

Initial Study

1096 Lincoln Avenue Project

File No. H16-004

Prepared by the



In Consultation with



April 2018

MITIGATED NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: 1096 Lincoln Avenue Project

PROJECT FILE NUMBER: H16-004

PROJECT DESCRIPTION: Site Development Permit to allow the removal of four non-ordinance sized trees and the construction of an approximately 9,400 square feet building and utilization of uniform parking spaces on a vacant 0.50 gross acre site.

PROJECT LOCATION: Northeast corner of Lincoln Avenue and Willow Street in the City of San José, at 1096 Lincoln Avenue.

ASSESSORS PARCEL NO.: 264-56-082

COUNCIL DISTRICT: 6

APPLICANT CONTACT INFORMATION: J.R. Willow Glen LLC, ~~1448 Bolsa Road, Hollister, CA, 95023~~ 3000 Sand Hill Road, 1-250, Menlo Park, CA 94025

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

- A. **AESTHETICS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- B. **AGRICULTURE AND FOREST RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- C. **AIR QUALITY** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- D. **BIOLOGICAL RESOURCES**

Impact BIO-1: Construction activities associated with the proposed project could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment.

MM BIO-1.1: The project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive).

If it is not possible to schedule demolition and construction between September 1st and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests shall be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st, inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife (CDFW), shall determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction.

Prior to any tree removal, or issuance of any grading or demolition permits (whichever occurs first), the ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the City's Supervising Environmental Planner.

- E. CULTURAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- F. GEOLOGY AND SOILS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- G. GREENHOUSE GAS EMISSIONS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- H. HAZARDS AND HAZARDOUS MATERIALS**

Impact HAZ-1: Construction activities on-site could expose construction workers to contaminated soils.

MM HAZ-1.1: The project applicant shall retain a qualified hazardous materials professional to conduct focused sampling and analysis for contamination of soil on-site prior to issuance of any grading permit. Sampling on the site shall be under the oversight of the Santa Clara County Department of Environmental Health (SCCDEH), or equivalent regulatory agency, in accordance with a Work Plan prepared by a qualified professional and approved by the SCCDEH (or equivalent regulatory agency).

The approved Work Plan shall describe sample methodology, sample locations, the quality assurance/quality control plan, reporting, and schedule. The Work Plan shall be implemented by the project proponent and the results of the sampling shall be submitted to the SCCDEH. If additional investigation is required to sufficiently delineate the contaminants of concern, additional sampling or mitigation measures shall be proposed and be reviewed and approved by the SCCDEH.

A letter (or equivalent assurance) from SCCDEH documenting completion of the Work Plan (on-site testing) to the satisfaction of the SCCDEH shall be provided to the Department of Planning,

Building and Code Enforcement Supervising Environmental Planner. In the event no further testing or remediation is required, A No Further Action letter (or equivalent assurance) from SCCDEH shall be provided prior to issuance of demolition or Planned Development Permits for the proposed project.

MM HAZ-1.2: A Site Management Plan (SMP) shall be prepared and implemented (as outlined below) and any contaminated soils found in concentrations above established thresholds shall be removed and disposed of according to California Hazardous Waste Regulations or the contaminated portions of the site shall be capped beneath the planned development under the regulatory oversight of the Santa Clara County Department of Environmental Health (SCCDEH) or State Department of Toxic Substances Control (DTSC). The contaminated soil removed from the site shall be hauled off-site and disposed of at a licensed hazardous materials disposal site.

Components of the SMP shall include, but shall not be limited to:

- A detailed discussion of the site background;
- Preparation of a Health and Safety Plan (HSP) by an industrial hygienist;
- Notification procedures if previously undiscovered significantly impacted soil or free fuel product is encountered during construction;
- On-site soil reuse guidelines based on the California Regional Water Quality Control Board (RWQCB), San Francisco Bay Region's reuse policy;
- Sampling and laboratory analyses of excess soil requiring disposal at an appropriate off-site water disposal facility;
- Soil stockpiling protocols.

The project applicant shall submit the SMP to SCCDEH, DTSC, or equivalent regulatory agency for review and approval. A copy of the approved SMP shall be provided to the Planning, Building and Code Enforcement Supervising Environmental Planner prior to issuance of any grading permits.

MM HAZ-1.3: All contractors and subcontractors at the project site shall develop a Health and Safety Plan (HSP) specific to their scope of work and based upon the known environmental conditions for the site. The HSP shall be approved by the Planning, Building and Code Enforcement Supervising Environmental Planner and Environmental Services Department (ESD) and implemented under the direction of a Site Safety and Health Officer. The HSP shall include, but shall not be limited to, the following elements, as applicable:

- Provisions for personal protection and monitoring exposure to construction workers;
- Procedures to be undertaken in the event that contamination is identified above action levels or previously unknown contamination is discovered;
- Procedures for the safe storage, stockpiling, and disposal of contaminated soils;
- Emergency procedures and responsible personnel.

The HSP shall be submitted to the Planning, Building and Code Enforcement Supervising Environmental Planner and the Director of the City of San José ESD for review and approval prior to the issuance of any demolition or grading permit.

- I. HYDROLOGY AND WATER QUALITY** – The project will not have a significant impact on this resource, therefore no mitigation is required.

- J. **LAND USE AND PLANNING** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- K. **MINERAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- L. **NOISE AND VIBRATION** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- M. **POPULATION AND HOUSING** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- N. **PUBLIC SERVICES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- O. **RECREATION** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- P. **TRANSPORTATION/TRAFFIC** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- Q. **UTILITIES AND SERVICE SYSTEMS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- R. **MANDATORY FINDINGS OF SIGNIFICANCE**

Implementation of Mitigation Measures BIO-1.1, HAZ-1.1, HAZ-1.2, and HAZ-1.3 would minimize project impacts to a less than significant level. As such, the project would not degraded the quality of the environment, result in significant impacts to fish or wildlife species, result in impacts considered cumulatively considerable, or result in a substantial adverse effect on human beings.


PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **Thursday, April 26, 2018** any person may:

1. Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
2. Submit written comments regarding the information and analysis in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND.

Rosalynn Hughey, Director
Planning, Building and Code Enforcement

4/4/18
Date


Deputy

Circulation period: April 6, 2018 to April 26, 2018

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SECTION 1.0 INTRODUCTION AND PURPOSE

1.1 PURPOSE OF THE INITIAL STUDY

The City of San José as the Lead Agency, has prepared this Initial Study for the 1096 Lincoln Avenue Project in compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations §15000 et. seq.) and the regulations and policies of the City of San José, California.

The project proposes to construct an approximately 9,400 square foot commercial/retail building on a previously developed site. This Initial Study evaluates the environmental impacts that might reasonably be anticipated to result from implementation of the proposed project.

1.2 PUBLIC REVIEW PERIOD

Publication of this Initial Study marks the beginning of a 20-day public review and comment period. During this period, the Initial Study would be available to local, state, and federal agencies and to interested organizations and individuals for review. Written comments concerning the environmental review contained in this Initial Study during the 20-day public review period should be sent to:

Krinjal Mathur
krinjal.mathur@sanjoseca.gov
(408) 535-7874
200 East Santa Clara Street
San José, CA 95113

1.3 CONSIDERATION OF THE INITIAL STUDY AND PROJECT

Following the conclusion of the public review period, the City of San José shall consider the adoption of the Initial Study/Mitigated Negative Declaration (MND) for the project at a regularly scheduled meeting. The City shall consider the Initial Study/MND together with any comments received during the public review process. Upon adoption of the MND, the City may proceed with project consideration.

1.4 NOTICE OF DETERMINATION

If the project is approved, City shall file a Notice of Determination (NOD), which would be posted within 24 hours of receipt at the County Clerk's Office and available for public inspection for 30 days. The filing of the NOD starts a 30-day statute of limitations on court challenges to the approval under CEQA (CEQA Guidelines Section 15075(g)).

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

1096 Lincoln Avenue Project

2.2 LEAD AGENCY CONTACT

Krinjal Mathur
krinjal.mathur@sanjoseca.gov
(408) 535-7874
200 East Santa Clara Street
San José, CA 95113

2.3 PROJECT APPLICANT

J.R. Willow Glen LLC

2.4 PROJECT LOCATION

The 0.5-acre site is located at the northeast corner of Lincoln Avenue and Willow Street in the City of San José.

The project site is shown in the following figures:

Figure 2.4-1: Regional Map

Figure 2.4-2: Vicinity Map

Figure 2.4-3: Aerial Photograph with Surrounding Land Uses

2.5 ASSESSOR'S PARCEL NUMBER

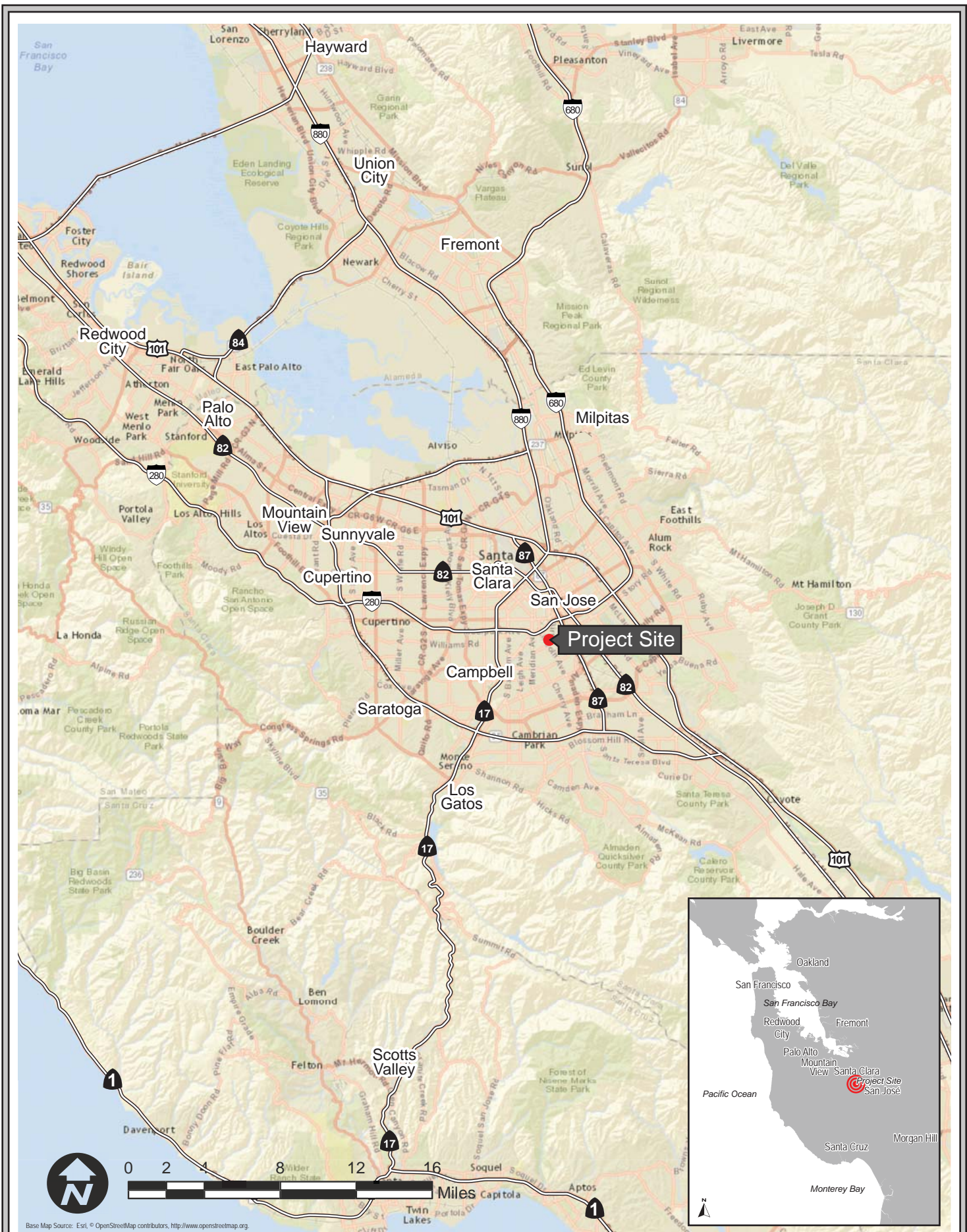
264-56-082

2.6 GENERAL PLAN DESIGNATION AND ZONING DISTRICT

The project site is designated *NCC – Neighborhood/Community Commercial* under the City's General Plan and has a zoning designation of *CP – Commercial Pedestrian*.

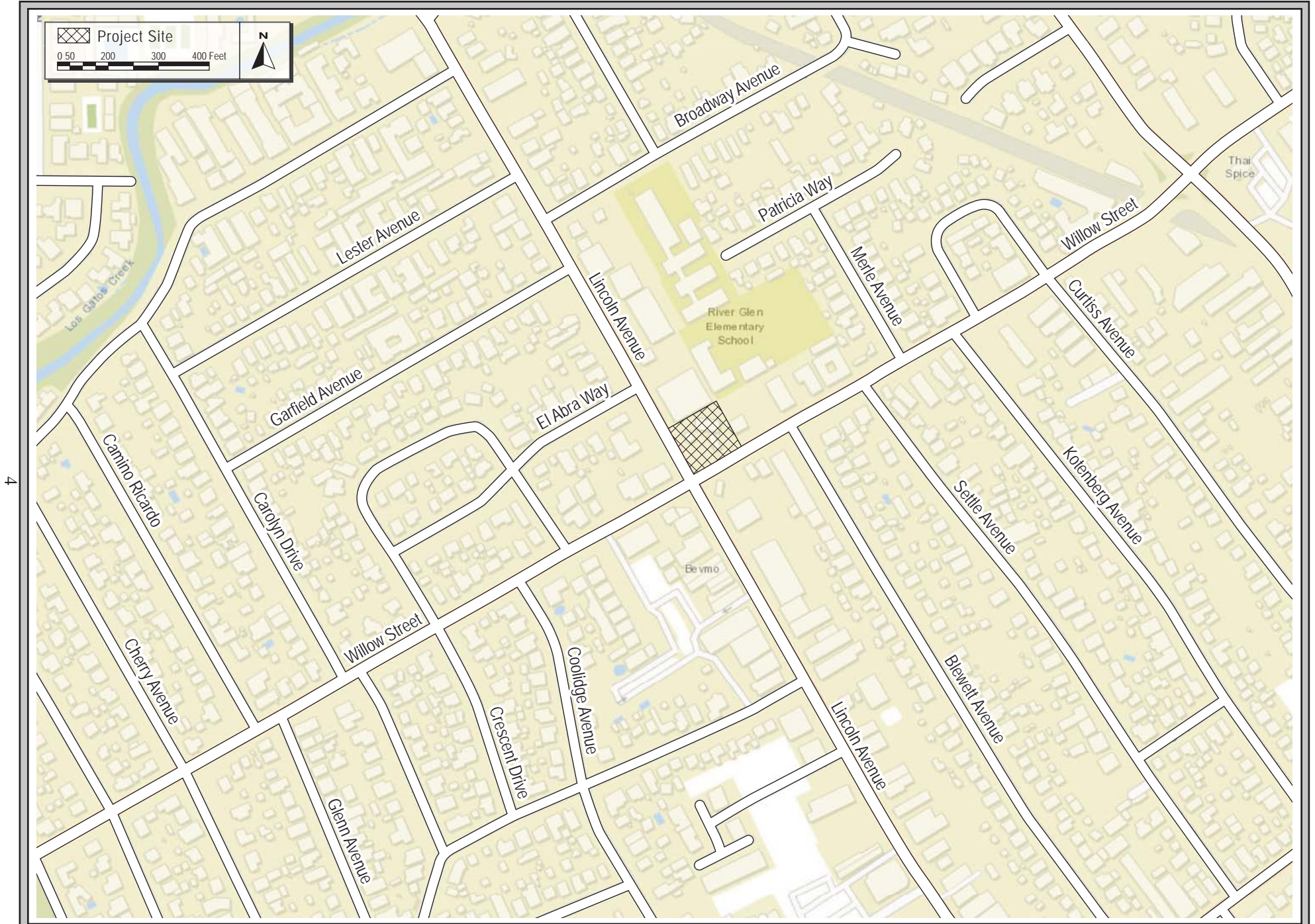
2.7 PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS

- Site Development Permit
- Tree Removal Permit
- Public Work Clearance: Grading Permit(s)
- Building Clearance: Building Permit(s)



REGIONAL MAP

FIGURE 2.4-1



VICINITY MAP

FIGURE 2.4-2



AERIAL PHOTOGRAPH AND SURROUNDING LAND USES

FIGURE 2.4-3

SECTION 3.0 PROJECT DESCRIPTION

The 0.5-acre site is comprised of a single parcel (APN 264-56-082) located at the northeast corner of Lincoln Avenue and Willow Street in the City of San José. The project site was previously occupied by a gas station that was demolished in 2015. The project site is currently vacant and surrounded by a mix of commercial/retail, a school, and residential development.

As proposed, the project would construct an approximately 9,400 square foot commercial/retail building. The building would be located along the Lincoln Avenue frontage with a patio area located at the southwest corner of the site, at the Lincoln Avenue and Willow Street intersection. An approximate 24-space surface parking lot (including one loading space) would be located behind the building, with access from Willow Street. The project would have a maximum height of 36 feet. In addition, the project would remove four ordinance sized trees on-site. The proposed project would require a Site Development Permit.

Vehicular Access to the project site is currently provided by two ingress/egress driveways along Lincoln Avenue and one ingress/egress driveway on Willow Street. The two driveways on Lincoln Avenue would be removed and the driveway on Willow Street would remain with the project.

Existing Land Use Designation

The project site is designated *NCC – Neighborhood/Community Commercial* under the City's General Plan and is zoned *CP – Commercial Pedestrian*. The *NCC* designation supports a very broad range of commercial activity, including neighborhood serving retail and services and commercial/professional office development. General office uses, hospitals, and private community gathering facilities are allowed under the *NCC* designation. This designation allows for a floor area ratio (FAR) of up to 3.5.

The *CP* zoning district is intended to support pedestrian-oriented retail activity at a scale compatible with the surrounding residential neighborhoods. This district is intended to support intensive pedestrian-oriented commercial activity and development consistent with General Plan urban design policies. New development should orient buildings towards public streets and transit facilities and include features to provide an enhanced pedestrian environment. The proposed project would be consistent with the General Plan and zoning designation.

Please refer to *Section 4.10 Land Use and Planning* for a complete discussion of the project's consistency with the City's General Plan land use and zoning designations.

Green Building Measures

The proposed project would be required to build to the California Green Building Code (CALGreen), which includes design provisions intended to minimize wasteful energy consumption. The proposed development would be designed to achieve minimum Leadership in Energy and Environmental Design (LEED) certification consistent with San José Council Policy 6-32.



FIGURE 3.0-1

SECTION 4.0 ENVIRONMENTAL SETTING, CHECKLIST, AND IMPACT DISCUSSION

This section presents the discussion of impacts related to the following environmental subjects in their respective subsections:

4.1	Aesthetics	4.10	Land Use and Planning
4.2	Agricultural and Forestry Resources	4.11	Mineral Resources
4.3	Air Quality	4.12	Noise and Vibration
4.4	Biological Resources	4.13	Population and Housing
4.5	Cultural Resources	4.14	Public Services
4.6	Geology and Soils	4.15	Recreation
4.7	Greenhouse Gas Emissions	4.16	Transportation/Traffic
4.8	Hazards and Hazardous Materials	4.17	Utilities and Service Systems
4.9	Hydrology and Water Quality	4.18	Mandatory Findings of Significance

The discussion for each environmental subject includes the following subsections:

- **Environmental Setting** – This subsection 1) provides a brief overview of relevant plans, policies, and regulations that compose the regulatory framework for the project and 2) describes the existing, physical environmental conditions at the project site and in the surrounding area, as relevant.
- **Checklist and Discussion of Impacts** – This subsection includes a checklist for determining potential impacts and discusses the project’s environmental impact as it relates to the checklist questions. For significant impacts, feasible mitigation measures are identified. “Mitigation measures” are measures that would minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370). Each impact is numbered using an alphanumeric system that identifies the environmental issue. For example, **Impact HAZ-1** denotes the first potentially significant impact discussed in the Hazards and Hazardous Materials section. Mitigation measures are also numbered to correspond to the impact they address. For example, **MM NOI-2.3** refers to the third mitigation measure for the second impact in the Noise section.
- **Conclusion** – This subsection provides a summary of the project’s impacts on the resource.

