth Street/Hedding Street	10.4	7.6
Eleventh Street/Hedding Street	9.7	7.2
Eleventh Street/Taylor Street	8.9	6.6
Berryessa Road/Commercial Street	9.9	7.3
Tenth Street/Taylor Street	8.5	6.3
Most Stringent Standard	20.0	9.0

Traffic temporarily diverted due to the US 101 – Oakland/Mabury Transportation Development Policy (TDP) – allowed traffic growth would not cause any new violations of the eight-hour standards for carbon monoxide, nor contribute substantially to an existing or projected violation.

Impact AQ-6: The TDP-diverted traffic would not contribute to an existing or projected air quality violation due to concentrations of carbon monoxide. **(Less Than Significant Impact)**

2.10.3.7 *NEPA – Federal Statute Compliance*

NEPA requires compliance with *Sections 176(c),(d), and 40 CFR 6, 51, and 93, Clean Air Act*, whenever HUD financial assistance is proposed for a project that has the potential to violate air quality standards. The project proposes the construction of a residential and commercial development that will not lead to any violations of air quality standards. [Source: Air Quality Impact Analysis, April 2007]

NEPA: The proposed project will comply with federal statutes Sections 176(c),(d), and 40 CFR 6, 51, and 93 of the Clean Air Act.

2.10.4 Mitigation Measures for Air Quality Impacts

2.10.4.1 *Demolition-Related Impacts*

MM AQ-4.1: The BAAQMD has prepared a list of feasible construction dust control measures that can reduce construction impacts to a less than significant level. The following dust control measures shall be implemented by project contractors during demolition and on-site recycling of materials and shall be reflected as notes on the project plans prior to issuance of demolition permits:

- Water to control dust generation during demolition of structures and break-up of pavement. Concrete crusher should add water to materials at point(s) of entry and whenever materials will be dropped or dumped;
- Cover all trucks hauling demolition debris from the site;
- Use dust-proof chutes to load debris into trucks whenever feasible. Watering should be used to control dust generation during transport and handling of recycled materials;
- All crushing or screening equipment used on site for the recycling of materials will be permitted by the Bay Area Air Quality Management District or the state's portable equipment statewide registration program, and utilize Best Available Control Technology for that type of equipment.

2.10.4.2 *Construction Related Impacts*

MM AQ-4.2: The following construction practices shall be implemented during all phases of construction on the project site and shall be reflected as notes on the project plans prior to issuance of grading or building permits:

- Water all active construction areas at least twice daily and more often during windy periods; active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non toxic stabilizers or dust palliatives;
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two (2) feet of freeboard;
- Pave, apply water three times daily, or apply (non toxic) soil stabilizers on all parking areas and staging areas at construction sites;
- Sweep daily (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; water sweepers shall vacuum up excess water to avoid runoff related impacts to water quality;
- Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets;
- Apply non toxic soil stabilizers to inactive construction areas;
- Enclose, cover, water twice daily, or apply non toxic soil binders to exposed stockpiles (dirt, sand, etc.);
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways;
- Replant vegetation in disturbed areas as quickly as possible;
- Minimize idling time (5 minutes maximum);

- Maintain properly tuned equipment;
- Limit the hours of operation of heavy equipment and/or the amount of equipment in use.

2.10.5 Conclusion

Impact AQ-1: Project vehicle emissions for ROG, NOx, and PM_{10} would not exceed the identified thresholds of significance; therefore, the proposed project would not result in a significant impact to regional air quality. **(Less Than Significant Impact)**

Impact AQ-2: Project traffic would not cause any new violations of the one-hour or eight-hour standards for carbon monoxide, nor contribute substantially to an existing or projected violation, therefore, the project would not result in a significant increase in local carbon monoxide concentrations. **(Less Than Significant Impact)**

Impact AQ-3: Emissions of toxic air contaminants from nearby facilities, including North American Van Lines, would not result in impacts to residents of the site. **(Less Than Significant Impact)**

Impact AQ-4: The proposed project, with the implementation of the above measures, would not result in significant construction-related air quality impacts. **(Less Than Significant Impact with Mitigation)**

Impact AQ-5: Due to the short duration of toxic air contaminant emissions from construction, health risks from construction emissions of diesel particulates would not result in a significant air quality impact. **(Less Than Significant Impact)**

Impact AQ-6: The TDP would not contribute to an existing or projected air quality violation due to concentrations of carbon monoxide. **(Less Than Significant Impact)**

NEPA: The proposed project will comply with federal statutes Sections 176(c),(d), and 40 CFR 6, 51, and 93 of the Clean Air Act.

2.11 WATER SUPPLY AND UTILITIES AND SERVICE SYSTEMS

The following discussion is based in part on a Water Supply Assessment prepared for the project by the San José Water Company. This letter is included as Appendix J of this EIR/EA.

2.11.1 Setting

2.11.1.1 *Water Supply and Water Service*

Water Use

Water service to the site is supplied by the San José Water Company (SJWC). Currently, the project site is served by a 12-inch water main located in Dobbin Drive and a 17.25-inch water main in North King Road. It is estimated that the existing light industrial and warehouse buildings on-site use 25,681 gallons of water per day.[33]

Water Use Regulation

Senate Bill 610

Senate Bill 610 (2001), codified as Water Code Section 10910 et seq., requires that certain water supply information be prepared for projects that are the subject of an EIR. In accordance with State law (SB 610) and CEQA, all projects that would demand an amount of water equivalent to, or greater than, the amount of water required by a 500 dwelling unit project must provide an analysis of whether there is adequate water supply available to serve the development.

On February 1, 2007, a California State Supreme Court case (*Vineyard Area Citizens for Responsible Growth, Inc. et al v. City of Rancho Cordova and Sunrise Douglas Property Owners Assn. et al.)* was decided that found that CEQA documents must not only identify potential water sources according to SB 610, but must also, to the extent feasible, identify the environmental impacts from utilizing the various supply sources and how those impacts would be mitigated.

Water Sources

SJWC has three sources of supply: groundwater, imported treated surface water and local surface water. Groundwater comprises just over one third of SJWC's water supply. Ninety-four active and ten stand-by wells pump water from the major water-bearing aquifers of the Santa Clara Valley Subbasin. These aquifers are recharged naturally by rainfall and artificially by a system of local reservoirs, percolation ponds, and an injection well operated by the District. SJWC is under contract with the District for the purchase of just over fifty percent of the needed water supply. This water originates from several sources including local reservoirs, the State Water Project and federally funded Central Valley Project San Felipe Division. SJWC's final source of supply is from surface water in the local watersheds of the Santa Cruz Mountains. Surface water provides approximately five to ten percent of the water supply depending on the amount of annual rainfall.

[33] The water usage for the existing warehouses was based upon a sewage generation rate of 0.052 gallons per square foot per day for warehouses. Typically, sewage generation is 85 percent of water usage, therefore, the water usage rate was estimated to be 0.061 gallons per day. Source: City of San José. Sewage Treatment Plant Connection Fees, Coefficients, and Rates. March 2001.

In 1981, SJWC entered into a 70-year master contract with the Santa Clara Valley Water District (District) for the purchase of treated water. The maximum peak day rate for delivery of water from the District under the 2004-2005 schedule is 108 million gallons per day (MGD). The District's sources of supply include local surface water from ten reservoirs, water imported from the South Bay Aqueduct of the State Water Project, and water imported from the Federal Central Valley Project, San Felipe Division. The District, along with other public agencies, contracts for water from these projects. SJWC's combined yield of raw water from Los Gatos Creek from both pre-1914 rights and the SWRCB license totals approximately 11,200 acre-feet per year (AF/yr) for an average water year.

The District has set up a successful artificial recharge system employing local reservoirs, percolation ponds, and an injection well to supplement the natural recharge of the Basin such that overdraft of the Basin is not projected. Although there was significant land subsidence historically, that has been effectively halted since the late 1960's/early 1970's, due to the District's recharge program and the use of imported water.

The District's 2003 IWRP states, "although supplies are adequate to meet needs in wet and average years, the expected dry-year shortages will grow over time from approximately 50,000 AF/yr in 2010 to 75,000 AF/yr in 2040." Based on this, the District has suggested that the amount of groundwater pumped by SJWD should not exceed 75,000 AF/yr in 2030.[34] Groundwater will continue to be a vital source of water, comprising just over 35% of supply by year 2030.

According to the SJWC's 2005 Urban Water Management Plan, the total planned water supply for the year 2030 (without conservation) is 211,464 AF/yr. This is an increase of 58,522 AF/yr over the 2005 total supply of 152,942 AF/yr.

Water Conservation

The City's water conservation program is intended to minimize flows to the sanitary sewer and sewage treatment systems, and to assist water providers in meeting future water needs. Elements of the City's active water conservation program include partnering with the Santa Clara Valley Water District to provide: high efficiency toilet installations, clothes washer rebates, landscaping equipment rebates and audits, and financial incentives for commercial/industrial conservation.

Water Recycling

The City of San José administers the South Bay Recycling (SBWR) program, a long-term program for the Cities of Milpitas, San José, and Santa Clara created to bring a reliable, sustainable, and drought-proof supply of water to the South Bay Area. The recycled water system includes pump stations, reservoirs, and extensive pipelines. Wastewater from the sanitary sewer system travels to the San José/Santa Clara Water Pollution Control Plan (WPCP) for treatment. During summer months, about 10 percent of the wastewater flowing to the treatment plant is recycled and pumped through pipelines to over 500 connections to irrigate golf courses, parks, schools and agricultural lands, and for industrial purposes and cooling towers. Recycled water is currently not available to the project site. The nearest pipelines are located approximately 4,000 feet southwest of the site at Watson Park and 6,000 feet west of the site at Berryessa Road and Highway 101.

[34] In 2005, SJWC pumped 57,389 AF/year from the Santa Clara Valley Subbasin, representing 37.52 percent of the total projected supply.

2.11.1.2 *Wastewater Treatment/Sanitary Sewer Service*

Wastewater Pollution Control Plant (WPCP)

The San José/Santa Clara Water Pollution Control Plant (WPCP), which is in the Alviso area of San José, provides wastewater treatment for the cities of San José, Santa Clara, Milpitas, Campbell, Cupertino, Los Gatos, Saratoga, and Monte Sereno. A majority of the treated wastewater from the WPCP is discharged into Artesian Slough at the southernmost tip of the San Francisco Bay. Approximately 10 percent of the wastewater is recycled through South Bay Water Recycling for landscaping, agricultural irrigation, and industrial uses.

The City's level of service goal for sewage treatment is to remain within the capacity of the WPCP. The existing capacity of the WPCP is 167 million gallons per day (mgd) during dry weather flow. There is no anticipated increase in capacity planned for the next 10 to 15 years. In 2006, the WPCP processed an estimated 125 mgd of average dry weather influent (dry weather peak). The average dry weather influent flow (or peak week flow) is determined as the highest average flow during any five-weekday period between the months of May through October.

In 2006, the WPCP's average dry weather effluent of 102 mgd was below the 120 mgd (dry weather) total flow trigger imposed by the State Water Resources Board and the Regional Water Quality Control Board (RWQCB). The flow trigger was implemented due to concerns over the effects of additional freshwater discharges from the WPCP. In response to these issues, the City of San José has prepared the South Bay Action Plan, to prevent degradation of the salt water marshland habitat and study the discharge of metals from the WPCP in excess of RWQCB standards. The South Bay Action Plan describes in some detail the conservation, reuse, and diversion activities designed to maintain the effluent flow from the WPCP to below 120 mgd.

Existing Sanitary Sewer Lines

The San José 2020 General Plan calls for a level of service (LOS) D for sanitary sewer lines, which represents a free flow of wastewater sufficient to prevent "back up" problems. New development is required by existing policies to avoid or minimize impacts upon any existing or anticipated LOS E sewer lines by constructing or contributing to the construction of new lines or by waiting for completion of planned sewer lines improvements.

The sanitary sewer lines in the area are owned and maintained by the City of San José. Sewer lines are inspected and maintained by the Department of Transportation, and are rehabilitated or replaced by the Department of Public Works. There are existing eight-inch sanitary sewer lines along both Dobbin Drive and North King Road.

It is estimated that the existing warehouses on the project site generate approximately 21,892 gallons of sewage a day.[35]

2.11.1.3 *Storm Drainage Systems*

The San José 2020 General Plan level of service policy for storm drainage in the City is to minimize flooding on public streets and to minimize property damage from storm water. The City of San José

[35] The sewage generation for the existing warehouses on-site was based upon a sewage generation rate of 0.052 gallons per day per square foot of warehouse space. Source: City of San José. Sewage Treatment Plant Connection Fees, Coefficients, and Rates. March 2001.

owns and maintains municipal storm drainage facilities throughout the City. Storm drain lines are inspected and maintained by the Department of Transportation and are installed, rehabilitated, or replaced by the Department of Public Works.

The project site drains to Silver Creek through an existing 15-inch storm drainage line in North King Road and a 30-inch storm drainage line in Dobbin Drive. Approximately 89 percent of the site is currently covered with impervious surfaces.

2.11.1.4 *Solid Waste*

Industrial and commercial solid waste collection in San José is provided by a number of non-exclusive service providers and the waste may be disposed of at any of the five privately owned landfills in San José. The existing disposal facilities in San José include the Newby Island Sanitary Landfill, Guadalupe Mines Rubbish Disposal Site, Kirby Canyon Sanitary Landfill, Zanker Road Disposal Landfill, and Zanker Materials and Processing Facility.

Solid waste and recycling collection services for businesses in San José are provided by various franchised waste and recycling haulers. The City of San José offers businesses a free market system for garbage and recycling and businesses can chose a hauler and/or recycler that best suits the needs of their business. Non-residential waste may be disposed at any of five privately owned landfills in San José, or at other landfills outside the County.

Residential solid waste and recycling collection services in the area are provided by Garden City Sanitation, California Waste Solutions, and Green Team of San José. San José has a contract with the Newby Island Landfill which extends to 2019. The City of San José disposes of approximately 225,000 tons of residential garbage per year at the Newby Island Landfill.

Assembly Bill 939 established the California Integrated Waste Management Board and required all California counties to prepare integrated waste management plans. AB939 also required all municipalities to divert 25 percent of their solid waste from landfill disposal by January 1, 1995. Fifty percent of the waste stream was to be diverted by the year 2000. The City of San José currently generates approximately 1,820,431 tons of solid waste annually, and diverts approximately 61 percent of its waste streams through a variety of waste diversion programs including curbside recycling and yard waste collection.

It is estimated that the existing uses on the project site generate approximately 41,846 pounds of waste per week.[36]

2.11.1.5 *Electricity, Natural Gas, and Telephone Services*

Electricity and natural gas are provided to the project site by Pacific Gas and Electric (PG&E). Telephone services are currently provided to the project site by AT&T/SBC.

[36] Solid waste generation for the site was based upon the waste generation rate of 1.42 pounds per 100 square feet per day for manufacturing/warehouse uses. Source: California Integrated Waste Management Board. Estimated Solid Waste Generation Rates for Industrial Establishments. 2004. Accessed: 5 February 2004. Available at: http://www.ciwmb.ca.gov/wastechar/WasteGenRates/WGIndust.htm.

2.11.2 Water Supply and Utilities and Service Systems Impacts

2.11.2.1 *Thresholds of Significance*

For the purposes of this EIR, a water supply and utilities and service systems impact is considered significant if the project would:

- Not have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed; or
- Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board; or
- Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments; or
- 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; or
- Be served by a landfill with insufficient permitted capacity to accommodate the project's solid-waste disposal needs;
- Generate waste before or after project completion in a quantity sufficient to negatively affect the City's compliance with State law or Solid Waste Goal 3.2B; or
- Not comply with federal, state, and local statutes and regulations related to solid waste.

2.11.2.2 *Water Service and Supply*

The proposed mixed-use residential and commercial development on the site would result in an increase in water usage when compared to the existing industrial development. Development of up to 1,287 units, 25,000 square feet of commercial space, and a one-acre park on the site would result in a net increase in water use of approximately 186,565 gpd.[37]

A Water Supply Assessment (WSA) was completed for the General Plan Amendment on the site by the San José Water Company (SJWC) in April 2006. According the SJWC, the growth associated with the proposed project was anticipated in SJWC's 2005 Urban Water Management Plan (UWMP). The UWMP assumed growth that has not yet been constructed and demand resulting from development of the site could be accommodated by the anticipated capacity. A hydraulic analysis of the existing distribution system under project conditions was performed and the results showed that the additional water demand from the proposed redevelopment of the site would have a minimal impact on the existing distribution system.

As described above, a WSA for the project was requested from San José Water Company for the previously approved Dobbin Drive General Plan Amendment project, which changed the land use designation on the 24.8-acre site from *Light Industrial* to *Transit Corridor Residential (20+ DU/AC)*. This General Plan land use change was evaluated as resulting in a maximum development of 1,364 residential units and 248,800 square feet (sf) of commercial development. The estimated demand for the General Plan Amendment was 352,800 gallons per day, or approximately 130 million gallons per

[37] Based on a water usage rate of 225 gallons per day (gpd) per townhouse residential unit and 136 gpd per condominium/apartment unit. The water usage for the commercial uses on site was based upon a rate of 0.089 gallons per day per square foot for a commercial land use. Park water usage was based on a rate of 0.129 gpd per square foot. Source: City of San José. San José Municipal Water System Specific Building Rates.

year.[38] SJWC concluded that they would be able to adequately supply the project without any additional sources of supply or system operation changes.

The currently proposed project is smaller than what was assumed for the General Plan Amendment. The current project would create a total new water demand for 186,565 gallons per day (approximately 68.1 million gallons per year), which is approximately 52 percent of the demand assumed for the General Plan Amendment.

Impacts of Water Use

As noted above, the proposed project would create a new water demand for 186,565 gpd, or approximately 209 AF/yr. This represents less than one-half of one percent (0.3%) of the anticipated increase in water supply between 2005-2030. SJWC concluded that they would be able to adequately supply the project without any additional sources of supply or system operation changes.

SJWC plans to add additional sources of supply in the form of new, higher capacity, replacement groundwater wells in order to meet the demands of planned developments within SJWC's service area. These projects include the North First Street Project and the San José Flea Market Project, (both of which are in the vicinity of the proposed project). The Water Supply Assessments SJWC completed for these two projects determined additional sources of supply were required. It was estimated that up to three new wells near the North First Street Project area and one additional well at the San José Flea Market area were required to serve these developments with adequate pressure at a reasonable cost. These wells will likely replace low performing wells elsewhere in the system.

Potential impacts of groundwater pumping include overdrafting of the aquifer, with resulting land subsidence. As noted above, the District's artificial recharge system has halted land subsidence. The proposed project's water demand would not require any additional groundwater pumping.

The District has contracts for water deliveries with both the State Water Project and the federal Central Valley Project (CVP). During critical dry periods, water deliveries may be reduced due to flow restrictions for the protection of water quality and habitat of fish and wildlife in the Delta. Through these flow restrictions, biological resource and water quality impacts to Delta habitat will be avoided. In the event of flow restrictions, the proposed project and other SJWC users would be subject to voluntary and mandatory water conservation.

In the event that the above water supply sources do not fulfill the SJWC's projected demands, the Santa Clara Valley Water District (SCVWD) and the City of San José have identified alternative sources that could be used countywide and for the project. The SCVWD's Urban Water Management Plan (2005) identifies a new 100,000 AF reservoir as a way to reduce expected water shortages through 2030 to negligible levels. This reservoir would provide additional storage for the SCVWD to meet the long-term water needs of the Santa Clara Valley. No location for the future reservoir or schedule for its completion is described. The need for this reservoir is irrespective of the future water needs for the project; the project does not create a water demand requiring this reservoir. Separate environmental review would be completed for this possible reservoir. Because the location, timing, and design parameters of such a reservoir are unknown at this time, a discussion of potential impacts from its construction and operation would be speculative and is not provided in this EIR/EA.

[38] Water demand based upon the City's estimates of 225 gallons per day for each single family high density residential unit and 0.18 gallons per day per square foot of commercial space.

The relatively small increase in water demand resulting from development of the proposed project is not expected to require any additional sources of supply or system operation changes. Mitigation and avoidance measures (in terms of federally-mandated flow restrictions) are in place to prevent impacts from imported water supplies. Water can be withdrawn from the Santa Clara Valley Sub-basin without adverse effects, due to District's artificial recharge system, and is accounted for in the SCVWD's Urban Water Management Plan. For the reasons described above, the project's use of existing water supply sources would not result in any significant environmental impacts.

Impact UTIL-1: Based upon the WSA, SJWC would have adequate water supplies to serve the proposed project and an additional source of supply or system operation changes would not be necessary. **(Less Than Significant Impact)**

2.11.2.3 *Wastewater Treatment/Sanitary Sewer*

The proposed PD rezoning would increase the demand for sanitary sewer services in comparison to existing levels. The proposed project would generate a net increase of approximately 158,580[39] gallons of sewage per day. The net increase of sewage would be approximately 0.13 percent increase in the amount of sewage treated at the WPCP. The increased amount of sewage from the proposed project would not significantly impact the current influent flow to the WPCP.

As discussed previously, the project site is served by sewage lines located in Dobbin Drive and North King Road. The Public Works Department has determined the sanitary sewer capacity adjacent to the site may be inadequate to accommodate the proposed development. In order to conform to the City of San José's Sanitary Sewer Level of Service Policy, a detailed analysis of sanitary sewer capacity will be completed prior to the issuance of a PD permit and any necessary capacity improvements identified.

Impact UTIL-2: The sewage generated from the proposed redevelopment will not exceed the capacity of the sewage treatment plant and is not anticipated to exceed the existing sanitary sewer capacity. **(Less Than Significant Impact)**

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

SM UTIL-2.1: Prior to issuance of a Planned Development (PD) Permit, a sanitary sewer main LOS study will be completed by a qualified civil engineer to determine the need for improvements to the sanitary sewer infrastructure adjacent to the project site. The study will be submitted to the Department of Public Works project engineer for review and approval.

2.11.2.4 *Storm Drainage Systems*

The majority of project site is covered with buildings and paved surfaces. The proposed redevelopment of the site will decrease the amount of paved surfaces on the site and therefore is anticipated to reduce stormwater runoff to the existing storm drainage system. For these reasons, the existing storm drainage system can accommodate runoff from the proposed project.

[39] Sewage generation is approximately 85 percent of water usage. Since the project is estimated to result in a water use increase of 185,675 gpd, the increased sewage generation from the project would be 157,824 gpd (185,675 x 0.85).

Impact UTIL-3: The proposed redevelopment on the site will reduce the amount of impervious surfaces on the site and therefore, will not result in additional runoff or significant impacts to the existing storm drainage system. **(Less than Significant Impact)**

2.11.2.5 *Solid Waste*

The proposed project is estimated to generate approximately 48,353 pounds of garbage per week and 8,623 pounds of recyclables per week.[40,41] This would result in a net increase in waste generation from the site by approximately 6,487 pounds per week.

According to the *County of Santa Clara Integrated Waste Management Plan, Summary Plan and Siting Element*, the County is served by six fully permitted solid waste disposal sites. At the time this Summary Plan and Siting Element was prepared, the County estimated that between 29 and 47 years of disposal capacity remained within the County.[42] It is likely that the solid waste from the site would be disposed of at the Newby Island Sanitary Landfill. Capacity estimates at Newby Island indicate that the facility currently has capacity for an additional 18,274,953 cubic yards of waste.[43]

Based on the available disposal capacity in the County and the fact that the proposed project would result in a small increase in waste generation from the site, the project would not result in significant solid waste impacts.

Impact UTIL-4: The proposed project would not exceed either the capacity of the collection systems or the secured landfill capacity. **(Less Than Significant Impact)**

2.11.2.6 *Electricity, Natural Gas, and Telephone Impacts*

Facilities for providing electrical, natural gas, and telephone services are built and maintained by the private utilities that provide these services under their franchise agreements with the State of California. All of the utility providers monitor growth patterns and plans of the urban jurisdictions in Santa Clara County, including the City of San José. New and expanded facilities are paid for from capital funds financed by fees paid by users.

The proposed project would result in an increase in the demand for electric, natural gas, and telephone services on the site, as compared with existing conditions. Given the presence of existing electricity, natural gas, and telephone infrastructure and services to the project site, however, the provision and expansion of service for the project would not present a significant impact.

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[40] The solid waste and recycling generation for the proposed project was based on solid waste generation rate of 31.3 pounds per household per week for multi-family residences and the recycling generation rate of 6.7 pounds per household per week for multi-family residences. Source: Godley, Laurel. City of San José Environmental Services Department. Personal Communications. 2 November 2006.

[41] Solid waste generation for the commercial uses was based upon the waste generation rate of 10.53 pounds per employee per day for commercial uses. Source: California Integrated Waste Management Board. Estimated Solid Waste Generation Rates for Commercial Establishments. 2004. Accessed: 5 February 2004. Available at: http://www.ciwmb.ca.gov/wastechar/WasteGenRates/WGCommer.htm.

[42] County of Santa Clara. County of Santa Clara Integrated Waste Management Plan, Summary Plan and Siting Element. November 1995. p. II-7.

[43] California Integrated Waste Management Board. Homepage. 30 April 2007. Available at: http://www.ciwmb.ca.gov/Profiles/Facility/

Impact UTIL-5: The proposed project would result in an increase in demand for electrical, natural gas, and telephone services, but would not result in a need for the expansion or construction of new utility facilities. **(Less Than Significant Impact)**

2.11.3 Conclusion

Impact UTIL-1: Based upon the WSA, SJWC would have adequate water supplies to serve the proposed project and an additional source of supply or system operation changes would not be necessary. **(Less Than Significant Impact)**

Impact UTIL-2: The proposed project with the implementation of the above identified avoidance measure will avoid impacts to the sanitary sewer system. **(Less Than Significant Impact)**

Impact UTIL-3: The proposed redevelopment on the site will reduce the amount of impervious surfaces on the site and therefore, will not result in additional runoff or significant impacts to the existing storm drainage system. **(Less than Significant Impact)**

Impact UTIL-4: The proposed project would not exceed either the capacity of the collection systems or the secured landfill capacity. **(Less Than Significant Impact)**

Impact UTIL-5: The proposed project would result in an increase in demand for electrical, natural gas, and telephone services, but would not result in a need for the expansion or construction of new utility facilities. **(Less Than Significant Impact)**

2.12 VISUAL AND AESTHETIC RESOURCES

2.12.1 Setting

The 24.8-acre project site is located within a developed light industrial and residential area of San José. The project site and surrounding area are flat, and as a result, the project site is only visible from the immediate area (refer to Photos 1-6). The project site is not located within a scenic corridor and there are no scenic resources present on the project site.

Currently, the project site is developed with light industrial buildings, warehouse buildings, and a public storage facility totaling 421,000 square feet, surface parking lots, and landscaping. The buildings on-site are mainly concrete tilt-ups that are one-, to two-stories in height. The site is predominantly visible from North King Road. The existing buildings along King Road are typical of industrial development from the 1960s and 1970s. The buildings are set back from the street and landscaping is present along the North King Road project frontage. Several large redwood trees are located adjacent to the building at 686 North King Road.

The project frontage along Dobbin Drive is more sparsely vegetated and parking areas and warehouse buildings are highly visible. Development on the site toward the terminus of Dobbin Drive has greater landscaping consisting of Sycamores and large Ash trees. Existing development along North King Road and Dobbin Drive consists mainly of similar one- to two-story light industrial warehouse buildings.

2.12.2 Visual and Aesthetic Resources Impacts

2.12.2.1 *Thresholds of Significance*

For the purposes of this EIR, a visual and aesthetic resources impact is considered significant if the project would:

- Have a substantial adverse effect on a scenic vista;
- Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway;
- Substantially degrade the existing visual character or quality of the site and its surroundings; or
- Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area.

2.12.2.2 *Change in Visual Character*

The proposed redevelopment would result in a change in visual character on the site. The site is developed with structures and intensities of development typical of a relatively modern (+/- 40 years old) light industrial complex. The project proposes both residential and commercial uses on the site. The PD rezoning would allow buildings as tall as 120 feet in height.

The proposed redevelopment would be of a greater intensity than the light industrial uses on the west side of North King Road. Redevelopment on the site, while taller, would not be substantially more massive than the existing warehouse uses on the south side of Dobbin Drive.

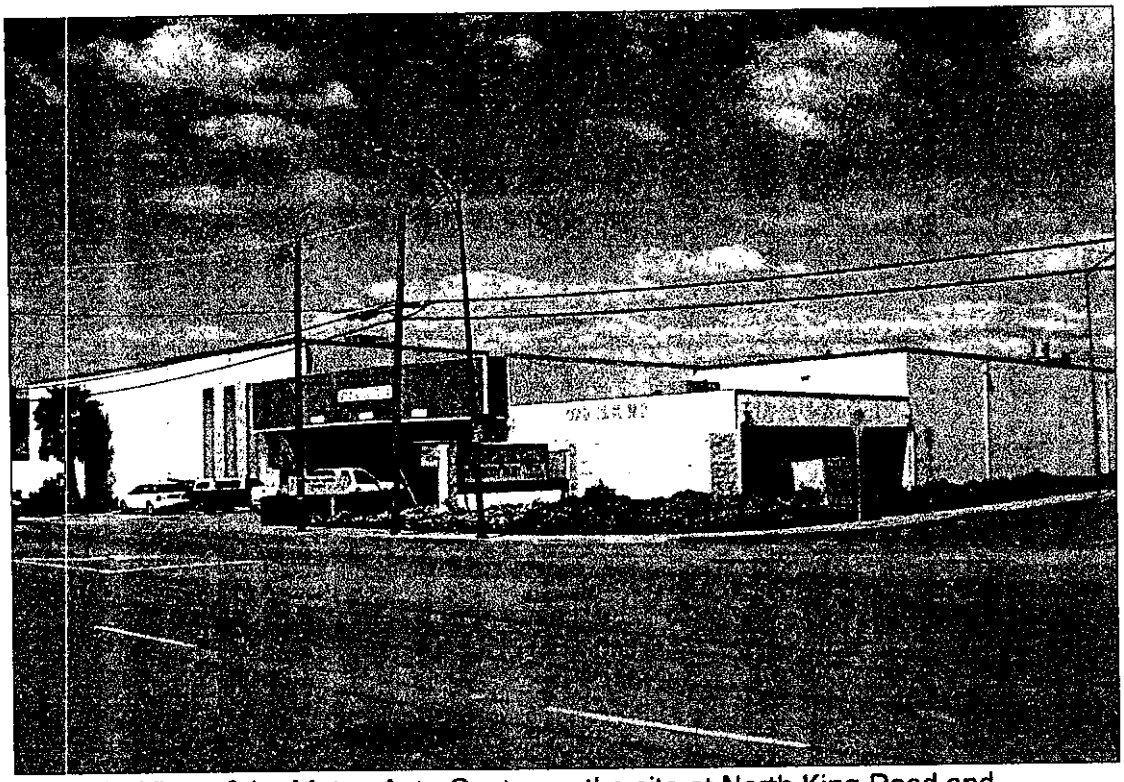

Photo 1 - View of the Matos Auto Center on the site at North King Road and Dobbin Drive looking north from North King Road.

Photo 2 - View of 686 North King Road looking east from North King Road.

PHOTOS 1 AND 2

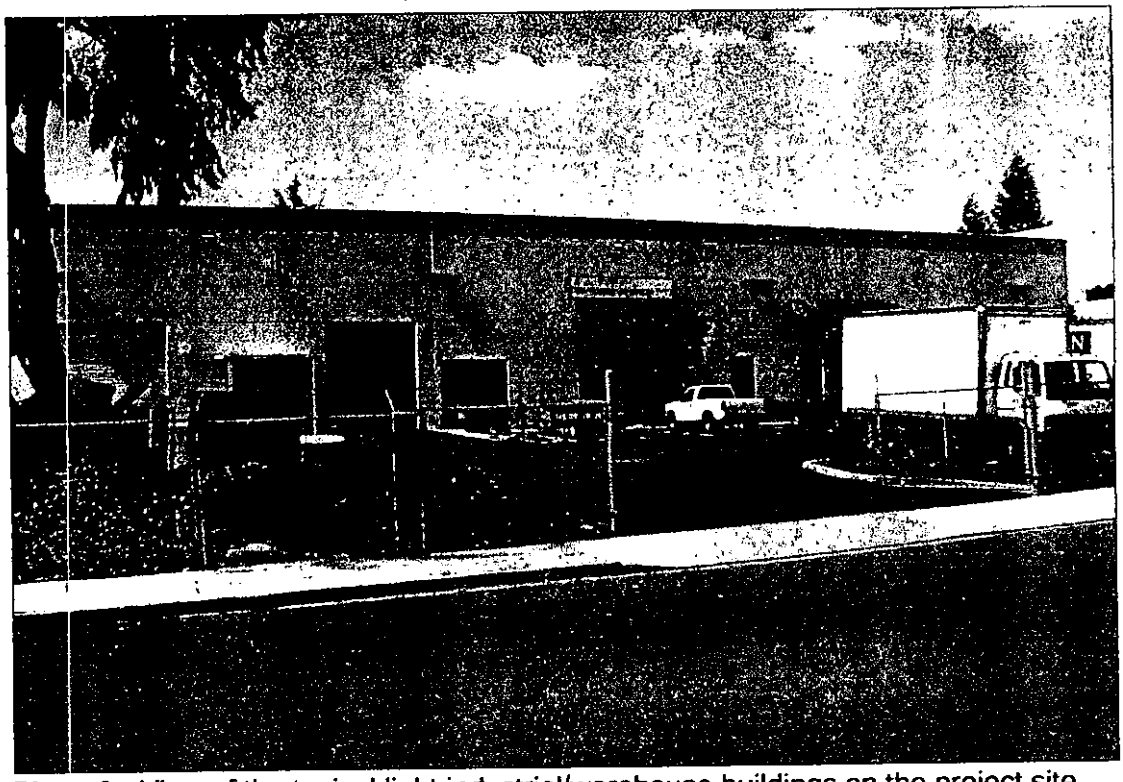

Photo 3 - View of the typical light industrial/warehouse buildings on the project site looking north from Dobbin Drive.

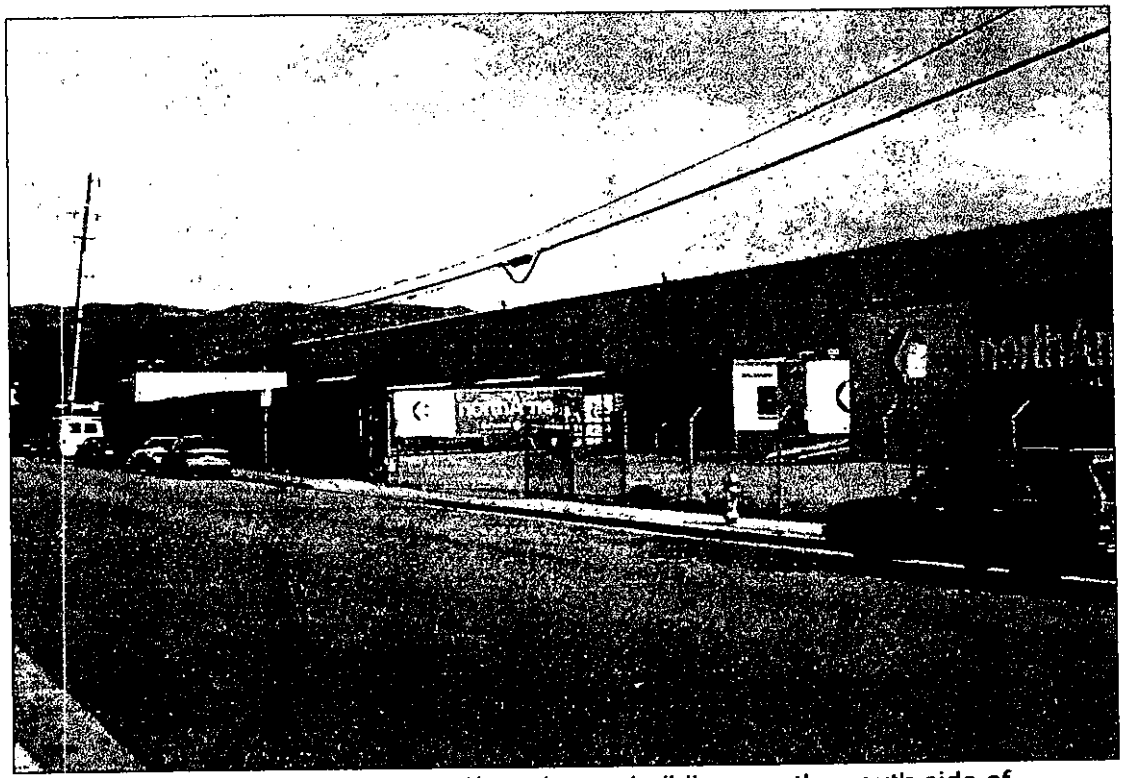

Photo 4 - View of the light industrial/warehouse buildings on the south side of Dobbin Drive looking east from the project site.

PHOTOS 3 AND 4

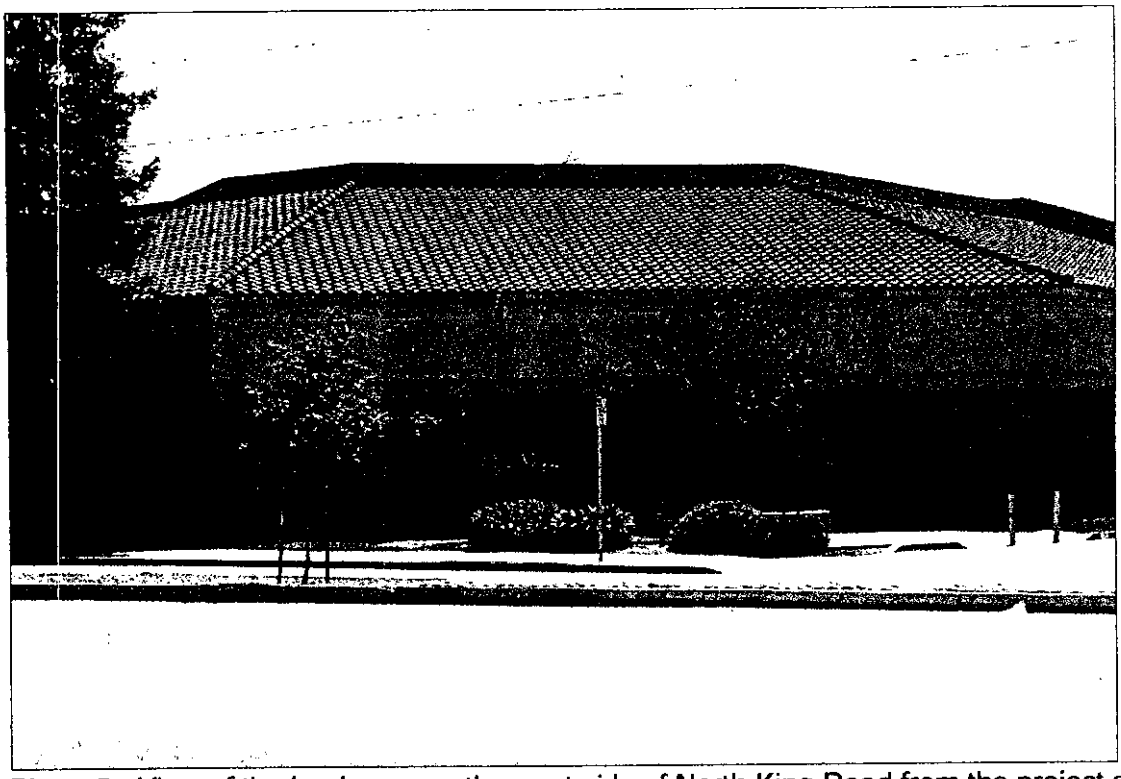

Photo 5 - View of the land uses on the west side of North King Road from the project site.

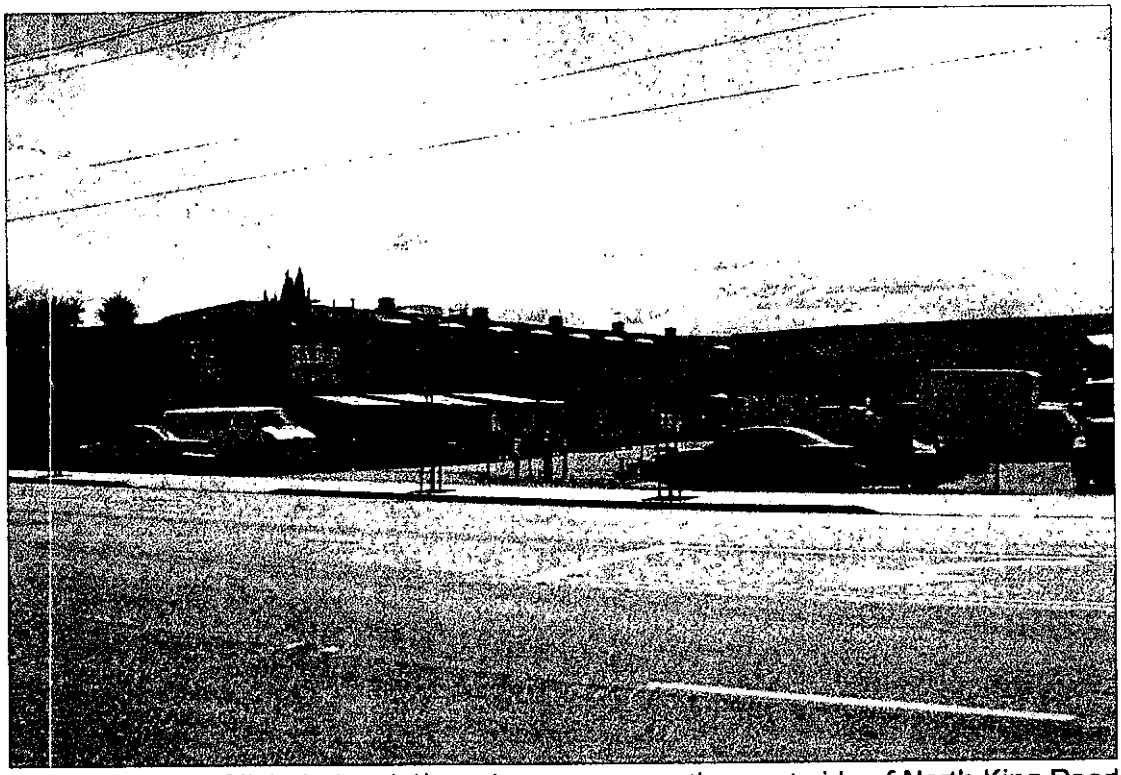

Photo 6 - View of light industrial/warehouse uses on the west side of North King Road from the project site.

PHOTOS 5 AND 6

Development on the site will be subject to applicable requirements in the City's adopted Residential and Commercial Design Guidelines. The project will also remove approximately 115 trees from the site; however, replacement tree plantings will be required (refer to *Section 2.9 Biological Resources*). The proposed project will not block any views or degrade any scenic vista. Landscaping on the site will soften the views of the proposed development from the surrounding sidewalks and roadways. Given the developed nature of the project site and the fact that there are no scenic corridors or resources present on the site, the proposed redevelopment would not result in significant visual or aesthetic impacts.

Impact VIS-1: The proposed project would not result in significant visual or aesthetic impacts. **(Less than Significant Impact)**

2.12.2.3 *Light and Glare Impacts*

The proposed redevelopment on the site would increase the level of illumination in the area. The proposed redevelopment would likely include outdoor security lighting on-site, along walkways and in entrance areas. In accordance with the City of San José Outdoor Lighting Policy, low-pressure sodium lighting would be required for most types of lighting fixtures in most location on the site and the fixtures would be directed downward to avoid light spillover. Buildings developed in conformance with the proposed PD zoning will also include appropriate setbacks from adjacent residential uses to avoid light spillover impacts. The additional lighting on the site would not cause significant glare or light spillover onto adjacent properties. For this reason, the project's lighting would not result in significant new light and glare impacts.

Impact VIS-2: The proposed project would not result in significant light or glare impacts. **(Less than Significant Impact)**

2.12.3 Conclusion

Impact VIS-1: The proposed project would not result in significant visual or aesthetic impacts. **(Less than Significant Impact)**

Impact VIS-2: The proposed project would not result in significant light or glare impacts. **(Less than Significant Impact)**

2.13 ENERGY AND MINERAL RESOURCES

This section was prepared pursuant to CEQA Guidelines Section 15126.4(a)(1) and Appendix F (Energy Conservation of the Guidelines), which require that EIRs include a discussion of the potential energy impacts of proposed projects with particular emphasis on avoiding or reducing inefficient, wasteful and unnecessary consumption of energy. This information in this section is based largely on data and reports produced by the California Energy Commission and the Energy Information Administration of the US Department of Energy.

2.13.1 Introduction

Energy consumption is analyzed in an EIR because of the environmental impacts associated with its production and usage. Such impacts include the depletion of nonrenewable resources (e.g., oil, natural gas, coal, etc.) and emissions of pollutants during both the production and consumption phases.

Energy usage is typically quantified using the British Thermal Unit (Btu). As points of reference, the approximate amount of energy contained in a gallon of gasoline, a cubic foot of natural gas, and a kilowatt hour (kWh) of electricity are 123,000 Btus, 1,000 Btus, and 3,400 Btus, respectively.

Energy conservation is embodied in many federal, state and local statutes and policies. At the federal level, energy standards apply to numerous products (e.g., the EnergyStar program) and transportation (e.g., fuel efficiency standards). At the state level, Title 24 of the California Administrative Code sets forth energy standards for buildings, rebates/tax credits are provided for installation of renewable energy systems, and the Flex Your Power program promotes conservation in multiple areas. At the local level, the City's General Plan includes strategies and policies whose objectives include reduction in energy usage. A brief description of the City's Sustainable City Strategy, Green Building Policy, and Energy Goal is provided below.

Sustainable City Strategy

The Sustainable City Major Strategy is a statement of San José's desire to become an environmentally and economically sustainable city. The Strategy seeks to reduce traffic congestion, pollution, wastefulness, and environmental degradation of our living environment by conserving natural resources and preserving San José's natural living environment.

Green Building Policy

The Green Building Policy fosters long-term social, economic, and environmental sustainability in building and development while making green building the standard practice in San José and celebrating sustainability as a core value to the community. The vision for Green Building in San José is a place where the people have the knowledge and opportunities to build and occupy dwellings that have a maximum impact on the well being of the occupants and a minimal impact on the environment. The Green Building Policy goals center on five main categories: sustainable sites, energy and atmosphere, water efficiency, materials and resources, and indoor environmental quality.

Energy Goal

The City's Energy Goal is to foster development which, by its location and design, reduces the use of non-renewable energy resources in transportation, buildings and urban services (utilities) and expands the use of renewable energy resources.

2.13.2 Setting

Total energy usage in California was 8,519 trillion Btus in the year 2000, which equates to an average of 252 million Btus per capita. Of California's total energy usage in 2000, the breakdown by sector was 15% residential, 14% commercial, 35% industrial, and 36% transportation. This energy was primarily supplied in the form of coal (2.9 million tons), natural gas (2.3 trillion cubic feet), petroleum (647 million barrels), nuclear electric power (35.2 trillion kWh), and hydroelectric power (42.8 trillion kWh).

Given the nature of the proposed project (i.e., a land use decision in San José), the remainder of this discussion will focus on the three most relevant sources of energy: electricity for residential and commercial uses, natural gas for residential and commercial uses, and gasoline for vehicle trips associated with residential uses.