Important Note to the Reader

The California Supreme Court in a December 2015 opinion [*California Building Industry Association v. Bay Area Air Quality Management District*, 62 Cal. 4th 369 (No. S 213478)] confirmed that CEQA, with several specific exceptions, is concerned with the impacts of a project on the environment, not the effects the existing environment may have on a project. Therefore, the evaluation of the significance of project impacts under CEQA in the following sections focuses on impacts of the project on the environment, including whether a project may exacerbate existing environmental hazards.

The City of San José has policies that address existing conditions (e.g., air quality, noise, and hazards) affecting a proposed project, which are also addressed in this section. This is consistent with one of the primary objectives of CEQA and this document, which is to provide objective information to decision-makers and the public regarding a project as a whole. The CEQA Guidelines and the courts are clear that a CEQA document (e.g., EIR or Initial Study) can include information of interest even if such information is not an “environmental impact” as defined by CEQA.

Therefore, where applicable, in addition to describing the impacts of the project on the environment, this chapter shall discuss operational issues that relate to policies pertaining to existing conditions. Such examples include, but are not limited to, locating a project near sources of air emissions that can pose a health risk, in a floodplain, in a geologic hazard zone, in a high noise environment, or on/adjacent to sites involving hazardous substances.

4.1 AESTHETICS

4.1.1.1 *Project Site*

The project site was previously occupied by a gas station that was demolished in 2015. Currently, the site is vacant and surrounded by commercial/retail, school, and residential land uses. The site is paved with patches of weedy/volunteer vegetation (see Photo 1). There are a few trees located on and immediately adjacent to the site.

4.1.1.2 *Surrounding Land Uses*

As mentioned above, the site is located within a mixed commercial/retail, a school, and residential area. The buildings vary in height from one to three stories and utilize a variety of building materials. Immediately east of the project site is a fast food restaurant with a surface parking lot (see Photo 2). The building is primarily stucco and is set back from the roadway with landscaping. A large roadway sign is prominent. There is a school adjacent to the northeast corner of the project site. One of the school buildings is visible from the site. This building is primarily stucco with a blue tile roof being the only visible architectural feature.

Located south of the project site is Willow Street, a narrow, two-lane roadway. Immediately south of Willow Street is a three-story stucco commercial building with tile roofs at varying heights. The building facades also vary in depth with the upper floors set back from the ground floor. The building was constructed around a single-story Spanish Colonial Revival style commercial building (Willow Street Pizza) which is heavily ornamented with wrought-iron detail, decorative tiles, and arched windows (see Photos 3 and 4).

Immediately west of the project site is Lincoln Avenue, a two-lane north-south arterial street. West of Lincoln Avenue, to the north and south of Willow Street, are a mix of one- and two-story commercial buildings. Some of the businesses occupy converted houses with a primarily Spanish architectural style. East of Lincoln Avenue is a one-story commercial building and a paved parking lot. The commercial buildings have a more modern aesthetic with simple lines and are comprised of either stucco or brick. Throughout the area, the commercial buildings are set back from the roadways by wide sidewalks and street trees. Other than the street trees, landscaping is minimal around the buildings and along the street frontages. South of Willow Street, parking lots are primarily behind the buildings and are not visible from most viewpoints, with a few exceptions. North of Willow Street, parking areas are more prominent with some businesses have parking lots along the street frontage. Please refer to Photos 5-8.

4.1.1.3 *Scenic Views*

Based on the City's General Plan, views of hillside areas, including the foothills of the Diablo Range, Silver Creek Hills, Santa Teresa Hills, and foothills of the Santa Cruz Mountains are scenic features in the San José area. The project site and surrounding areas are relatively flat and prominent viewpoints, other than buildings, are limited. The project area has minimal to no scenic views of the Diablo foothills to the east, Santa Cruz Mountains to the west, Santa Teresa Hills to the south, and the Silver Creek hills to the southeast. No natural scenic resources, such as rock outcroppings, are present on-site or in the project area.



PHOTO 1: View of the project site, looking northwest on the project site.



PHOTO 2: View of surrounding development, looking northeast on Willow Street.



PHOTO 3: View of surrounding development, looking south on Willow Street.



PHOTO 4: View of surrounding development, looking southeast on Willow Street.



PHOTO 5: View of surrounding development, looking northwest on Willow Street and Lincoln Avenue.



PHOTO 6: View of surrounding development, looking east on Lincoln Avenue.



PHOTO 7: View of a house on Lincoln Avenue converted into a business, looking west from Lincoln Avenue.



PHOTO 8: View of multiple commercial businesses along Lincoln Avenue, looking west from the Willow Street.

4.1.1.4 *Applicable Aesthetics Regulations and Policies*

The General Plan includes the following aesthetic policies applicable to the proposed project.

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

Policy CD-1.7: Require developers to provide pedestrian amenities, such as trees, lighting, recycling and refuse containers, seating, awnings, art, or other amenities, in pedestrian areas along project frontages. When funding is available, install pedestrian amenities in public rights-of-ways.

Policy CD-1.8: Create an attractive street presence with pedestrian-scaled building and landscape elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity through the City.

Policy CD-1.11: To create a more pleasing pedestrian-oriented environment, for new building frontages, include design elements with a human scale, varied and articulated facades using a variety of materials, and entries oriented to public sidewalks or pedestrian pathways. Provide windows or entries along sidewalks and pathways; avoid black walls that do not enhance the pedestrian experience. Encourage inviting, transparent facades for ground-floor commercial spaces that attract customers by revealing active uses and merchandise displays.

Policy CD-1.12: Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.

Policy CD-1.13: Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.

Policy CD-1.17: Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.

Policy CD-1.18: Encourage the placement of loading docks and other utility uses within parking structures or at other locations that minimize their visibility and reduce their potential to detract from pedestrian activity.

Policy CD-1.23: Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.

4.1.2 Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
d) Create a new source of substantial light or glare which will adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

4.1.2.1 *Scenic Vistas and Resources (Checklist Questions a and b)*

The General Plan defines scenic vistas or resources in the City of San José as broad views of the Santa Clara Valley, the hills and mountains surrounding the valley, the urban skyline, and the baylands. The project area has minimal to no scenic views of the Diablo foothills to the east, Santa Cruz Mountains to the west, Santa Teresa Hills to the south, and the Silver Creek hills to the southeast due to the existing built environment. The project area is developed with commercial/retail, a school, and residential land uses ranging from one to three stories. The construction of a one-story commercial/retail building would not significantly diminish scenic views in the project area or damage any designated scenic resources. **(Less Than Significant Impact)**

4.1.2.2 *Visual Character (Checklist Question c)*

The project site is located in a visible area at the corner of Lincoln Avenue and Willow Street. The project site is currently vacant; therefore, any new construction on this site would be a substantial change and would be visible from the roadways and surrounding properties. The site is surrounded by primarily commercial/retail land uses with a wide variety of architectural styles. Construction of a one-story, 9,400 square foot commercial/retail building on the project site would not change the visual character of the immediate project area.

The General Plan FEIR concluded that while new development and redevelopment under the General Plan would alter the appearance of the City, implementation of adopted policies and existing regulations would avoid substantial degradation of the visual character or quality of the City. As a result, the proposed project would have a less than significant impact on the visual character of the City. **(Less Than Significant Impact)**

4.1.2.3 ***Light and Glare (Checklist Question d)***

Sources of light and glare include external building lights, streetlights, parking lot lights, security lights, vehicular headlights, internal building lights, and reflective building surfaces and windows. The building would be lit internally and would also include outdoor security lighting and parking lot lights. The proposed project would go through a design review process, prior to issuance of planning and building permits, and would be reviewed for consistency with the City's Design Guidelines, including guidelines on building lighting and materials. The General Plan FEIR concluded that new development and redevelopment allowed under the General Plan would result in new sources of nighttime light and daytime glare; however, implementation of the General Plan policies and existing regulations and adopted plans would avoid substantial light and glare impacts. **(Less Than Significant Impact)**

4.1.3 **Conclusion**

The proposed project would not impact any designated scenic resources; nor would the project create significant additional sources of light and glare. In addition, the project would have a less than significant impact on the visual character of the project area. Implementation of the project would have a less than significant visual impact. **(Less Than Significant Impact)**

4.2 AGRICULTURAL AND FORESTRY RESOURCES

4.2.1 Environmental Setting

The Santa Clara County Important Farmland 2014 Map designates the project site as *Urban and Built-Up Land*.¹ Common examples of “Urban and Built-Up Land” are residential, institutional, industrial, commercial, landfill, golf course, airports, and other utility uses. The project site is currently vacant and surrounded by a mix of commercial/retail, a school, and residential development. There is no forest land located on or adjacent to the project site and the site is not subject to a Williamson Act contract.

4.2.2 Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3,4
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3,4
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3,4
d) Result in a loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3,4
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3,4

4.2.2.1 *Impacts to Agricultural and Forest Resources (Checklist Questions a – e)*

As proposed, the project would result in the construction of an approximately 9,400 square foot commercial/retail building on a previously developed site. The project would not convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to non-agricultural uses. The

¹ California Department of Conservation. *Santa Clara County Important Farmland 2014 Map*. Accessed: September 21, 2017. Available at: <ftp://ftp.consrv.ca.gov/pub/dlrp/FMMP/pdf/2014/sc114.pdf>.

project would not conflict with existing zoning for agricultural operations or facilitate in the unplanned conversion of farmland elsewhere in San José to non-agricultural uses.

The project site is not zoned for forest land or timberland. In addition, there are no forest lands on or adjacent to the project site and, as a result, the proposed project would not result in the conversion or loss of forest lands in San José. For these reasons, the project would not result in impacts to agricultural or forest resources. **(No Impact)**

4.2.3 Conclusion

Implementation of the project would have no impact on agricultural or forest resources. **(No Impact)**

4.3 AIR QUALITY

4.3.1 Environmental Setting

4.3.1.1 *Regulatory Background*

Air quality is determined by the concentration of various pollutants in the atmosphere. The amount of a given pollutant in the atmosphere is determined by the amount of pollutants released within an area, transport of pollutants to and from surrounding areas, local and regional meteorological conditions, and the surrounding topography of the air basin.

The Bay Area Air Quality Management District (BAAQMD) is responsible for assuring that the national and state ambient air quality standards are attained and maintained in the Bay Area. Air quality studies generally focus on four criteria pollutants that are most commonly measured and regulated: carbon monoxide (CO), ground level ozone (O₃), nitrogen dioxide (NO₂), and suspended particulate matter (PM₁₀ and PM_{2.5}). As shown in Table 4.3-1, violations of State and Federal standards at the monitoring station in Downtown San José (the nearest monitoring station to the project site) during the 2014 - 2016 period (the most recent years for which data is available) include O₃, PM_{2.5}, and PM₁₀.^{2,3}

Table 4.3-1: Ambient Air Quality Standards Violations and Highest Concentrations				
Pollutant	Standard	Days Exceeding Standard		
		2014	2015	2016
SAN JOSÉ STATION				
Ozone	State 1-hour	0	0	0
	Federal 8-hour	0	2	0
Carbon Monoxide	Federal 8-hour	0	0	0
	State 8-hour	0	0	0
Nitrogen Dioxide	State 1-hour	0	0	0
PM ₁₀	Federal 24-hour	0	0	0
	State 24-hour	1	1	0
PM _{2.5}	Federal 24-hour	2	2	0

The Bay Area as a whole does not meet State or Federal ambient air quality standards for ground level O₃, State standards for PM₁₀, and Federal standards for PM_{2.5}. Based on air quality monitoring data, the California Air Resources Board (CARB) has designated Santa Clara County as a “nonattainment area” for O₃ and PM₁₀ under the California Clean Air Act (CAA). The County is either in attainment or unclassified for other pollutants.

² PM refers to Particulate Matter. Particulate matter is referred to by size (i.e., 10 or 2.5) because the size of particles is directly linked to their potential for causing health problems.

³ Bay Area Air Quality Management District. “Annual Bay Area Air Quality Summaries.” Accessed: September 21, 2017. Available at: <http://www.baaqmd.gov/about-air-quality/air-quality-summaries>.

4.3.1.2 *Toxic Air Contaminants*

Besides criteria air pollutants, there is another group of substances found in ambient air referred to as Toxic Air Contaminants (TACs) under the California CAA. In California, TACs are caused by industry, agriculture, fuel combustion, and commercial operations (e.g., dry cleaners). TACs tend to be localized and are found in relatively low concentrations; however, exposure to low concentrations over long periods can result in adverse chronic health effects.

Diesel exhaust is the predominant TAC in urban air and is estimated to represent about two-thirds of the cancer risk from TACs (based on the statewide average). Diesel is of particular concern since it can be distributed over large regions, thus leading to widespread public exposure. CARB has adopted and implemented a number of regulations for stationary and mobile sources to reduce emissions of diesel particulate matter (DPM).

4.3.1.3 *Sensitive Receptors*

Sensitive receptors are groups of people that are more susceptible to pollutant exposure (i.e., children, the elderly, and people with illnesses). Locations that may contain a high concentration of sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, elementary schools, parks, and places of assembly.

The nearest sensitive receptors are school-aged children attending River Glen School, approximately 30 feet northeast of the project site, and the residences located approximately 130 feet northwest of the project site.

4.3.1.4 *Applicable Air Quality Regulations and Policies*

The General Plan includes air quality policies applicable to the proposed project.

Policy MS-10.1: Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement air emissions reduction measures.

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

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

Policy MS-13.2: Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxic control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

4.3.2

Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the Lead Agency and must be based to the extent possible on scientific and factual data. The City has carefully considered the thresholds updated by BAAQMD in May 2017 and regards these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin and conservative in terms of the assessment of health effects associated with TACs and PM_{2.5}. The BAAQMD CEQA Air Quality thresholds used in this analysis are identified in Table 4.3-2 below.

Table 4.3-2: Thresholds of Significance Used in Air Quality Analyses			
Pollutant	Construction	Operation-Related	
	Average Daily Emissions (pounds/day)	Average Daily Emissions (pounds/day)	Maximum Annual Emissions (tons/year)
ROG, NO _x	54	54	10
PM ₁₀	82 (exhaust)	82	15
PM _{2.5}	54 (exhaust)	54	10
Fugitive Dust (PM ₁₀ /PM _{2.5})	BMPs	None	None
Risk and Hazards for New Sources	Same as Operational Threshold	<ul style="list-style-type: none"> Increased cancer risk of >10.0 in one million Increased non-cancer risk of > 1.0 Hazard Index (chronic or acute) Ambient PM_{2.5} increase: > 0.3 µ/m³ 	

Table 4.3-2: Thresholds of Significance Used in Air Quality Analyses			
Pollutant	Construction	Operation-Related	
	Average Daily Emissions (pounds/day)	Average Daily Emissions (pounds/day)	Maximum Annual Emissions (tons/year)
and Receptors (Project)		[Zone of influence: 1,000-foot radius from property line of source or receptor]	
Risk and Hazards for New Sources and Receptors (Cumulative)	Same as Operational Threshold	<ul style="list-style-type: none">• Increased cancer risk of >100 in one million• Increased non-cancer risk of > 10.0 Hazard Index (chronic or acute)• Ambient PM_{2.5} increase: > 0.8 μ/m³ [Zone of influence: 1,000-foot radius from property line of source or receptor]	
Sources: BAAQMD CEQA <i>Thresholds Options and Justification Report (2009)</i> and BAAQMD CEQA <i>Air Quality Guidelines</i> (dated May 2017).			
¹ For stationary source projects, modeling for CO concentrations is only required for projects emitting 100 tons per year or more of CO. Projects emitting less are assumed to not exceed the CO concentration threshold.			

4.3.2.1 Bay Area 2017 Clean Air Plan Consistency (Checklist Question a)

BAAQMD's most recently adopted plan is the Bay Area 2017 Clean Air Plan (2017 CAP). The proposed project would not conflict with the 2017 CAP because it would have emissions that would not exceed BAAQMD's screening criteria for criteria air pollutants (refer to *Sections 4.3.3.2 and 4.3.3.3* below), is considered urban infill, and would be located near bicycle facilities and existing transit service. Because the project would not exceed BAAQMD's screening criteria, it is not required to incorporate project-specific control measures listed in the 2017 CAP. Further, implementation of the project would not inhibit BAAQMD or partner agencies from continuing progress toward attaining state and federal air quality standards and eliminating health-risk disparities from exposure to air pollution among Bay Area communities, as described within the 2017 CAP. Therefore, the project would not result in a significant impact related to consistency with the Bay Area 2017 CAP. **(Less Than Significant Impact)**

4.3.2.2 Impacts to Regional and Local Air Quality (Checklist Questions b and d)

Operational Criteria Pollutant Emissions

BAAQMD developed screening criteria to provide a conservative indication of whether a project would result in potentially significant criteria pollutant air quality impacts. The BAAQMD CEQA Air Quality Guidelines established operational screening size for criteria pollutant emissions based on land use type and project size using default emission assumptions in the Urban Land Use Emissions Model emission model. Projects smaller than the applicable screening criteria for the proposed land use would not result in the generation of operational-related criteria air pollutants and/or precursors that exceed the BAAQMD's thresholds of significance.

The proposed commercial/retail development is closest to the "strip mall" land use category in character. For operational impacts from criteria pollutants, the screening size for a "strip mall" is 99,000 square feet. Projects that are smaller than the screening size would have a less than

significant operational air quality impact. The proposed 9,400 square foot commercial/retail building is below the screening size for the proposed use; therefore, the project would have a less than significant operational criteria air quality impact. **(Less Than Significant Impact)**

Operational Carbon Monoxide Emissions

Carbon monoxide emissions from traffic generated by the project would be the pollutant of greatest concern at the local level. Congested intersections with a large volume of traffic have the greatest potential to cause high localized concentrations of CO. A determination of the project's potential to result in significant localized CO emissions is based on its consistency with the local Congestion Management Program and its potential to add sufficient vehicle trips to one or more intersections that would cause the intersection(s) to exceed 44,000 vehicles per hour. The project would result in 354 new daily trips (refer to *Section 4.16, Transportation*), which is insufficient to increase the traffic volume at any local intersection above the screening criteria. Implementation of the project would not result in significant CO emission impacts. **(Less Than Significant Impact)**

4.3.2.3 Construction Air Quality Impacts (Checklist Questions b and d)

Construction Criteria Pollutant Emissions

As with operational emissions, BAAQMD has developed screening criteria to provide a conservative indication of whether construction activities associated with a project could result in potentially significant criteria pollutant air quality impacts. For construction-related emissions, the screening size is 277,000 square feet for a "strip mall". The proposed project is below the construction-related screening size for a "strip mall". Additionally, implementation of the Standard Permit Conditions (as outlined in the section below) during all phases of construction would reduce exposure to nearby sensitive receptors to criteria pollutant emissions. Therefore, the project would have a less than significant criteria pollutant impact due to construction activities. **(Less Than Significant Impact)**

Toxic Air Contaminants/Community Risk

Emissions from construction-related automobiles, trucks, and heavy equipment are a primary concern due to the release of DPM, organic TACs from vehicles, and PM_{2.5}, which is a regulated air pollutant. Neither BAAQMD nor the City of San José have significance criteria for construction TAC impacts. As a result, the BAAQMD criteria for operational TAC impacts are used by the City. Based on the BAAQMD Guidelines (2017), a project would result in a significant construction TAC or PM_{2.5} impact if it exceeds any of the thresholds of significance listed below:

- An excess cancer risk level of more than 10 in one million, or a non-cancer (chronic or acute) Hazard Index greater than 1.0; or
- An incremental increase of more than 0.3 micrograms per cubic meter (µg/m³) annual average PM_{2.5}.