Electricity

Energy consumption in California grew from 250,241 gigawatt hours (GWh) in 2001 to 270,927 GWh in 2004. Electricity consumption is forecasted to increase between 1.2 and 1.5 percent annually, from 270,927 GWh in 2004 to between 310,716 and 323,372 GWh by 2016.[44] In 2004, electricity was produced from power plants fueled by natural gas (41 percent), coal (21 percent), hydro (17 percent), nuclear (13 percent), geothermal (five percent) and renewables (four percent).

California relies heavily on imported electricity from both the southwest and the Pacific Northwest. By 2016, California utilities will need to procure approximately 24,000 MW of peak resources to replace expiring contracts, retiring power plants, and meet peak demand growth. This amount would maintain a 15 to 17 percent reserve margin.[45]

Electricity usage in California for differing land uses varies substantially by the type of uses in a building, type of construction materials used in a building, and the efficiency of all electricity-consuming devices within a building. The average annual usage of electricity is roughly 6,500 kWh/residence. The average annual usage of electricity is roughly 18 kWh per square foot for industrial development and office buildings.

Electricity supply in California involves a complex grid of power plants and transmission lines located in the Western United States, Canada, and Mexico. The issue is complicated by market forces that have become prominent since 1998, which is when a new regulatory environment commonly referred to as "deregulation" took effect in California. Supply is further complicated by the fact that the peak demand for electricity is significantly higher than the off-peak demand. For example, in August 2004, peak electric demand - due in large part to hot weather - reached a record high of 44,497 megawatts, which is almost double the lowest demand period.[46] The California ISO continued to deal with record electricity usage most recently in the summer of 2006. Three new peak

[44] California Energy Commission. 2005 Integrated Energy Policy Report. November 2005. Pages 38-39.
[45] California Energy Commission. 2005 Integrated Energy Policy Report. November 2005. Page 46.
[46] Source: California Independent System Operator, 8/11/04.

electricity usage records were set the week of July 17 to July 25, 2006, including a peak demand of 50,538 megawatts.[47]

In 2000-2001, electric demand exceeded supply on various occasions, which required utilities to institute systematic rotating outages to maintain the stability of the grid and to prevent widespread blackouts. Since that time, additional generating capacity has come on-line and upgrades to various transmission lines are occurring.

According to the California Energy Commission's *2005 Integrated Energy Policy Report*, maintaining adequate electricity reserves will be difficult over the next few years due to potential impacts of higher-than-average summer temperatures, shortages resulting from decreased hydroelectric generation in lower-than-average precipitation years, and retirement of aging natural gas-fired power plants.[48]

Natural Gas

In 2004, the natural gas was used to produce electricity (50 percent), in industrial uses (18 percent), in commercial uses (9 percent), in residential uses (22 percent), and for transportation (less than one percent).

California imports 87 percent of its natural gas supplies from other states and Canada. California's natural gas supplies are increasingly threatened by declining production in the US and growing demand in neighboring states.[49]

Natural gas usage in California for differing land uses varies substantially by the type of uses in a building, type of construction materials used in a building, and the efficiency of all gas-consuming devices within a building. That said, the average annual usage of natural gas is roughly 45,000 cubic feet per residence. The average annual usage of natural gas is roughly 29 cubic feet per square foot for industrial development and office buildings.

According to the California Energy Commission's *2003 Integrated Energy Policy Report*, the current outlook is that Northern California will have an adequate supply of natural gas through 2007. Meeting peak demand under extreme weather conditions may require gas infrastructure improvements (e.g., additional pipeline capacity) earlier than currently programmed.

Gasoline for Motor Vehicles

In 2004, Californians consumed roughly 15.4 billion gallons of gasoline and 2.8 billion gallons of diesel. This is a 50 percent increase over the amount that was used 20 years ago. The primary factors contributing to this increase are: 1) population growth and more on-road vehicles, 2) low per-mile cost of gasoline for the past two decades, 3) lack of alternatives to conventional gasoline and diesel fuels, 4) consumer preference for larger, less fuel-efficient vehicles, and 5) land-use planning that places jobs and housing farther apart without transportation integration.[50]

The average fuel economy for the fleet of light-duty vehicles (autos, pickups, vans, and SUVs) steadily increased from about 12.6 miles-per-gallon (mpg) in the mid-1970s to the current 20.7 mpg;

[47] California Independent System Operator. 26 July 2006. http://www.caiso.com/183e/183ebd4414ad0.pdf
[48] California Energy Commission. 2005 Integrated Energy Policy Report. November 2005. Page E-2.
[49] California Energy Commission. 2005 Integrated Energy Policy Report. November 2005. Page 137.
[50] California Energy Commission. 2005 Integrated Energy Policy Report. November 2005. Page 7.

however, no further improvements in the average fuel economy for the overall fleet are projected through the year 2020. This conclusion is based on the fact that projected increases in the number of fuel efficient cars (e.g., hybrids) will be offset by projected increases in the number of SUVs, pickups, and vans.

Although no new refineries have been constructed in California since 1969, supply has kept pace with demand through a combination of refinery upgrades/modernizations and out-of-state imports.

According to the California Energy Commission's *2003 Integrated Energy Policy Report*, the demand for gasoline and diesel for on-road vehicles is projected to increase by 36% over the next 20 years. Imports of foreign crude oil will increase as in-state and Alaskan supplies diminish. Since California refineries are already operating close to their full capacity, daily imports of refined gasoline and diesel are expected to double over the next 20 years. Unless out-of-state facilities expand, the gasoline and diesel markets will become increasingly volatile, with the likelihood of shortages and more prolonged periods of high prices.

Mineral Resources

The project site is located within a developed urban area. It does not contain any known or designated mineral resources.

2.13.3 Energy and Mineral Resources Impacts

2.13.2.1 *Thresholds of Significance*

For the purposes of this EIR, an energy and mineral resources impact is considered significant if the project would:

- Use fuel or energy in a wasteful manner; or
- Result in a substantial increase in demand upon energy resources in relation to projected supplies; or
- Result in longer overall distances between jobs and housing; or
- 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; or
- 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.

2.13.2.2 *Energy Efficiency and Use*

The proposed project will be constructed to meet the requirements of Title 24 of the California Administrative Code, as it pertains to energy efficiency. The project proposes development of up to 1,287 residential units and up to 25,000 square feet of commercial space on the site. The project will consume energy during both the construction and operational phases. The construction phase will require energy for the manufacture and transportation of building materials, preparation of the site (e.g., grading), and the actual construction of the buildings. The operational phase will consume energy for multiple purposes including - but not limited to - building heating and cooling, lighting, appliances, and electronics. Operational energy will also be consumed during each vehicle trip associated with the proposed uses.

Rough estimates of operational energy usage for the project are provided in Table 2.13-1. The proposed project would increase annual electricity usage by approximately 1,112,500 kWh, natural gas usage by 46.6 million cubic feet and gasoline usage by 386,526 gallons.

Table 2.13-1
Estimated Annual Average Energy Use

Land Use	Type of Energy	Usage/Unit	Square Footage/# of Units/Trips	Annual Energy Used
Existing				
Light Industrial/ Warehouse	Electricity	18 kWh/ft^2/year	421,000 ft^2	7.58 million kWh
	Natural Gas	29 ft^3/ft^2/year		12.2 million ft^3
Transportation	Gasoline	0.048 gallons/mile	2,835	149,008 gallons
Proposed				
Residential	Electricity	6,500 kWh/du/year	1,287 units	8.37 million kWh
	Natural Gas	45,000 ft^3/du/year		57.92 million ft^3
Commercial	Electricity	13kWh/ ft^2/year	25,000 ft^2	325,000 kWh
	Natural Gas	37 ft^3/ft^2/year		925,000 ft^3
Transportation	Gasoline	0.048 gallons/mile	10,189	535,534 gallons
Estimated Net Energy Used (Proposed - Existing)	Electricity			+1,112,500 kWh
	Natural Gas			+46.6 million ft^3
	Gasoline			+386,526 gallons

Notes: du= dwelling unit, ft^2= square feet, ft^3= cubic feet, kWh=kilowatt hour, Average vehicle trip length= 3 miles.
Annual gasoline used = (trips/day)(3 miles/trip)(0.048 gallons/mile)(365 days/year)

Impact EMR-1: Development of the project would result in increased energy usage. However, given the developed nature of the site, its infill location, and the density of the proposed project, the project would not use fuel or energy in a wasteful manner. The proposed project would not result in a substantial increase in energy use when compared to the total energy used in California or in the City of San José. **(Less than Significant Impact)**

Distance Between Jobs and Housing

The proposed development is located on an infill site close to job centers in North San José and Downtown San José. The proposed project may serve to reduce the length of vehicular trips of residents who work nearby. The site also would provide an increase in population near the planned Berryessa BART Station that could further reduce energy consumption by providing an alternate mode of transportation for residents of the site.

Impact EMR-2: The project would place housing close to job centers and existing and planned public transit, resulting in shorter overall distances between jobs and housing. **(Less than Significant Impact)**

2.13.2.3 *Mineral Resources*

According to the City of San José 2020 General Plan, there are no mineral deposits outside of Communications Hill Area which are of statewide significance. The project site is not located in an area known to contain mineral deposits of statewide or regional significance.

Impact EMR-3: The project site does not contain mineral deposits of statewide or regional significance. **(No Impact)**

2.13.4 Avoidance Measures for Energy Impacts

In addition to conformance with energy efficiency requirements of Title 24 of the California Administrative Code, the following measures are proposed to further reduce the energy impacts of the project:

2.13.4.1 *Measures to Reduce Energy Consumption During Demolition*

AM EMR-1.1: The project shall have a waste management plan for recycling of construction and demolition materials in place and operating from project inception. Prior to the issuance of building permits, the City will review the plan. The plan shall be completed to the satisfaction of the Director of the Environmental Services Department, the Manager of the City's Construction & Demolition Recycling Program, and the Director of Planning, Building, and Code Enforcement.

AM EMR-1.2: The project shall recycle or salvage a minimum of 50 percent (by weight) of construction, demolition, and land clearing waste.[51] The projected quantities of waste generated during demolition and construction, how much of those materials will be reused, recycled, or otherwise diverted from landfills, and where unrecycled materials will be disposed of shall be included in the waste management plan prepared for the project. Upon completion, the project shall provide the City with a report summarizing the waste type, quantity, disposition (e.g., recycled or landfilled) and facility used, to document execution of the plan.

2.13.4.2 *Measures to Reduce Energy Consumption by Design*

AM EMR-1.3: Development on the site will incorporate principles of passive solar design to the satisfaction of the Director of Planning, Building, and Code Enforcement. Passive solar design is the technology of heating, cooling, and lighting a building naturally with sunlight rather than with mechanical systems because the building itself is the system. Basic design principles include large south-facing windows with proper overhangs, as well as tile, brick, or other thermal mass material used in flooring or walls to store the sun's heat during the day and release it back into the building at night or when the temperature drops. Passive solar also takes advantage of energy efficient materials, improved insulation, airtight construction, natural landscaping, and proper building

[51] United States Department of Energy, Energy Efficiency and Renewable Energy. Energy and Environmental Guidelines for Construction. 8 July 2004. United States Department of Energy. 16 May 2006. http://www.eere.energy.gov/buildings/info/design/construction.html#construction.

orientation to take advantage of the sun, shade, and wind. At the PD Permit stage the approved plans shall demonstrate how and where these principles are incorporated.

2.13.4.3 *Measures to Reduce Energy Consumption During Construction*

AM EMR-1.4: The idling of construction vehicles shall be avoided to reduce fuel consumption, emissions, and noise.

2.13.5 Conclusion

Impact EMR-1: Development of the project would result in increased energy usage. However, given the developed nature of the site, its infill location, and the density of the proposed project, the project would not use fuel or energy in a wasteful manner. The proposed project would not result in a substantial increase in energy use when compared to the total energy used in California or in the City of San José. **(Less than Significant Impact)**

Impact EMR-2: The project would place housing close to job centers and existing and planned public transit, resulting in shorter overall distances between jobs and housing. **(Less than Significant Impact)**

Impact EMR-3: The project site does not contain mineral deposits of statewide or regional significance. **(No Impact)**

Additional Measures Not Proposed by the Applicant

The following avoidance measures, although not proposed by the applicant, may be required as conditions of project approval to further reduce the less than significant energy impacts of the project:

AM EMR-1.5: Development on the site shall install reflective, *Energy Star*™ cool roofs to the satisfaction of the Director of Planning, Building, and Code Enforcement. Cool roofs decrease roofing maintenance and replacement costs, improve building comfort, reduce impacts on surrounding air temperatures, reduce peak electricity demand, and reduce roofing debris in the waste stream.

AM EMR-1.6: New residences developed on the site shall be constructed to meet the requirements of the *Energy Star*™ program for new homes. Such residences improve energy efficiency by a minimum of 15% as compared to residences that simply meet the Title 24 requirements. The additional efficiency is typically accomplished through the use of tight construction, energy-saving windows, improved insulation, and super-efficient heating/cooling systems.

AM EMR-1.7: All new buildings shall include a photovoltaic (i.e., solar electric) system on rooftops. An average-sized residential system (2.5 kW) in California produces in excess of 4,000 kWh annually, which equates to 62% of the average electricity demand per residential unit. Commercial systems are generally larger than residential systems and produce commensurately more

electricity. (Each square foot of photovoltaic cells produces approximately 10 watts of power in bright sunlight.)

AM EMR-1.8: The proposed buildings shall incorporate elements of the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Project Checklist into the design and construction to the satisfaction of the Director of Planning, Building, and Code Enforcement. The following are examples of LEED measures that may be incorporated:

- The project shall use recycled materials to reduce the use of raw materials and divert materials from landfills. Construction material used shall be at least five to ten percent salvaged or refurbished materials, specifically, a minimum of 25-50 percent of building materials shall contain at least 20 percent post consumer recycled content material, or a minimum of 40 percent post industrial recycled content material.

- The project shall use local and regional materials in order to reduce natural resources necessary for transporting materials over long distances. Of the building material used, 20 -50 percent shall be manufactured within 500 miles of the building site.

- The project shall use rapidly renewable materials in order to reduce the depletion of virgin materials and reduce use of petroleum-based materials. Specifically, five percent of total building materials shall be made from rapidly renewable building materials.

- For components of the project where buildings would be made from wood, such as flooring and framing, the project shall use a minimum of 50 percent wood-based materials certified in accordance with the Forest Stewardship Council Guidelines.

2.14 GLOBAL CLIMATE CHANGE

This section provides a very broad discussion about global climate change and focuses on the anthropogenic contributions. The discussion is based on research, information, and analysis completed by the International Panel on Climate Change (IPCC), United States Environmental Protection Agency, and United States Department of Energy.

2.14.1 Introduction

Global climate change is the alteration of the Earth's weather including its temperature, precipitation, and wind patterns. Global temperatures are affected by naturally occurring and anthropogenic-generated atmospheric gases, such as carbon dioxide, methane, and nitrous oxide.[52] These gases allow sunlight into the Earth's atmosphere, but prevent radiative heat from escaping into outer space. This phenomenon is known as the greenhouse effect.

2.14.1.1 *Earth's Dynamic Climate*

Continual global climate change is evidenced by repeated episodes of warming and cooling documented in the geologic record. The rate of change has typically been incremental, with warming or cooling trends occurring over thousands of years. The past 10,000 years have been marked by a period of incremental warming, with ice glaciers steadily retreating across the globe. While global climate change occurs at an incremental rate, scientists have observed an unprecedented increase in the rate of warming in the past 150 years.

The recent warming of the Earth coincides with the global Industrial Revolution. During the Industrial Revolution, forests have been cleared and replaced with urban centers and agriculture and the use of fossil fuels (primarily burning of coal and petroleum/oil) and natural gas for energy has released substantial amounts of greenhouse gases into the atmosphere. The burning of fossil fuels and natural gas releases carbon dioxide. Carbon dioxide accounts for approximately 85 percent of total emissions, and methane and nitrous oxide account for almost an additional 14 percent. Primary human-related sources of methane gas and nitrous oxide in the United States include landfills, natural gas and petroleum systems, coal mining, wastewater treatment, animal agriculture, agriculture soil management, and combustion of fossil fuels.[53] Concentrations of carbon dioxide in the atmosphere have risen approximately 30 percent since the Industrial Revolution. Because greenhouse gases persist and mix in the atmosphere, emissions anywhere in the world impact the climate everywhere.

During the past 100 years, average global temperatures have risen by more than one degree Fahrenheit (F). According to the IPCC, 11 of the 12 past years (1995-2006) ranked among the warmest years since 1850.[54] Warming has not been uniform across the globe. Temperatures at the poles experience the greatest increase, with up to a nine degree increase observed in large areas of

[52] IPCC, 2007: Summary for Policymakers. In: Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change [Solomon, S., D. Qin, M. Manning, Z. Chen, M. Marquis, K.B. Averyt, M. Tignor and H.L. Miller (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA. Available at: http://www.ipcc.ch/.

[53] United States Environmental Protection Agency. Greenhouse Gas Emissions. 16 April 2007. Available at: http://epa.gov/climatechange/emissions/index.html. Accessed: 7 June 2007.

[54] IPCC, 2007: Summary for Policymakers. In: Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change [Solomon, S., D. Qin, M. Manning, Z. Chen, M. Marquis, K.B. Averyt, M. Tignor and H.L. Miller (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA. Available at: http://www.ipcc.ch/.

the Arctic over the 20th century.[55] In response to warming, plants are having a longer growing season and trees are flowering earlier; some animal and plant species ranges have been migrating toward higher latitudes and altitudes; plant and animal species adapted to cold temperatures are declining in population; and species adapted to warm temperatures are increasing in population.[56]

2.14.1.2 *Human Influence on Climate*

The world's leading climate scientists have reached consensus that global climate change is underway and is very likely caused by humans.[57] A recent report by the Intergovernmental Panel on Climate Change (IPCC), an international group of scientists and representatives of 113 governments, concludes "the widespread warming of the atmosphere and ocean, together with ice-mass loss, support the conclusion that it is extremely unlikely that global climate change of the past 50 years can be explained without external forcing, and very likely that it is not due to known natural causes alone."[58]

The IPCC predicts temperature increase of between two and 11.5 degrees F by the year 2100, with temperatures most likely increasing by between 3.2 and 7.1 degrees F. Sea levels are predicted to rise by seven to 23 inches by the end of the century, with an additional 3.9 to 7.8 inches possible depending upon the rate of polar ice sheets melting from increased warming. The IPCC report states that the increase in hurricane and tropical cyclone strength since 1970 can likely be attributed to human-generated greenhouse gases.

According to the 2006 California Climate Action Team Report, the following climate change effects are expected in California over the course of the next century (per the IPCC):

- A diminishing Sierra snowpack declining by 70 to 90 percent, threatening the state's water supply;
- Increasing temperatures from 8 to 10.4 degrees F under the higher emission scenarios, leading to a 25 to 35 percent increase in the number of days ozone pollution levels are exceeded in most urban areas;
- Coastal erosion along the length of California and sea water intrusion into the Sacramento River Delta from a four- to 33-inch rise in sea level. This would exacerbate flooding in already vulnerable regions;
- Increased vulnerability of forests due to pest infestation and increased temperatures;
- Increased challenges for the state's important agriculture industry from water shortages, increasing temperatures, and saltwater intrusion into the Delta; and
- Increased electricity demand, particularly in the hot summer months.[59]

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[55] City of San José. Draft Environmental Impact Report, Coyote Valley Specific Plan. March 2007.
[56] United States Environmental Protection Agency. Basic Information. 4 May 2007. Available at: http://epa.gov/climatechange/basicinfo.html. Accessed 14 June 2007.
[57] IPCC, 2007: Summary for Policymakers. In: Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change [Solomon, S., D. Qin, M. Manning, Z. Chen, M. Marquis, K.B. Averyt, M. Tignor and H.L. Miller (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA. Available at: http://www.ipcc.ch/.
[58] IPCC, 2007: Summary for Policymakers. In: Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change [Solomon, S., D. Qin, M. Manning, Z. Chen, M. Marquis, K.B. Averyt, M. Tignor and H.L. Miller (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA. Available at: http://www.ipcc.ch/.
[59] State of California, California Climate Action Team. Climate Action Team Reports. 20 April 2007. Available at: http://www.climatechange.ca.gov/climate_action_team/reports/index.html. Accessed 7 June 2007.

2.14.2 Regulatory Context for Global Climate Change

Agencies at the international, national, state, and local levels are considering strategies to control emissions of gases that contribute to global warming. There are strategies in place to reduce greenhouse gas emissions, including the international Kyoto Protocol, the U.S. "Twenty in Ten" plan (which is to reduce U.S. gasoline consumption by 20 percent over the next 10 years), U.S. 2007 Farm Bill (which provides funding for energy innovations and research), USEPA SmartWay Transport Partnership (which aims to reduce greenhouse gas emissions, fuel consumption, and pollutants from freight transportation operations), and the *EnergyStar* Program. Participation in these strategies is voluntary. There is no comprehensive strategy that is implemented on a global scale that addresses climate change. In addition, there are no established standards for gauging the significance of greenhouse gas emissions. Neither CEQA nor the CEQA Guidelines provide any methodology for analysis of greenhouse gases.

In the fall of 2006, Governor Schwarzenegger signed AB 32, the Global Warming Solutions Act, into law. AB 32 requires the California Air Resource Board (CARB) to adopt regulations and mechanisms that will reduce the state's greenhouse gas emissions to 1990 levels by the year 2020, which is a 25 percent reduction. Based on 2004 greenhouse gas emissions, the state would need to reduce the amount of greenhouse gas emissions by approximately 67.2 million metric tons of carbon dioxide equivalents ($MMTCO_2E$) to reach 1990 levels. By 2050, the state plans to reduce emissions by 80 percent below 1990 levels. Based on 2004 greenhouse gas emission levels, the state would need to reduce the amount of greenhouse gas emissions by approximately 390.3 $MMTCO_2E$ to meet 80 percent below 1990 levels. The bill also requires CARB to adopt mandatory reporting rules for sources of substantial greenhouse gases by January 1, 2009, adopt a plan by January 1, 2009 that outlines how emission reductions will be achieved, and adopt regulations by January 1, 2011 to obtain the maximum technology feasible and cost-effective reductions in greenhouse gases.[60]

On April 2, 2007, the U.S. Supreme Court decided on *Massachusetts et al. v. Environmental Protection Agency et al.*, where 12 states, three cities, and 13 environmental groups petitioned that the USEPA should be required to regulate greenhouse gases, including carbon dioxide, as pollutants under the federal Clean Air Act. First, the Court found that greenhouse gas emissions are pollutants under the Clean Air Act. Second, the Court ordered the EPA to reconsider the petition from Massachusetts et al. seeking regulation of greenhouse gases emission from new vehicles and engines. The Court instructed the EPA to determine whether greenhouse gas emissions endangered public health or welfare based on the requirements of the Clean Air Act. [61] The EPA has yet to determine whether greenhouse gas emissions endanger public health or welfare; therefore, no greenhouse gas emission standards have been established.[62]

The California Attorney General, recognizing the significant role of vehicle greenhouse gas emissions, filed suit against the top six automobile companies seeking damages for their vehicles' emissions. The lawsuit, *People v. General Motors Corp.*, claims that vehicle greenhouse gas

[60] Office of the Governor of the State of California. Press Release: Gov. Schwarzenegger Signs Landmark Legislation to Reduce Greenhouse Gas Emissions. 27 September 2006. Available at: http://gov.ca.gov/.

[61] United States. Environmental Protection Agency. Statement of Stephen L. Johnson Administrator U.S. Environmental Protection Agency Before the Select Committee on Energy Independence and Global Warming United States House of Representatives. 8 June 2007

[62] United States. Environmental Protection Agency. EPA Newsroom, As Prepared for Administrator Johnson, Conference Call Regarding the President's Executive Order on Energy Security and Climate Change, Washington, D.C. 14 May 2007. Available at: http://yosemite.epa.gov/opa/admpress.nsf/11b4f11f5ce2ab70852572a00065af97/d6d25db3ba4003dd852572db0065d87f!OpenDocument. 21 June 2007.

emissions are a "public nuisance," which interferes with public health and safety. The suit claims that emissions from vehicles produced by these companies are a significant cause of climate change and are already contributing to major problems for the state's economy and natural resources, ranging from water shortages for the agricultural industry to a decline in the Sierra snowpack.