Development of the 0.5-acre project site would include removal of the existing pavement, removal of four existing ordinance sized trees, construction of the proposed 9,400 square foot building, and paving of a new parking lot. The former gas station on-site has already been demolished and the

underground gas tanks have been removed. As a result, demolition and excavation activities would be minimal.

Site preparation work would likely include trenching for new utility lines, grading, and paving of the building foundation and parking lot. These activities would require the use of heavy equipment and/or diesel powered vehicles which could generate dust and TACs. Once site preparation work is complete, building construction would not require the use of heavy equipment, but would generate dust.

While the immediate project area is primarily commercial/retail uses, there is a school and residences located within 300 feet of the site. Due to the proximity between sensitive receptors and the project site, the proposed project may expose nearby sensitive receptors to temporary TAC emissions.

Consistent with the General Plan FEIR and the BAAQMD Guidelines, the following Standard Permit Conditions shall be implemented during all phases of construction to reduce exposure to nearby sensitive receptors to TAC emissions:

Standard Permit Conditions

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded area, and unpaved access roads) shall be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California Airborne Toxic Control Measure Title 13, Section 2485 of the California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

Construction equipment and heavy-duty truck traffic generates diesel exhaust, a known TAC. Given that the site is flat and would require minimal grading, the use of heavy-duty construction equipment would be limited. The following Standard Permit Conditions would reduce the impacts of construction exhaust emissions on adjacent sensitive receptors to a less than significant level.

Standard Permit Condition

- All mobile diesel-powered off-road equipment larger than 50 horsepower and operating on-site for more than two days continuously shall meet U.S. EPA particulate matter emissions standards for Tier 2 engines or equivalent.

Implementation of the Standard Permit Conditions would reduce community risk impacts from construction to less than significant. **(Less Than Significant Impact)**

Dust Generation

Construction activities on-site would generate dust and other particulate matter that could temporarily impact nearby sensitive receptors. The nearest sensitive receptors are River Glen School and residences located approximately 30 feet northeast and 130 feet northwest of the project site, respectively.

With implementation of the Standard Permit Conditions identified above, construction dust and other particulate matter would have a less than significant temporary construction air quality impact. **(Less Than Significant Impact)**

4.3.2.4 *Odor Impacts (Checklist Question e)*

The project would generate localized emissions of diesel exhaust during construction equipment operation and truck activity. These emissions may be noticeable from time to time by adjacent receptors; however, the odors would be localized and temporary and are not likely to affect people off-site. The proposed development would not generate sustained, substantive odors that would affect nearby residences. Implementation of the proposed project would not result in long-term or short-term odor impacts. **(Less Than Significant Impact)**

4.3.2.5 *Cumulative Air Quality Impacts (Checklist Question c)*

Please refer to *Section 4.18 Mandatory Findings of Significance* for a discussion of cumulative air quality impacts.

4.3.3 Conclusion

The project would not result in significant operational regional or local air quality impacts, conflict with applicable air quality plans and standards, or expose sensitive receptors to substantial pollutant concentrations. **(Less Than Significant Impact)**

With implementation of the identified Standard Permit Conditions and Conditions of Project Approval, the project would not result in significant construction-related regional or local air quality impacts. **(Less Than Significant Impact)**

4.4 BIOLOGICAL RESOURCES

4.4.1 Regulatory Framework

Federal and State

Special-Status Species

Individual plant and animal species listed as rare, threatened or endangered under State and Federal Endangered Species Acts are considered ‘special-status species.’ Federal and State “endangered species” legislation has provided the United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) with a mechanism for conserving and protecting plant and animal species of limited distribution and/or low or declining populations. Permits may be required from both the USFWS and CDFW if activities associated with a proposed project would result in the “take” of a species listed as threatened or endangered. To “take” a listed species, as defined by the State of California, is “to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill” said species. “Take” is more broadly defined by the Federal Endangered Species Act to include “harm” of a listed species.

In addition to species listed under State and Federal Endangered Species Acts, Section 15380(b) and (c) of the CEQA Guidelines provide that all potential rare or sensitive species, or habitats capable of supporting rare species, are considered for environmental review per the CEQA Guidelines. These may include plant species of concern in California listed by the California Native Plant Society and CDFW listed “Species of Special Concern”.

Migratory Bird and Birds of Prey Protections

Federal and State laws also protect most bird species. The Federal Migratory Bird Treaty Act prohibits killing, possessing, or trading in migratory birds, except in accordance with regulations prescribed by the Secretary of the Interior. This act encompasses whole birds, parts of birds, and bird nests and eggs.

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

Sensitive Habitats

Wetland and riparian habitats are considered sensitive habitats under CEQA. They are also afforded protection under applicable Federal, State, and local regulations, and are generally subject to regulation, protection, or consideration by the US Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), CDFW, and/or the USFWS under provisions of the Federal Clean Water Act (e.g., Sections 303, 304, 404) and State of California Porter-Cologne Water Quality Control Act. U.S. Environmental Protection Agency (EPA) regulations, called for under Section 402

of the Clean Water Act, also include the National Pollutant Discharge Elimination System (NPDES) permit program, which controls sources that discharge into waters of the United States (e.g., streams, lakes, bays, etc.).

Regional and City of San José

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (SCVHP) was approved in 2013 and covers an area of 519,506 acres, or approximately 62 percent of Santa Clara County. It was developed and adopted through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District (SCVWD), Santa Clara Valley Transportation Authority (VTA), USFWS, and CDFW. The SCVHP is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County. The Santa Clara Valley Habitat Agency is responsible for implementing the plan.

The project site is located within the SCVHP study area and is designated as “Urban-Suburban” land.⁴ “Urban-Suburban” land is comprised of areas where native vegetation has been cleared for residential, commercial, industrial, transportation, or recreational structures, and is defined as having one or more structures per 2.5 acres.

City of San José Tree Ordinance

Ordinance-sized, heritage, and street trees make up the urban forest and are protected under the City of San José Tree Ordinance. The City of San José Tree Removal Controls (San José City Code, Sections 13.31.010 to 13.32.100) protect all trees having a trunk that measures 38 inches or more in circumference (12.1 inches in diameter) at the height of 4.5 feet above the natural grade. The ordinance protects both native and non-native species. A tree removal permit is required from the City for the removal of ordinance-size trees. In addition, any tree found by the City Council to have special significance can be designated as a Heritage Tree due to its size, history, unusual species, or unique quality. It is illegal to prune or remove any Heritage Tree without consultation with the City Arborist.

4.4.2 Overview of Habitat Found On-Site

4.4.2.1 *Special Status Species*

The project site is located within a developed, urban area of San José. There are no sensitive habitats on-site, such as freshwater marsh or serpentine grasslands. The site is entirely paved and vegetation on-site consists of trees and overgrown shrubs. Habitats in developed areas, such as the project site, are low in species diversity and include predominately urban adapted birds and animals. Most special status species occurring in the Bay Area use habitats that are not present on the project site, such as salt marsh, freshwater marsh, and serpentine grassland habitats. Since the native vegetation of the area is no longer present on-site, native wildlife species have been supplanted by species that

⁴ Santa Clara Valley Habitat Agency. “GIS Data & Key Maps.” Accessed: September 27, 2017. Available at: <http://scv-habitatagency.org/193/GIS-Data-Key-Maps>.

are more compatible with an urbanized area; however, there is still potential for nesting birds to be located in trees on or adjacent to the project site.

4.4.2.2 *Trees*

Trees (both native and non-native) are valuable to the human environment for the benefits they provide including resistance to global climate change (i.e., carbon dioxide absorption), protection from weather, nesting and foraging habitat for raptors and other migratory birds, and as a visual enhancement to the urban environment. The trees located on-site are non-native species that vary in size and levels of health.

There are a total of four trees on-site. There are four southern magnolias on-site which would be removed as part of the project.

The following table lists all trees identified on the project site as part of a tree survey completed by *David J. Powers & Associates, Inc.* in October 2017. The location of the trees is shown on Figure 4.4-1.

Table 4.4-1: Trees Surveyed				
Tree #	Scientific Name	Common Name	Circumference in Inches	Diameter in Inches
1	<i>Magnolia grandiflora</i>	Southern magnolia	60	19
2	<i>Magnolia grandiflora</i>	Southern magnolia	64	20
3	<i>Magnolia grandiflora</i>	Southern magnolia	61	19
4	<i>Magnolia grandiflora</i>	Southern magnolia	56	18
Notes: Ordinance sized trees are 38+ inches in circumference (12.1+ inches in diameter).				

4.4.2.3 *Applicable Biological Regulations and Policies*

The General Plan includes the following biological resource policies applicable to the proposed project.

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

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

Policy MS-21.4: Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.



TREE LOCATION MAP

FIGURE 4.4-1

Policy MS-21.5: As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse effect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.

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

4.4.3 Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,3
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,7

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

4.4.3.1 *Biological Resources Impacts (Checklist Questions a – d)*

Vegetation, Habitats, and Wildlife

The project site is currently a vacant, paved lot with patches of weedy/volunteer vegetation. Because the project area is developed and has no natural habitats remaining, no habitats exist on-site that would support local endangered, threatened, or special status wildlife species. There are no wetlands on-site and, as a result, the project would not affect any federally protected wetlands defined by Section 404 of the Clean Water Act. The proposed project would not adversely affect special status species, riparian habitat, or wetland habitat. **(Less Than Significant Impact)**

Impacts to Migratory Birds and Raptors

The trees on and adjacent to the site could provide nesting and/or foraging habitat for raptors and migratory birds. Migratory birds, like nesting raptors, are protected under provisions of the Migratory Bird Treaty Act and CDFW Code Sections 3503, 3503.5, and 3800. The CDFW defines “taking” as causing abandonment and/or loss of reproductive efforts through disturbance. Any loss of fertile eggs, nesting raptors, or any activities resulting in nest abandonment would constitute a significant impact.

Impact BIO-1: Construction activities associated with the proposed project could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment. **(Significant Impact)**

Mitigation Measures

The following mitigation measures shall be implemented during construction to avoid abandonment of raptor and other protected migratory bird nests:

MM BIO-1.1: The project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive).

If it is not possible to schedule demolition and construction between September 1st and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no

nests shall be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st, inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife (CDFW), shall determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction.

Prior to any tree removal, or issuance of any grading or demolition permits (whichever occurs first), the ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the City's Supervising Environmental Planner.

With implementation of the identified mitigation measures, the project's impact to nesting birds and raptors would be less than significant. **(Less Than Significant Impact with Mitigation)**

4.4.3.2 *Trees (Checklist Question e)*

The trees on and adjacent to the site are part of the City's urban forest.⁵ Within the City of San José, the urban forest is considered an important biological resource because most mature trees provide some nesting, cover, and foraging habitat for a variety of birds (including raptors) and mammals, as well as providing necessary habitat for beneficial insects. While the urban forest is not the best environment for native wildlife, trees in the urban forest are often the only or the best habitat commonly or locally available within urban areas.

Development of the project would result in the loss of up to four on-site trees. The trees located on-site are all ordinance-sized.

Consistent with the General Plan FEIR, trees removed as a result of the project would be required to be replaced in accordance with all applicable laws, policies, and guidelines, including:

- City of San José Tree Removal Control (Municipal Code Section 13.31.010 to 13.32.100)
- San José Municipal Code Section 13.28
- General Plan Policies MS-21.4, MS-21.5, and MS-21.6

⁵ Based on the General Plan, the urban forest consists primarily of planted landscape trees along residential and commercial streets and in landscaped areas at residences, local parks, in parking lots, and the perimeter of commercial and industrial development.

In accordance with City policy, trees removed would be replaced with the ratios identified in Table 4.4-2.⁶ Four trees would be replaced at a 4:1 ratio with 15-gallon containers. The total number of trees required to be planted would be 16. The species to be planted would be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.

Table 4.4-2: City of San José Standard Tree Replacement Ratios				
Circumference of Tree to Be Removed¹	Type of Tree to be Removed²			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or greater ³	5:1	4:1	3:1	15-gallon
19 to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon
¹ As measured 4.5 feet above ground level ² x:x = tree replacement to tree loss ratio ³ Ordinance-sized tree Notes: Trees greater than 38 inches in circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For multi-family residential, commercial, and industrial properties, a Tree Removal Permit is required for removal of trees of any size. A 38-inch tree equals 12.1 inches in diameter. One 24-inch box tree = two 15-gallon trees.				

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

- The size of a 15-gallon replacement tree may be increased to a 24-inch box and count as two replacement trees.
- Replacement tree plantings may be accommodated at an alternative site(s). An alternative site may include local parks or schools, or an adjacent property where such plantings may be utilized for screening purposes. However, any alternatively proposed site would be pursuant to agreement with the Director of the Department of Planning, Building and Code Enforcement.
- A donation may be made to Our City Forest or similar organization for in-lieu off-site tree planting in the community. Such donations would be equal to the cost of the required replacement trees, including associated installation costs for off-site tree planting in the local community. A receipt for any such donation shall be provided to the City of San José Planning Project Manager prior to issuance of a grading permit.

⁶ Since completion of the tree survey in October 2017, the City has adopted new tree ordinance guidelines (February 9th, 2018). The previous guidelines protected all trees having a trunk that measures 56 inches or more in circumference (18 inches in diameter) at a height of two feet above natural grade. As such, the data in the tree survey was based on measurements taken at two feet above natural grade. The new guidelines protect all trees having a trunk measuring 38 inches or more in circumference (12.1 inches in diameter) at a height of 4.5 feet above natural grade. The analysis provides tree replacement ratios based on the current guidelines. It should be noted that trees are typically wider near the base of the trunk and decrease in size near the canopy. Because the tree survey was completed on the lower section of the trees, the measurements used to determine the replacement ratios are conservative.

The proposed project would be required to meet the requirements as noted above. The General Plan FEIR concluded that compliance with local laws, policies, or guidelines, as proposed by the project, would reduce impacts to the urban forest to a less than significant level. **(Less Than Significant Impact)**

4.4.3.3 *Consistency with the Habitat Conservation Plan (Checklist Question f)*

Since the approval of the General Plan FEIR, the City adopted the SCVHP and the project site is within the SCVHP area. Private development within the SCVHP area is subject to the requirements of the SCVHP if it meets the following criteria:

- The activity is subject to either ministerial or discretionary approval by the County or one of the cities;
- The activity is described in *Section 2.3.2 Urban Development* or in *Section 2.3.7 Rural Development*;⁷
- In Figure 2-5 of the Habitat Plan, the activity is located in an area identified as “Private Development is Covered,” or the activity is equal to or greater than two acres and;
 - The project is located in an area identified as “Rural Development Equal to or Greater than two acres is covered” or;
 - The activity is located in an area identified as “Rural Development is not Covered” but, based on land cover verification of the parcel (inside the Urban Service Area) or development area, the project is found to impact serpentine, wetland, stream, riparian, or pond land cover types; or the project is located in occupied or occupied nesting habitat for western burrowing owls.

The proposed project would require discretionary approval by the City and is consistent with the activity described in *Section 2.3.2* of the SCVHP. Consistent with the SCVHP, the project applicant shall implement the following Standard Permit Condition.

Standard Permit Condition

- The project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant shall submit a SCVHP Coverage Screening Form to the Supervising Environmental Planner of the Department of Planning, Building and Code Enforcement for review and shall complete subsequent forms, reports, and/or studies as needed.

Implementation of the identified Standard Permit Condition would not conflict with the provisions of the SCVHP. **(Less Than Significant Impact)**

⁷ Covered activities in urban areas include residential, commercial, and other types of urban development within the Cities of Gilroy, Morgan Hill, and San José planning limits of urban growth in areas designated for urban or rural development, including areas that are currently in the unincorporated County (i.e., in “pockets” of unincorporated land inside the cities’ urban growth boundaries).

4.4.4 Conclusion

Consistent with the General Plan FEIR and applicable City policies, the project would implement mitigation measures to ensure that nesting birds would be protected during construction activities. **(Less Than Significant Impact With Mitigation)**

Implementation of the project would not have a substantial adverse impact on any special status plant or animal species or wetlands and would not have conflict with adopted conservation plans, local policies (including the City's tree replacement policy), and local ordinances. **(Less Than Significant Impact)**

4.5 CULTURAL RESOURCES

4.5.1 Environmental Setting

4.5.1.1 *Regulatory Framework*

Federal

National Historic Preservation Act

The National Register of Historic Places (NRHP), established under the National Historic Preservation Act, is a comprehensive inventory of known historic resources throughout the United States. The National Register is administered by the National Park Service and includes buildings, structures, sites, objects and districts that possess historic, architectural, engineering, archaeological or cultural significance. For a resource to be eligible for listing, it also must retain integrity of those features necessary to convey its significance in terms of 1) location, 2) design, 3) setting, 4) materials, 5) workmanship, 6) feeling, and 7) association. CEQA requires evaluation of project effects on properties that are listed in or eligible for listing in the National Register.

State

California Register of Historical Resources

The California Register of Historical Resources (CRHR) is a guide to cultural resources that must be considered when a government agency undertakes a discretionary action subject to CEQA. The CRHR aids government agencies in identifying, evaluating, and protecting California's historical resources, and indicates which properties are to be protected from substantial adverse change (Public Resources Code, Section 5024.1(a)). The CRHR is administered through the State Office of Historic Preservation (SHPO), which is part of the California State Parks system. A historic resource listed in, or formally determined to be eligible for listing in, the National Register is, by definition, included in the California Register (Public Resources Code Section 5024.1(d)(1)).⁸

State Regulations Regarding Cultural and Paleontological Resources

Archaeological, paleontological, and historical sites are protected by a number of State policies and regulations under the California Public Resources Code, California Code of Regulations (Title 14 Section 1427), and California Health and Safety Code. California Public Resources Code Sections 5097.9-5097.991 require notification of discoveries of Native American remains and provides for the treatment and disposition of human remains and associated grave goods.

Both State law and County of Santa Clara County Code (Sections B6-19 and B6-20) require that the Santa Clara County Coroner be notified if cultural remains are found on a site. If the Coroner determines the remains are those of Native Americans, the Native American Heritage Commission and a "most likely descendant" must also be notified.

⁸ Refer to Public Resources Code Section 5024.1(d)(1)

Assembly Bill 52- Tribal Cultural Resources

A tribal cultural resource can be a site, feature, place, or cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe. It also must be either on or eligible for the California Historic Register, a local historic register, or the lead agency, at its discretion, chooses to treat the resource as a tribal cultural resource. Assembly Bill 52 (AB 52), which amends the Public Resources Code, requires lead agencies to participate in formal consultations with California Native American tribes during the CEQA process, if requested by any tribe, to identify tribal cultural resources that may be subject to significant impacts by a project. Where a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. Consultation is required until the parties agree to measures to mitigate or avoid a significant effect on a tribal cultural resource or when it is concluded that mutual agreement cannot be reached.

Paleontological Resources Regulations

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. They range from mammoth and dinosaur bones to impressions of ancient animals and plants, trace remains, and microfossils. These are in part valued for the information they yield about the history of the earth and its past ecological settings. The California Public Resources Code (Section 5097.5) specifies that unauthorized removal of a paleontological resource is a misdemeanor. Under the CEQA Guidelines, a project would have a significant impact on paleontological resources if it would disturb or destroy a unique paleontological resource or site or unique geologic feature.

4.5.1.2 *Prehistoric Period*

Native Americans occupied Santa Clara Valley and the greater Bay Area for more than 5,000 years. The exact time period of the Ohlone (originally referred to as Costanoan) migration into the Bay Area is debated by scholars. Dates of the migration range between 3000 B.C. and 500 A.D. Regardless of the actual time frame of their initial occupation of the Bay Area and, in particular, Santa Clara Valley, it is known that the Ohlone had a well-established population of approximately 7,000 to 11,000 people with a territory that ranged from the San Francisco Peninsula and the East Bay, south through the Santa Clara Valley and down to Monterey and San Juan Bautista.

The Ohlone people practiced hunting, fishing, and focusing on the collection of seasonal plant and animal resources, including tidal and marine resources from San Francisco Bay. The customary way of living, or lifeway, of the Costanoan/Ohlone people disappeared by about 1810 due to disruption by introduced diseases, a declining birth rate, and the impact of the California mission system established by the Spanish in the area in 1777.

Most prehistoric sites have been found along or near fresh water sources such as creeks and springs. The nearest waterway to the project site is Los Gatos Creek, located approximately 0.3 miles northwest of the site.

4.5.1.3 *Historic Subsurface Resources*

Mission Period

Spanish explorers began coming to Santa Clara Valley in 1769. From 1769 to 1776 several expeditions were made to the area during the time which explorers encountered the Native American tribes who had occupied the area since prehistoric times. Expeditions in the Bay Area and throughout California lead to the establishment of the California Missions and, in 1777, the Pueblo de San José de Guadalupe.

The pueblo was originally near the old San José City Hall. Because the location was prone to flooding, the pueblo was relocated in the late 1780's or early 1790's south to what is now downtown San José. The current intersection of Santa Clara Street and Market Street in downtown San José was the center of the second pueblo. The project site is located approximately 1.8 southwest of the second pueblo.

Post-Mission Period to Mid-20th Century

In the mid-1800's, San José began to be redeveloped as America took over the territory from Mexico and new settlers began to arrive in California as a result of the gold rush and the expansion of business opportunities in the west. Much of San José, outside of the downtown area, was undeveloped or used as farm lands until after World War II.

The site was developed with a residence from 1915 to 1940. By 1943, the site was occupied by a grocery store and associated surface parking lot. By 1963, the grocery store was demolished. By 1965, the site was occupied by a gas station and an auto repair shop. The gas station was demolished in 2015 and the site is now vacant.

4.5.1.4 *Existing Structures*

There are no existing structures on-site. The building located at 1072 Willow Street (Willow Street Pizza), south of the site, is listed in the City's Historic Resource Inventory. Based on the City's inventory, the building is listed as a Structure of Merit. The building is not currently listed on the National Register of Historic Places or the California Register of Historic Resources.

4.5.1.5 *Applicable Cultural Resources Regulations and Policies*

The General Plan includes the following cultural resources policies applicable to the proposed project.

Policy EC-2.3: Require new development to minimize vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, a vibration limit of 0.08 inches/second (in/sec) PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building.⁹ A vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction.

⁹ For reference, a jackhammer has a PPV of 0.09 inches/second at a distance of 25 feet.

Policy ER-10.1: For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.

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

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

4.5.2 Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Cause a substantial adverse change in the significance of an historical resource as defined in CEQA Guidelines Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,13
b) Cause a substantial adverse change in the significance of an archaeological resource as defined in CEQA Guidelines Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,13
c) Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
e) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:					

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
1. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k); or	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
2. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying this criteria, the significance of the resource to a California Native American tribe shall be considered.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

In addition to the thresholds listed above, a significant impact would occur in the City of San José if the project would demolish or cause a substantial adverse change to one or more properties identified as a City Landmark or a Candidate City Landmark in the City's Historic Resources Inventory.

4.5.2.2 *Impacts to Historic Structures (Checklist Question a)*

The project site is currently vacant with no existing structures on-site. Therefore, implementation of the proposed project would have no impact on historic structures on-site.

The building located at 1072 Willow Street is listed as a Structure of Merit in the City's Historic Resource Inventory. Based on archival research, this structure does not appear to be eligible for the California or National Registers under any of the four Criterion.¹⁰ The proposed project would not alter or demolish the structure located at 1072 Willow Street; therefore, the proposed project would have a less than significant impact on historic structures. **(Less Than Significant Impact)**

4.5.2.3 *Impacts to Subsurface Cultural Resources (Checklist Questions b – d)*

Prehistoric and Historic Resources

Build out of the General Plan may result in impacts to prehistoric and historic subsurface archaeological resources, including tribal resources. No archaeological resources have been recorded within the vicinity of the project site¹¹ and no other tribal cultural features, including sites, places, cultural landscapes or sacred places have been identified based on available information. In addition, the subsurface soils have been previously disturbed by the underground tanks from the former gas station. Nevertheless, there is a small probability that earthmoving activities on-site may result in the loss of unknown subsurface prehistoric resources. The project would be required, as a condition of approval, to implement the following Standard Permit Conditions.

¹⁰ City of San José. *1104 Lincoln Avenue Mixed-Use Project*. November 2009.

¹¹ Ibid.

Standard Permit Conditions

Consistent with General Plan Policies ER-10.2 and ER-10.3, the following Standard Permit Conditions are included in the project to reduce or avoid impacts to subsurface cultural resources.

- In the event that prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Supervising Environmental Planner and Historic Preservation Officer of the Department of Planning, Building and Code Enforcement shall be notified, and the archaeologist shall examine the find and make appropriate recommendations prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery during monitoring would be submitted to the Director of Planning, Building and Code Enforcement.
- If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. 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 project applicant shall immediately notify the Supervising Environmental Planner of the City of San José Department of Planning, Building and Code Enforcement and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner shall make a determination as to whether the remains are Native American.

If the remains are believed to be Native American, the Coroner shall contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC shall then designate a Most Likely Descendant (MLD). The MLD shall inspect the remains and make a recommendation on the treatment of the remains and associated artifacts.

If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

- The NAHC is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission.
- The descendent identified fails to make a recommendation; or
- The landowner or his authorized representative rejects the recommendation of the descendant, and the meditation by the NAHC fails to provide measures acceptable to the landowner.

With implementation of the Standard Permit Conditions, the proposed project would have a less than significant impact on subsurface cultural resources. **(Less Than Significant Impact)**

Paleontological Resources

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. Most of the City is situated on alluvial fan deposits of Holocene age that have a low potential to contain significant nonrenewable paleontological resources; however, older Pleistocene sediments present at or near the ground surface at some locations have high potential to contain these resources. These older sediments, often found at depths of greater than 10 feet below the ground surface, have yielded the fossil remains of plants and extinct terrestrial Pleistocene vertebrates. The General Plan FEIR found the project site to have a high sensitivity (at depth) for paleontological resources. The proposed project would not, however, include any substantial excavations, though trenching for utilities would be required. Therefore, it is improbable that paleontological resources would be discovered on-site due to the limited subsurface disturbance. Nevertheless, there is a small probability that earthmoving activities on-site may result in the loss of unidentified paleontological resources. The project would be required, as a condition of approval, to implement the following Standard Permit Conditions.

Standard Permit Conditions

Consistent with General Plan Policies ER-10.2 and ER-10.3, the following Standard Permit Conditions are included in the project to reduce and avoid impacts to as yet unidentified paleontological resources.

- If vertebrae fossils are discovered during construction, all work on-site shall stop immediately until a qualified professional paleontologist can assess the nature and importance of the find and recommend appropriate treatment. Treatment may include preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project proponent shall be responsible for implementing the recommendations of that paleontological monitor.

Implementation of the Standard Permit Conditions, would have a less than significant paleontological resources impact. **(Less Than Significant Impact)**

4.5.2.4 *Impacts to Subsurface Tribal Cultural Resources (Checklist Question e)*

Assembly Bill (AB) 52 requires lead agencies to conduct formal consultations with California Native American tribes during the CEQA process to identify tribal cultural resources that may be subject to significant impacts by a project. Where a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. This consultation requirement applies only if the tribes have sent written requests for notification of projects to the lead agency. No tribes have written requests for notification of projects to the City of San José except for in Coyote Valley. Due to the distance of the project site from Coyote Valley, the project would not have a significant impact on tribal cultural resources.

Additionally, notification letters were re-sent via certified mail to NAHC identified tribal contacts on September 5, 2017. At the time of preparation of this Initial Study, the City of San José had yet to receive any requests for notification from tribes. **(Less Than Significant Impact)**

4.5.3 Conclusion

The proposed project would implement the identified Standard Permit Conditions and comply with applicable City policies and regulatory programs. Therefore, the proposed project would have a less than significant impact on archaeological, historic, paleontological, and tribal resources impact. **(Less Than Significant Impact)**

4.6 GEOLOGY AND SOILS

The following discussion is based in part on a Soil Resource Report generated from the Natural Resources Conservation Service's website in September 2017. The following discussion is also based upon a Geotechnical Study prepared by *C2 Earth, Inc.* in June 2016. Copies of these reports are attached in Appendices A and B, respectively.

4.6.1 Environmental Setting

4.6.1.1 *Regional Geology*

The City of San José is located within the Santa Clara Valley, a broad alluvial plain that lies between the Diablo Range to the east and the Santa Cruz Mountains to the west. The valley sediments were deposited as a series of coalescing alluvial fans by streams that drain the adjacent mountains. Soil types in the area include clay in the low-lying central areas, loam and gravelly loam in the upper portions of the valley, and eroded rocky clay loam in the foothills.

4.6.1.2 *On-Site Geologic Conditions*

Topography and Soils

Soils on-site are comprised of the Urbanland-Campbell complex. Expansive near-surface soil is subject to volume changes during seasonal fluctuations in moisture content. According to the soils resource report, soils on-site have moderate to very high expansion potential. There are no unique geological features on or adjacent to the project site and the topography of the project area is relatively flat.

Groundwater

According to the Phase I Environmental Site Assessment (ESA), the depth to the shallow water-bearing zone beneath the site is between 27 to 42 feet below ground surface (bgs) and the depth to the deeper water-bearing zone is between 50 to 85 feet bgs. Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall, and underground drainage patterns.

Seismicity and Seismic-Related Hazards

Table 4.6-1: Active Faults Near the Project Site	
Fault	Distance from Site
Hayward	12 miles north
Calaveras	11 miles east
San Andreas	11 miles west

The project site is located within the San Francisco Bay Area, the most seismically active region in the United States. Active faults near the project site are shown in Table

4.6-1. Faults in the region are capable of generating earthquakes of magnitude 6.7 or higher, and strong to very strong ground shaking would be expected to occur at the project site during a major earthquake on one of the nearby faults. Based on a 2014 forecast completed by the U.S. Geological

Survey, there is a 72 percent probability that one or more major earthquakes would occur in the San Francisco Bay Area by 2044.¹²

According to the geotechnical report, the site is not located within a designated Alquist-Priolo Earthquake Fault Zone nor the Santa Clara County Fault Hazard Zone. As a result, the risk of fault rupture is low.

Liquefaction

Liquefaction occurs when water-saturated soils lose structural integrity due to seismic activity. Soils that are most susceptible to liquefaction are loose to moderately dense, saturated granular soils with poor drainage. According to the geotechnical report, the project site is not located within a liquefaction zone.

Lateral Spreading

Lateral spreading is a type of ground failure related to liquefaction. It consists of the horizontal displacement of flat-lying alluvial material toward an open area, such a steep bank of a stream channel. The nearest waterway is Los Gatos Creek, located approximately 0.3 miles northwest of the project site. At this distance, the potential for lateral spreading on-site is low.

Landslides

The site is not located within a Santa Clara County Landslide Hazard Zone.¹³ The project area is flat and, therefore, the probability of landslides occurring at the site during a seismic event is low.

4.6.1.3 *Applicable Geological Regulations and Policies*

The General Plan includes the following geological policies applicable to the proposed project.

Policy EC-3.1: Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.

Policy EC-4.1: Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.

Policy EC-4.2: Development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will

¹² U. S. Geological Survey. "UCERF3: A New Earthquake Forecast for California's Complex Fault System." Accessed: September 27, 2017. Available at: <https://pubs.usgs.gov/fs/2015/3009/pdf/fs2015-3009.pdf>.

¹³ Santa Clara County. *Santa Clara County Geologic Hazard Zones*, Map 28. Accessed: September 27, 2017. Available at: https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO_GeohazardATLAS.pdf.

review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.

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

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

Action EC-4.11: Require the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards, and require review and implementation of mitigation measures as part of the project approval process.

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

Policy ES-4.9: Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.

4.6.2 Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:					
1. Rupture of a known earthquake fault, as described on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault (refer to Division of Mines and Geology Special Publication 42.)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,9
2. Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,9
3. Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,9
4. Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,9
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,9

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
c) Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,9
d) Be located on expansive soil, as defined in Section 1803.5.3 of the California Building Code (2016), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,8,9
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3

4.6.2.2 *Geological and Soils Impacts (Checklist Question a, c and d)*

Faults in the area are considered active and have a long history of seismic activity. Earthquake faults in the region, specifically the Hayward, Calaveras, and San Andreas faults, are capable of generating earthquakes larger than 6.7 in magnitude. As a result, the project site would experience intense ground shaking in the event of a large earthquake.

The project site is located within an area of moderate to very high expansion potential and a low potential for lateral spreading during large seismic events. Development of the project site would not change or exacerbate the geologic conditions of the project area and would not result in a significant geology hazards impact to the project area. **(Less Than Significant Impact)**

4.6.2.3 *Erosion Impacts (Checklist Question b)*

Ground disturbance would be required for removal of the existing pavement, grading, trenching, and construction of the proposed project. Ground disturbance would expose soils and increase the potential for wind or water-related erosion and sedimentation until construction is completed.

The City's NPDES Municipal Permit, urban runoff policies, and the Municipal Code are the primary means of enforcing erosion control measures through the grading and building permit process. The General Plan FEIR concluded that with the regulatory programs currently in place, the probable impacts of accelerated erosion during construction would be less than significant. The City would require the project to comply with all applicable City regulatory programs pertaining to construction related erosion including the following Standard Permit Conditions for avoiding and reducing construction related erosion impacts.

Standard Permit Conditions

- All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
- Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
- Ditches shall be installed, if necessary, to divert runoff around excavations and graded areas.

Because the proposed project would comply with the applicable City regulatory programs related to erosion, implementation of the proposed project would have a less than significant erosion impact. **(Less Than Significant Impact)**

4.6.2.4 *Other Impacts (Checklist Question e)*

The project site is located within an urbanized area of San José where sewers are available to dispose of wastewater from the project site. Therefore, the site would not need to support septic tanks or alternative wastewater disposal systems. **(No Impact)**

4.6.2.5 *Project Geology Issues Not Covered Under CEQA – Consistency with Policies and Regulations (Checklist Questions a, c, and d)*

On December 17, 2015, the California Supreme Court issued an opinion in *CBIA vs. BAAQMD* holding that CEQA is primarily concerned with the impacts of a project on the environment and generally does not require agencies to analyze the impact of existing conditions on a project's future users or residents unless the project risks exacerbate those environmental hazards or risks that already exist. Nevertheless, the City has policies and regulations that address existing conditions affecting a proposed project, which are discussed below.

The policies of the General Plan have been adopted for the purpose of avoiding or mitigating environmental effects resulting from planned development within the City. General Plan Policy EC-4.2 states that development is allowed in areas subject to soils and geologic hazards (e.g. unengineered fill, weak soils, and landslide-prone areas), only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. To ensure this, the policy requires the City of San José Geologist to review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process. In addition, Policy EC-4.4 requires all new development to conform to the City of San José's Geologic Hazard Ordinance. To ensure that proposed development sites are suitable, Action EC-4.11 requires the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards, and requires review and implementation of mitigation measures as part of the project approval process.

Soils on-site have moderate to very high expansion potential and would experience very strong ground shaking during an earthquake. The proposed project would be built and maintained in accordance with the design-specific geotechnical report and applicable regulations including CALGreen. The General Plan FEIR concluded that adherence to CALGreen would reduce seismic

related issues and ensure new development proposed within areas of geologic hazards would not be endangered by hazardous conditions on-site. Because the proposed project would be built in conformance with the findings of the geotechnical report, CALGreen requirements, and regulations identified in the General Plan FEIR, the project would comply with General Plan Policies EC-4.2 and EC-4.4.

4.6.3 Conclusion

Development on the project site would have a less than significant geologic impact. **(Less Than Significant Impact)**

Sewers are available to dispose wastewater from the project site and, as a result, the project site would not need to support septic tanks or alternative wastewater disposal systems. **(No Impact)**

4.7 GREENHOUSE GAS EMISSIONS

4.7.1 Environmental Setting

4.7.1.1 *Regulatory Background*

Unlike emissions of criteria and toxic air pollutants, which have local or regional impacts, emissions of greenhouse gases (GHGs) have a broader, global impact. Global warming is a process whereby GHGs accumulating in the atmosphere contribute to an increase in temperature of the earth's atmosphere. The principal GHGs contributing to global warming and associated climate change are carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), and fluorinated compounds. Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the transportation, industrial/manufacturing, utility, residential, commercial, and agricultural sectors.

Federal

Clean Air Act

The U.S. EPA is the federal agency responsible for implementing the Clean Air Act (CAA). The US Supreme Court in its 2007 decision in *Massachusetts et al. v. Environmental Protection Agency et al.*, ruled that carbon dioxide (CO₂) is an air pollutant as defined under the CAA, and that EPA has the authority to regulate emissions of GHGs. Following the court decision, EPA has taken actions to regulate, monitor, and potentially reduce GHG emissions (primarily mobile emissions).

State

California Global Warming Solutions Act

Under the California Global Warming Solution Act, also known as Assembly Bill 32 (AB 32), CARB has established a statewide GHG emissions cap for 2020, adopted mandatory reporting rules for significant sources of GHG, and adopted a comprehensive plan, known as the *Climate Change Scoping Plan*, that identifies how emission reductions would be achieved from significant GHG sources via regulations, market mechanisms and other actions.

On September 8, 2016, Governor Brown signed Senate Bill (SB) 32 into law, amending the California Global Warming Solution Act. SB 32 requires the California Air Resources Board to ensure that statewide greenhouse gas emissions are reduced to 40 percent below the 1990 level by 2030. As a part of this effort, CARB is required to update the *Climate Change Scoping Plan* to express the 2030 target in terms of million metric tons of carbon dioxide equivalent. CARB has initiated the public process to update the state's *Climate Change Scoping Plan*. The updated plan would provide a framework for achieving the 2030 target and is anticipated to be completed and adopted by CARB in 2017.

Senate Bill 375 – Redesigning Communities to Reduce Greenhouse Gases

SB 375, known as the Sustainable Communities Strategy and Climate Protection Act, was signed into law in September 2008. SB 375 builds upon AB 32 by requiring CARB to develop regional GHG reduction targets for automobile and light truck sectors for 2020 and 2035, as compared to

2005 emissions levels. The per-capita GHG emissions reduction targets for passenger vehicles in the San Francisco Bay Area include a seven percent reduction by 2020 and a 15 percent reduction by 2035.¹⁴

Consistent with the requirements of SB 375, Metropolitan Transportation Commission (MTC) partnered with the Association of Bay Area Governments (ABAG), BAAQMD, and Bay Conservation and Development Commission (BCDC) to prepare the region's Sustainable Communities Strategy (SCS) as part of the Regional Transportation Plan (RTP) process. The SCS is referred to as *Plan Bay Area*.

Originally adopted in 2013 *Plan Bay Area*, established a course for reducing per-capita GHG emissions through the promotion of compact, mixed-use residential and commercial neighborhoods near transit, particularly within identified Priority Development Areas (PDAs). Building upon the development strategies outlined in the original plan, *Plan Bay Area 2040* was adopted in July 2017 as a focused update with revised planning assumptions based on current demographic trends. Target areas in the *Plan Bay Area 2040* Action Plan are related to reducing GHG emissions, improving transportation access, maintaining the region's infrastructure, and enhancing resilience to climate change (including fostering open space as a means to reduce flood risk and enhance air quality).

Clean Car Standards

CARB has adopted amendments to the "Pavley" regulations that are designed to reduce GHG emissions in new passenger vehicles. It is expected that the Pavley regulations would reduce GHG emissions from new California passenger vehicles by approximately 30 percent in 2016, all while improving fuel efficiency and reducing motorists' costs.¹⁵

Regional

Bay Area Air Quality Management District

BAAQMD is the regional, government agency that regulates sources of air pollution within the nine San Francisco Bay Area counties. Several key activities of BAAQMD related to GHG emissions are described below.