As of August 2007, there are several pending California cases brought under CEQA regarding the discussion of global climate change in EIRs in several jurisdictions. As examples, see *Center for Biological Diversity v. City of Banning*[63] and *Natural Resources Defense Council v. The Reclamation Board of the Resources Agency*.[64]

On August 21, 2007 the California Attorney General announced a settlement agreement for the state's global warming lawsuit against San Bernardino County. The lawsuit argued that the San Bernardino County General Plan did not adequately analyze the impacts of development on global warming and did not identify feasible mitigation measures. The settlement requires San Bernardino County to 1) have an inventory of all known (or reasonably discoverable) sources of greenhouse gases in the county; 2) have an inventory of 1990 greenhouse gas emissions levels, present day greenhouse gas emission levels, and projected 2020 greenhouse gas emissions levels; and 3) develop a target for the reduction of emissions resulting from the county's discretionary land use decisions and governmental operations.

There is currently no case law, however, that provides guidance on the methodology and criteria for what constitutes a project impact, individually or cumulatively, to global warming. On August 24, 2007 Governor Schwarzenegger signed SB 97 which requires the Office of Planning and Research (OPR) to prepare, develop, and transmit to the Resources Agency guidelines for the mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions, including, but not limited to, effects associated with transportation or energy consumption. The Resources Agency is required to certify and adopt these guidelines by January 1, 2010.

2.14.3 Project's Contribution to Global Climate Change

Given the global scope of global climate change, the challenge under CEQA is for a Lead Agency to translate the issue down to the level of a CEQA document for a specific project in a way that is meaningful to the decision making process. Under CEQA, the essential questions are whether a project creates or contributes to an environmental impact or is subject to impacts from the environment in which it would occur, and what mitigation measures are available to avoid or reduce impacts.

Accordingly, projects can both contribute to global climate change and be exposed to impacts from global climate change, and mitigation measures can be identified to minimize project impacts to and from global climate change. The following discussion describes both conditions and gives a general description of potential impacts associated with the proposed project.

2.14.3.1 *Greenhouse Gas Emissions*

In California, the total carbon dioxide emissions from fossil fuel combustion in 2002 were 360 million tons, which is approximately seven percent of the United States' carbon dioxide emissions. Fossil fuel combustions accounts for most (98 percent) of California's total carbon dioxide

[63] RIC460967 (Riverside County Superior Court, filed 21 November 2006.
[64] 06CS-01228 (Sacramento County Superior Court, filed 2006).

emissions. Methane accounted for approximately six percent of climate change emissions and nitrous oxide emissions accounted for about seven percent of climate change emissions. Methane has a global warming potential 23 times that of carbon dioxide and nitrogen oxide is 296 times that of the same amount of carbon dioxide.[65] Other contributing gases to global climate change include hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, aerosols, and water vapor.[66] The primary sources of greenhouse gas emissions for the proposed project are anticipated to be combustion of fossil fuels from grid-delivered electricity and motor vehicles.

Electricity Use

As discussed in *Section 2.13 Energy*, the future project would result in a net increase in electricity use of approximately 1,112,500 kWh/year. The generation of electricity through the combustion of fossil fuels typically yields carbon dioxide, as well as smaller amounts of nitrous oxide and methane.

Using data from the U.S. Department of Energy, Energy Information Administration Office of Integrated Analysis of Forecasting and the estimated electricity use for buildout of the project, it is estimated that the proposed development would emit approximately 308 metric tons of carbon dioxide a year, 0.0034 metric tons of methane a year, and 0.0019 metric tons of nitrogen oxide a year.[67] Table 2.14-1 summarizes the emissions from the proposed project.

Vehicle Emissions

The proposed project is estimated to result in approximately 7,058 net average daily trips. Assuming the average vehicle trip length is approximately three miles, future users of the site are estimated to travel approximately 21,174 miles per day.

The carbon dioxide emission rate for a year 2030 vehicle mix is about 515 grams or 1.13 pounds per mile.[68] Based on the estimated miles traveled for the project and the carbon dioxide emission rate assumption, the daily project total carbon dioxide vehicle emissions would be approximately 11.32 metric tons per day (or 4,131 metric tons per year). As discussed in *Section 2.10 Air Quality*, development of the project in the far-term would emit approximately 55.6 pounds of nitrogen oxide a day (or 0.025 metric tons per day, which equates to 9.2 metric tons per year). Table 2.14-1 summarizes the project buildout emissions.

[65] United States Energy Information Administration. Comparison of Global Warming Potentials from the Second and Third Assessment Reports of the Intergovernmental Panel on Climate Change (IPCC). 12 August 2002. Available at: http://www.eia.doe.gov/oiaf/1605/gwp.html.

[66] California Environmental Protection Agency, Climate Action Team. Climate Action Team Report to Governor Schwarzenegger and the Legislature. March 2006. Pages 11-15.

[67] United States Department of Energy, Energy Information Administration Office of Integrated Analysis and Forecasting. Updated State-level Greenhouse Gas Emission Coefficients for Electricity Generation 1998-2000. April 2002. Available at: http://www.eia.doe.gov/pub/oiaf/1605/cdrom/pdf/e-supdoc.pdf.

[68] City of San José. Coyote Valley Specific Plan Draft Environmental Impact Report. March 2007.

Table 2.14-1 Summary of Project Buildout Greenhouse Gas Emissions				
From Electricity Use			From Vehicles	
Carbon Dioxide (in metric tons/year)	Methane (in metric tons/year)	Nitrogen Oxide (in metric tons/year)	Carbon Dioxide (in metric tons/year)	Nitrogen Oxide (in metric tons/year)
308	0.0034	0.0019	4,131	9.25*
*One US ton is equivalent to 1.102 metric tons.				

Combined Project Electricity and Transportation Contribution

The combined greenhouse gas emissions project buildout is summarized in Table 2.14-2, below.

Table 2.14-2 Estimated Combined Electricity and Vehicle Greenhouse Gas Emissions		
Carbon Dioxide (in metric tons/year)	Methane (in metric tons/year)	Nitrogen Oxide (in metric tons/year)
4,439	0.0034	9.2519

In general, the impacts of greenhouse gases, including methane and nitrogen oxide, are based on the heat-absorbing ability of each gas relative to that of carbon dioxide.[69] The carbon dioxide equivalents of the methane and nitrogen oxide emissions for the proposed project are approximately 0.0778 and 2,738.55 metric tons per year, respectively. Table 2.14-3 below summarizes the carbon dioxide equivalent emissions for the project buildout.

Table 2.14-3 Summary of Carbon Dioxide Equivalent Emissions			
Carbon Dioxide (in metric tons/year)	Methane (in metric tons/year)	Nitrogen Oxide (in metric tons/year)	Total (in metric tons/year)
4,439	0.0778	2,738.55	7,177.63

As stated previously, there is no regulatory standard or guideline by a federal, state, or regulatory agency to be able to measure carbon dioxide, methane, or nitrogen oxide emissions to definitively determine whether the project emissions would directly or cumulatively result in a significant global climate change impact. However, based on the state's greenhouse gas emission reduction goals per AB 32, the project would generate approximate increases of 0.01 percent and 0.0018 percent in the amount of carbon dioxide equivalents that California would need to reduce by the year 2020 and 2050 (based on 2004 data), respectively. Based on the small percentage increase in greenhouse gas emissions the proposed project would generate these contributions are not anticipated to be cumulatively significant. Additionally, the project proposes a high density, mixed-use development that is close to the planned BART Berryessa Station on the San José Flea Market site. The provision of high density, transit-oriented mixed-use development at an infill location is consistent with smart growth principles and would not be wasteful in its generation of greenhouse gases.

[69] United States Energy Information Administration. Comparison of Global Warming Potentials from the Second and Third Assessment Reports of the Intergovernmental Panel on Climate Change (IPCC). 12 August 2002. Available at: http://www.eia.doe.gov/oiaf/1605/gwp.html.

Other Emissions Sources

Additional unknown quantities of greenhouse gases would be emitted as part of the proposed project from the manufacture and transport of building materials, operation of construction equipment, and other project related activities. There currently are no readily available methods of quantifying additional greenhouse gases from the manufacturing and transportation of building materials, the operation of construction equipment, or other activities and sources (other than electricity and automobile use). For this reason it can be assumed that the project's total greenhouse gas emissions are more than identified in Table 2.14-3.

As described in *Section 2.9 Biological Resources*, up to a total of 115 trees including 37 ordinance-sized trees could be removed by the project. The actual number of trees to be removed will be determined at the time of final site design for the individual parcels proposed on the site. In general, a healthy tree stores approximately 13 pounds of carbon dioxide a year.[70] As the trees on the site are removed there would be an interim loss of approximately 1,495 pounds of carbon dioxide sequestration a year, and loss of cooling from tree canopies. These effects would be mitigated over time as replacement trees on the site mature and provide the carbon dioxide sequestering and shading benefits.

2.14.4 Impacts to the Proposed Project from Global Climate Change

Given the global climate change trends described in this section, CEQA requires that reasonably foreseeable impacts from global climate change be predicted at a meaningful scale. Given the climate change predictions for California, it is reasonably foreseeable that local temperatures could increase by as much as seven to 11.5 degrees over the course of this century with or without the proposed project. This increase in temperature could lead to other climate effects including, but not limited to, increased flooding due to increased precipitation and runoff and a decrease in the Sierra snowpack (a major water source). As described in *Section 2.7 Hydrology and Water Quality*, the site is not located within the 100-year flood hazard zone; however, future flooding conditions on the project site from global warming cannot be predicted at this time. The Santa Clara Valley Water District is the public agency entrusted with providing adequate water supply and flood control within Silicon Valley and is currently considering how to address both these issues associated with climate change.

2.14.5 Strategies to Reduce Greenhouse Gas Emissions

Given the global impact of climate change, the ultimate solution is a global policy addressing greenhouse gas emissions and global climate change, rather than piecemeal nation-by-nation, state-by-state, or city-by-city approaches. A meaningful national policy by the United States, as the world's largest economy and greenhouse gas producer, could also be an important step towards reducing greenhouse gas emissions and global climate change, and would likely lead other nations to do their part. The ruling in April 2007 by the Supreme Court on *Massachusetts et al. v. Environmental Protection Agency et al.* found that the EPA has legal authority to regulate greenhouse gases through the Clean Air Act. As discussed above, the EPA has yet to determine

[70] United States Department of Agriculture Forest Service, Southern Region. Benefits of Urban Trees. Urban and Community Forestry: Improving Our Quality of Life. Forestery Report R8-FR 17. April 1990. Reprinted April 1997. Available at: http://www.fs.fed.us/na/Morgantown/uf/benefits_urban_trees/index.htm#.

whether greenhouse gas emissions endanger public health or welfare; therefore, no greenhouse gas emission standards have been established.[71]

At the local scale of land use decision-making, this is a situation where San José can "think globally, and act locally" and lead by example in adopting policies and programs to limit the production of greenhouse gases associated with the proposed development. Efforts to reduce the project's greenhouse gas emissions by reducing electricity demand and reducing vehicle trips and miles have been incorporated into the proposed project. The project site is an infill location close to existing and planned transit service and therefore redevelopment of this site with residential uses would reduce the number of vehicle miles traveled from the amount of development proposed when compared to residential developments located further from the City center and existing services. The project also includes commercial space, which will reduce resident vehicle trips; it proposes to incorporate principles of passive solar design; and it will reuse demolition materials on the site where feasible (refer to *Section 2.13.4*).

2.14.6 Conclusion

Given the overwhelming scope of global climate change, it is not anticipated that a single development project would have an individually discernable effect on global climate change (e.g., that any increase in global temperature or rise in sea level could be attributed to the emissions resulting from one single development project). Rather, it is more appropriate to conclude that the greenhouse gas emissions generated by the proposed project would combine with emissions across the state, nation, and globe to cumulatively contribute to global climate change.

Declaring an impact significant or not implies some knowledge of incremental effects that is several years away, at best. The project's nominal percentage increase in greenhouse gas emissions would not impede the state's ability to reach the emission standards set forth in AB 32. The infill, transit-oriented, high density, mixed-use development proposed by the project is the type of new development that is anticipated to result in a land use pattern that supports the state's effort to reach AB 32 emissions standards. For this reason, this project would not make a cumulatively considerable contribution to global climate change.

[71] United States. Environmental Protection Agency. EPA Newsroom, As Prepared for Administrator Johnson, Conference Call Regarding the President's Executive Order on Energy Security and Climate Change, Washington, D.C. 14 May 2007. Available at: http://yosemite.epa.gov/opa/admpress.nsf/11b4f111f5ce2ab70852572a00065af97/d6d25db3ba4003dd852572db0065d87f!OpenDocument. 21 June 2007.

SECTION 3 AVAILABILITY OF PUBLIC SERVICES

Unlike utility services, public facility services are provided to the community as a whole, usually from a central location or from a defined set of nodes. The resources base for delivery of the services, including the physical service delivery mechanisms, is financed on a community-wide basis, usually from a unified or integrated financial system. The service delivery agency can be a city, county, service or other special district. Usually, new development will create an incremental increase in the demand for these services; the amount of the demand will vary widely, depending on both the nature of the development (residential vs. industrial, for instance) and the type of services, as well as on the specific characteristics of the development (such as senior housing vs. family housing).

The impact of a particular project on public facilities services is generally a fiscal impact. By increasing the demand for a type of service, a project could cause an eventual increase in the cost of providing the service (more personnel hours to patrol an area, additional fire equipment needed to service a tall building, etc.) That is a fiscal impact, however, not an environmental one. CEQA does not require an analysis of fiscal impacts unless the increased demand triggers the need for a new facility (such as a fire or police station), since the new facility will have a physical impact on the environment.

3.1 FIRE PROTECTION

3.1.1 Setting

Fire protection for the project site is provided by the City of San José Fire Department (SJFD). The Fire Department currently consists of 31 fire stations serving an area of 205 square miles and 920,000 residents. The SJFD participates in a mutual aid program with the Cities of Milpitas and Santa Clara. Through this program, should the City of San José Fire Department need assistance in addition to its own units, one or both of the mutual aid cities would provide assistance to locations within the City of San José in whatever capacity was needed.

Station No. 8 is the closest station to the project site and would be the "first response unit" to respond to an emergency at the project site. Station No. 8 is located at 802 East Santa Clara Street approximately 2.34 miles from the project site. Station No. 2 is the "second response unit" to respond to the site in the event of a fire. Station No. 2 is located approximately 2.70 miles from the project site at 2933 Alum Rock Avenue.

In the 2004-2005 fiscal year, Station No. 8 responded to 3,364 calls including 2,758 medical, 179 fire, and 427 other emergencies. During the same time period, Station No. 2 responded to 4,007 calls including 3,404 medical, 193 fire, and 410 other emergencies.

3.1.2 Fire Protection Impacts

The SJFD employs two standards to measure service performance: *travel time* and *total reflex time*. Travel time is a measure of the period of time when a responding emergency fire apparatus leave the fire station until it arrives at the scene of the emergency. Total reflex time refers to the amount of time that passes from receipt of the emergency call by the Emergency Communications Dispatching Center to the arrival of the responding unit to the emergency scene.

The SJFD has a standard level of service for fire protection services. The level of service for first alarm calls is a total reflex time of eight minutes and a response travel time of four minutes. The

second engine's total response time is ten minutes with a total travel time of six minutes. These standards are set to meet most small fire and medical calls. The site is located approximately six minutes from Stations No. 8 and Station No. 2.

A new fire station is currently under construction for the Berryessa area. This station will be designated Fire Station No. 34 and will be located on Las Plumas Avenue near Nipper Avenue, approximately 0.5 miles south of the project site. The Las Plumas Fire Station is scheduled for completion in Spring 2007. Once operating, response time performance to the project site would be within the four minute travel time goal of the SJFD.

Impact PS-1: The proposed project may incrementally increase calls for service in the project area but would not result in the need for new fire facilities. **(Less than Significant Impact)**

3.1.3 Conclusion

Impact PS-1: The proposed project may incrementally increase calls for service but would not result in a need for the development of new fire facilities. **(Less than Significant Impact)**

3.2 POLICE PROTECTION

3.2.1 Setting

Police protection services would be provided to the project site by the City of San José Police Department (SJPD). The SJPD has approximately 1,350 sworn officers. Officers patrolling the project area are dispatched from police headquarters, located at 201 West Mission Street.

The SJPD is divided into 84 beats which are assigned to one of 16 districts. From February 2006 to February 2007, calls for service in the project area were most frequently related to disturbances, truancy, and alarms.[72]

3.2.2 Police Protection Impacts

The proposed development is located on an infill site within the existing service area of the SJPD. The proposed project will not adversely affect the ability of the SJPD to provide service. However, the proposed redevelopment will incrementally increase calls for service in the project area. The project design, including landscaping, surveillance, access control, and lighting, will be reviewed by the Police Department to ensure that project design does not adversely affect the SJPD's ability to provide adequate service to the project site.

Impact PS-2: The proposed project may incrementally increase calls for service, however, it would not increase the area served by the department or require construction of new police facilities. **(Less than Significant Impact)**

[72] San José Police Department. Public CADmine. 1 February 2007. http://public.coronasolutions.com/25/reports/zones/71/CallProfile.html. 23 February 2007.

3.2.3 Conclusion

Impact PS-2: The proposed redevelopment of the project site will not require expansion of the area served by the SJPD and, therefore, is not anticipated to require construction of new police facilities. **(Less than Significant Impact)**

3.3 SCHOOLS

3.3.1 Setting

The City of San José is served by a total of 19 public school districts, serving elementary, middle, and high school students. Thirteen of these districts are elementary school districts, three are high school districts and three are unified school districts. The project site is located within the boundaries of the Alum Rock Union Elementary School District and East Side Union High School District. The schools currently serving the project site are McCollam Elementary School, Shepard Middle School, and Independence High School. The elementary and middle schools ~~closest to the site are both approximately 1.3 miles~~ that would serve the project are located approximately three and two miles, respectively, from the site. Independence High School is located approximately 0.6 miles from the site.

The current enrollment at McCollam Elementary is approximately 542 students.[73] The current enrollment for Shepard Middle School is approximately 572 students.[74] There are approximately 3,950 students currently enrolled at Independence High School.[75]

3.3.2 School Impacts

The proposed project would construct up to 1,287 dwelling units within the attendance boundaries of the Alum Rock Union Elementary School District and the East Side Union High School District. The proposed development will include apartments, condominiums, and townhouse units.

The Alum Rock Union Elementary School District approved a Development Impact Fee Justification Study in June 2007. The proposed project was analyzed in this study for development of up to 1,300 residential units. Based on this study, the proposed project would result in approximately 720[76] additional students for the district. Approximately 510[77] students would attend elementary school and 210 students would attend middle school. The proposed project would likely result in the need for new school facilities to accommodate the additional elementary school students generated by the proposed redevelopment of the site. The Alum Rock Union Elementary School District (ARUSD) may be able to accommodate the increase in middle school students by adding additional space at existing middle school campuses.

The proposed project would result in approximately 257[78] additional students for the East Side Union High School District (ESUHSD). This increase in high school students represents a seven percent increase in students for Independence High School.

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[73] Great Schools.Net 30 April 2007. http://www.greatschools.net/modperl/browse_school/ca/5384/#bottom
[74] Great Schools.Net 30 April 2007. http://www.greatschools.net/modperl/browse_school/ca/5389/
[75] Garofalo, Alan, Assistant Superintendent of Operations. Letter communication. East Side Union High School District. May 14, 2007.
[76] Schoolhouse Services. Development Impact Fee Justification. June 2007.
[77] Approximately 70 percent of the students generated for the district were assumed to be elementary students.
[78] Based on a student generation rate of 0.20 students per residential unit.

There are a number of methods which can be used to accommodate the increased numbers of students, which do not require that new schools be built. These include measures such as: 1) the provision of portable or relocatable classrooms, 2) expansion of existing schools, 3) the opening of existing schools previously considered surplus, 4) adjustment of school attendance boundaries, 5) the busing of students to schools with surplus capacity, and/or 6) the conversion to year-round schools with a four-track schedule. Implementation of the San José General Plan will result in new residential development that would trigger the need for construction of some new schools and/or expansion of existing schools.

Based on the Development Impact Fee Justification Study, the ARUSD does not have existing capacity to accommodate the additional elementary students resulting from the project. The ARUSD has indicated that the use of measures 1, 2, 3, and 5 above to accommodate the additional students would be infeasible and therefore, the project would result in the need for an additional school within the district.

The cost of acquiring additional land in the vicinity of the project site for use as a school may be prohibitively expensive. The project does not propose any land on the project site for use as a school facility. The exact method in which the school district will accommodate the additional students generated by the project is not known at this time; however, the ARUSD has indicated that an additional school would be needed to accommodate the increase in students resulting from the project. While a potential school site is not known at this time, it is assumed that the environmental impacts associated with construction of a new school could be mitigated to a less than significant level. In the event the district is unable to mitigate any impacts created by the location or design of additional school facilities an environmental impact report would be required with the Alum Rock Union Elementary School District as the lead agency.

The ESUHSD has indicated that new classrooms, facilities, and/or upgrades/modernization of existing facilities would be required to accommodate the additional students resulting from the proposed project. Additional portable classrooms were identified by the district as an inappropriate solution to accommodate students generated by the project. It is assumed that the construction of additional school facilities would occur on existing school sites and that any environmental impacts associated with that construction could be mitigated to a less than significant level. In the event the district is unable to mitigate any impacts created by the location or design of additional facilities an environmental impact report would be required with the East Side Union High School District as the lead agency.

Impact PS-3: The proposed PD zoning development would result in the need for additional school facilities. **(Significant Impact)**

MM PS-3: State law (Government Code Section 65996) specifies an acceptable method of offsetting a project's effect on the adequacy of school facilities as the payment of a school impact fee prior to issuance of a building permit. California Government Code Sections 65995-65998, sets forth provisions for the payment of school impact fees by new development as the exclusive means of "considering and mitigating impacts on school facilities that occur or might occur as a result of any legislative or adjudicative act, or both, by any state or local agency involving, but not limited to, the planning, use, or development of real property." [§65996(a)]. The legislation goes on to say that the payment of school impact fees "are hereby deemed to provide full

and complete school facilities mitigation" under CEQA. [§65996(b)]. The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code. The school impact fees and the school districts' methods of implementing measures specified by Government Code 65996 would mitigate project-related increases in student enrollment.

3.3.3 Conclusion

Impact PS-3: The proposed PD zoning development would increase the number of children attending public schools in the project area, but would mitigate the impact of those students through compliance with state law regarding school mitigation impact fees. **(Less than Significant Impact with Mitigation)**

3.4 PARKS AND RECREATION

3.4.1 Setting

The City of San José manages approximately 3,650 acres of regional and neighborhood parkland. The City provides developed parklands, open space, and community facilities to serve its residents. Park and recreation facilities vary in size, use, type of service, and provide for neighborhood, citywide, and regional uses. The City's Departments of Parks, Recreation and Neighborhood Services, General Services and Public Works are responsible for the design, construction, operation, and maintenance of all City park and recreational facilities.

The City's General Plan has established level of service benchmarks for parks and community centers. The City has a service level goal of 3.5 acres of neighborhood and community serving parkland per 1,000 residents, of which a minimum of 1.5 acres is City-owned and up to two acres is school playground/fields. Currently the City is providing approximately 1,109 acres of neighborhood/community serving parklands in conjunction with approximately 1,766 acres associated with recreational school grounds for a total of 2,875 acres. The City's current population is estimated by the State of California at 974,000. The City and schools, therefore, are providing 2.95 acres of neighborhood/community serving recreational lands per 1,000 residents. All of this parkland should be located within three-quarters of a mile walking distance of each residence. In addition, the City seeks to provide 7.5 acres of regionally serving parkland and 500 square feet of community center space per 1,000 residents.

The site is located in Council District 3, which has 19 neighborhood parks. The site is located approximately 2,200 feet north of Plato Arroyo Park and 1,300 feet west of Overfelt Gardens Regional Park.

3.4.2 Parks and Recreation Impacts

The City of San José has adopted the Parkland Dedication Ordinance (PDO) (Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO) (Municipal Code Chapter 14.25) requiring new residential development to either dedicate sufficient space to serve new residents, or pay fees to offset the increased costs of providing new park facilities for new development. This ordinance is intended to reduce the extent to which new development will exacerbate the existing shortfall of park and recreational facilities. Under the PDO and PIO, a project can satisfy half of its total parkland obligation by providing private recreational facilities open seven days a week to its residents. All

new development of high density housing is required to provide private and common open space in conformance with the City's adopted Residential Design Guidelines. Each new residential project is also required to conform to the PDO and PIO. For projects over 50 units, it is the City's decision whether a project will dedicate land for a new public park site or accept a fee in lieu of land dedication. Affordable housing associated with low, very-low, and extremely-low income units are exempt from the PDO and PIO. The acreage of parkland required is based upon the Acreage Dedication Formula outlined in the Parkland Dedication Ordinance. Based upon this formula, a project of this size would be required to dedicate approximately 7.9[79] acres of parkland.

The project proposes a one-acre public park located on Parcel D on the western portion of the project site. The proposed park will offset some of the recreation demand created by project residents. The proposed project will also pay in-lieu fees to conform to the City's Parkland Dedication Ordinance and Parkland Impact Ordinance.

Impact PS-4: The proposed project includes construction of a one-acre park to offset project demand on parks and recreation. **(Less than Significant Impact)**

3.4.3 Conclusion

Impact PS-4: The project will comply with the City's PIO/PDO and construct a park on the site. **(Less than Significant Impact)**

3.5 LIBRARY SERVICES

3.5.1 Setting

The San José Public Library System consists of one main library and 20 branch libraries. The Dr. Martin Luther King Junior Main Library, which reopened in Fall 2003 as a joint San José State University Library and San José Public Library, is located at the corner of San Fernando and 4th Streets, in Downtown San José. The libraries nearest the site include the Educational Park Branch on Educational Park Drive, the Joyce Ellington Branch on East Empire Street, and the main library, downtown. These branch libraries are planned to be replaced by new facilities in 2009 and 2007, respectively, with funding from the Measure O Library Bond approved by the City voters in 2000. This bond measure will provide funds for the renovation or construction of 23 existing or proposed branch libraries.

3.5.2 Impact Analysis

The San José General Plan benchmarks for library services are 10,000 square feet of library space per 36,000 population, and 18.3 weekly service hours per 10,000 residents.

The additional demand for library service resulting from the proposed project will result in additional users of neighborhood branches and the Martin Luther King, Jr. Main Library. As population in San José continues to grow, service demands will increase and additional library services will be required. These additional services would include the following:

- expanding the physical size of branches and main library;
- adding new branches;

[79] Parkland dedication = 1,149 units x 2.29 persons per household x .003 acres per person.

- enlarging materials collections;
- expanding/redefining collections to accommodate changing technologies;
- increasing staff; and
- providing additional services not currently provided.

The proposed project could generate approximately 2,947[80] residents in the service area of neighborhood libraries. The Joyce Ellington Branch Library is in the process of expanding from a 10,715 square foot facility to a 14,500 square foot facility scheduled to open in 2007.

Impact PS-5: The proposed project would incrementally increase the use of libraries in the vicinity of the site; however, it will not trigger the need to construct new facilities beyond those that will be completed under the auspices of Measure O. **(Less than Significant Impact)**

3.5.3 Conclusion

Impact PS-5: With the existing library services in the project area and the expansion of the Joyce Ellington Branch Library, the proposed project will not trigger the need to construct a new library. **(Less than Significant Impact)**

[80] Based on 2.29 persons per household from the 2000 U.S. Census for multi-family housing with more than five units.

SECTION 4 CUMULATIVE IMPACTS

4.1 INTRODUCTION

Cumulative impacts, as defined by CEQA, consist of two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. The individual effects may be changes resulting from a single project or a number of separate projects. Cumulative impacts may result from individually minor, but collectively significant projects taking place over a period of time. Section 15130 of the CEQA Guidelines states that an EIR should discuss cumulative impacts "when the project's incremental effect is cumulatively considerable, as defined in section 15065(a)(3)." The discussion does not need to be as detailed as is necessary for project impacts, but is to be "guided by the standards of practicality and reasonableness." The purpose of the cumulative analysis is to allow decision makers to better understand the potential impacts which might result from approval of past, present, and reasonably foreseeable future projects, in conjunction with the proposed project.

The CEQA Guidelines advise that a discussion of cumulative impacts should reflect both their severity and the likelihood of their occurrence. To accomplish these two objectives, the analysis should include either a list of past, present, and probable future projects or a summary of projections from an adopted general plan or similar document. The effects of past projects are generally reflected in the existing conditions described in the specific sections of this document.

As a point of clarification, cumulative traffic impacts evaluate the proposed project combined with other pending, not approved, development. Previously approved projects are incorporated into the background against which project impacts are assumed. The traffic from recently approved projects is reflected in the Background Conditions described in *Section 2.2 Transportation* of this EIR/EA.

The discussions below address two aspects of cumulative impacts:

1) Would the effects of all of the pending development listed result in a cumulatively significant impact on the resources in question?
2) If that cumulative impact is likely to be significant, would the contributions to that impact from the project which is the subject of this EIR/EA, make a cumulatively considerable contribution to those cumulative impacts?

The CEQA Guidelines state (§15130) that an EIR should discuss cumulative impacts, "when the project's incremental effect is cumulatively considerable." As noted in Section 6, Significant Unavoidable Impacts of this EIR/EA, the proposed project would result in significant unavoidable land use, freeway LOS, and hazards and hazardous material impacts; therefore, it is possible that the proposed project could contribute to cumulative impacts in these areas, if a cumulative impact exists. Although not identified as a significant project impact, the project-generated traffic would incrementally increase noise levels along roadways in the project area, the project would incrementally reduce the amount of job-producing development on the project site, incrementally increase regional air pollutants, and incrementally increase demand on public services. Therefore, it is also possible that the proposed project could contribute to cumulative impacts in these areas, if a cumulative impact exists. Some individual projects may have potentially significant impacts from cultural resources, hazardous materials contamination, geology and soils, hydrology and water quality, biological resources, water supply and utilities and services, and visual and aesthetic resources, but the proposed project evaluated in this EIR/EA would not result in cumulatively considerable significant impacts on those particular resources because its impact is minuscule or,

where necessary, the project will mitigate these impacts. These areas of impact are, therefore, not discussed further in this section. The CEQA Guidelines recommend that the cumulative analysis rely on either a list of pending projects, or the projections contained in an adopted General Plan.

4.2 LIST OF CUMULATIVE PROJECTS

The project proposes a Planned Development rezoning. In order to complete this Cumulative Impact analysis, a list of past, present, and probable future projects was prepared to analyze the effects of these projects in conjunction with the proposed project addressed in this EIR/EA. The cumulative projects are summarized in Table 4.2-1, below.

Table 4.2-1
List of Cumulative Projects

Project Name/Location	Size	Project Description
San José Flea Market, NW of the project site on both sides of Berryessa Road	120 acres	Approximately 216,000 square feet of office space, up to 150,000 square feet of commercial space, up to 2,818 residential units, and 13 acres of park/open space
Goodwill, West of the project site at North Tenth and Hedding Streets	22 acres	Up to 800 residential condominium units and an approximately 11,000 square foot park
Downtown Strategy 2000 Phase 2, SW of the project site in Downtown San José	1,920 acres	Up to 2.5 million square feet of office space, 2,500 residential units, 300,000 square feet of retail space, and 825 hotel rooms
Vision North San José Phase 2, NW of the project site between I-880 and US 101	4,987 acres	Up to 7 million square feet industrial space and 8,000 residential units
Pepper Lane, SW corner of Berryessa Road and Jackson Avenue	17.5 acres	390 single-family attached units, 25,000 square feet of retail, and 5,000 square feet of sit-down restaurant
BART Extension, NW of the project site along the Union Pacific Railroad line	16.3 miles	Extend BART from Warm Springs station to Milpitas, San José, and Santa Clara
Household Hazardous Waste Facility, SE corner of Las Plumas Ave. and Nipper Ave.	1.8 acres	Relocation of the household hazardous waste collection facility
La Pala Townhomes, SE corner of McKee Road and La Pala Drive	0.40 acres	Up to 10 single-family attached residences
Fleming Avenue Residential, South side of Fleming Avenue, north of Alum Rock Avenue	2.66 acres	14 single-family detached residences
South King Road Residential, East side of King Road north of East San Antonio Street	3.48 acres	14 single-family attached residential units
Las Brisas Residential Project, Alum Rock Avenue between McCreery Avenue and South Sunset Avenue	1.5 acres	79 condominiums and 8,200 square feet of retail
Jackson Square Condominiums, SE corner of Madden Avenue and North Jackson Avenue	2.3 acres	159 single-family attached residences

Table 4.2-1
List of Cumulative Projects

Project Name/Location	Size	Project Description
North White Road Townhouse Project, East Side of North White Road, south of McKee Road	0.62 acres	12 single-family attached residential units
The Fairways, East side of US 101 at the western terminus of San Antonio Court	2.19 acres	86 affordable multi-family attached residential units

Note:
The following housing projects were included in an enrollment projection study prepared by the Alum Rock Union Elementary School District and were not included in this cumulative analysis because they are considered inactive by the City, consist of only a General Plan Amendment or annexation and no planned development, duplicated a previously listed project, or were unable to be unidentified as a proposed planned development. The projects include: 100 residential units on Ludlow Way (unidentified), 100 residential units south of Alum Rock Avenue and west of Sunset Avenue (unidentified), 100 residential units near Miller School (unidentified), 500 residential units part of McKee Annexation No.132 (annexation only), seven residential units on Ocala Avenue (unidentified), 17 residential units on Rosemar Avenue (inactive), 93 residential units on the west side of McCreery (inactive), GP06-05-01 Northpoint GPA 45 residential units (GPA only), and 14 residential units on the east side of King Road near East San Antonio Street (duplicate of PD06-040).
It should be noted that the 6,000 units representing the development capacity trips in the Transportation Development Policy (TDP) are not included as a separate project in this cumulative analysis. Some of the identified cumulative projects (i.e. San José Flea Market and Dobbin Drive) represent a portion of the 6,000 residential units associated with the TDP development capacity trips; however, no development is included in this cumulative analysis for the TDP other than those Planned Development zonings currently on file with the City of San José.

4.3 ANALYSIS OF CUMULATIVE IMPACTS

The thresholds of significance used throughout the analyses of cumulative impacts are the same thresholds used in Section 2 of this EIR/EA with the exception of the Cumulative Freeway Capacity Segment Analysis in Section 4.3.2.2.

4.3.1 Cumulative Land Use Impacts

4.3.1.1 *Cumulative Land Use Compatibility Impacts*

In terms of the cumulative analysis, land use compatibility can be divided into short-term and long-term impacts. Short-term impacts occur during construction and primarily affect existing sensitive land uses, such as hospitals, schools, and residential development in proximity to the construction sites. These impacts include the noise and dust generated by grading and excavation activities, and the use of heavy machinery and solvents. These activities are discussed in greater detail in the respective sections of this cumulative discussion.

Locating residences in close proximity to commercial and/or industrial areas creates the potential for long-term conflicts between these land uses. A residential population is more sensitive to what would otherwise be sources of annoyance to a workplace population. Residences are more likely to include sensitive populations, including children, the elderly, and the chronically ill. Residents typically object to nighttime noise from loading docks, truck traffic and heavy equipment, outdoor lighting, truck traffic spillover into residential neighborhoods, and the use, storage, and transport of hazardous materials. These activities may be considered unacceptable to nearby residents, even if the businesses are not located immediately adjacent to the residences. These adverse land use impacts can range from minor irritations and annoyances to potentially significant effects on human health and safety.

Complaints from residents may cause restrictions to be placed on industrial businesses that are near the residential development and could limit the types of businesses that are acceptable at these sites. These restrictions can lead to the devaluation of property and economic losses by limiting the uses of the affected industrial properties. For example, industrial uses might be restricted from using outdoor areas, such as loading docks and parking areas in the evening or nighttime hours. While such economic effects do not equate to environmental impacts, they may be considered as a measure of significance of the degree of conflict created between land uses, and eventually would degrade the viability of the industrial land use.

The City of San José has recently approved several General Plan amendments which could result in construction of additional residential units adjacent to industrial uses. The projects included in the cumulative analysis would all be required to conform to residential and industrial design guidelines that are intended to minimize land use conflicts. Conformance with the City's adopted Residential Design Guidelines would require that residential development recognize the presence of potentially incompatible land uses and that the site design be appropriate for such conditions. In most instances, conformance with these guidelines would reduce land use compatibility impacts to a less than significant level.

Several of the cumulative projects would develop residential uses adjacent to established industrial areas of the City and reduce the amount of land developed with industrial uses. The proposed project would contribute to the loss of industrial development. Where cumulative projects are proposed in existing viable industrial areas of the City, redevelopment could place additional pressure on adjacent industrial sites to convert to other uses. The cumulative projects would result in the placement of residential development in proximity to industrial uses which could result in further conversions of industrial land and redevelopment with non-industrial development. This is considered a significant cumulative land use compatibility impact. The proposed project may result in additional pressure on industrial land uses to convert to non-industrial land uses due to land use compatibility impacts. For this reason, the proposed project would make a considerable contribution to a significant cumulative land use compatibility impact.

Impact CUMUL-1: The proposed project would contribute to a significant cumulative land use compatibility impact. **(Significant Cumulative Impact)**

4.3.1.2 *Mitigation for Cumulative Land Use Impacts*

No mitigation measures would reduce the cumulative land use compatibility impacts of the project to a less than significant level.

4.3.1.3 *Conclusions Regarding Cumulative Land Use Impacts*

Impact CUMUL-1: The proposed project would contribute to a significant cumulative land use compatibility impact. **(Significant Unavoidable Cumulative Impact)**

4.3.2 Cumulative Transportation Impacts

4.3.2.1 *Cumulative Intersection LOS Impacts*

Cumulative Conditions

Cumulative traffic conditions were analyzed by adding to project traffic volumes the additional traffic generated by all other potential project in the general study area that have been proposed but have not yet been approved. The cumulative traffic impact analysis included peak hour traffic volumes attributable to the five pending projects with potential traffic that would impact the same intersections and freeway segments as the proposed project. The five additional projects include the Downtown Strategy 2000 (Phase 2), Vision North San José (Phase 2), San José Flea Market Development, Goodwill Development, and Pepper Lane Mixed-Use Development. The cumulative traffic analysis assumed construction of roadway improvements to the following intersections, Oakland Road and Commercial Street, US 101 North Ramps and Oakland Road, and US 101 South Ramps and Oakland Road which are associated with the San José Flea Market Development (refer to Appendix B).

Cumulative Intersection Level of Service Analysis

The intersection level of service results under cumulative conditions are summarized in Table 4.3-1.

Table 4.3-1
Intersection LOS Under Cumulative Conditions

Intersection	Peak Hour	Background		Project		Cumulative	
		Average Delay	LOS	Average Delay	LOS	Average Delay	LOS
Oakland Road and Commercial Street	AM	65.5	E	72.2	E	**72.9**	**E**
	PM	51.7	D	52.5	D	53.7	D
US 101 and Oakland Road (N)*	AM	142.5	F	164.1	F	53.5	D
	PM	46.0	D	50.0	D	20.5	C
US 101 and Oakland Road (S)*	AM	24.1	C	24.2	C	27.5	C
	PM	77.2	E	92.3	F	45.3	D
13th Street and Hedding Street	AM	46.5	D	48.2	D	**68.2**	**E**
	PM	42.2	D	43.2	D	50.7	D
Mabury Road and Hedding Street	AM	21.8	C	22.6	C	29.5	C
	PM	19.3	B	20.4	C	25.5	C
Commercial Street and Berryessa Road	AM	32.6	C	39.1	D	**88.1**	**F**
	PM	24.1	C	24.6	C	36.9	D
Lundy Avenue and Berryessa Road*	AM	45.1	D	45.7	D	51.5	D
	PM	51.2	D	53.8	D	**65.2**	**E**
Flickinger Avenue and Berryessa Road	AM	38.5	D	38.6	D	43.0	D
	PM	37.9	D	37.7	D	44.2	D
13th Street and Taylor Street	AM	14.2	B	15.0	B	18.7	B
	PM	14.8	B	14.8	B	17.1	B
King Road and Mabury Road	AM	40.1	D	39.8	D	42.0	D
	PM	39.5	D	40.5	D	43.0	D
Educational Park Drive and Mabury Road	AM	14.2	B	14.4	B	15.1	B
	PM	12.8	B	12.7	B	12.9	B

Table 4.3-1
Intersection LOS Under Cumulative Conditions

Intersection	Peak Hour	Background		Project		Cumulative	
		Average Delay	LOS	Average Delay	LOS	Average Delay	LOS
Jackson Avenue and Mabury Road	AM	37.5	D	37.8	D	38.6	D
	PM	32.6	C	32.6	C	32.9	C
US 101 and Julian Street (S)	AM	20.3	C	21.3	C	22.4	C
	PM	20.8	C	20.6	C	21.4	C
US 101 and McKee Road (N)	AM	21.2	C	20.7	C	22.1	C
	PM	22.4	C	23.6	C	25.0	C
33rd Street and McKee Road	AM	25.2	C	24.6	C	24.4	C
	PM	25.2	C	24.7	C	24.9	C
King Road and McKee Road	AM	41.0	D	44.5	D	50.1	D
	PM	42.9	D	46.1	D	54.1	D
Jackson Avenue and McKee Road	AM	38.8	D	38.9	D	39.4	D
	PM	42.1	D	42.1	D	42.5	D
King Road and Las Plumas Avenue	AM	16.6	B	17.4	B	16.9	B
	PM	20.0	C	19.2	B	18.1	B

*Denotes a CMP intersection.
Bold indicates that intersection would operate at an unacceptable level of service under cumulative conditions.

The results show that, measured against the City of San José's level of service standards, the following four signalized study intersections would operate at an unacceptable LOS E or worse under cumulative conditions.

- Oakland Road and Commercial Street -- AM peak hour
- 13th Street and Hedding Street – AM peak hour
- Commercial Street and Berryessa Road – AM peak hour
- Lundy Avenue and Berryessa Road – PM peak hour

All other study intersections would operate at an acceptable LOS D or better under cumulative conditions during both the AM and PM peak hours, according to the City of San José level of service standards.

According to the CMP level of service standards, all three CMP study intersections would operate at an acceptable LOD E or better under cumulative conditions during both peak hours of traffic.

Impact CUMUL-2: The proposed PD zoning would have a considerable contribution to a significant cumulative impact at the Oakland Road and Commercial Street intersection during the AM peak hour. **(Significant Cumulative Impact)**

Impact CUMUL-3: The proposed cumulative projects would result in a significant cumulative impact at the 13th Street and Hedding Street intersection during the AM peak hour. **(Significant Cumulative Impact)**

Impact CUMUL-4: The proposed cumulative projects would result in a significant cumulative impact at the Commercial Street and Berryessa Road intersection during the AM peak hour. **(Significant Cumulative Impact)**

Impact CUMUL-5: The proposed PD zoning would have a considerable contribution to a significant cumulative impact at the Lundy Avenue and Berryessa Road intersection during the PM peak hour. **(Significant Cumulative Impact)**

4.3.2.2 *Cumulative Freeway Segment Capacity Impacts*

Traffic volumes for freeway segments affected by cumulative traffic were analyzed using the City of San José's CUBE model. The City's model is implemented using the CUBE transportation planning software system, and is consistent with the structures of the Metropolitan Transportation Commission's (MTC) BAYCAST regional model and the VTA's VTP2030 model.

The cumulative freeway segment impact analysis is based on a different methodology than the methodology used to determine individual project impacts. Since future freeway segment densities cannot be forecast, cumulative freeway segment impacts are based on the volume-to-capacity ratios (V/C) of the freeway segments and not the densities of the freeway segments. Accordingly, a freeway segment would be significantly impacted under cumulative conditions if for either peak hour:

- The V/C ratio of the freeway segment degrades from a V/C of 1.0 or less under existing conditions to a V/C ratio that is greater than 1.0 under cumulative plus project conditions; or
- The V/C ratio of the freeway segment is greater than 1.0 under cumulative plus project conditions and the number of trips added to that segment by an individual project constitutes at least one percent of segment capacity.

The results of the CMP freeway segment analysis show that the cumulative projects collectively would case the V/C ratios of the following nine freeway segments to degrade from a V/C of less than 1.0 under existing conditions to a V/C of greater than 1.0:

- US 101, northbound between Oakland Road and I-880 – AM peak hour
- US 101, northbound between I-880 and Old Bayshore Highway – AM peak hour
- US 101, southbound between Oakland Road and I-880 – PM peak hour
- US 101, southbound between I-880 and Old Bayshore Highway – PM peak hour
- US 101, southbound between Oakland Road and McKee Road – PM peak hour
- I-680, southbound between Berryessa Road and McKee Road – PM peak hour
- I-880, northbound between US 101 and Brokaw Road – AM peak hour
- I-880, southbound between US 101 and Brokaw Road – PM peak hour
- I-880, southbound between US 101 and North First Street – PM peak hour

The results of the CMP freeway segment analysis, summarized in Table 4.3-2, show that the King and Dobbin Transit Village project would result in significant increases in traffic volumes (more than one percent of freeway capacity) on four of the nine directional freeway segments listed above that are estimated to operated with V/C ratios of 1.0 or greater under cumulative plus project conditions as shown below:

- US 101, northbound between Oakland Road and I-880 – AM peak hour
- US 101, northbound between I-880 and Old Bayshore Highway – AM peak hour
- US 101, southbound between Oakland Road and I-880 – PM peak hour
- US 101, southbound between I-880 and Old Bayshore Highway – PM peak hour

Table 4.3-2
Cumulative Freeway Segment Volume to Capacity Analysis

Freeway	Segment	Direction	Peak Hour	Existing Mixed-Flow		Mixed-Flow Lanes		Existing HOV		HOV		Significant Impact
				Volume	V/C	V/C	% Capacity	Volume	V/C	V/C	% Capacity	
US 101	I-280 to Santa Clara St.	NB	AM	4,020	0.583	0.862	0.8	1,470	0.817	0.882	0.8	NO
			PM	4,360	0.632	0.632	1.6	740	0.41	0.290	1.7	NO
	Santa Clara St. to McKee Rd.	NB	AM	4,200	0.609	0.852	0.8	1,860	1.033	0.936	0.8	NO
			PM	4,160	0.603	0.613	1.6	1,650	0.917	0.257	1.7	NO
	McKee Rd. to Oakland Rd.	NB	AM	4,980	0.722	0.966	0.5	1,980	1.100	1.214	0.6	NO
			PM	5,540	0.803	0.640	0.3	870	0.483	0.315	0.3	NO
	Oakland Rd. to I-880	NB	AM	4,060	0.588	**1.057**	**2.1**	2,020	1.122	1.088	**2.2**	**YES**
			PM	4,160	0.603	0.638	1.0	540	0.300	0.348	1.1	NO
	I-880 to Old Bayshore Hwy	NB	AM	3,890	0.564	**1.145**	**1.0**	1,630	0.906	**1.043**	**1.0**	**YES**
			PM	3,420	0.496	0.750	0.5	540	0.300	0.341	0.5	NO
I-680	McKee Rd. to Berryessa Rd.	NB	AM	8,400	0.913	0.867	0.1	N/A	N/A	N/A	N/A	NO
			PM	6,070	0.660	0.888	0.0	N/A	N/A	N/A	N/A	NO
	Berryessa Rd. to Hostetter Rd.	NB	AM	8,890	0.966	0.865	0.7	N/A	N/A	N/A	N/A	NO
			PM	6,600	0.717	0.893	0.3	N/A	N/A	N/A	N/A	NO
I-880	North First St. to US 101	NB	AM	6,600	0.957	0.818	0.3	N/A	N/A	N/A	N/A	NO
			PM	6,590	0.955	0.780	0.6	N/A	N/A	N/A	N/A	NO
	US 101 to Brokaw Rd.	NB	AM	6,090	0.883	**1.051**	0.9	N/A	N/A	N/A	N/A	**YES**
			PM	5,150	0.746	0.970	0.4	N/A	N/A	N/A	N/A	NO
US 101	Old Bayshore Hwy to I-880	SB	AM	3,220	0.467	0.652	0.5	400	0.222	0.415	0.5	NO
			PM	4,100	0.594	**1.207**	**1.0**	1,980	1.100	1.001	**1.0**	**YES**
	I-880 to Oakland Rd.	SB	AM	4,550	0.659	0.628	1.0	540	0.300	0.371	1.1	NO
			PM	4,060	0.588	**1.054**	**2.1**	2,110	1.172	1.198	**2.2**	**YES**
	Oakland Rd. to McKee Rd.	SB	AM	4,160	0.603	0.621	0.4	400	0.222	0.327	0.4	NO
			PM	5,630	0.816	**1.008**	0.8	2,020	1.122	1.182	0.9	**YES**
	McKee Rd. to Santa Clara St.	SB	AM	4,550	0.659	0.568	1.7	470	0.261	0.334	1.8	NO
			PM	5,860	0.849	0.937	0.8	2,110	1.172	1.011	0.8	NO
	Santa Clara St. to I-280	SB	AM	3,420	0.496	0.635	1.7	340	0.189	0.374	1.8	NO
			PM	4,410	0.639	0.959	0.8	2,050	1.139	1.056	0.8	NO
I-680	Hostetter Rd. to Berryessa Rd.	SB	AM	5,280	0.574	0.766	0.3	N/A	N/A	N/A	N/A	NO
			PM	6,950	0.755	0.925	0.6	N/A	N/A	N/A	N/A	NO
	Berryessa Rd. to McKee Rd.	SB	AM	6,070	0.660	0.815	0.0	N/A	N/A	N/A	N/A	NO
			PM	8,770	0.953	**1.023**	0.1	N/A	N/A	N/A	N/A	**YES**
I-880	Brokaw Rd. to US 101	SB	AM	4,950	0.717	0.868	0.4	N/A	N/A	N/A	N/A	NO
			PM	5,540	0.803	**1.186**	0.9	N/A	N/A	N/A	N/A	**YES**
	US 101 to North First St.	SB	AM	6,610	0.958	0.868	0.6	N/A	N/A	N/A	N/A	NO
			PM	3,070	0.445	**1.035**	0.3	N/A	N/A	N/A	N/A	**YES**

Bold text indicates a significant impact.