- *Regional Clean Air Plans:* BAAQMD and other agencies prepare clean air plans as required under the state and federal Clean Air Acts. The Bay Area 2017 Clean Air Plan (2017 CAP) focuses on two closely related BAAQMD goals: protecting public health and protecting the climate. Consistent with the GHG reduction targets adopted by the state of California, the 2017 CAP lays the groundwork for the BAAQMD's long-term effort to reduce Bay Area GHG emissions 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050. The 2017 CAP includes a wide range of control measures designed to decrease

¹⁴ The emission reduction targets are for those associated with land use and transportation strategies, only. Emission reductions due to the California Low Carbon Fuel Standards or Pavley emission control standards are not included in the targets.

¹⁵ CARB. "Clean Car Standards - Pavley, Assembly Bill 1493." Accessed: September 28, 2017. Available at: <http://www.arb.ca.gov/cc/ccms/ccms.htm>.

emissions of methane and other “super-GHG” that are potent climate pollutants in the near-term; and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.

- *BAAQMD CEQA Air Quality Guidelines*: The *BAAQMD CEQA Air Quality Guidelines* are intended to serve as a guide for those who prepare or evaluate air quality impact analyses for projects and plans in the San Francisco Bay Area. As discussed in the CEQA Guidelines, the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. The City of San José and other jurisdictions in the San Francisco Bay Area Air Basin often utilize the thresholds and methodology for greenhouse gas emissions developed by the BAAQMD. The Guidelines include information on legal requirements, BAAQMD rules, plans and procedures, methods of analyzing greenhouse gas emissions, mitigation measures, and background information.

Local

City of San José Municipal Code

The City’s Municipal Code includes the following regulations that would reduce GHG emissions from future development:

- Green Building Regulations for Private Development (Chapter 17.84)
- Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.10)
- Transportation Demand Programs for employers with more than 100 employees (Chapter 11.105)
- Construction and Demolition Diversion Deposit Program (Chapter 9.10)
- Wood Burning Ordinance (Chapter 9.10)

Envision San José 2040 General Plan and Greenhouse Gas Reduction Strategy

The General Plan includes strategies, policies, and action items that are incorporated in the City’s GHG Reduction Strategy to help reduce GHG emissions. Multiple policies and actions in the General Plan have GHG implications, including land use, housing, transportation, water usage, solid waste generation and recycling, and reuse of historic buildings. The City’s Green Vision, as reflected in these policies, also has a monitoring component that allows for adaptation and adjustment of City programs and initiatives related to sustainability and associated reductions in GHG emissions. The GHG Reduction Strategy is intended to meet the mandates outlined in the CEQA Guidelines, as well as the BAAQMD requirements for Qualified GHG Reduction Strategies.

The City’s GHG Reduction Strategy identifies GHG emissions reduction measures to be implemented by development projects as part of three categories: built environment and energy, land use and transportation, and recycling and waste reduction. Some measures are mandatory for all proposed development projects and others are voluntary. Voluntary measures could be incorporated as mitigation measures for proposed projects, at the City’s discretion.

The primary test for consistency with the City's GHG Reduction Strategy is conformance with the General Plan Land Use/Transportation Diagram and supporting policies. CEQA clearance for development proposals are required to address the consistency of individual projects with the goals and policies in the General Plan designed to reduce GHG emissions. Compliance with the mandatory measures and voluntary measures (if required by the City) would ensure an individual project's consistency with the GHG Reduction Strategy. Projects that are consistent with the GHG Reduction Strategy would have a less than significant impact related to GHG emissions through 2020 and would not conflict with targets in the currently adopted State of California Climate Change Scoping Plan through 2020.

The environmental impacts of the GHG Reduction Strategy were analyzed in the General Plan FEIR as supplemented. Beyond 2020, the emission reductions in the GHG Reduction Strategy are not large enough to meet the City's identified 3.04 metric tons (MT) CO₂e/SP efficiency metric for 2035. An additional reduction of 5,392,000 MT CO₂e per year would be required for the projected service population to meet the City's target for 2035.¹⁶

Achieving the substantial communitywide GHG emissions reductions needed beyond 2020 cannot be done alone with the measures identified in the GHG Reduction Strategy adopted by the City Council in 2015. The General Plan FEIR disclosed that it would require an aggressive multiple-pronged approach that includes policy decisions and additional emission controls at the Federal and State level, new and substantially advanced technologies, and substantial behavioral changes to reduce single occupant vehicle trips—especially to and from work places. Future policy and regulatory decisions by other agencies (such as CARB, California Public Utilities Commission, California Energy Commission, MTC, and BAAQMD) and technological advances are outside the City's control, and therefore could not be relied upon as feasible mitigation strategies at the time of the latest revisions to the GHG Reduction Strategy (e.g., when the Final Supplemental EIR to the General Plan EIR was certified on December 15, 2015). Thus, the City Council adopted overriding considerations for the identified cumulative impact for the 2035 timeframe.

The General Plan includes an implementation program for monitoring, reporting progress on, and updating the GHG Reduction Strategy over time as new technologies or practical measures are identified. Implementation of future updates is called for in General Plan Policies IP-3.7 and IP-17.2 and embodied in the GHG Reduction Strategy. The City of San José recognizes that additional strategies, policies and programs, to supplement those currently identified, would ultimately be required to meet the mid-term 2035 reduction target of 40 percent below 1990 levels in the GHG Reduction Strategy and the target of 80 percent below 1990 emission levels by 2050.

4.7.1.2 *Existing On-Site Greenhouse Gas Emissions*

The project site is currently vacant and does not generate GHG emissions.

¹⁶ As described in General Plan EIR, the 2035 efficiency target above, reflects a straight line 40 percent emissions reduction compared to the projected citywide emissions (10.90 MT CO₂e) for San José in 2020. It was developed prior to issuance of Executive Order S-30-15 in April 2015, which calls for a statewide reduction target of 40 percent by 2030 (five years earlier) to keep on track with the more aggressive target of 80 percent reduction by 2050. The necessary information to estimate a second mid-term or interim efficiency target (e.g., statewide emissions, population and employment in 2030) is being developed by CARB.

4.7.1.3 *Applicable Greenhouse Gas Regulations and Policies*

The General Plan includes the following GHG policies applicable to the proposed project.

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

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

Policy CD-2.10: Recognize that finite land area exists for development and that density supports retail vitality and transit ridership. Use land regulations to require compact, low-impact development that efficiently uses land planned for growth, particularly for residential development which tends to have a long life-span. Strongly discourage small-lot and single-family detached residential product types in growth areas

Policy CD-3.2: Prioritize pedestrian and bicycle connections to transit, community facilities (including schools), commercial areas, and other areas serving daily needs. Ensure that the design of new facilities can accommodate significant anticipated future increases in bicycle and pedestrian activity.

Policy CD-5.1: Design areas to promote pedestrian and bicycle movements and to facilitate interaction between community members and to strengthen the sense of community.

Policy LU-5.4: Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections; and including secure and convenient bike storage.

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

4.7.2

Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

4.7.2.1 *Greenhouse Gas Emissions Impact (Checklist Questions a and b)*

Construction Emissions

The proposed commercial development would result in temporary increases in GHG emissions associated with construction activities including operation of construction equipment and emissions from construction workers' personal vehicles traveling to and from the project site. Construction-related GHG emissions vary depending on the level of activity, length of the construction period, specific construction operations, types of equipment, and number of personnel. Because project construction would be temporary and would not result in a permanent increase in emissions that would interfere with the implementation of AB 32, the temporary increase in emissions would be less than significant. **(Less Than Significant Impact)**

Operation

Per CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the Lead Agency and must be based to the extent possible on scientific and factual data. Compliance with the mandatory measures and voluntary measures required by the City would ensure its consistency with the City's GHG Reduction Strategy. Projects that are consistent with the GHG Reduction Strategy would have a less than significant impact related to GHG emissions. The project's conformance with the GHG Reduction Strategy is further described in the following section.

Consistency with the San José Greenhouse Gas Reduction Strategy

The proposed project was evaluated for consistency with the City's GHG Reduction Strategy. The GHG Reduction Strategy identifies GHG emissions reduction measures to be implemented by development projects in three categories: built environment and energy, land use and transportation, and recycling and waste reduction. Some measures are considered mandatory for all proposed development projects, while others are considered voluntary. Voluntary measures can be incorporated as mitigation measures for proposed projects at the discretion of the City.

The primary test for consistency with the GHG Reduction Strategy is conformance to the General Plan Land Use/Transportation Diagram and supporting policies. CEQA clearance for all

development proposals are required to address the consistency of individual projects with the goals and policies in the General Plan designed to reduce GHG emissions. Compliance with the mandatory measures and voluntary measures (if required by the City) would ensure an individual project's consistency with the GHG Reduction Strategy. Projects that are consistent with the GHG Reduction Strategy would have a less than significant impact related to GHG emissions through 2020 and would not conflict with targets in the currently adopted State of California Climate Change Scoping Plan through 2020. If approved, the proposed project would be constructed and operational prior to the year 2020.

The proposed project's consistency with these measures is detailed below.

Mandatory Criteria

1. Consistency with the Land Use/Transportation Diagram (General Plan Goals/Policies IP-1, LU-10)
2. Implementation of Green Building Measures (GP Goals: MS-1, MS-2, MS-14)
 - Solar Site Orientation
 - Site Design
 - Architectural Design
 - Construction Techniques
 - Consistency with City Green Building Ordinances and Policies
 - Consistency with GHGRS Policies: MS-1.1, MS-1.2, MC-2.3, MS-2.11, and MS-14.4
3. Pedestrian/Bicycle Site Design Measures
 - Consistency with Zoning Ordinance
 - Consistency with GHGRS Policies: CD-2.1, CD-3.2, CD-3.3, Cd-3.4, CD-3.6, CD-3.8, CD-3.10, CD-5.1, LU-5.4, LU-5.5, LU-9.1, TR-2.8, TR-2.11, TR-2.18, TR-3.3, TR-6.7
4. Salvage building materials and architectural elements from historic structures to be demolished to allow re-use (General Plan Policy LU-16.4), if applicable;
5. Complete an evaluation of operational energy efficiency and design measures for energy-intensive industries (e.g. data centers) (General Plan Policy MS-2.8), if applicable;
6. Preparation and implementation of the Transportation Demand Management (TDM) Program at large employers (General Plan Policy TR-7.1), if applicable; and
7. Limits on drive-through and vehicle serving uses; all new uses that serve the occupants of vehicles (e.g. drive-through windows, car washes, service stations) must not disrupt pedestrian flow. (General Plan Policy LU-3.6), if applicable.

The proposed project is consistent with the *NCC – Neighborhood/Community Commercial* General Plan land use and *CP – Commercial Pedestrian* zoning designation for the site, please see *Section 4.10, Land Use and Planning* for additional analysis. The building would be constructed in compliance with the City Council Policy 6-32 Private Sector Green Building Policy (Policy 6-32) and the CALGreen requirements. The project would be designed to achieve minimum LEED

certification in compliance with Policy 6-32. In addition, the project proposes bicycle parking consistent with the *Chapter 20.90, Parking and Loading* of the City's Municipal Code. Given the project's consistency with the General Plan land use designation, compliance with Policy 6-32 and CALGreen requirements, and the provision of adequate bicycle parking, the project would be consistent with mandatory criteria 1, 2, and 3.

Criteria 4 through 7 are not applicable to the proposed project because the site does not contain historic structures, the project is not an energy-intensive use, the project would not qualify as a large employer, and the project does not propose vehicle-serving uses.

The General Plan FEIR concluded that the City's projected GHG emissions would be below the average carbon efficiency standard necessary to meet statewide 2020 goals as established by AB 32. The proposed project is consistent with the GHG Reduction Strategy goals and policies intended to reduce GHG emissions. **(Less Than Significant Impact)**

4.7.3 Conclusion

Development of the proposed project, in conformance with applicable policies of the City's General Plan and adopted GHG Reduction Strategy, would result in a less than significant GHG emissions impact. **(Less Than Significant Impact)**

4.8 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based upon a Phase I Environmental Site Assessment prepared by *AEI Consultants* in October 2017. A copy of the report is attached in Appendix C of this document.

4.8.1 Overview

Hazardous materials encompass a wide range of substances including petroleum products, pesticides, herbicides, metals, asbestos, and chemical compounds used in manufacturing and other uses. Hazardous materials in various forms can cause death, serious injury, long-lasting health effects and damage to the environment. As a result, numerous laws and regulations were developed to regulate the management of hazardous materials and mitigate potential impacts.

Hazardous waste generators and hazardous materials users in the City are required to comply with regulations enforced by several Federal, State, and County agencies. The regulations are designed to reduce the risk associated with human exposure to hazardous materials and minimize adverse environmental effects. State and Federal construction worker health and safety regulations require protective measures during construction activities where workers may be exposed to asbestos, lead, and/or other hazardous materials.

4.8.2 Environmental Setting

The project site is currently vacant and surrounded by a mix of commercial/retail, a school, and residential development. Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall, and underground drainage patterns. The depth to the shallow water-bearing zone beneath the site is between 27 to 42 feet below ground surface (bgs) and the depth to the deeper water-bearing zone is between 50 to 85 feet bgs.

4.8.2.1 *Historic Uses of the Project Site and Surrounding Land Uses*

A land use history of the site was compiled based on aerial photographs, historical City directories, Sanborn Fire Insurance Maps, and agency records.

From 1915 to 1940 the site was developed with a residence. By 1943, the site was occupied by a grocery store and associated surface parking lot. By 1963, the grocery store was demolished. A gas station and an auto repair shop were constructed by 1965. The gas station was demolished in 2015 and the site is currently vacant.

4.8.2.2 *On-Site Sources of Contamination*

Closed LUST Case

The gas station that previously occupied the site was remodeled in 1999. At that time five underground storage tanks (USTs) including three 8,000-gallon gasoline USTs, one 5,000-gallon gasoline UST, and one 500-gallon waste oil UST, were removed. During this process, it was determined that a release had occurred into the soil. The areas where soil contamination was found were over-excavated by two to three feet. The over-excavation removed a majority of the soil contamination; however, concentrations of gas and diesel total petroleum hydrocarbon (TPH), Toluene, Xylene, Ethylbenzene, oil and grease, and methyl tertiary butyl ether (MTBE) remained in

the soil below established environmental screening levels (ESLs). Based on the levels of contaminants remaining after remediation, the fact that the impact was localized, and the lack of a threat to “waters of the state”, the leaking underground storage tank (LUST) case was closed by SCVWD in 2000.

Open LUST Case

The project site has an open LUST case with impacts to soil and groundwater.

Groundwater Contamination

While the original LUST case was closed in 2000, the Regional Water Quality Control Board (RWQCB) required a groundwater investigation was completed on-site. The 2003 analysis was completed to determine if groundwater beneath the site was impacted by an undetected release of MTBE from the closed LUST case. Results of the groundwater investigation detected MTBE concentrations above laboratory limits in all four borings and SCVWD requested an additional investigation to be completed on-site. According to the Phase I Environmental Site Assessment (ESA), the Geotracker case summary indicated that the source of the groundwater contamination has not been identified, but the MTBE, benzene, and TPHg plumes within the shallow water-bearing zone originated from the same or adjacent sources near the eastern boundary of the site. The TPHg plume within the deeper water-bearing zone originated from a source near the southwest corner of the project site. The MTBE and benzene plume within the deeper water-bearing zone originated from a source near the northern boundary of the project site.

A 2014 Corrective Action Plan (CAP) was prepared which outlined the planned remedial actions. A request for closure under the RWQCB’s long-term control plan (LTCP) was submitted in 2016; however, results from the first 2016 groundwater monitoring event showed that groundwater levels had risen approximately four to five feet between July and September. Because the groundwater levels had risen, pollutant concentrations were also found to have increased above LTCP criteria as the higher water levels allowed more contaminants to be leached from the soil. Based on these findings, the Santa Clara County Department of Environmental Health (SCCDEH) concluded that the project site was not eligible for closure at that time and requested additional groundwater sampling be completed.

In January 2017, SCCDEH requested that remedial activities be temporarily stopped, but groundwater monitoring activities continued due to the rise in groundwater levels. The April 2017 groundwater monitoring event detected very low concentrations of TPHg, benzene, toluene, ethylbenzene, xylenes, MTBE, diisopropyl ether (DIPE), ethyl tert-butyl ether (ETBE), tert-amyl methyl ether (TAME), tert-butyl alcohol, methanol, and ethanol remaining in the shallow water-bearing and deeper water-bearing zones. SCCDEH has requested subsequent groundwater monitoring and the case remains open.

Soil Contamination

The gas station was shut down in 2014. In 2015, the building was demolished and one 12,000-gallon unleaded gasoline, one 8,000-gallon premium gasoline tank, fuel lines, dispensers/islands, and two in-ground hydraulic vehicle lifts were removed. Soil samples were collected from the UST

excavation, two in-ground hoist excavations, and under the dispensers. The results were summarized in the 2015 CAP Addendum (please refer to *Appendix H, Previous Reports* of the Phase I ESA) which confirmed the USTs, fuel lines, dispensers/islands, and in-ground hydraulic vehicle lifts were intact and did not have any leaks and the existing soil contamination is the result of the previous release prior to the year 2000.

4.8.2.3 *Off-Site Sources of Contamination*

The ESA identified 29 documented hazardous materials locations on various databases within a one mile radius of the project site. None of the sites represent a significant environmental concern for the project site because there have been no documented releases, or based on the distance of the release facility from the project site and/or the direction of groundwater flow.

4.8.2.4 *Applicable Hazards and Hazardous Materials Regulations and Policies*

The General Plan includes the following hazards and hazardous materials policies applicable to the proposed project.

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

Policy EC-7.2: Identify existing soil, soil vapor, groundwater, and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor, and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, State, and Federal laws, regulations, guidelines, and standards.

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

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

Action EC-7.8: When an environmental review process identifies the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce impacts to human health and safety and to the environment are required of or incorporated into the projects. This applies to hazard materials found in the soil, groundwater, soil vapor, or in existing structures.

Action EC-7.9: Ensure coordination with the County of Santa Clara Department of Environmental Health, Regional Water Quality Control Board, Department of Toxic Substances Control or other

applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists.

Action EC-7.10: Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.

4.8.3 Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,3,10
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,3,10
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,10
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, will it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,3,10
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3
f) For a project within the vicinity of a private airstrip, will the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3
g) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3

4.8.3.1 *Potential Contamination Sources (Checklist Questions a, b, and d)*

On-Site

As mentioned in *Section 4.8.2.2*, the site has an open LUST case. The depth to the shallow water-bearing zone beneath the site is between 27 to 42 feet below ground surface (bgs) and the depth to the deeper water-bearing zone is between 50 to 85 feet bgs. Implementation of the proposed project would not require substantial excavations; however, development of the project would require grading and trenching for utilities. Trenching would not exceed 10 feet bgs. Due to the depth to the shallow groundwater zone, construction activities would not be in proximity to the aquifer and would not expose construction workers to contaminated groundwater.

Due to the former gas station on-site, there is known soil contamination. Historical records of the property do not indicate the site was used for agricultural purposes, but it is still possible the site was utilized as farmland prior to 1915. For these reasons, construction of the proposed project could expose construction workers to contaminated soils.

Impact HAZ-1: Construction activities on-site could expose construction workers to contaminated soils. **(Significant Impact)**

The following mitigation measures would be implemented to reduce the risk of construction works to soil contamination.

MM HAZ-1.1: The project applicant shall retain a qualified hazardous materials professional to conduct focused sampling and analysis for contamination of soil on-site prior to issuance of any grading permit. Sampling on the site shall be under the oversight of the Santa Clara County Department of Environmental Health (SCCDEH), or equivalent regulatory agency, in accordance with a Work Plan prepared by a qualified professional and approved by the Santa Clara County Department of Environmental Health (or equivalent regulatory agency).

The approved Work Plan shall describe sample methodology, sample locations, the quality assurance/quality control plan, reporting, and schedule. The Work Plan shall be implemented by the project proponent and the results of the sampling shall be submitted to the SCCDEH. If additional investigation is required to sufficiently delineate the contaminants of concern,

additional sampling or mitigation measures shall be proposed and be reviewed and approved by the SCCDEH.

A letter (or equivalent assurance) from SCCDEH documenting completion of the Work Plan (on-site testing) to the satisfaction of the SCCDEH shall be provided to the Planning, Building and Code Enforcement Supervising Environmental Planner. In the event no further testing or remediation is required, A No Further Action letter (or equivalent assurance) from SCCDEH shall be provided prior to issuance of demolition or Planned Development Permits for the proposed project.

MM HAZ-1.2:

A Site Management Plan (SMP) shall be prepared and implemented (as outlined below) and any contaminated soils found in concentrations above established thresholds shall be removed and disposed of according to California Hazardous Waste Regulations or the contaminated portions of the site shall be capped beneath the planned development under the regulatory oversight of the Santa Clara County Department of Environmental Health (SCCDEH) or State Department of Toxic Substances Control (DTSC). The contaminated soil removed from the site shall be hauled off-site and disposed of at a licensed hazardous materials disposal site.

Components of the SMP shall include, but shall not be limited to:

- A detailed discussion of the site background;
- Preparation of a Health and Safety Plan (HSP) by an industrial hygienist;
- Notification procedures if previously undiscovered significantly impacted soil or free fuel product is encountered during construction;
- On-site soil reuse guidelines based on the California Regional Water Quality Control Board (RWQCB), San Francisco Bay Region's reuse policy;
- Sampling and laboratory analyses of excess soil requiring disposal at an appropriate off-site water disposal facility;
- Soil stockpiling protocols.

The project applicant shall submit the SMP to SCCDEH, DTSC, or equivalent regulatory agency for review and approval. A copy of the approved SMP shall be provided to the Planning, Building and Code Enforcement Supervising Environmental Planner prior to issuance of any grading permits.

MM HAZ-1.3:

All contractors and subcontractors at the project site shall develop a HSP specific to their scope of work and based upon the known environmental conditions for the site. The HSP shall be approved by the Planning, Building and Code Enforcement Supervising Environmental Planner and Environmental Services Department (ESD) and implemented under the

direction of a Site Safety and Health Officer. The HSP shall include, but shall not be limited to, the following elements, as applicable:

- Provisions for personal protection and monitoring exposure to construction workers;
- Procedures to be undertaken in the event that contamination is identified above action levels or previously unknown contamination is discovered;
- Procedures for the safe storage, stockpiling, and disposal of contaminated soils;
- Emergency procedures and responsible personnel.

The HSP shall be submitted to the Planning, Building and Code Enforcement Supervising Environmental Planner and the Director of the City of San José ESD for review and approval prior to the issuance of any demolition or grading permit.

With implementation of the identified mitigation measures, impacts from contaminated soils and groundwater on-site would be reduced to a less than significant level. **(Less Than Significant Impact with Mitigation)**

Off-Site

The ESA identified 29 documented hazardous materials locations within a one mile radius of the project site. None of the sites represent a significant environmental concern for the project site because there have been no documented releases, or due to the distance of the release facility from the project site and/or the direction of groundwater flow. As a result, redevelopment of the project site would not expose construction workers to off-site contamination sources. **(Less Than Significant Impact)**

4.8.3.2 Other Hazard Impacts (Checklist Questions c and e – h)

Schools

The proposed project is located within one-quarter mile of River Glen School. New development and redevelopment allowed under the General Plan could place sensitive uses in proximity to industrial, commercial or institutional hazardous materials users; however, implementation of existing regulations and adopted plans would substantially reduce hazards to people. The site would not use or store hazardous materials in sufficient quantities to pose a health risk to the nearby school. **(Less Than Significant Impact)**

Airport Operations

The Norman Y. Mineta San José International Airport is located approximately three miles northeast of the project site. Based on the Airport Comprehensive Land Use Plan (CLUP), the project site is not located within the Airport Influence Area (AIA). The proposed project is not within a CLUP-defined safety zone; nor is the project located in the vicinity of a private airstrip. The proposed

project would not result in a substantial safety hazard for people residing or working in the project area or interfere with airport operations. **(No Impact)**

Emergency Response Plans

The proposed project would not impair or interfere with the implementation of an adopted emergency response plan or emergency evacuation plan. **(No Impact)**

Wildfire Hazards

The proposed project is located within an urbanized area of San José that is not subject to wildland fires. Implementation of the project would not expose people or structures to any risk from wildland fires. **(No Impact)**

4.8.3.3 *Existing Hazardous Materials Conditions Affecting the Project Site* *(Checklist Questions a, b, and d)*

On December 17, 2015, the California Supreme Court issued an opinion in *CBIA vs. BAAQMD* holding that CEQA is primarily concerned with the impacts of a project on the environment and generally does not require agencies to analyze the impact of existing conditions on a project's future users or residents unless the project risks exacerbate those environmental hazards or risks that already exist. Nevertheless, the City has policies and regulations that address existing conditions affecting a proposed project, which are discussed below.

Envision San José 2040 General Plan policies have been adopted for the purpose of avoiding or mitigating environmental effects resulting from planned development within the City. General Plan Policy EC-7.2 requires the identification of existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination are required to be designed to avoid adverse human health or environmental risk, in conformance with regional, State and Federal laws, regulations, guidelines and standards.

Although the project site has an open LUST case, the applicant would be required to prepare and implement an SMP (refer to mitigation measures HAZ-1.1, HAZ-1.2, and HAZ-1.3). Therefore, the project would be consistent with General Plan Policy EC-7.1 and EC-7.2 and would have no effect on future employees and patrons of the site.

4.8.4 Conclusion

The proposed project would result in a less than significant hazardous materials impact with implementation of the identified mitigation measures. **(Less Than Significant Impact With Mitigation)**

4.9 HYDROLOGY AND WATER QUALITY

4.9.1 Environmental Setting

4.9.1.1 *Regulatory Framework*

Federal, State, and Regional

Water Quality Overview

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. EPA and the State Water Resources Control Board (SWRCB) have been developed to fulfill the requirements of this legislation. U.S. EPA regulations include the National Pollutant Discharge Elimination System (NPDES) permit program, which controls sources that discharge pollutants into the waters of the United States (e.g., streams, lakes, bays, etc.). These regulations are implemented at the regional level by the water quality control boards. The project site is within the jurisdiction of the San Francisco Bay Regional Water Quality Control Board (RWQCB).

Basin Plan

The San Francisco Bay RWQCB regulates water quality in accordance with the Water Quality Control Plan or "Basin Plan". The Basin Plan lists the beneficial uses that the RWQCB has identified for local aquifers, streams, marshes, rivers, and the San Francisco Bay, as well as the water quality objectives and criteria that must be met to protect these uses. The RWQCB implements the Basin Plan by issuing and enforcing waste discharge requirements, including permits for nonpoint sources such as the urban runoff discharged by a City's stormwater drainage system. The Basin Plan also describes watershed management programs and water quality attainment strategies.

Statewide Construction General Permit

The SWRCB has implemented a NPDES General Construction Permit for the State of California. For projects disturbing one acre or more of soil, a Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) must be prepared by a qualified professional prior to commencement of construction. The Construction General Permit includes requirements for training, inspections, record keeping, and for projects of certain risk levels, monitoring. The general purpose of the requirements is to minimize the discharge of pollutants and to protect beneficial uses and receiving waters from the adverse effects of construction-related storm water discharges.

Municipal Regional Stormwater NPDES Permit (MRP)/C.3 Requirement

The San Francisco Bay RWQCB has issued a Municipal Regional Stormwater NPDES Permit (Permit Number CAS612008) (MRP) that covers the project area. Under provisions of the NPDES Municipal Permit, redevelopment projects that disturb more than 10,000 square feet are required to design and construct stormwater treatment controls to treat post-construction stormwater runoff. The MRP requires regulated projects to include Low Impact Development (LID) practices, such as pollutant source control measures and stormwater treatment features aimed to maintain or restore the

site's natural hydrologic functions. The MRP also requires that stormwater treatment measures are properly installed, operated and maintained.

In addition to water quality controls, the MRP requires all new and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks. Projects may be deemed exempt from the permit requirements if they do not meet the size threshold, drain into tidally-influenced areas or directly into the Bay, drain into hardened channels, or are infill projects in subwatersheds or catchments areas that are greater than or equal to 65 percent impervious (per the Santa Clara Valley Permittees Hydromodification Management Applicability Map).

National Flood Insurance Program

The Federal Emergency Management Agency (FEMA) established the National Flood Insurance Program (NFIP) in order to reduce impacts of flooding on private and public properties. The program provides subsidized flood insurance to communities that comply with FEMA regulations protecting development in floodplains. As part of the program, FEMA publishes Flood Insurance Rate Maps (FIRM) that identify Special Flood Hazard Areas (SFHA). An SFHA is an area that would be inundated by the one-percent annual chance flood, which is also referred to as the base flood or 100-year flood. The SFHA is the area where the NFIP floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies.

Dam Safety

Dam failure is the uncontrolled release of impounded water behind a dam. Flooding, earthquakes, blockages, landslides, lack of maintenance, improper operation, poor construction, vandalism, and terrorism can all cause a dam to fail.¹⁷ Because dam failure that results in downstream flooding may affect life and property, dam safety is regulated at both the Federal and State level. Dams under the jurisdiction of the California Division of Safety of Dams (DSOD) are identified in California Water Code Sections 6002, 6003, and 6004 and regulations for dams and reservoirs are included in the California Code of Regulations. In accordance with the state Dam Safety Act, dams are inspected regularly and detailed evacuation procedures have been prepared for each dam.

As part of its comprehensive dam safety program, the Santa Clara Valley Water District (SCVWD) routinely monitors and studies the condition of each of its 10 dams. The SCVWD also has its own Emergency Operations Center and a response team that inspects dams after significant earthquakes. These regulatory inspection programs reduce the potential for dam failure.

Santa Clara Valley Water District

The SCVWD operates as the flood control agency for Santa Clara County. Their stewardship also includes creek restoration, pollution prevention efforts, and groundwater recharge. Permits for well construction and destruction work, most exploratory boring for groundwater exploration, and projects

¹⁷ State of California. "2013 State Hazards Mitigation Plan." Accessed: September 28, 2017. Available at: http://hazardmitigation.calema.ca.gov/plan/state_multi-hazard_mitigation_plan_shmp.

within SCVWD property or easements are required under the SCVWD's Water Resources Protection Ordinance and District Well Ordinance.

Local

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

The City of San José's Policy No. 6-29 implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. The City's Policy No. 6-29 requires all new and redevelopment projects regardless of size and land use to implement post-construction BMPs and Treatment Control Measures (TCM) to the maximum extent practicable. This policy also established specific design standards for post-construction TCMs for projects that create, add, or replace 10,000 square feet or more of impervious surface area.

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

The City of San José's Policy No. 8-14 implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. Policy No. 8-14 requires all new and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP).

Based on the SCVUPPP watershed map for the City of San José, the majority of the site is located within a subwatershed greater than or equal to 65 percent impervious. As a result, the project would not be subject to the NPDES hydromodification requirements.¹⁸

4.9.1.2 Existing Conditions

Flooding and Dam Failure

Based on the Federal Emergency Agency's (FEMA) Flood Insurance Rate Maps (Map 06085C0242H), the project site is located in Flood Zone D.¹⁹ Zone D is in an area of undetermined but possible flood hazard that is outside the 100-year flood plain. There are no City floodplain requirements for Zone D.

The project site is located within the Anderson Dam and Lexington Dam failure inundation hazard zone.^{20,21}

¹⁸ Santa Clara Valley Urban Runoff Pollution Prevention Program. Accessed: September 28, 2017. Available at: http://www.scvurppp-w2k.com/hmp_maps.htm.

¹⁹ Federal Emergency Management Agency. "FEMA Flood Map Service Center: Welcome." Accessed September 28, 2017. Available at: <https://msc.fema.gov/portal>.

²⁰ Santa Clara Valley Water District. "Lexington Reservoir and Lenihan Dam and Reservoir." Accessed September 28, 2017. Available at: <http://www.valleywater.org/Services/LexingtonReservoirAndLenihanDam.aspx>.

²¹ Santa Clara Valley Water District. "Anderson Dam and Reservoir." Accessed September 28, 2017. <http://www.valleywater.org/Services/AndersonDamAndReservoir.aspx>.

Seiches, Tsunamis, and Mudflows

There are no landlocked bodies of water near the project site that would affect the site in the event of a seiche. There are no bodies of water near the project site that would affect the site in the event of a tsunami. The project area is flat and there are no mountains in proximity that would affect the site in the event of a mudflow.

Storm Drainage and Water Quality

The City of San José owns and maintains the municipal storm drainage system which serves the project site. Stormwater from the project site drains into Los Gatos Creek. Los Gatos Creek carries stormwater from the local storm drains into San Francisco Bay. There is no overland stormwater flow from the project site to any waterway.

Los Gatos Creek was listed as contaminated with diazinon in the 1998 State Water Resources Control Board's 303(d) list.²² Los Gatos Creek has since been placed in the "Water Quality Limited Segments Being Addressed" list because of a completed U.S. EPA approved TMDL.

There are existing 36-inch storm drain lines that runs along Lincoln Avenue and Willow Street that serves the site.

Groundwater

Groundwater levels fluctuate seasonally depending on variations in rainfall, tidal influences, and other factors. Groundwater depth beneath the site is greater than 27 feet.

4.9.1.3 *Applicable Hydrology and Water Quality Regulations and Policies*

The General Plan includes the following policies applicable to the proposed project.

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

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

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

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

²² State Water Resources Control Board. "Final California 2012 Integrated Report (303(d) List/305(b) Report)." Accessed: September 28, 2017. Available at: http://www.waterboards.ca.gov/water_issues/programs/tmdl/2012state_ir_reports/00678.shtml#20230.

development should also provide protection for less frequent flood events when required by the State.

Policy EC-5.16: Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.

Action EC-7.10: Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.

4.9.2 Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there will be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells will drop to a level which will not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which will result in substantial erosion or siltation on-or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which will result in flooding on-or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
e) Create or contribute runoff water which will exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
g) Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,11
h) Place within a 100-year flood hazard area structures which will impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,11
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,12
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

4.9.2.1 *Water Quality Impacts (Checklist Questions a and f)*

Construction Impacts

Ground-disturbing activities related to construction would temporarily increase the amount of debris on-site and grading activities could increase erosion and sedimentation that could be carried by runoff into the San Francisco Bay. The project site is 0.5 acres in size and would not disturb more than one acre of soil; therefore, the project would not be required to obtain a NPDES General Permit for Construction Activities.

All development projects in the City are required to comply with the City's Grading Ordinance whether or not the project is required to obtain a NPDES General Permit. Prior to the issuance of a permit for grading activity occurring during the rainy season (October 1st to April 30th), the project shall submit to the Director of Public Works an Erosion Control Plan detailing Best Management Practices (BMPs) that shall prevent the discharge of stormwater pollutants.

Pursuant to the NPDES General Permit for Construction and City requirements, the following Standard Permit Conditions have been included in the project as a condition of project approval to reduce potential construction-related water quality impacts:

Standard Permit Conditions

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities would be suspended during periods of high winds.
- All exposed or disturbed soil surfaces would be watered at least twice daily to control dust as necessary.

- Stockpiles of soil or other materials that can be blown by the wind would be watered or covered.
- All trucks hauling soil, sand, and other loose materials would be covered and all trucks would be required to maintain at least two feet of freeboard.
- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites would be swept daily (with water sweepers).
- Vegetation in disturbed areas would be replanted as quickly as possible.
- All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system may also be installed at the request of the City.

The General Plan FEIR concluded that with the regulatory programs currently in place, stormwater runoff from construction activities would have a less than significant impact on stormwater quality. Because construction of the proposed project would include the specific measures and actions identified above, the project would have a less than significant construction-related water quality impact. **(Less Than Significant Impact)**

Post-Construction Impacts

Under existing conditions, the project site is approximately 31 percent impervious. Upon completion of the proposed development, impervious surfaces on-site would be increased by approximately 54 percent compared to existing conditions, which would increase stormwater runoff from the site. Construction of the project would, however, replace more than 10,000 square feet of impervious surface area and would be required to comply with the City's Post-Construction Urban Runoff Policy 6-29 and the RWQCB MRP.

The MRP requires all of post-construction stormwater runoff to be treated by numerically sized Low Impact Development (LID) treatment controls, such as biotreatment facilities, unless the project is granted Special Project LID Reduction Credits, which would allow the project to implement non-LID measures for all or a portion of the site depending on project characteristics. Runoff on-site would flow in a closed system to bioretention facilities located at the corner of Willow Street and Lincoln Avenue, behind the sidewalk of Willow Street, and in the southwestern corner of the proposed parking lot. Once the water has been treated in the proposed bioretention facilities, it would be conveyed to the existing storm drain system on Willow Street.

The General Plan FEIR concluded that with the regulatory programs currently in place, stormwater runoff from new development would have a less than significant impact on stormwater quality. With implementation of a Stormwater Control Plan consistent with RWQCB and City regulatory policies pertaining to stormwater runoff, operation of the proposed project would have a less than significant water quality impact. **(Less Than Significant Impact)**

4.9.2.2 Groundwater (Checklist Question b)

The conversion of existing pervious surfaces to impervious surfaces may decrease groundwater infiltration into an underlying groundwater basin. The project site is not a designated recharge area and implementation of the project would increase impervious surfaces on-site by approximately 54

percent. Development and redevelopment of new commercial uses allowed under the General Plan is not proposed to occur within any of the SCVWD's percolation facilities for groundwater recharge nor would it affect the operation of the percolation or recharge facilities. As a result, implementation of the project would not interfere with groundwater recharge or cause a reduction in overall groundwater supply. **(Less Than Significant Impact)**

4.9.2.3 *Drainage Pattern Impacts (Checklist Question c)*

Implementation of the proposed project would not alter the existing drainage pattern of the site or area through the alteration of any waterway. As a result, the project would not substantially increase erosion or siltation or increase the rate or amount of stormwater runoff. **(Less Than Significant Impact)**

4.9.2.4 *Storm Drainage Impacts (Checklist Questions d and e)*

The existing and proposed square footages of pervious and impervious surfaces are shown on Table 4.9-1 below.

Table 4.9-1: Pervious and Impervious Surfaces On-Site						
Site Surface	Existing/Pre-Construction (sq ft)	%	Project/Post Construction (sq ft)	%	Difference (sq ft)	%
Impervious						
Roof Area(s)	--	--	8,958	41	+8,958	+41
Parking	--	--	--	--	--	--
Streets (public)	--	--	--	--	--	--
Patios, Paths, etc.	6,837	31	9,701	44	+2,864	+13
<i>Subtotal</i>	6,837	31	18,659	85	+11,822	+54
Pervious						
Dirt and Landscaping	15,056	69	3,234	15	-11,822	-54
Total	21,893	100	21,893	100		

Under existing conditions, approximately 31 percent (6,837 square feet) of the project site is covered with impervious surfaces. Under project conditions, the impervious surfaces on-site would increase by approximately 54 percent (11,822 square feet), which would result in an increase in stormwater runoff. The General Plan FEIR concluded that although new development and redevelopment allowed under the General Plan may result in an increase in impervious surfaces, implementation of applicable City policies and existing regulations would substantially reduce drainage hazards. Therefore, the proposed project would have a less than significant impact on the storm drainage system. **(Less Than Significant Impact)**

4.9.2.5 *Seiches, Tsunamis, and Mudflows (Checklist Question j)*

Due to the location of the project site, the project would not be subject to inundation by a seiche or tsunami. In addition, the project area is flat and there are no mountains in proximity. As a result, development of the project site would not cause mudflows that would impact adjacent properties. **(Less Than Significant Impact)**

4.9.2.6 *Existing Flooding Conditions Affecting the Project (Checklist Questions g – i)*

On December 17, 2015, the California Supreme Court issued an opinion in *CBIA vs. BAAQMD* holding that CEQA is primarily concerned with the impacts of a project on the environment and generally does not require agencies to analyze the impact of existing conditions on a project's future users unless the project risks exacerbate those environmental hazards or risks that already exist. Nevertheless, the City has policies and regulations that address existing conditions affecting a proposed project, which are listed and discussed in *Sections 4.9.1.1* and *4.9.1.2*, above. Based on the FEMA flood insurance rate maps, the project site is outside the 100-year floodplain; therefore, the proposed project would not redirect flood flows or expose people or structures to significant flood hazards.