Impact CUMUL-6: The proposed PD zoning would have a considerable contribution to cumulative traffic impacts on four freeway segments. **(Significant Cumulative Impact)**

4.3.2.2 *Mitigation for Cumulative Transportation Impacts*

The following mitigation measure would reduce cumulative transportation impacts to a less than significant level:

MM CUMUL-2.1: The project proposes to pay the applicable traffic impact fees associated with the proposed US 101 – Oakland/Mabury Transportation Development Policy to reduce its contribution to cumulative impacts at the Oakland Road and Commercial Street intersection to a less than significant level.

MM CUMUL-2.2: In the event the payment of fees as part of the proposed US 101 – Oakland/Mabury TDP is not available as mitigation for cumulative impacts to the Oakland Road and Commercial Street intersection, the project could propose to implement one of the following measures:

- Reconstruction of the US 101/Oakland Road interchange, including the Oakland Road/Commercial Street intersection at an estimated cost of $20 million would reduce the project's intersection LOS traffic impacts by providing additional capacity along this corridor to accommodate increases in traffic as a result of the project.
- Reduce the amount of development proposed on the project site to a level that would not result in significant transportation impacts at any of the three identified intersections.
- Delay development of the site until the necessary intersection improvements are constructed by other projects.

MM CUMUL-3.1: The intersection of 13th Street and Hedding Street would operate at an unacceptable LOS E during the AM peak hour under cumulative conditions. The improvements required to mitigate the impact at this intersection to a less than significant level during the AM peak hour are the addition of a separate westbound right-turn lane and conversion of the southbound approach to two left turns, a through lane, and a shared through-right lane. The modification of the southbound approach requires shifting the lanes of both the northbound and southbound approaches and signal modification to accommodate the northbound-southbound left-turns within the intersection. During the AM peak hour these modifications would reduce the increase in average critical delay and critical volume-to-capacity (V/C) below the impact thresholds. This improvement is a condition of approval to mitigate the San José Flea Market Mixed-Use Development.

MM CUMUL-4.1: The intersection of Commercial Street and Berryessa Road would operate at an unacceptable LOS F during the AM peak hour under cumulative conditions. The poor level of service would be due entirely to the heavy future westbound right-turn volume. Accordingly, a separate westbound right-turn lane and a second receiving lane on the north leg of the intersection should be constructed in order to allow a free right-turn movement from

westbound Berryessa Road onto northbound Commercial Street which would improve intersection operations to LOS C during the AM peak hour. This mitigation measure shall be incorporated into the proposed TDP and funded through the policy.

MM CUMUL-5.1: The intersection of Lundy Avenue and Berryessa Road would operate at an unacceptable LOS E during the PM peak hour under cumulative conditions. The EIR prepared for the Vision North San José project identified mitigation under Phase 4 project conditions which would improve the level of service to an acceptable LOS D during the PM peak hour.

MM CUMUL-6.1: Mitigation of significant cumulative impacts on freeway segments would require roadway widening to construct additional through lanes, thereby increasing freeway capacity. No comprehensive project to add through lanes has been developed by Caltrans or VTA for the individual cumulative projects to contribute to and since it is not feasible for an individual development project to bear responsibility for implementing such extensive transportation system improvements due to the constraints in acquisition and cost of right-of-way, the project's significant cumulative impacts on the four directional freeway segments identified above would be significant and unavoidable. There are measures, however, that could help to reduce the impacts. The measures, while infeasible for individual development project to implement, primarily consist of transit improvements and enhancements as outlined below:

- Extension of BART to San José
- Further expansion of the LRT system
- Enhanced bus service

These measures would provide options to commuters from the cumulative projects. An enhanced transit system, with a major improvement such as the BART extension, would reduce auto usage. The reduction in auto usage would be most noticeable on freeways, since most transit trips would originate from outside the project study area.

4.3.2.3 *Conclusions Regarding Cumulative Transportation Impacts*

Impact CUMUL-2: Implementation of the identified mitigation would reduce the contribution of the proposed PD zoning to the cumulative traffic impact at the Oakland Road and Commercial Street intersection to a less than significant level. **(Less Than Significant Cumulative Impact with Mitigation)**

Impact CUMUL-3: Implementation of the identified mitigation by the San José Flea Market Mixed-Use Development would reduce the cumulative traffic impact at the intersection of 13th Street and Hedding Street to a less than significant level. **(Less Than Significant Cumulative Impact with Mitigation)**

Impact CUMUL-4: The proposed project does not result in a significant project impact to the intersection of Commercial Street and Berryessa Road, but does contribute to a significant cumulative impact at the intersection. The City could adopt a

program by which each project that contributes considerably to a significant cumulative impact is required to fund its fair share of the above mitigation measures, in accordance with CEQA Guidelines Section 15130(a)(3). If the City adopted such a program and collected fair share contributions, then the project's contribution to the cumulative impact would be rendered less than cumulatively considerable and, therefore, less than significant. The identified mitigation will be incorporated into the proposed TDP to reduce this cumulative impact to a less than significant level. **(Less Than Significant Cumulative Impact with Mitigation)**

Impact CUMUL-5: Implementation of mitigation included in Phase 4 of the Vision North San José project will improve the level of service at this intersection to LOS D. The timing of Phase 4 of the Vision North San José project is unknown at this time and potentially would not occur for several decades. The unacceptable LOS E conditions at this intersection, therefore, would persist until improvements under Phase 4 of the Vision North San José project are completed. The impact at this intersection would be a cumulatively significant temporary impact. **(Significant Temporary Cumulative Impact)**

Impact CUMUL-6: The proposed PD zoning would contribute to significant and unavoidable cumulative traffic impacts to four freeway segments. **(Significant Unavoidable Impact)**

4.3.3 Cumulative Hazardous Materials Impacts

4.3.3.1 *Cumulative Hazardous Materials Releases*

The proposed cumulative projects would place sensitive residential populations near existing industrial facilities that could use, store, and transport large quantities of hazardous materials. Development of the cumulative projects would result in additional residential units being located near industrial facilities which use substantial quantities of hazardous materials. In the event of an accidental worst-case release, some industrial facilities may result in impacts to the proposed residential populations located adjacent or near industrial facilities. The development of these project sites would result in a significant cumulative hazardous materials impact. The proposed project site is located near an industrial facility with the potential for a worst-case accidental chemical release to impact project residents.

Impact CUMUL-7: The project would result in a cumulatively considerable contribution to a significant cumulative hazardous materials impact. **(Significant Cumulative Impact)**

4.3.3.2 *Mitigation for Cumulative Hazardous Materials Impacts*

The following mitigation measure would reduce the hazardous materials impacts of the cumulative projects:

MM CUMUL-7.1: An emergency and protective action plan shall be prepared for the site to develop measures to protect residents in the event of a catastrophic chemical release from the Clean Harbors Environmental facility. The emergency and protective action plan shall be prepared in coordination with the project

applicant, Clean Harbors Environmental, City of San José Fire Department, and Department of Planning, Building and Code Enforcement. The plan shall take into consideration evacuation, sheltering-in-place, the use of ventilation systems and smoke purge fans, and protective masks. The emergency and protective action plan prepared for the project shall be agreed upon prior to the issuance of occupancy permits for units on Parcels A, B, and C.

4.3.3.3 *Conclusions Regarding Hazardous Materials Impacts*

Impact CUMUL-7: The proposed projects, with the implementation of the above identified mitigation, would still be subject to potential impacts from accidental chemical releases from industrial facilities and, therefore, the cumulative impact remains significant and unavoidable. **(Significant Unavoidable Cumulative Impact)**

4.3.4 Cumulative Noise Impacts

4.3.4.1 *Cumulative Traffic Noise Impacts*

The impacts of the cumulative traffic generated noise were analyzed for the cumulative scenario.[81] Cumulative traffic would not result in noise increases of three dBA DNL or greater at sensitive receivers along affected roadway segments. The calculated traffic noise increases would not be substantial and the cumulative traffic noise impact would be less than significant.

Impact CUMUL-8: The cumulative projects will not significantly increase traffic noise levels along affected roadways. **(Less Than Significant Cumulative Impact)**

4.3.5 Cumulative Population, Jobs, and Housing Impacts

The proposed cumulative projects include both a substantial number of housing units and job-generating development including commercial and office square footage. The largest cumulative project sites (North San José, Downtown San José, San José Flea Market) all have substantial job-generating land uses assumed in the City's General Plan. Implementation of some of the cumulative projects may in the near-term reduce the number of jobs in the City relative to housing units, however, the cumulative projects would not substantially alter the long-term surplus of planned jobs relative to housing units in the City (refer to Table 2.8-1).

Impact CUMUL-9: The cumulative projects will not reduce the jobs and housing balance in the City below one job per employed resident. **(Less Than Significant Cumulative Impact)**

4.3.6 Cumulative Air Quality Impacts

4.3.6.1 *Cumulative Regional Air Quality Impacts*

According the BAAQMD CEQA Guidelines, a project that generates criteria air pollutant emissions in excess of the BAAQMD annual or daily thresholds would have a significant air quality impact

[81] The cumulative traffic generated noise analysis was based on the TDP Worst Case Scenario 2 volumes. These volumes were subsequently compared to cumulative traffic volumes for the cumulative project list and no significant impact from project generated traffic noise was created due to the change in volumes.

individually and cumulatively. Proposed project emissions shown in Table 2.10-3 would not exceed the BAAQMD thresholds.

The BAAQMD CEQA Guidelines do provide, however, that projects with individually insignificant impacts could have a cumulatively significant impact. If a project requires a General Plan amendment it would have a significant cumulative impact if the project generates more Vehicle Miles Traveled than that anticipated under the previous land use designation. The proposed project does not require a General Plan amendment, and therefore would not have a significant cumulative air quality impact on regional air quality.

Impact CUMUL-10: According to BAAQMD thresholds, the proposed project, in combination with the cumulative projects, would not result in a significant regional air quality impact. **(Less Than Significant Cumulative Impact)**

4.3.6.2 *Cumulative Local Air Quality Impacts*

The impacts of cumulative traffic on carbon monoxide concentrations at local intersections were analyzed in part based on the TDP Worst Case Scenario 2 (refer to *Section 2.10 Air Quality*). The traffic volumes from the cumulative projects were compared to the TDP Worst Case Scenario 2 traffic volumes and no substantial changes in the carbon monoxide concentrations were identified. The proposed cumulative projects would not result in significant localized air quality impacts at any affected intersections.

Impact CUMUL-11: The proposed cumulative projects would not result in cumulative local air quality impacts. **(Less Than Significant Cumulative Impact)**

4.3.7 Cumulative Availability of Public Services

As described in Section 4, public facilities and services are provided to the community as a whole, usually from a central location or from a defined set of nodes. The resource base for delivery of these services, including the physical service delivery mechanisms, is financed on a community-wide basis, usually from a unified or integrated financial system. The service delivery agency can be a city, county, service or other special district. Usually, new development will create an incremental increase in the demand for these services: the amount of demand will vary widely, depending on both the nature of the development (residential vs. commercial, for instance) and the type of services, as well as on the specific characteristics of the development (such as senior housing vs. family housing).

The cumulative impact of a group of projects, as with a particular project, on public facility services is generally a fiscal impact. By increasing the demand for a type of service, a group of projects could cause an eventual increase in the cost of providing the service (more personnel hours to patrol an area, additional fire equipment needed to service a tall building, etc.). That is a fiscal impact, not an environmental one. CEQA does not require an analysis of fiscal impacts.

CEQA analysis is, however, required if the increased cumulative demand is of sufficient size to trigger the need for a new facility (such as a fire station), since the new facility would have a physical impact on the environment. CEQA requires that an EIR then identify and evaluate the physical impacts on the environment that such a facility would have. To reiterate, the impact that must be analyzed in an EIR is the impact that would result from constructing a new public facility (should one be required), not the fiscal impact of a development on the capacity of a public service system.

4.3.7.1 *Fire and Police Protection Impacts*

Fire protection for the City is provided by the City of San José Fire Department (SJFD). The SJFD also participates in a mutual aid program with Saratoga, Morgan Hill, Campbell, Milpitas, and Santa Clara. Through this program, should the SJFD need assistance above and beyond what is available within the City, one or more of the mutual aid cities would provide assistance.

Police protection services are provided by the City of San José Police Department (SJPD). Police are dispatched from police headquarters located at 201 West Mission Street. The SJPD consists of 16 districts with 84 beats.

The $159 million Public Safety Bond Program approved by voters in March 2002 funds capital projects for the Fire and Police Departments and includes: a public safety driver training facility, new and upgraded 911 communications facilities, an improved training center, a new police substation, new fire stations, fire stations to be relocated, new community policing centers, and upgrades to existing fire stations.

These public safety projects are intended to be implemented over the next decade and would be available to serve the population produced by the cumulative projects. Increased public safety staffing and purchase of equipment is evaluated by the City during the normal budget process, based on then current conditions.

The new construction that would occur as a result of the cumulative projects would include the redevelopment of older commercial and industrial buildings that may use hazardous materials as well as construction on parcels that are currently vacant. New buildings would replace aging buildings with structures built to current fire code standards. The net increase in the amount of development that would exist in the City due to the cumulative projects, particularly the increased residential development, will increase calls for fire and police services.

The cumulative projects may require the construction of new fire station or police facilities; however, the proposed development on the project site would not result in a cumulatively considerable contribution to this cumulative impact.

Impact CUMUL-12: The proposed project would not result in a cumulatively considerable contribution to a significant cumulative impact. **(Less Than Significant Cumulative Impact)**

4.3.7.2 *School Facilities Impacts*

Impacts to Schools

The proposed project is one of eight cumulative projects located within the boundaries of the Alum Rock Union Elementary School District (ARUSD). The remaining cumulative projects may result in significant impacts within their respective elementary school districts; however, the proposed project would not contribute to those impacts. The proposed eight cumulative projects contributing students to the ARUSD would result in approximately 775 additional students for the district.[82] The cumulative projects would also result in approximately 1,115 additional students[83] for the East Side

[82] Schoolhouse Services. Development Impact Fee Justification. June 2007

[83] The King and Dobbin Transit Village, Flea Market, Pepper Lane, North San José Phase II, La Pala Townhomes, Fleming Avenue Residential, South King Road Residential, Las Brisas Residential, Jackson Square Condominiums,

Union High School District (ESUHSD). The proposed project may require the construction of school facilities and proposes the payment of school impact fees in accordance with state law as discussed in *Section 3 Availability of Public Services.* Based on the state's school facilities construction standards (Title 5, California Code of Regulations Division 1, Chapter 13, Subchapter 1 School Facilities Construction), it is assumed that the construction of facilities could be sited and designed to avoid significant impacts and, therefore, the proposed project would not result in any significant impact related to the construction of school facilities.

Impact CUMUL-13: The proposed project would result in significant cumulative impacts on school facilities. **(Significant Cumulative Impact)**

Mitigation for Cumulative School Impacts

MM CUMUL-13.1: State law (Government Code Section 65996) specifies an acceptable method of offsetting a project's effect on the adequacy of school facilities as the payment of a school impact fee prior to issuance of a building permit. California Government Code Sections 65995-65998, sets forth provisions for the payment of school impact fees by new development as the exclusive means of "considering and mitigating impacts on school facilities that occur or might occur as a result of any legislative or adjudicative act, or both, by any state or local agency involving, but not limited to, the planning, use, or development of real property." [§65996(a)]. The legislation goes on to say that the payment of school impact fees "are hereby deemed to provide full and complete school facilities mitigation" under CEQA. [§65996(b)]. The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code. The school impact fees and the school districts' methods of implementing measures specified by Government Code 65996 would mitigate project-related increases in student enrollment.

Conclusion

Impact CUMUL-13: The proposed cumulative projects would increase the number of children attending public schools in the project area, but would mitigate the impact of those students through compliance with state law regarding school mitigation impact fees. **(Less than Significant Impact with Mitigation)**

4.3.7.3 *Park and Recreation Impacts*

The City provides developed park lands, open space, and community facilities to serve its residents. Some recreation facilities available to San José residents are also provided by other public agencies, such as playgrounds and fields on public school sites, County parks, and City trails on Santa Clara Valley Water District lands. Park and recreation facilities vary in size, use, type of service, and provide for neighborhood, citywide, and regional uses.

North White Road Townhomes, and The Fairways projects would send students to the ESUHSD. The identified increase in students is based on a student generation rate of 0.20 students per residential unit with the exception of NSJ Phase II (141 students) which was approved using the ESUHSD's previous rate.

The proposed project includes development of a one-acre park site to serve project residents and the surrounding neighborhoods. The project will also pay in-lieu park fees as necessary to offset the project demand for park and recreation facilities.

While the increased population associated with the implementation of the cumulative projects would result in increased use of existing parks and trails, such use is not expected to be substantial enough to cause these facilities to deteriorate and no significant adverse physical impact would result. Therefore, while cumulative projects will result in an increase in demand for parks and recreation, they will offset this increased demand through the provision of new and improved parks and open space opportunities.

Impact CUMUL-14: New park facilities would be developed in the project area concurrent with the proposed residential development. New parks and recreation facilities would contribute incrementally to the impacts of development identified for each of the cumulative projects as a whole, but would not be anticipated to have new or substantially different significant adverse environmental impacts. **(Less Than Significant Cumulative Impact)**

4.3.7.4 *Library Facilities and Service Impacts*

The San José Public Library System consists of one main library and 20 branch libraries. The Dr. Martin Luther King Junior Main Library, which reopened in Fall 2003 as a joint San José State University Library and San José Public Library, is located at the corner of San Fernando and 4th Streets, in Downtown San José. The libraries nearest the site include the Educational Park Branch on Educational Park Drive, the Joyce Ellington Branch on East Empire Street, and the main library, downtown. These branch libraries are planned to be replaced by new facilities in 2009 and 2007, respectively, with funding from the Measure O Library Bond approved by the City voters in 2000. This bond measure will provide funds for the renovation or construction of 23 existing or proposed branch libraries.

The cumulative projects would increase the number of people using library facilities in the City, and may trigger the need for a new library in a particular project area, particularly in North San José. In the event that a new library is needed in a given project area, it is assumed that it would be constructed near the planned residential development, at a location suitable for library use. The cumulative projects would not result in the need for new library facilities not currently planned for the project area.

Impact CUMUL-15: The proposed project would not result in a considerable contribution to significant cumulative impact to library facilities. **(Less Than Significant Cumulative Impact)**

SECTION 5 GROWTH INDUCING IMPACTS

This EIR/EA evaluates a specific development project that is proposed to implement the recently approved land use designation for the site and adopt a Transportation Development Policy. The proposed project is "infill," meaning that the site is within the City's existing urban boundaries, is already served by existing infrastructure, and has long been planned for urban uses.

The proposed development on the site will be "growth." This growth on the site, however, would not be "induced" by the proposed project – it is the proposed project. The proposed Transportation Development Policy would not stimulate growth that is not already included in the General Plan. The improvements that will be funded by the TDP have long been part of the City's General Plan. The CEQA Guidelines require that an EIR identify the likelihood that a proposed project could "foster" or stimulate "...economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment [§15126.2(d)]." This section of the EIR/EA is intended to evaluate the impacts of such growth in the surrounding environment.

There is an existing shortage of available housing in Santa Clara County, particularly affordable housing. This shortage is reflected in low vacancy rates, rising rents, and the congestion associated with commuting from outside the County. The redevelopment of urban land for higher residential densities may be occupied by people who are currently sharing dwellings or are commuting to Santa Clara from elsewhere. To the extent this occurs the additional units may not be considered economic or population growth, as defined by CEQA. To the extent that these units are occupied by people who move to Santa Clara County from outside the County, this is new growth. Of the proposed 1,287 residential units, up to 138 affordable apartment units are proposed to house the existing workforce in the City that otherwise may live in more distant reaches of the County including outside urbanized areas or in newly urbanizing areas in order to afford housing. Thirty-six of the proposed units are for a relocation of the existing San José Family Shelter and, therefore, would not represent new growth.

The proposed project will not construct development where development does not already exist nor will it create a precedent for growth outside the existing urban envelope. The project will create a demand for additional infrastructure; however, the roadways that would require improvement due to the project have been planned for some time. The proposed TDP would also further the goals of the City in allowing buildout of existing plans that foster infill development.

Impact GI-1: Based on the above discussion, the proposed project would not result in significant growth-inducing impacts. **(Less Than Significant Impact)**

SECTION 6 SIGNIFICANT UNAVOIDABLE IMPACTS

If the proposed project is approved, it would result in the following significant unavoidable impacts:

- land use compatibility (project and cumulative)
- transportation freeway LOS (project)
- transportation intersection LOS (cumulative)
- transportation freeway LOS (cumulative)
- hazardous materials (project and cumulative)

All other significant impacts of the project would be mitigated to a less than significant level through implementation of the mitigation identified in this EIR/EA.

SECTION 7 CONSISTENCY WITH ADOPTED PLANS

This section complies with CEQA Guidelines Section 15125(d), which requires an EIR to discuss inconsistencies between the proposed project and applicable general plans and regional plans.