Although the site is located within the Anderson Dam and Lexington Dam failure inundation hazard zone, the California DSOD is responsible for inspecting dams on an annual basis to ensure the dams are safe, performing as intended, and not developing problems. The General Plan FEIR concluded that with the regulatory programs currently in place, the possible effects of dam failure would not expose people or structures to a significant risk of loss, injury or death.

4.9.3 Conclusion

Implementation of the identified Standard Permit Conditions and compliance with all applicable City policies and programs would result in a less than significant water quality and hydrology impact.
(Less Than Significant Impact)

4.10 LAND USE AND PLANNING

4.10.1 Environmental Setting

4.10.1.1 *Existing Land Uses*

The 0.5-acre project site is comprised of one parcel (APN 264-56-082) located at the northeast corner of Lincoln Avenue and Willow Street in the City of San José. The site was previously occupied by a gas station and is currently vacant. Figure 2.4-3 shows an aerial of the project site.

4.10.1.2 *Surrounding Land Uses*

The project area is developed with commercial/retail, a school, and residential land uses. The project site is bounded by commercial/retail development to the north and east, Lincoln Avenue to the west, and Willow Street to the south.

The River Glen School is located immediately northeast of the project site. East of the project site are several small commercial buildings, including a fast food restaurant. The commercial area begins to transition into a residential neighborhood one block east of the project site. The commercial businesses continue to the south, west, and north of the project site. The businesses are primarily a mix of small retail shops and restaurants interspersed with offices and service oriented businesses such as banks and salons.

4.10.1.3 *Existing Land Use Designation and Zoning*

The project site is designated *NCC – Neighborhood/Community Commercial* under the City's General Plan and is zoned *CP – Commercial Pedestrian*.

The *NCC* designation supports a very broad range of commercial activity, including neighborhood serving retail and services and commercial/professional office development. General office uses, hospitals, and private community gathering facilities are allowed under the *NCC* designation. This designation allows for an FAR up to 3.5.

The *CP* zoning district is intended to support pedestrian-oriented retail activity at a scale compatible with the surrounding residential neighborhoods. This district is intended to support intensive pedestrian-oriented commercial activity and development consistent with General Plan urban design policies. New development should orient buildings towards public streets and transit facilities and include features to provide an enhanced pedestrian environment.

4.10.1.4 *Applicable Land Use Regulation and Policies*

The General Plan includes the following land use policies applicable to the proposed project.

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

Policy CD-1.8: Create an attractive street presence with pedestrian-scaled building and landscape elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity through the City.

Policy CD-1.12: Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.

Policy CD-1.23: Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.

Policy CD-4.5: For new development in transition areas between identified Growth Areas and nongrowth areas, use a combination of building setbacks, building step-backs, materials, building orientation, landscaping, and other design techniques to provide a consistent streetscape that buffers lower-intensity areas from higher-intensity areas and that reduces potential shade, shadow, massing, view shed, or other land use compatibility concerns.

Policy CD-4.9: For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).

4.10.2 Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

4.10.2.1 *Impacts to an Established Community (Checklist Question a)*

Changes in land use are not adverse environmental impacts in and of themselves, but they may create conditions that adversely affect existing uses in the immediate vicinity. The proposed project is a 9,400 square foot commercial/retail building and is surrounded by a mix of commercial/retail, a school, and residential land uses. The project would be compatible with the surrounding land uses and, as a result, would not physically divide an established community. **(Less Than Significant Impact)**

4.10.2.2 *Consistency with the General Plan Land Use Designation and Zoning (Checklist Question b)*

The project site is designated *NCC* under the City's General Plan and is zoned *CP*. The proposed project would have an approximate FAR of 0.43²³, consistent with the *NCC* FAR of up to 3.5. Implementation of the proposed project would result in the redevelopment of an underutilized site with commercial/retail space, consistent with development allowed under the existing land use designations. As a result, the project would not conflict with any applicable land use plans, policies, or regulations. **(Less Than Significant Impact)**

4.10.2.3 *Other Land Use Impacts (Checklist Question c)*

The proposed project would not conflict with any applicable habitat conservation plan or natural community conservation plan. Please see *Section 4.4, Biological Resources* for a complete discussion. **(Less Than Significant Impact)**

4.10.3 Conclusion

Implementation of the project would result in a less than significant land use impact. **(Less Than Significant Impact)**

²³ Proposed 9,400 square feet/Existing Site 21,780 square feet = 0.43 FAR

4.11 MINERAL RESOURCES

4.11.1 Environmental Setting

The Santa Clara Valley was formed when sediments derived from the Santa Cruz Mountains and the Mount Hamilton-Diablo Range were exposed by continuous tectonic uplift and regression of the inland sea that had previously inundated the area. As a result of this process, the topography of the City is relatively flat and there are no significant mineral resources. The project site is not located in an area containing known mineral resources.

The State Mining and Geology Board under the Surface Mining and Reclamation Act of 1975 (SMARA) has designated an area of Communications Hill in Central San José, bounded by the Union Pacific Railroad, Curtner Avenue, State Route 87, and Hillsdale Avenue, as a regional source of construction aggregate materials. Other than the Communications Hills area, San José does not have mineral deposits subject to SMARA.

4.11.2 Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Result in the loss of availability of a known mineral resource that will be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

4.11.2.1 *Impacts to Mineral Resources (Checklist Questions a and b)*

The proposed project is located in a developed urban area and is not located in an area containing known mineral resources. Implementation of the project would not result in the loss of availability of any known resources. **(No Impact)**

4.11.3 Conclusion

The project would not result in a significant impact from the loss of availability of a known mineral resource. **(No Impact)**

4.12 NOISE AND VIBRATION

4.12.1 Environmental Setting

Noise is typically defined as unwanted sound. Acceptable levels of noise vary from land use to land use. State and Federal standards have been established as guidelines for determining the compatibility of a particular land use with its noise environment.

There are several methods of characterizing sound. The most common in California is the A-weighted sound level or dBA. This scale gives greater weight to the frequencies of sound to which the human ear is most sensitive. Because sound levels can vary markedly over a short period of time, a method for describing either the average character of the sound or the statistical behavior of the variations must be utilized. Environmental sounds are described in terms of an average level that has the same acoustical energy as the summation of all the time-varying events. This energy-equivalent sound/noise descriptor is called L_{eq} . The most common averaging period is hourly, but L_{eq} can describe any series of noise events of arbitrary duration. For single-event noise sources, an L_{max} measurement is used which describes the maximum A-weighted noise level during the measurement period.

The scientific instrument used to measure noise is the sound level meter. Sound level meters can measure environmental noise levels within about plus or minus one dBA. Since the sensitivity to noise increases during the evening and at night, 24-hour descriptors have been developed that incorporate artificial noise penalties added to quiet-time noise events. The Community Noise Equivalent Level (CNEL) is a measure of the cumulative noise exposure in a community, with a five dB penalty added to evening hours between 7:00 PM and 10:00 PM and a 10 dB addition to nighttime hours between 10:00 PM and 7:00 AM. The Day/Night Average Sound Level (DNL) is the average A-weighted noise level during a 24-hour day, obtained after the addition of 10 dB to noise levels measured in the nighttime between 10:00 PM and 7:00 AM.




Construction Noise

Construction is a temporary source of noise for residences and other uses located near construction sites. Construction noise can be significant for short periods of time at any particular location and generates the highest noise levels during grading and excavation, with lower noise levels occurring during building construction. Typical hourly average construction-generated noise levels are approximately 80 to 85 dBA measured at a distance of 50 feet from the site during busy construction periods. Some construction techniques, such as impact pile driving, can generate very high levels of noise (105 dBA L_{max} at 50 feet) that are difficult to control. Construction activities can elevate noise levels at adjacent businesses and residences by 15 to 20 dBA or more during construction hours.

4.12.1.1 *Applicable Noise Standards and Policies*

General Plan

The General Plan includes the following noise policies applicable to the proposed project. The City's noise and land use compatibility guidelines are shown in Table 4.12-2, below.

Table 4.12-1: Land Use Compatibility Guidelines for Community Noise in San José						
Land Use Category	Exterior DNL Value in Decibels					
	55	60	65	70	75	80
1. Residential, Hotels and Motels, Hospitals and Residential Care ¹						
2. Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds						
3. Schools, Libraries, Museums, Meeting Halls, and Churches						
4. Office Buildings, Business Commercial, and Professional Offices						
5. Sports Arena, Outdoor Spectator Sports						
6. Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters						
¹ Noise mitigation to reduce interior noise levels pursuant to Policy EC-1.1 is required. Normally Acceptable:  Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements. Conditionally Acceptable:  Specified land use may be permitted only after detailed analysis of the noise reduction requirements and noise mitigation features included in the design. Unacceptable:  New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies. Development would only be considered when technically feasible mitigation is identified that is also compatible with relevant design guidelines.						

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

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

Policy EC-1.5: Mitigate noise generation of new nonresidential land uses to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.

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

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

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

For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.

Policy EC-2.3: Require new development to minimize vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, a vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A vibration limit of 0.20 in/sec PPV will be used to minimize potential for cosmetic damage at buildings of normal conventional construction.

Municipal Code – Construction Standards

According to San José Municipal Code (Chapter 20.40.600), sound pressure levels generated by any use or combination of uses on a property shall not exceed 60 dBA at any property line shared with land zoned for commercial or other non-residential uses.

Chapter 20.100.450 of the Municipal Code establishes allowable hours of construction within 500 feet of a residential unit between 7:00 a.m. to 7:00 p.m. on Monday through Friday, unless otherwise expressly allowed in a Development Permit or other planning approval. The Municipal Code does not establish quantitative noise limits for demolition or construction activities occurring in the City.

4.12.1.2 Existing Conditions

Noise levels in the project area are primarily influenced by vehicular noise on the surrounding roadways. Based on the General Plan FEIR, the existing ambient noise levels at the project site are 65 to 70 dBA DNL. The nearest sensitive receptors are school-aged children attending River Glen School, approximately 30 feet northeast of the project site, and the residences located approximately 130 feet northwest of the project site.

4.12.2 Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project result in:					
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
b) Exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project result in:					
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
f) For a project within the vicinity of a private airstrip, will the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

The CEQA Guidelines state that a project would normally be considered to have a significant impact if noise levels conflict with adopted environmental standards or plans, or if noise levels generated by the project would substantially increase existing noise levels at noise-sensitive receivers on a permanent or temporary basis. CEQA does not define what noise level increase would be substantial. A three dBA noise level increase is considered the minimum increase that is perceptible to the human ear. Typically, project generated noise level increases of three dBA DNL or greater are considered significant where resulting exterior noise levels would exceed the normally acceptable noise level standard. Where noise levels would remain at or below the normally acceptable noise level standard with the project, a noise level increase of five dBA DNL or greater is considered significant.

4.12.2.1 *Noise Impacts from the Project (Checklist Questions a – d)*

Project Generated Traffic Noise Impacts

An increase of three dBA is considered substantial in noise sensitive areas along roadways. Vehicular traffic on roadways in the City are anticipated to increase as development occurs and the population increases; however, the proposed project would have to double the existing traffic volume in the area to substantially increase noise levels (by three dBA or more). The proposed project would result in 354 daily traffic trips (refer to *Section 4.16, Transportation*). Although the increase in traffic would result in an overall increase in traffic noise, the project would not generate sufficient trips to double the existing traffic volumes and substantially increase noise levels. Therefore, the project would have a less than significant long-term noise impact. **(Less Than Significant Impact)**

Construction Noise Impacts

Construction noise impacts 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. The construction of the proposed project would involve demolition of existing pavement, site preparation, grading, trenching, and paving.

Construction of the project would temporarily increase noise levels in the immediate vicinity of the project site. As mentioned previously, there are sensitive receptors (River Glen School and residences) located approximately 30 feet northeast and 130 feet northwest of the project site, respectively. Consistent with the City's Municipal Code and in accordance with the General Plan, particularly Policy EC-1.7, the proposed project would be required to implement the following measures as Standard Permit Conditions during all phases of construction on-site:

Standard Permit Conditions

- Construction activities shall be limited to the hours between 7:00 AM and 7:00 PM, Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence (Municipal Code Section 20.100.450).
- Construct solid plywood fences around ground-level construction sites adjacent to operational businesses, hotels, and other noise-sensitive land uses.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Unnecessary idling of internal combustion engines should be strictly prohibited.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses. Temporary noise barriers could reduce construction noise levels by five dBA.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.
- A temporary noise control blanket barrier could be erected, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected.
- Designate a "disturbance coordinator" who is responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include in it the notice sent to neighbors regarding the construction schedule.

Compliance with the City's Municipal Code and the identified Standard Permit Conditions would result in a less than significant impact from the temporary increase in ambient noise levels in the project area. **(Less Than Significant Impact)**

Construction Vibration Impacts

Construction activities such as drilling, the use of jackhammers (approximately 0.035 in/sec PPV at 25 feet), rock drills and other high-power or vibratory tools (approximately 0.09 in/sec PPV at 25 feet), and rolling stock equipment such as tracked vehicles, compactors, etc. (approximately 0.89 in/sec PPV at 25 feet) may generate substantial vibration in the immediate site vicinity. Pile driving would not be required for project construction.

The project site is located approximately 75 feet north of the Willow Street Pizza, a Structure of Merit building. According to Policy EC-2.3 of the City's General Plan, a vibration limit of 0.2 in/sec PPV shall be used to minimize damage at buildings of normal conventional construction and a vibration limit of 0.08 in/sec PPV will be used to minimize the potential for cosmetic damage for sensitive historic structures. The proposed project would comply with all applicable City policies and would not include mechanical equipment that would create substantial vibration impacts to adjacent buildings. Therefore, the project would have a less than significant construction vibration impact. **(Less Than Significant Impact)**

4.12.2.2 *Airport Noise (Checklist Question e and f)*

The project site is located approximately three miles southwest of the Norman Y. Mineta San José International Airport. The project site is neither located within the AIA nor the City's projected 2027 65 dB CNEL noise contour. The General Plan FEIR concluded that implementation of General Plan policies and compliance with the local airport land use plans would reduce program-level aircraft noise impacts to a less than significant level. **(Less Than Significant Impact)**

4.12.2.3 *Existing Noise Conditions Affecting the Project (Checklist Questions a, b, e, and f)*

On December 17, 2015, the California Supreme Court issued an opinion in *CBIA vs. BAAQMD* holding that CEQA is primarily concerned with the impacts of a project on the environment and generally does not require agencies to analyze the impact of existing conditions on a project's future users or residents unless the project risks exacerbate those environmental hazards or risks that already exist. Nevertheless, the City has policies and regulations that address existing conditions affecting a proposed project, which are discussed below.

The policies of the City of San José 2040 General Plan have been adopted for the purpose of avoiding or mitigating environmental effects resulting from planned development within the City. Based on the City's noise and land use compatibility guidelines, commercial development is allowed in areas with ambient noise levels up to 70 dBA DNL and is conditionally allowed in areas with noise levels up to 80 dBA DNL.

Noise levels in the project area are primarily influenced by vehicular noise on the surrounding roadways. As proposed, the project would include a patio area at the southwest corner of the site for future employees and patrons. Existing ambient noise levels at the project site range from 65 to 70 dBA DNL. Based on the Citywide 2035 Traffic Noise Contours Map (Figure 3.3-2) from the

General Plan FEIR, future exterior noise levels would range from 65 to 70 dBA DNL, consistent with the City's noise and land use compatibility guidelines shown in Table 4.12-1.

CALGreen requires commercial buildings to be constructed to provide an interior noise environment of 50 dBA in occupied areas during any hour of operation. A typical commercial building envelope provides at least a 30 dBA reduction in traffic noise. With exterior noise levels up to 70 dBA DNL, the interior noise levels would be approximately 40 dBA with standard construction techniques. Therefore, the interior noise levels would comply with CALGreen and City requirements.

4.12.3 Conclusion

With implementation of the identified Standard Permit Conditions, the proposed project would have a less than significant construction noise and vibration impact. Operation of the proposed project would have a less than significant noise impact. **(Less Than Significant Impact)**

4.13 POPULATION AND HOUSING

4.13.1 Environmental Setting

The population of San José was estimated to be approximately 1,042,094 in January 2016 with an average of 3.22 persons per household.²⁴ The City currently has approximately 329,824 housing units²⁵ and, by 2040, the City's population is projected to reach 1,445,000 with 472,000 households by year 2040.²⁶

The jobs/housing balance refers to the ratio of employed residents to jobs in a given community or area. When the ratio reaches 1.0, a balance is struck between the supply of local housing and jobs. The jobs/housing resident ratio is determined by dividing the number of local jobs by the number of employed residents that can be housed in local housing.

The City currently has a higher number of employed residents than jobs (approximately 0.8 jobs per employed resident), but this trend is projected to reverse with full build out under the General Plan.

4.13.2 Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

4.13.2.1 *Impacts to Population (Checklist Question a)*

The project would result in the construction of an approximately 9,400 square foot commercial/retail building on a vacant site. Development of the project would result in a small increase in jobs citywide. As mentioned above, San José currently has a higher number of employed residents than jobs. The increase in jobs would incrementally decrease the overall jobs/housing imbalance within the City. The proposed project is consistent with the development assumptions in the General Plan

²⁴ City of San José. "Population." Accessed: September 29, 2017. Available at: <http://www.sanjoeca.gov/index.aspx?nid=2044>.

²⁵ Ibid.

²⁶ City of San José. "Projections of Jobs, Population and Households for the City of San José." August 2008. Accessed: September 29, 2017. Available at: <http://www.sanjoeca.gov/DocumentCenter/View/3326>.

and would not induce substantial population growth beyond anticipated. (**Less Than Significant Impact**)

4.13.2.2 *Impacts to Housing* (Checklist Questions b and c)

The project site is currently vacant. The project would not result in the displacement of people or existing housing, or necessitate the construction of housing elsewhere. (**Less Than Significant Impact**)

4.13.3 Conclusion

Implementation of the project would have a less than significant impact on population and housing. (**Less Than Significant Impact**)

4.14 PUBLIC SERVICES

4.14.1 Environmental Setting

4.14.1.1 *Fire Protection Services*

Fire protection services for the site are provided by the San José Fire Department (SJFD). Fire stations are located throughout the City to provide adequate response times to calls for service. SJFD responds to all fires, hazardous materials spills, and medical emergencies (including injury accidents) in the City. The closest station to the project site is Fire Station No. 6, located at 1386 Cherry Avenue, approximately 0.5 miles southwest of the project site. Emergency response is provided by 30 engine companies, nine truck companies, and one urban search and rescue company.²⁷

The General Plan identifies a service goal of a total response time of eight minutes and a total travel time of four minutes or less for 80 percent of emergency incidents.

4.14.1.2 *Police Protection Services*

Police protection services for the project site are provided by the San José Police Department (SJPD). Officers are dispatched from police headquarters, located at 201 West Mission Street, approximately 2.8 miles northeast of the project site.

The General Plan identifies a service goal of six minutes or less for 60 percent of all Priority 1 (emergency) calls and 11 minutes or less for 60 percent of all Priority 2 (non-emergency) calls.