7.1 REGIONAL PLANS

7.1.1 Bay Area 2005 Ozone Strategy

The Bay Area Air Quality Management District (BAAQMD), in cooperation with the Metropolitan Transportation Commission (MTC) and Association of Bay Area Governments (ABAG), prepared the Bay Area 2005 Ozone Strategy which serves as a roadmap showing how the San Francisco Bay Area will achieve compliance with the state one-hour air quality standard for ozone as expeditiously as practicable and how the region will reduce transport of ozone and ozone precursors to neighboring air basins. The Bay Area 2005 Ozone Strategy updated 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 consistency of the proposed project with this regional plan is primarily a question of the consistency with the population/employment assumptions utilized in developing the Ozone Strategy which were based on ABAG *Projections 2002*.

Consistency: The General Plan land use designation for the site was changed from *Light Industrial* to *Transit Corridor Residential (20+ DU/AC)* in December 2006. The project site is located adjacent to employment areas and bus transit, and therefore, is consistent with the goals and policies of the Bay Area 2005 Ozone Strategy. In addition, the rate of increase in VMT for the site would not exceed the rate of increase in population. For these reasons, the proposed project is consistent with the Bay Area 2005 Ozone Strategy.

7.1.2 State Water Quality Control Board National Pollutant Discharge Elimination System Permit

The Federal Clean Water Act requires local municipalities to implement measures to control construction and post-construction pollution entering local storm drainage systems to the maximum extent practicable. To comply with the requirements of the Federal Clean Water Act, the State Water Resources Control Board (SWRCB) implemented a National Pollution Discharge Elimination System (NPDES) permit for the Santa Clara Valley. Subsequent to implementation of the permit, the San Francisco Regional Water Quality Control Board (RWQCB) issued a Municipal Storm Water NPDES Permit to fifteen co-permittees. The fifteen co-permittees are the City of San José, twelve other municipalities within the Santa Clara Basin watershed area, the County of Santa Clara, and the Santa Clara Valley Water District (SDVWD). Two programs, the Nonpoint Source Pollution Program and the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP), have been implemented under the NPDES permit to regulate construction and post-construction runoff.

7.1.2.1 *Nonpoint Source Pollution Program*

In 1988, the SWRCB adopted the Nonpoint Source Management Plan in an effort to control nonpoint source pollution in California. In December 1999, the Plan was updated to comply with the requirements of Section 319 of the Clean Water Act and Section 6217 of the Coastal Zone Act Reauthorization Amendment of 1990. The Nonpoint Source Management Program requires

individual permits to control discharge associated with construction activities. The Nonpoint Source Program is administered by the RWQCB under the NPDES General Permit for Construction Activities. Projects must comply with the requirements of the Nonpoint Source Program if:

- they disturb one or more acres of soil; or
- if they disturb less than one acre of soil but are part of a larger development that, in total, disturbs one acre or more of soil.

The NPDES General Permit for Construction Activities requires the developer to submit a Notice of Intent (NOI) to the RWQCB and to develop a Stormwater Pollution Prevention Plan (SWPPP) to control discharge associated with construction activities.

Consistency: The project will disturb more than one acre of soil on the site. The project will submit a Notice of Intent and develop a Stormwater Pollution Prevention Plan (SWPPP) prior to construction grading on the site. For a detailed discussion of this issue, please see *Section 2.7 Hydrology and Water Quality*.

7.1.2.2 *Santa Clara Valley Urban Runoff Pollution Prevention Program*

The Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) was developed by the RWQCB to assist co-permittees in implementing the provisions of the NPDES permit. This program was also designed to fulfill the requirements of Section 304(1) of the Federal Clean Water Act, which mandated that the Environmental Protection Agency develop NPDES application requirements for storm water runoff. The Program's Municipal NPDES storm water permit includes provisions requiring regulation of storm water discharges associated with new development and development of an area-wide watershed management strategy. The permit also identifies recommended actions for the preservation, restoration, and enhancement of the San Francisco Bay Delta Estuary.

Consistency: The proposed project will be designed to comply with City Policies 6-29 and 8-14 to ensure consistency with the SCVURPPP. For a detailed discussion of the project's compliance with the SCVURPPP, refer to *Section 2.7 Hydrology and Water Quality*.

7.1.3 Santa Clara County Congestion Management Program

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

Consistency: The proposed project would construct high density, mixed-use, transit-oriented development on land that is within the Berryessa BART Station Area Node, which is consistent with the goals and policies of the CMP. Also a traffic analysis was completed in conformance with CMA policies.

7.2 SAN JOSÉ GENERAL PLAN

The *San José 2020 General Plan* (the "General Plan") is the document that contains the City's official policies regarding the future character and quality of development in San José. The General Plan includes major strategies, along with numerous policies that are designed to achieve the goals that are embodied in the major strategies. It is designed to be used by all members of the community as the policy framework for decision-making on both private development projects and City capital expenditures.

The following text describes those General Plan strategies and policies that are applicable to the proposed project, as well as any inconsistencies between the two. To assist the reader, a summary of the text discussion is presented in Table 7.2-1.

7.2.1 Land Use/Transportation Diagram

The Land Use/Transportation Diagram is a map depicting all of the existing and future land uses throughout San José, plus the primary transportation network that supports such land uses. The land uses that are shown on the Diagram are the product of comprehensive land use planning, with a goal of promoting efficient and compatible uses of land.

Consistency: The proposed project would allow construction of up to 1,287 residential units and up to 25,000 square feet of commercial space on a site designated for *Transit Corridor Residential (20+ DU/AC)* in the General Plan. The proposed project is consistent with the land use designation for the site as shown in the Land Use/ Transportation Diagram of the General Plan.

7.2.2 Special Strategy Areas

7.2.2.1 *Bay Area Rapid Transit (BART) Station Area Nodes Strategy*

The General Plan defines BART Station Area Nodes as the area within a radius of 3,000 feet from a planned BART station. A Station Area Node is a place in the City where a BART transit station is a focal point of the surrounding area. The general purpose of the BART Station Area Nodes is to direct transit-oriented and pedestrian friendly land use development in close proximity to BART stations. BART Station Areas are suitable for higher residential densities, more intensive job generating uses, and mixed use development, which in turn should support BART ridership. The development potential and the intensity of uses are defined by the Land Use/Transportation Diagram. In addition, new development should incorporate a mix of parks, recreational trails, pedestrian linkages, access to transit, and active ground floor uses.

Berryessa BART Station Node

The existing General Plan anticipates a mix of job generating land uses, high density residential and supportive commercial uses, and parks/open space at the Berryessa Station Area Node, and that development at the Berryessa Station Area Node should be coordinated and phased together, so that no one use will be developed separately and in advance of other uses. In particular, residential development should not occur in advance of commensurate job growth. Careful attention should be given to the compatibility of land uses. New residential uses should be buffered from the existing and planned heavy industrial land uses east of Coyote Creek. New residential development at the edge of existing single-family uses should be of a lower density. The greatest densities, preferably

within mixed use developments, should be adjacent to the station. The overall residential density at the Flea Market site should be 55 DU/AC. The planned parks should provide a buffer between existing and proposed uses and provide recreational and open space uses to support the future residences. Development should foster pedestrian activity and connections to the BART station, trails, parks, and possible schools. Due to the preliminary nature of the land use planning for the BART Stations, flexibility in the final distribution of the proposed land use designations should be allowed, consistent with the relative proportions of each designation as shown on the Land Use/Transportation Diagram.

Consistency: The project site is located within the Berryessa BART Station Area Node. The proposed project is a mixed-use development with the highest density development proposed on North King Road. The residential density on the site is lowest adjacent to existing residential development north and east of the site. A one-acre park is proposed on the site to provide for the recreational needs of future residents. Ground floor commercial space is allowed on Parcels A and B and would encourage pedestrian activity in the project area. The currently proposed Flea Market development on Berryessa Road would also provide a source of employment in this node. The site however, is located near existing incompatible industrial development. The proposed project is generally consistent with the Berryessa BART Station Area Node.

7.2.3 Major Strategies

7.2.3.1 *Economic Development Strategy*

The City of San José's Economic Development Strategy strives to make San José a more "balanced community" by encouraging more commercial and industrial development to balance the existing residential development. San José currently has a surplus of housing in relation to employment opportunities, which is referred to as a "jobs/housing imbalance." This imbalance makes it difficult to provide adequate urban services because residential use by itself does not generate sufficient revenue to cover service demands. Land uses that generate jobs do not require as many public services and typically generate greater revenue than residential use. Economic development is, therefore, a basic priority for San José.

The proposed project would reduce the amount of employment lands in the City and would contribute to a near-term trend of increasing the City's jobs/housing imbalance. The site includes several large underutilized industrial buildings. The proposed project would be consistent with the recently approved General Plan Amendment for the site. The proposed project would also facilitate a relatively small number of jobs and limited tax revenue from the 10,000 to 25,000 square feet of commercial space along the North King Road frontage of the site.

Consistency: The proposed project is somewhat consistent with the Economic Development Strategy, as described in the San José 2020 General Plan.

7.2.3.2 *Housing Strategy*

The goal of the City's Housing Strategy is to provide a wide variety of housing opportunities to meet the needs of all the economic segments of the community. The strategy seeks to maximize housing opportunities on infill parcels already served by the City. It also seeks to provide sufficient housing opportunities for new workers to encourage and support economic development. Finally, the strategy

includes financial assistance and other measures to encourage the construction, rehabilitation, and conservation of affordable housing.

The proposed project would allow construction of a medium and high density residential development on an infill site that is already served by City urban services. The proposed project would also construct affordable housing to serve low income residents of the City.

Consistency: The proposed project is consistent with the Housing Strategy, as described in the San José 2020 General Plan.

7.2.3.3 *Sustainable City Strategy*

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

The redevelopment of the site with medium and high density residential and commercial development in close proximity to existing and planned mass transit service is consistent with the Sustainable City Strategy.

Consistency: The proposed project is consistent with the Sustainable City Strategy, as described in the San José 2020 General Plan.

7.2.3.4 *Growth Management Strategy*

The purpose of the Growth Management Major Strategy is to find the delicate balance between the need to house new population and the need to balance the City's budget, while providing acceptable levels of service. The City's strategy for growth management can best be described as the prudent location of new development to maximize the efficient use of urban facilities and services, and, to this end, the General Plan encourages infill development within urbanized areas.

The proposed development of medium and high density residential and commercial development on an infill site within an urbanized area would be consistent with the Growth Management Strategy.

Consistency: The proposed project is consistent with the Growth Management Strategy, as described in the San José 2020 General Plan.

7.2.4 Policies

The General Plan contains hundreds of policies regarding land use development, provision of services and facilities, and the protection of environmental resources. The following discussion focuses on those policies that are most relevant to the pending decisions regarding whether to approve the proposed project.

7.2.4.1 *Balanced Community Policies*

Policy #1: The City should foster development patterns which will achieve a whole and complete community in San José, particularly with respect to improving the balance between jobs and economic development on the one hand, and housing resources and a resident work force on the other. A perfect balance between jobs and housing may not be achievable but the City should attempt to improve this balance to the greatest extent feasible.

Consistency: The project proposes to redevelop an existing industrial site with a residential and commercial development. Redevelopment of the site would contribute to the worsening of the City's jobs/housing imbalance. For this reason, the proposed project would not be consistent with this policy.

Policy #2: Varied residential densities, housing types, styles, and tenure opportunities should be equitably and appropriately distributed throughout the community and integrated with the transportation system, including roads, rail, bicycle and pedestrian facilities. Higher densities are encouraged near passenger rail lines and other major transportation facilities to support the use of public transit.

Consistency: The project would construct high and medium-high density residential development on the site, including affordable units, and some commercial space. The proposed development would improve the variety of housing offered in the City and project area. The proposed development on the site would result in additional residential units, including affordable housing, in proximity to the planned Berryessa BART Station. The proposed project is consistent with this policy.

Policy #3: Encouragement should be given to achieving a social, economic and housing mix in all neighborhoods.

Consistency: The proposed residential development would add to the mix of housing types located near the site. The site is bordered by single-family housing on the north and east sides. The proposed density and affordable units on the project site would further diversify the housing mix in the project area. The project is, therefore, consistent with this policy.

7.2.4.2 *Residential Land Use Policies*

Policy #1: Residential development at urban densities (one dwelling unit per acre or greater) should be located only where adequate services and facilities can be feasibly provided.

Consistency: Services and facilities are currently present in the project area. These services can feasibly be provided to the site and therefore the proposed project is consistent with this policy.

Policy #3: Higher residential densities should be distributed throughout the community. Locations near commercial and financial centers, employment centers, rail transit stations and along bus transit routes are preferable for higher density housing. There are a variety of strategies and policies in the General Plan that encourage the construction of high density housing and supportive mixed uses. For example, the Housing Initiative and Transit-Oriented Development Corridor Special

Strategy Areas encourage high density housing and mixed use development in close proximity to existing and planned transit routes.

Consistency: The proposed redevelopment of the site with medium-high and high density residential development along existing transit routes and proximate to the planned Berryessa BART Station is consistent with this policy.

Policy #5: Residential development should be allowed in areas with identified hazards to human habitation only if these hazards are adequately mitigated.

Consistency: As discussed in *Section 2.4 Hazards and Hazardous Materials*, the project site has existing soil contamination. In addition, the existing buildings on-site likely contain asbestos and lead-based paint. Mitigation measures have been identified to reduce these hazards to a less than significant level. However, some hazardous materials users in the project area use quantities of chemicals that could, if accidentally released, impact future residents of the site. No mitigation measures have been identified to reduce this impact to a less than significant level. Therefore, the proposed project is inconsistent with this policy.

Policy #11: Residential developments should be designated to include adequate open spaces in either private yards or common areas to partially provide for residents' open space and recreation needs.

Consistency: The proposed project includes the dedication of one acre of parkland to partially offset the project requirements of the City's Parkland Dedication Ordinance and Parkland Impact Ordinance. The proposed project, therefore, would be consistent with this policy.

Policy #17: The City encourages developers of large residential projects to identify and appropriately address the need generated by these projects for child care facilities and services.

Consistency: The proposed project includes up to 25,000 square feet of commercial space that could possibly be used for child care facilities. Future tenants that would occupy the proposed commercial space are not currently known. The proposed shelter facility would include a day care center for its residents. The proposed project, therefore, is somewhat consistent with this policy.

Policy #22: High density residential and mixed residential/commercial development located along transit corridors should be designed to: 1) create a pleasant walking environment to encourage pedestrian activity, particularly to the nearest transit stop; 2) maximize transit usage; 3) allow residents to conduct routine errands close to their residence; 4) integrate with surrounding uses to become a part of the neighborhood rather than an isolated project; 5) use architectural elements or themes from the surrounding neighborhood; and 6) ensure that building scale does not overwhelm the neighborhood.

Consistency: The proposed project would construct a mixed-use residential and commercial development in proximity to existing and planned transit. The proposed project, therefore, is consistent with this policy.

Policy #24: New residential development should create a pedestrian friendly environment by connecting the features of the development with safe, convenient, accessible, and pleasant pedestrian facilities. Such connections should also be made between the new development, the adjoining neighborhood, transit access points, and nearby commercial areas.

Consistency: The proposed project includes connections to existing sidewalks on both street frontages which provide access to transit service and commercial development in the project area. The project also proposes commercial space which would serve the proposed residents of the site. The proposed project, therefore, is consistent with this policy.

7.2.4.3 *Commercial Land Use Policies*

Policy #1: Commercial land in San José should be distributed in a manner that maximizes community accessibility to a variety of retail commercial outlets and services and minimizes the need for automobile travel. New commercial development should be located near existing centers of employment or population or in close proximity to transit facilities and should be designed to encourage pedestrian and bicycle access through techniques such as minimizing building separation from the street, providing safe, accessible, convenient and pleasant pedestrian connections, secure bike storage, etc. Employee intensive uses should be encouraged to locate along multi-modal transit corridors.

Consistency: The proposed project includes up to 25,000 square feet of commercial space on Parcels A and B which fronts onto North King Road and Dobbin Drive. This commercial space is near existing transit routes and would provide commercial services within walking distance of existing and the proposed residential neighborhoods. The proposed project, therefore, is consistent with this policy.

7.2.4.4 *Industrial Land Use Policies*

Policy #2: The City should encourage the development of new industrial areas and the redevelopment of existing older or marginal industrial areas, particularly in locations which facilitate efficient commute patterns.

Consistency: The proposed project would redevelop an existing light industrial site with residential and commercial uses. The project, therefore, is inconsistent with this policy.

Policy #14: Non-industrial uses which would result in the imposition of additional operational, and/or mitigation requirements or conditions on industrial users in a neighboring exclusively industrial area in order to achieve compatibility are discouraged.

Consistency: The proposed project may result in additional complaints against surrounding industrial development that would further restrict activities on these adjacent uses. The proposed project, therefore, is inconsistent with this policy.

7.2.4.5 *Economic Development Policies*

Policy #1: The City should reduce the present imbalance between housing and employment by seeking to obtain and maintain an improved balance between jobs and workers residing in San José.

Consistency: The proposed project would result in an overall loss in employment lands. Although the project proposes commercial space, the number of jobs created will not be equal to the current number of jobs on the project site. The project would worsen the jobs/housing imbalance and could spur additional proposals for residential conversion in the area causing a domino effect which may result in the loss of more industrial lands. For these reasons, the proposed project is inconsistent with this policy.

Policy #2: To enhance its economic development goals and increase employment opportunities for San José citizens, the City should protect the industrial lands designated exclusively for industrial uses.

Consistency: A General Plan Amendment to allow conversion of the site from industrial to residential use was approved in December 2006. Redevelopment of the site with the proposed project may place pressure on nearby industrial land to convert to residential use. Construction of the proposed project would result in the loss of the existing industrial land on the site. The project, therefore, is not consistent with this policy.

7.2.4.6 *Urban Design Policies*

Policy #1: The City should continue to apply strong architectural and site design controls on all types of development for the protection and development of neighborhood character and for the proper transition between areas with different types of land uses.

Consistency: Prior to the issuance of a Planned Development Permit the project will be reviewed to ensure compliance with relevant site design controls. Development under the proposed zoning, therefore, will be consistent with this policy.

Policy #7: The City should require the undergrounding of distribution utility lines serving new development sites as well as proposed redevelopment sites.

Consistency: The proposed project will underground the existing utility lines serving the project site.

7.2.4.7 *Housing Policies*

Policy #1: The City encourages a variety and mix in housing types to provide adequate choices for housing to persons of all income levels in San José.

Consistency: The construction of a medium-high and high-density residential development with approximately 14 percent of the units affordable to families earning between five and 45 percent of the area median income would add to the mix of housing available in the project area. The proposed project, therefore, is consistent with this policy.

7.2.4.8 *Level of Service Policies*

Policy #2: The existing community should not be burdened by service demands of new development. Capital and facility needs generated by new development should be financed by new development.

Consistency: Any necessary utility infrastructure related to redevelopment of the site will be funded by the developer. The proposed project, therefore, is consistent with this policy.

Policy #5: Requires that the minimum overall performance of City streets during peak travel periods to be level of service "D." To meet that goal, the policy states that development proposals should be reviewed for their measurable impacts on the level of service and should be required to provide appropriate mitigation measures if they have the potential to reduce the level of service to "D" or worse.

Consistency: As discussed in *Section 2.2 Transportation*, the proposed project would result in LOS impacts to three intersections. The City has proposed a Transportation Development Policy (TDP) to provide for additional redevelopment in the project area prior to the construction of improvements at the US 101/Oakland Road corridor intersections. The Transportation Development Policy would also allow development resulting in temporary congestion at intersections in the vicinity of the US 101/Oakland Road corridor intersections. The project proposes to conform to the proposed Transportation Development Policy to mitigate level of service impacts at local intersections. Therefore, the project, in the long-term, is consistent with this policy.

Policy #6: The minimum performance standard for sanitary sewer lines should be level of service "D", defined as restricted sewage flow during peak flow conditions. Development which will have the potential to reduce the downstream level of service to worse than "D", or development which would be served by downstream lines already operating at a level of service worse than "D", should be required to provide mitigation measures to improve the level of service to "D" or better.

Consistency: The existing sanitary sewer capacity in the project vicinity may be inadequate to accommodate the increase in sewage generation from the project site (refer to *Section 2.11 Water Supply and Utilities and Service Systems*). Prior to issuance of a PD Permit a sanitary sewer study will be completed to determine the exact specifications of any required improvements to the sanitary sewer system to meet the City's level of service in the project area. The project, therefore, is consistent with this policy.

Policy #7: The City should monitor and regulate growth so that the cumulative sewage treatment demand of all development can be accommodated by San José's share of the treatment capacity of the Water Pollution Control Plan.

Consistency: As discussed in *Section 2.11 Water Supply and Utilities and Service Systems*, the proposed project would not exceed the treatment capacity of the WPCP. The project, therefore, is consistent with this policy.

Policy #12: New projects should be designed to minimize potential damage due to storm waters and flooding to the site and other properties.

Consistency: As discussed in *Section 2.7 Hydrology and Water Quality*, the project site is located within an area of moderate to minimal flooding and, therefore, is not required to conform to the City's Special Flood Hazard Area Regulations. The proposed project is consistent with this policy.

Policy #21: The City encourages school districts and developers to engage in early discussions regarding the nature and scope of proposed projects and possible fiscal impacts and mitigation measures.

Consistency: The project applicant has engaged in discussions with the school district regarding the impact of the proposed project. As discussed in *Section 3.3 Schools*, the project may result in the need for the construction of new school facilities in the Alum Rock Union School District. The project proposes to pay school impact fees in accordance with state law to mitigate its impacts on the local school district. The project, therefore, is consistent with this policy.

7.2.4.9 *Urban Forest Policies*

Policy #2: Development projects should include the preservation of ordinance-sized, and other significant trees. Any adverse affect on the health and longevity of native oaks, ordinance-sized or other significant trees should be avoided through appropriate design measures and construction practices. When tree preservation is not feasible, the project should include appropriate tree replacement.

Consistency: As discussed in *Section 2.9 Biological Resources*, the proposed project may result in the removal of 37 ordinance-size trees from the site. The project does not propose to retain any trees on the project site but will provide replacement tree plantings to mitigate this impact in accordance with the City's tree replacement ratios. The proposed project would, therefore, be consistent with this policy.

7.2.4.10 *Historic, Archaeological, and Cultural Resources Policies*

Policy #1: Because historically or archaeologically significant sites, structures, and districts are irreplaceable resources, their preservation should be a key consideration in the development review process.

Consistency: The Cultural Resources Evaluation prepared for the project did not identify any significant archaeological or cultural resources on the site. A building eligible for the National Register of Historic Resources was identified north of the project site on Mabury Road (refer to *Section 2.3 Cultural Resources*). This building is located approximately 120 feet north of the property line abutting the project site and would not be impacted by the redevelopment of the site. The project is not anticipated to result in an impact to any cultural resources and is, therefore, consistent with this policy.

7.2.4.11 *Water Resources Policies*

Policy #12: For all new discretionary development permits for projects incorporating large paved areas or other hard surfaces (e.g., building roofs), or major expansion of a building or use, the City should require specific construction and post-construction measures to control the quantity and improve the water quality of urban runoff.

Consistency: The project will implement specific construction and post-construction mitigation measures to reduce water quality impacts (refer to *Section 2.7 Hydrology and Water Quality*). The proposed project, therefore, is consistent with this policy.

7.2.4.12 *Energy Policies*

Policy #1: The City should promote development in areas served by public transit and other existing services. Higher residential densities should be encouraged to locate in areas served by primary public transit routes and close to major employment centers.

Consistency: The proposed project will construct medium-high and high density residential units near existing transit services and the planned Berryessa BART Station. The project, therefore, is consistent with this policy.

7.2.4.13 *Hazards Policies*

Policy #1: Development should only be permitted in those areas where potential danger to the health, safety, and welfare of the residents of the community can be mitigated to an acceptable level.

Consistency: Risk modeling for a worst-case release scenario of chemicals identified at nearby industrial sites would result in impacts to future residents of the site. No mitigation measures have been identified to reduce this risk to a less than significant level and, therefore, the proposed project is inconsistent with this policy.

7.2.4.14 *Soils and Geologic Conditions Policies*

Policy #1: The City should require soils and geologic review of development proposals to assess such hazards as potential seismic hazards, surface ruptures, liquefaction, landsliding, mudsliding, erosion and sedimentation in order to determine if these hazards can be adequately mitigated.

Consistency: The proposed project will mitigate seismic hazards, including liquefaction, by conforming to the California Building Code (refer to *Section 2.6 Geology and Soils*). The project is, therefore, consistent with this policy.

Policy #9: Residential development proposed on property formerly used for agricultural or heavy industrial uses should incorporate adequate mitigation/remediation for soils contamination as recommended through the Development Review process.

Consistency: The project site was formerly used for agriculture and industrial uses. Mitigation measures are incorporated into the project to remediate existing contamination on the site from the previous uses (refer to *Section 2.4 Hazards and Hazardous Materials*). The project, therefore, is consistent with this policy.

7.2.4.15 *Earthquake Policies*

Policy #1: The City should require that all new buildings be designed and constructed to resist stresses produced by earthquakes.

Consistency: The proposed redevelopment will be constructed under Seismic Zone 4 building criteria as described in the California Building Code. The project, therefore, is consistent with this policy.

Policy #3: The City shall only approve new development in areas of identified seismic hazard if such hazard can be appropriately mitigated.

Consistency: The proposed redevelopment will be constructed under Seismic Zone 4 building criteria as described in the California Building Code. The project, therefore, is consistent with this policy.

7.2.4.16 *Flooding Policies*

Policy #1: New development should be designed to provide protection from potential impacts of flooding during the "1%" or "100-year" flood.

Consistency: The project is not located within the 100-year floodplain for Upper Penitencia Creek. The proposed project, therefore, is consistent with this policy.

7.2.4.17 *Noise Policies*

Policy #1: The City's acceptable noise objectives are 55 dBA DNL as the long-range exterior noise quality level, 60 dBA DNL as the short-range exterior noise quality level, 45 dBA DNL as the interior noise quality level, and 76 dBA DNL as the maximum exterior noise level necessary to avoid significant adverse health effects. To achieve the noise objectives, the City should require appropriate site and building design, building construction, and noise attenuation techniques in new development.

Consistency: Noise levels on portions of the project site are in excess of the City's noise level standards (refer to *Section 2.5 Noise*). The proposed project includes noise attenuation measures to reduce noise levels on the site to acceptable levels. The proposed project, therefore, is consistent with this policy.

7.2.4.18 *Hazardous Materials*

Policy #3: The City should incorporate soil and groundwater contamination analysis within the environmental review process for development proposals. When contamination is present on a site, the City should report this information to the appropriate agencies that regulate the cleanup of toxic contamination.

Consistency: The project site was formerly used for agriculture and industrial uses. Mitigation measures are incorporated into the project to remediate existing contamination on the site from the previous uses (refer to *Section 2.4 Hazards and Hazardous Materials*). The project, therefore, is consistent with this policy.

Table 7.2-1
Summary of Project Consistency with the San José General Plan

Name of Strategy/Policy	Project is Consistent	Project is Somewhat Consistent	Project is Inconsistent
Land Use/Transportation Diagram	X		
Special Strategy Areas			
Bay Area Rapid Transit (BART) Station Area Node		X	
Major Strategies			
Economic Development Strategy		X	
Housing Strategy	X		

Table 7.2-1
Summary of Project Consistency with the San José General Plan

Name of Strategy/Policy	Project is Consistent	Project is Somewhat Consistent	Project is Inconsistent
Sustainable City Strategy	X		
Growth Management Strategy	X		
Policies			
Balanced Community Policy #1			X
Balanced Community Policy #2	X		
Balanced Community Policy #3	X		
Residential Land Use Policy #1	X		
Residential Land Use Policy #3	X		
Residential Land Use Policy #5			X
Residential Land Use Policy #11	X		
Residential Land Use Policy #17	X		
Residential Land Use Policy #22	X		
Residential Land Use Policy #24	X		
Commercial Land Use Policy #1	X		
Industrial Land Use Policy #2			X
Industrial Land Use Policy #14			X
Economic Development Policy #1			X
Economic Development Policy #2			X
Urban Design Policy #1	X		
Urban Design Policy #7	X		
Housing Policy #1	X		
Level of Service Policy #2	X		
Level of Service Policy #5	X		
Level of Service Policy #6	X		
Level of Service Policy #7	X		
Level of Service Policy #12	X		
Level of Service Policy #21	X		
Historic, Archaeological, and Cultural Resource Policy #1	X		
Urban Forest Policy #2	X		
Water Resources Policy #12	X		
Energy Policy #1	X		
Hazards Policy #1			X
Soils and Geologic Conditions Policy #1	X		
Soils and Geologic Conditions Policy #9	X		
Earthquake Policy #1	X		
Earthquake Policy #3	X		
Flooding Policy #1	X		
Noise Policy #1	X		
Hazardous Materials Policy #1	X		

SECTION 8 ALTERNATIVES TO THE PROPOSED PROJECT

CEQA requires that an EIR identify alternatives to a project as it is proposed. The CEQA Guidelines specify that the EIR should identify alternatives which "will feasibly attain most of the basic objectives of the project but will avoid or substantially lessen any of the significant effects of the project". The purpose of this section is to determine whether there are alternatives of design, scope or location which will substantially lessen the significant impacts, even if those alternatives "impede to some degree the attainment of the project objectives", or are more expensive. [§15126.6]

In order to comply with the purposes of CEQA, it is important to identify alternatives that reduce the significant impacts which are anticipated to occur if the project is implemented, but to try to meet as many of the project's objectives as possible. The Guidelines emphasize a common sense approach- the alternatives should be reasonable, should "foster informed decision making and public participation", and should focus on alternatives that avoid or substantially lessen the significant impacts.

The significant unavoidable impacts identified in this EIR/EA as resulting from the proposed project include the following:

- land use (project and cumulative),
- transportation (project and cumulative), and
- hazardous materials (project and cumulative).

Alternatives may also be considered if they would further reduce impacts that are already less than significant because the project is proposing mitigation. Impacts that would be significant, but for which the project includes mitigation to reduce them to less than significant levels include soil contamination, interior noise, biology, construction (air quality and water quality), and public facilities and services.

CEQA encourages consideration of any alternative site when significant effects of the project might be avoided or substantially lessened. Only locations that would avoid or substantially lessen any of the significant effects of the project and meet most of the project objectives need be considered for inclusion in the EIR/EA.

Objectives of the Project

While CEQA does not require that alternatives must be capable of meeting all the project objectives, their ability to meet most of the objectives is relevant to their consideration. The following represent the project applicant's objectives for the proposed project:

- Construct a minimum of 800 residential units and up to 1,287 residential units and between 10,000 to 25,000 square feet of commercial space on a site in East San José proximate to existing and planned mass transit.

- Construct up to 138 residential affordable housing units in support of the City's affordable housing policies.

- Construct an affordable housing complex on the periphery of an existing residential neighborhood close to schools, transportation, and job opportunities to provide for the relocation of the San José Family Shelter.

- Support Transit-Oriented Development and encourage transit ridership by constructing a mixed use development within the Berryessa BART Station Area Node.

- Help the City fulfill its housing production goals by constructing a range of housing types at an infill site with access to mass transit and in proximity to jobs in Downtown and North San José.

The City of San José has identified the following basic objectives for the projects:

- Development of approximately 1,300 residential units, 25,000 square feet of commercial space, and a two- to three-acre park.

- Adoption of a Transportation Development Policy to collect fair share traffic impact fees for the construction of improvements to the US 101/Oakland Road interchange and the construction of the US 101/Mabury Road interchange.

Feasibility of Alternatives

CEQA, the CEQA Guidelines, and the case law on the subject have found that feasibility can be based on a wide range of factors and influences. The Guidelines advise that such factors can include (but are not necessarily limited to) the suitability of an alternate site, economic viability, availability of infrastructure, consistency with a general plan or with other plans or regulatory limitations, jurisdictional boundaries, and whether the project proponent can "reasonable acquire, control, or otherwise have access to the alternative site [§15126.6(f)(1)]."

Selection of Alternatives

In addition to the "No Project" alternative, the Guidelines advise that the range of alternatives discussed in the EIR should be limited to those that "would avoid or substantially lessen any of the significant effects of the project [§15126.6(f)]." The alternatives discussion in this section of the EIR/EA will analyze the *No Project Alternative*, *Reduced Scale Alternative*, and *Location Alternative*.

8.1 NO PROJECT ALTERNATIVE

The CEQA Guidelines specifically require consideration of a No Project Alternative. The No Project Alternative should address both "the existing conditions, as well as what would be reasonably expected to occur in the foreseeable future if the project is not approved, based on current plans and consistent with available infrastructure and community services."

The project site is currently developed with warehouse building and light industrial buildings totaling approximately 421,000 square feet, surface parking lots, and landscaping. Under the No Project Alternative, the project site could remain developed with the existing light industrial buildings. This would avoid all of the proposed project's significant impacts. This would also avoid the need for approval of a Transportation Development Policy as proposed by the project. If no TDP were approved then other development in support of the BART extension and other City neighborhood

plans (i.e. Jackson Taylor, 13th Street/Luna Park, Japantown), may also not move forward due to the LOS policy restrictions along the US 101/Oakland Road interchange corridor.

Relationship to Project Objectives

The No Project/No Redevelopment Alternative would not meet any of the project objectives.

Conclusion

Overall, the No Project/No Redevelopment Alternative (assuming continued use of the existing development on-site) would be environmentally superior to the project because it would avoid all of the project's environmental impacts.

8.2 NO PROJECT/REDEVELOPMENT ALTERNATIVE

The site was recently approved (December 2006) for the *Transit Corridor Residential (20+ DU/AC)* land use designation. Another alternative development scenario (No Project/Redevelopment) would involve development of the site with a different Transit-Oriented Development proposed on the site consistent with the recently approved General Plan Amendment (GPA). A different PD rezoning may be substantially larger than the currently proposed PD rezoning. Any near-term redevelopment of the site would require approval of an Area or Transportation Development Policy and the delay in approving the TDP, if the currently proposed project is denied, could result in other projects in support of the City's goals including the extension of BART to San José may also be delayed. The site was analyzed in the GPA EIR at a density of 55 dwelling units per acre (DU/AC) and commercial square footage of 248,800. Therefore, the No Project/Redevelopment Alternative evaluated below assumes the site could be proposed for this amount of redevelopment.

Comparison of Environmental Impacts

Under this alternative, the site would be redeveloped with approximately six percent more residential units and 10 times the commercial space as the currently proposed project. The traffic impacts would be substantially greater to the intersections impacted under the currently proposed project and additional intersections and freeway segments may be impacted. A project of this size would expose more residents to hazardous materials impacts from nearby industrial facilities. This alternative could result in land use impacts to the adjacent residential development if these densities could not be achieved without allowing buildings of greater height across the site. This alternative would have similar impacts to biological resources and public facilities as the project. The No Project/Redevelopment Alternative would expose a larger residential population to the land use compatibility and hazardous materials impacts resulting from the project's location near industrial uses. The No Project/Redevelopment Alternative would not avoid any of the significant impacts of the project analyzed in this EIR/EA.

Relationship to Project Objectives

This alternative would allow for residential development on the site or support transit ridership on the planned BART extension and would meet the applicant's objectives for the site.

The No Project/Redevelopment Alternative could include an affordable housing component of the same size or larger than the proposed project.

Conclusion

The No Project/Redevelopment Alternative would accomplish the objectives of the proposed project; however, it would result in greater impacts than the proposed development.

8.3 REDUCED SCALE ALTERNATIVE

The goal of a "Reduced Scale" alternative would be to add fewer additional dwelling units to the project site in order to reduce or avoid project impacts. One of the project's significant unavoidable impacts is due to a worsening of the intersection LOS at US 101/Oakland Road (N). This impact could be avoided if the number of dwelling units proposed by the project did not exceed 240 units. Development of 240 residential units on the site would require a General Plan Amendment (GPA) to change the land use designation on the site to *Medium Density Residential (8-16 DU/AC)* from the current designation of *Transit Corridor Residential (20+ DU/AC)*. The *Medium Density Residential (8-16 DU/AC)* land use designation is typified by patio homes, townhouses, and duplexes. This designation would also allow for some single-family residential development on the site, but would not allow for any commercial development.

Comparison of Environmental Impacts

The Reduced Scale Alternative would limit residential development on the site to a maximum of 240 dwelling units. This alternative would require a GPA however, the required amendment would not result in any greater environmental impacts than those identified in the Final EIR for the Dobbin Drive Residential General Plan Amendment (GP06-03-01) approved in December 2006. This Reduced Scale Alternative would avoid the intersection LOS impacts of the project because it would not allow as substantial an increase in daily vehicle trips. This alternative may also reduce the freeway segment LOS impacts of the project to a less than significant level. This alternative would reduce the number of residents exposed to significant land use and hazardous materials impacts due to hazardous materials use and storage in the vicinity of the site, however it would not reduce these impacts. This alternative would also avoid the project's need for creation of the US 101/Oakland/Mabury Transportation Development Policy. It is likely that the City would pursue the TDP, whether or not the project is proposed, in order to support redevelopment in the Berryessa BART Station Area Node, local business districts, and the Jackson-Taylor Specific Plan area.

The construction air quality and water quality impacts of the project would remain the same with this alternative. The noise impacts related to elevated noise levels on the project site would not be reduced under this alternative. The Reduced Scale Alternative may also avoid biological resource impacts related to the loss of trees from the site. The public facilities impacts of the project would also be reduced but the project may still require additional school facilities for the Alum Rock Union Elementary School District and East Side Union High School District.

Relationship to Project Objectives

The Reduced Scale Alternative would not meet the objective of creating transit-oriented residential development to encourage transit ridership on existing transit services and the planned BART extension. This alternative would not provide as many new dwelling units to assist the City in meeting housing production goals as the proposed project.

This alternative would not meet the applicant's objectives of providing a minimum of 800 high-density residential units on the site and may jeopardize or reduce the affordable housing component

of the project due to inadequate funding. This alternative would also not conform to the General Plan land use designation for the site which is the City's desired future use of the site.

Conclusion

The Reduced Scale Alternative would reduce the traffic impacts of the project. This alternative would also reduce the biological resource since it may avoid the loss of some trees and public facilities impacts of the project due to a reduction in the number of students generated, however, these impacts would also require mitigation to reduce their impacts to a less than significant level. This alternative would not meet the applicant's objectives of providing at least 800 residential units on the site.

8.4 LOCATION ALTERNATIVE – SAN JOSÉ FLEA MARKET SITE

The CEQA Guidelines require that an EIR identify an alternative location that "would avoid or substantially lessen any of the significant effects of the project" [§15126.6(f)(2)(A)].

The General Plan land use designations for the San José Flea Market site on the north and south side of Berryessa Road northwest of the project site include approximately 82.9 acres of *Transit Corridor Residential (20+ DU/AC)*. A General Plan amendment (GP06-04-01) on the site was approved on April 24, 2007 and a Planned Development zoning (PDC03-108) was approved August 14, 2007. This site could accommodate development with approximately 1,287 dwelling units and 25,000 square feet of commercial space and may result in fewer environmental impacts. The entire San José Flea Market site is approximately 120 acres in size and includes *Medium Density Residential (8-16 DU/AC)*, *Combined/Industrial Commercial*, *Public Park/Open Space*, *Floating Park*, and *Major Collector* land use designations.

Comparison of Environmental Impacts

The Flea Market site Location Alternative with the proposed development would result in similar traffic impacts to the US 101/Oakland Road interchange corridor intersections as the proposed project. The Location Alternative would not avoid the need for the Transportation Development Policy to allow the project to proceed. Depending on the location of development on the Flea Market site greater setbacks could be provided from adjacent industrial land uses to reduce land use conflicts and the pressure to convert additional industrial land to residential use. This Location Alternative would also be subject to accidental chemical releases from nearby industrial land uses. Residential development at this Location Alternative may be subject to vibration impacts from the adjacent rail lines to the east of the site, an impact that does not affect the proposed project site. Redevelopment may result in significant air quality impacts due to low levels of existing development on the Flea Market site. This Location Alternative would result in historic resource impacts due to the demolition of the existing Flea Market. The Location Alternative may also result in greater biological impacts due to two creeks adjacent to the site.

Relationship to Project Objectives

Development at the Location Alternative would provide Transit-Oriented Development in support of transit ridership for the planned Berryessa BART station. This site would allow for development of a mix of housing types to help the City meet its housing goals. The Location Alternative would allow development of the same minimum and maximum number of residential units, commercial square

footage, and park proposed for the project site. The Location Alternative would also allow for the development of affordable housing near transportation, jobs, and housing.

Conclusion

Development of the Flea Market site with approximately 1,287 residential units and 25,000 square feet of commercial uses may reduce some of the environmental impacts of the proposed project. Development of this alternative location, however, may result in some additional or greater impacts (vibration and biology) but it is believe these additional impacts could be mitigated to a less than significant level. This Location Alternative may result in additional impacts to air quality and historic resources. The Location Alternative, therefore, may reduce some of the environmental impacts of the proposed project; however, it would not avoid the need for a Transportation Development Policy for project approval and may result in additional impacts when compared to the proposed project site.

8.5 ENVIRONMENTALLY SUPERIOR ALTERNATIVE

The CEQA Guidelines state that an EIR shall identify an environmentally superior alternative. Based on the above discussions, the environmentally superior alternative is the No Project Alternative, because all of the project's significant environmental impacts would be avoided if no new construction occurred under this Alternative. CEQA Guidelines Section 15126.6(e)(2), however, states that "if the environmentally superior alternative is the No Project Alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives."

The Reduced Scale Alternative would be the environmentally superior alternative because it would reduce the traffic and biological impacts of the project; however, it would not meet all of the objectives of the applicant and City for the project.

8.6 CITY-PREFFERED DESIGN ALTERNATIVE

A design alternative to the proposed project, which is preferred by the City staff, would include the same amount of development on the site and a two-acre park versus the one-acre park proposed by the applicant. The impacts of an alternative two-acre park on the project site would result in similar impacts from the project if the proposed maximum number of units on the site is maintained and density limits are increased.

Development of a two-acre park on the project site, while maintaining the same unit count, would require greater density and building heights to be shifted further east on the project site in order to meet the maximum number of units on the site. Podium style development may be required along the northern and eastern property lines to meet the desired density on the project site. Greater density adjacent to existing single-family development may be less desirable than the proposed densities since setbacks and height limits would be increased. This alternative may result in additional shade and shadow impacts, visual intrusion impacts, and land use compatibility impacts than the proposed project. The City-Preferred Design Alternative would not avoid or reduce any of the significant impacts of the proposed project.

Conclusion

The City-Preferred Design Alternative would not avoid or reduce any of the significant impacts of the proposed project. This alternative could, however, result in greater land use compatibility

impacts than the proposed project. The applicant does not currently propose any additional park acreage on the site in excess of a one acre developed park site; however, the project may be conditioned to include the additional acreage.

SECTION 9 SIGNIFICANT IRREVERSIBLE ENVIRONMENTAL CHANGES

This section was prepared pursuant to CEQA Guidelines Section 15126.2(c), which requires a discussion of the significant irreversible changes that would result from the implementation of a proposed project. Significant irreversible changes include the use of nonrenewable resources, the commitment of future generations to similar use, irreversible damage resulting from environmental accidents associated with the project, and irretrievable commitments of resources.

9.1 USE OF NONRENEWABLE RESOURCES

Demolition, construction, and operation of the proposed redevelopment will require the use and consumption of nonrenewable resources. Renewable resources, such as lumber and other wood byproducts, will also be used. Unlike renewable resources, nonrenewable resources cannot be regenerated over time. Nonrenewable resources include fossil fuels and metals.

Energy will be consumed during both construction and operation of the project. The construction phase would require the use of nonrenewable construction material, such as concrete, metals, and plastics. Nonrenewable resources and energy would also be consumed during the manufacturing and transportation of building materials, preparation of the site, and construction of buildings. The operational phase will consume energy for multiple purposes including, building heating and cooling, lighting, appliances, electronics, and commercial machinery. Energy in the form of fossil fuels, will be used to fuel vehicles traveling to and from the area. The proposed project would allow high density residential and commercial mixed-use development in proximity to existing and planned transit. The overall goal of placing high density residential development near transit is to encourage transit use and reduce vehicle miles traveled.

9.2 COMMITMENT OF FUTURE GENERATIONS TO SIMILAR USE

Employment lands are an irretrievable resource that relate to the long term economic development of the City. The proposed project would change the development on the site to a residential neighborhood. The proposed project would redevelop land previously used by industrial businesses from the City of San José. The proposed project would commit this site and possibly adjacent sites to residential use. The project would also place residential units in proximity to planned and existing transit service. The proposed project would encourage future generations to use mass transit which would reduce the amount of fossil fuels used by the proposed development on the site. The project is in a developed urban area but the proposed development would represent a substantial change in the area of the site and would commit this site and likely adjacent sites to residential use.

9.3 IRREVERSIBLE DAMAGE RESULTING FROM ENVIRONMENTAL ACCIDENTS ASSOCIATED WITH THE PROJECT

The project does not propose any new or uniquely hazardous uses, and its operation would not be expected to cause environmental accidents that would impact other development in the vicinity of the site. The project would, however, develop residential units near existing industrial development. This could expose residents of the site to worst-case accidental hazardous materials releases from nearby industrial operations. The risk of locating residential development and industrial development in proximity to each other is evaluated in *Section 2.1 Land Use* and *Section 2.4 Hazards and Hazardous Materials* of this EIR/EA.

The project site is located within a seismically active region and would be exposed to ground shaking during a seismic event. Conformance with the standard engineering practices in the California Building Code for Seismic Zone 4 construction standards and implementation of the recommendations in a final, design-level geotechnical report would not result in significant geology and soils impacts (refer to *Section 2.6 Geology and Soils*).

The proposed project, with the implementation of the identified Standard Measures would reduce geology and soils impacts (refer to *Section 2.6 Geology and Soils*), and would not result in irreversible damage from environmental accidents. The hazardous materials impacts of the proposed project; however, are significant and unavoidable, thus the proposed project may result in significant irreversible damage from environmental accidents.

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SECTION 11 AUTHORS AND CONSULTANTS

Authors:

City of San José
Department of Planning, Building, and Code Enforcement
Joseph Horwedel, Director of Planning, Building, and Code Enforcement
Akoni Danielsen, Principal Planner
Dipa Chundur, Planner II
Teresa Estrada, Planner II

Consultants:

David J. Powers & Associates, Inc.
Environmental Consultants & Planners
Judy Shanley, Principal
Will Burns, Project Manager
Stephanie Francis, Graphic Artist

AEI Consultants
Environmental & Civil Engineering Consultants
Peter J. McIntyre, P.G.
Senior Project Manager

Basin Research Associates
Archaeological Resource Consultants
Colin I. Busby, Principal

Belinda P. Blackie, P.E., R.E.A.
Hazardous Materials Consultant

Concentric Ecologies
Arborists
John H. Steinbach III

Donald Ballanti, Certified Consulting Meteorologist
Air Quality Consultant

ENVIRON International Corporation
Hazardous Materials Consultants
Shari Beth Libicki, Ph.D., Principal
Douglas Daugherty, Senior Manager

Hexagon Transportation Consultants, Inc.
Transportation Consultants
Gary Black, Principal
Brian Jackson, Project Manager

Illingworth & Rodkin, Inc.
Acoustical Consultants
Michael S. Thill, Senior Consultant

Toxichem Management Systems, Inc.
Hazardous Materials Consultant
Daniel W. Hernandez, President

TRC
Geotechnical Engineering Consultants
Anthony N. Lusich, P.E., G.E.

Urban Programmers
Historic Resources Consultant
Bonnie Bamburg, Principal