4.14.1.3 *Schools*

The project site is located within the San José Unified School District (SJUSD). The SJUSD currently has 27 elementary schools, six middle schools, and seven high schools in operation. The proposed project would be served by the schools listed in Table 4.14-1 below.

Table 4.14-1: Local Schools		
School	Location	Distance from Site
River Glen School K-8	1088 Broadway Avenue	30 feet northeast
Willow Glen High School	2001 Cottle Avenue	1.2 miles southwest

4.14.1.4 *Parks*

The City's Department of Parks, Recreation, and Neighborhood Services is responsible for the development, operation, and maintenance of all City park facilities. The City of San José operates and maintains approximately 190 neighborhood-serving parks and nine regional parks.²⁸ The nearest park to the project site is Hummingbird Park, located approximately 0.4 miles northeast of the project site.

²⁷ City of San José. "Annual Report on City Services FY 2015-2016." Accessed: October 3, 2017. Available at: <http://www.sanjoseca.gov/index.aspx?NID=321>.

²⁸ City of San José. "Fast Facts." Accessed October 3, 2017. Available at: <http://www.sanjoseca.gov/DocumentCenter/View/65881>.

4.14.1.5 *Libraries*

The San José Public Library is the largest public library system between San Francisco and Los Angeles. The San José Public Library System consists of one main library (Dr. Martin Luther King Jr. Library) and 22 branch libraries. The nearest library to the project site is the Willow Glen Branch Library, located approximately 0.4 miles southwest of the project site.

4.14.1.6 *Applicable Public Services Regulations and Policies*

The General Plan includes the following public services policies applicable to the proposed project.

Policy CD-5.5: Include design elements during the development review process that address security, aesthetics, and safety. Safety issues include, but are not limited to, minimum clearances around buildings, fire protection measures such as peak load water requirements, construction techniques, and minimum standards for vehicular and pedestrian facilities and other standards set forth in local, state, and federal regulations.

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

1. For police protection, use as a goal a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls.
2. For fire protection, use as a goal a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.

Policy ES-3.9: Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly visible and accessible spaces.

Policy ES-3.11: Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.

4.14.2 Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project					
a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:					
- Fire Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
- Police Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
- Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
- Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
- Other Public Facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

4.14.2.1 *Impacts to Public Services (Checklist Question a)*

Fire and Police Protection Services

The project site is currently vacant but was developed with a gas station prior to 2015. As proposed, the project would construct an approximately 9,400 square foot commercial/retail building which would place people on-site during regular business hours, increasing demand for fire and police response and related emergency services over existing conditions, but consistent with the previous commercial business on-site. The General Plan FEIR concluded that, construction of new fire stations, other than those currently planned, would not be required to adequately serve the larger population. In regards to police protection services, build out of the General Plan FEIR would result in the need for additional police services, which would require supplemental environmental review, but is not anticipated to have significant, adverse environmental impacts the project, by itself, would not require additional police services. Although the project would intensify use of the site compared to existing conditions, the project would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies identified in the General Plan FEIR to avoid unsafe building conditions and promote public safety. As a result, implementation of the project would result in a less than significant impact on police and fire protection services. **(Less Than Significant Impact)**

Schools

As mentioned above, the project proposes to construct a commercial/retail building. Therefore, no new students would be generated by implementation of the project and the project would have no impact on school facilities or capacities in the City. **(Less Than Significant Impact)**

Parks

The proposed development would place more people on-site during regular business hours than exist currently but would not increase the permanent population of the City. While future employees and patrons of the site may utilize nearby parks, they are unlikely to place a major physical burden on these facilities. As a result, the proposed project would not have a significant impact on park facilities in the City. **(Less Than Significant Impact)**

Libraries

The General Plan FEIR concluded that development and redevelopment allowed under the General Plan would be adequately served by existing and planned library facilities. The proposed project would construct a new commercial/retail building and would not include any residential uses. Therefore, the proposed project would have minimal impact on library facilities in the City of San José. **(Less Than Significant Impact)**

4.14.3 Conclusion

The project would result in a less than significant impact on public services in the City. **(Less Than Significant Impact)**

4.15 RECREATION

4.15.1 Environmental Setting

The City of San José owns and maintains approximately 3,502 acres of parkland, including neighborhood parks, community parks, and regional parks.²⁹ The City has 51 community centers and over 57 miles of trails. The City's Department of Parks, Recreation, and Neighborhood Services is responsible for development, operation, and maintenance of all City park facilities. The nearest park to the project site is Hummingbird Park, a 0.4-acre park with a playground located approximately 0.4 miles northeast of the site.

4.15.2 Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility will occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

4.15.2.1 *Impacts to Recreational Facilities*

Although the proposed development would place more people on-site, the increase in employees and patrons on-site would not result in a substantial increase in usage of existing recreational facilities because the resident population would not increase. While future employees and patrons may use City parks or other recreational facilities, they would not place a major physical burden on existing recreational facilities that would result in substantial physical deterioration of these facilities. The proposed project would not increase the usage of existing parks and recreation facilities such that the construction of new or expanded recreational facilities would be required. **(Less Than Significant Impact)**

4.15.3 Conclusion

Implementation of the project would result in a less than significant impact on recreational facilities in San José. **(Less Than Significant Impact)**

²⁹ City of San José. "Fast Facts." Accessed October 3, 2017. Available at: <http://www.sanjoseca.gov/DocumentCenter/View/65881>.

4.16 TRANSPORTATION/TRAFFIC

4.16.1 Regulatory Framework

State and Regional

Regional Transportation Planning

The Metropolitan Transportation Commission (MTC) is the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area, including Santa Clara County. MTC is charged with regularly updating the Regional Transportation Plan, a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle, and pedestrian facilities in the region. MTC and ABAG adopted *Plan Bay Area 2040* in July 2017, which includes the region's Sustainable Communities Strategy (integrating transportation, land use, and housing to meet GHG reduction targets set by CARB) and Regional Transportation Plan (including a regional transportation investment strategy for revenues from federal, state, regional and local sources over the next 24 years).

Congestion Management Program

The Santa Clara Valley Transportation Authority (VTA) oversees the Congestion Management Program (CMP), a program aimed at reducing regional traffic congestion. 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 the following five mandatory elements: 1) a system definition and traffic level of service standard element; 2) a transit service and standards element; 3) a trip reduction and transportation demand management element; 4) a land use impact analysis program element; and 5) a capital improvement element. The Santa Clara County CMP includes the five mandated elements and three additional elements, including: a county-wide transportation model and data base element, an annual monitoring and conformance element, and a deficiency plan element. The VTA has review responsibility for proposed development projects that are expected to affect CMP designated intersections.

Local

Level of Service Standards and City Council Policy 5-3

As established in City Council Policy 5-3 "Transportation Impact Policy" (2005), the City of San José uses the same LOS method as the CMP, although the City's standard is LOS D rather than LOS E. According to this policy and General Plan Policy TR-5.3, an intersection impact would be satisfactorily mitigated if the implementation of measures would restore level of service to existing conditions or better, unless the mitigation measures would have an unacceptable impact on the neighborhood or on other transportation facilities (such as pedestrian, bicycle, and transit facilities). The City's Transportation Impact Policy (also referred to as the Level of Service Policy) protects pedestrian and bicycle facilities from undue encroachment by automobiles.

4.16.2 Environmental Setting

4.16.2.1 *Roadway Network*

Regional Access

Regional access to the site is provided via Interstate 280 (I-280), State Route 87 (SR 87), and Almaden Expressway.

I-280 is a north-south freeway that extends from US 101 in San José to I-80 in San Francisco. I-280 provides access to the site via interchanges at Meridian Avenue, Southwest Expressway, Race Street, Parkmoor Avenue, and Bird Avenue.

SR 87 is primarily a six-lane freeway (four mixed-flow lanes and two HOV lanes) that is aligned in a north-south orientation within the project vicinity. Access to the project site is provided via interchanges at Alma Avenue, Almaden Expressway, and Curtner Avenue.

Almaden Expressway is six-lane, north-south expressway that extends from San José Avenue to Almaden Valley in south San José. Access to the project site is provided via Curtner Avenue and Lincoln Avenue.

Local Access

Local access to the project site is provided by Lincoln Avenue, Willow Street, Minnesota Avenue, Curtner Avenue, Bird Avenue, and Meridian Avenue.

Lincoln Avenue is an undivided, two to four-lane north-south arterial street that runs from Park Avenue to Almaden Expressway.

Willow Street is a two-lane, east-west major collector street that runs from east of Leigh Avenue to South First Street.

Minnesota Avenue is an east-west arterial street that runs between Bascom Avenue and Almaden Expressway. Within the study area, it has four lanes between Hicks Avenue/Camino Ramon and its transition to Alma Avenue. Alma Avenue is a major collector that provides access to northbound SR 87 and from southbound SR 87 via Lelong Street, an access road and north-south connector between Willow Street and Minnesota Avenue/Alma Avenue. West of Hicks Avenue/Camino Ramon to Weaver Drive, Minnesota Avenue is a two-lane street with a shared center left-turn lane. It is a two-lane street from Weaver Drive to Meridian Avenue, where it becomes Isabel Drive.

Curtner Avenue is an east-west arterial street that runs between Bascom Avenue to the west and Almaden Expressway. East of Almaden Expressway, Curtner Avenue, is a major arterial street. Curtner Avenue has a full access interchange with SR 87.

Bird Avenue is a major north-south arterial street from Coe Avenue through its interchange with I-280. North of I-280, Bird Avenue is an arterial street. North of Coe Avenue, Bird Avenue has six lanes with a median and intermittent left-turn pockets. South of Coe Avenue, Bird Avenue is a two-

lane neighborhood street. Bird Avenue has a full access interchange with I-280 and provides access to the project site via its intersection with Willow Street.

Meridian Avenue is a four-lane, north-south arterial street that runs from south San José to Park Avenue. Meridian Avenue has a full interchange with I-280. Meridian Avenue provides access to the site via its intersection with Willow Street.

4.16.2.2 *Existing Pedestrian and Bicycle Facilities*

Pedestrian Facilities

Sidewalks are present along the surrounding roadways. Crosswalks with pedestrian signal heads are located at all signalized intersections within the project area. Overall, the existing network of crosswalks and sidewalks has good connectivity and provides pedestrians with safe routes to transit and other services.

Bicycle Facilities

Bicycle facilities are comprised of paths (Class I), lanes (Class II), and routes (Class III). The Guadalupe River/Los Alamitos Creek Trail is present along SR 87 between Curtner Avenue and Willow Street. In addition, bicycle lanes are present along Curtner Avenue and Willow Street.

4.16.2.3 *Existing Transit Service*

Transit services in the project area is provided by VTA and Caltrain.

Santa Clara Valley Transportation Authority Bus Service

Local Route 25 provides bus service between the Alum Rock Transit Center and De Anza College. Local Route 25 operates from 5:12 AM to 12:26 AM with 10-minute headways during commute hours. Eastbound and westbound Route 25 stops are present at the Lincoln Avenue and Willow Street intersection.

Local Route 26 provides bus service between the Eastridge Transit Center and Sunnyvale/Lockheed Martin Transit Center. Local Route 26 operates from 5:14 AM to 11:49 PM with 30-minute headways during commute hours. Eastbound and westbound Route 26 stops are present at the Curtner Avenue and Lincoln Avenue intersection.

Local Route 64 provides bus service between the Almaden Light Rail Transit Station and McKee Road/White Road via downtown San José. Local Route 64 operates from 5:22 AM to 11:23 PM with 30-minute headways during commute hours. Northbound and southbound Route 64 stops are present at the Lincoln Avenue and Willow Street intersection.

Local Route 82 provides bus service between Westgate Mall and downtown San José. Local Route 82 operates from 6:02 AM to 9:27 PM with 30-minute headways during commute hours. Northbound and southbound Route 82 stops are present at the Minnesota Avenue and Lincoln intersection.

Light Rail Transit Service

The site is located within a mile of four VTA light rail transit (LRT) stations. There are three Guadalupe Corridor LRT stations located within two miles of the project site. The Guadalupe Corridor LRT provides service nearly 24 hours a day with 15-minute headways during commute and midday hours. The LRT provides service between Santa Teresa (in south San José) and the Tasman Corridor LRT (in north San José). It should be noted that due to the distance of the LRT stations from the project site, it is assumed that use of LRT by employees and/or future customers of the development would be limited.

The Tamien LRT station is located near SR 87 and Alma Avenue, where service is provided by the Alum Rock/Santa Teresa light rail line. The Tamien LRT station provides a direct connection to the Tamien Caltrain station and to the VTA bus service.

The Virginia LRT station is served by the VTA Alum Rock/Santa Teresa light rail line. The Virginia Station can be accessed via Virginia Street.

The Curtner LRT station is located near SR 87 and Curtner Avenue, where service is provided by the VTA Alum Rock/Santa Teresa light rail line.

4.16.2.4 *Applicable Transportation Regulations and Policies*

The General Plan includes the following transportation policies applicable to the proposed project.

Policy TR-1.1: Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT).

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

Policy TR-1.4: Through the entitlement process for new development, fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.

Policy TR-8.4: Discourage, as part of the entitlement process, the provision of parking spaces significantly above the number of spaces required by code for a given use.

Policy TR-8.9: Consider adjacent on-street and City-owned off-street parking spaces in assessing need for additional parking required for a given land use or new development.

Policy TR-9.1: Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.

Policy CD-2.3: Enhance pedestrian activity by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Corridors, Main Streets, and other locations where appropriate.

- a. Include attractive and interesting pedestrian-oriented streetscape features such as street furniture, pedestrian scale lighting, pedestrian oriented way-finding signage, clocks, fountains, landscaping, and street trees that provide shade, with improvements to sidewalks and other pedestrian ways.
- b. Strongly discourage drive-up services and other commercial uses oriented to occupants of vehicles in pedestrian-oriented areas. Uses that serve the vehicle, such as car washes and service stations, may be considered appropriate in these areas when they do not disrupt pedestrian flow, are not concentrated in one area, do not break up the building mass of the streetscape, are consistent with other policies in this Plan, and are compatible with the planned uses of the area.
- c. Provide pedestrian connections as outlined in the Urban Community Design Connections Goal and Policies.
- d. Locate retail and other active uses at the street level.
- e. Create easily identifiable and accessible building entrances located on street frontages or paseos.
- f. Accommodate the physical needs of elderly populations and persons with disabilities.
- g. Integrate existing or proposed transit stops into project designs.

Policy CD-3.4: Encourage pedestrian cross-access connections between adjacent properties and require pedestrian and bicycle connections to streets and other public spaces, with particular attention and priority given to providing convenient access to transit facilities. Provide pedestrian and vehicular connections with cross-access easements within and between new and existing developments to encourage walking and minimize interruptions by parking areas and curb cuts.

Policy CD-3.6: Encourage a street grid with lengths of 600 feet or less to facilitate walking and biking. Use design techniques such as multiple building entrances and pedestrian paseos to improve pedestrian and bicycle connections.

4.16.3 Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

4.16.3.1 *Transportation Impacts (Checklist Questions a and b)*

The VTA CMP requires a transportation analysis to be prepared when a project would add 100 or more peak hour trips to the roadway network. Projects that generate fewer than 100 trips in either peak hour are presumed to have a less than significant impact on the Level of Service (LOS) of local intersections that would carry project traffic. The City of San José uses a threshold of 25 net new AM or PM Peak Hour trips to determine whether a traffic report is required.

Traffic trips generated by the proposed project were estimated using the rates for Shopping Center (Land Use Code 820) published in the Institute of Transportation Engineers' (ITE's) *Trip Generation Manual*, 10th Edition. Implementation of the project would generate 354 new daily vehicle trips with nine trips in the AM Peak Hour and 24 trips³⁰ in the PM Peak Hour. Construction of a 9,400 square foot of commercial/retail building would not result in 100 or more peak hour trips; therefore, no LOS analysis was required per the CMP. In addition, the project would generate 25 or fewer Peak Hour trips; therefore, the project is exempt from preparing a traffic impact analysis (TIA). Based on the existing traffic conditions in the project area and the estimated traffic trips, no formal transportation analysis was needed and that the project would result in a less than significant transportation impact. **(Less Than Significant Impact)**

³⁰ The daily PM Peak Hour trips was calculated using the weekday PM Peak Hour trip rate of 3.81 per 1,000 square feet of gross floor area. In addition, the new daily vehicle trips was adjusted to include a 34 percent pass-by trip reduction.

4.16.3.2 *Airport Operations (Checklist Question c)*

The proposed development is located approximately three miles southwest of the Norman Y. Mineta San José International Airport. The project would not result in a change in air traffic patterns or obstruct airport operations. **(Less Than Significant Impact)**

4.16.3.3 *Site Design (Checklist Question d)*

Based on the proposed site design, the project would not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses. In addition, the project would remove the existing driveways on Lincoln Avenue, reducing conflicts between automobiles and making pedestrian access safer. Therefore, the proposed project would have a less than significant impact on site design. **(Less Than Significant Impact)**

4.16.3.4 *Emergency Access (Checklist Question e)*

Fire code requires driveways to provide 32 feet of clearance for fire access. Access to the project site would be provided via an ingress/egress driveway on Willow Street. As a condition of approval, the project would be required to meet code requirements for emergency vehicle access. As a result, the proposed project would have a less than significant impact on emergency access. **(Less Than Significant Impact)**

4.16.3.5 *Public Transportation, Pedestrian, and Bicycle Facilities Impacts* *(Checklist Question f)*

The proposed project would not preclude the installation of planned public transportation, pedestrian, and bicycle facilities nor interfere with the operation of existing or proposed public transportation, pedestrian, and bicycle facilities in the project area. Therefore, the proposed project would not create a significant public transportation, pedestrian, and bicycle facilities impact. **(Less Than Significant Impact)**

4.16.4 Conclusion

Implementation of the proposed project would have less than significant transportation impacts. **(Less Than Significant Impact)**

4.17 UTILITIES AND SERVICE SYSTEMS

4.17.1 Environmental Setting

4.17.1.1 *Water Services*

Water service is provided to the City of San José by three water retailers, San José Water Company, the City of San José Municipal Water System, and the Great Oaks Water Company. Water services to the project site is provided by the San José Water Company (SJWC).

The project site is currently vacant and does not have any water demand.

4.17.1.2 *Sanitary Sewer/Wastewater Treatment*

Wastewater from the City is treated at the San José/Santa Clara Regional Wastewater Facility (the Facility) which is administered and operated by the City Department of Environmental Services. The Facility provides primary, secondary, and tertiary treatment of wastewater and has the capacity to treat 167 million gallons of wastewater a day. The Facility treats an average of 110 million gallons of wastewater per day and serves 1.4 million residents.³¹ The Facility is currently operating under a 120 million gallon per day dry weather effluent flow constraint. This requirement is based upon the SWRCB and the RWQCB concerns over the effects of additional freshwater discharges on the saltwater marsh habitat and pollutant loading to the Bay from the Facility. Approximately ten percent of the plant's effluent is recycled for non-potable uses. The remainder is discharged into the Bay after treatment.

As mentioned above, the project site is currently vacant with no buildings on-site. Therefore, no wastewater is generated on-site.

4.17.1.3 *Stormwater Drainage*

The City of San José owns and maintains the municipal stormwater drainage system which serves the project site. The lines that serve the project site drain into Calabazas Creek and carry stormwater from the storm drain into San Francisco Bay. Calabazas Creek is located approximately 0.20 miles east of the site. There is no overland release of stormwater directly into any water body from the project site.

Currently, 31 percent (approximately 6,837 square feet) of the project site is impervious. There are existing 36-inch storm drain lines along Lincoln Avenue and Willow Street.

4.17.1.4 *Solid Waste*

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California Integrated Waste Management Board (CIWMB) in 1996 and was reviewed in 2004 and 2007. Each jurisdiction in the county has a diversion requirement of 50 percent for 2000 and each year thereafter. According to the IWMP, the County has adequate disposal capacity beyond 2022. The total

³¹ City of San José. "San José-Santa Clara Regional Wastewater Facility." Accessed: April 13, 2017. Available at: <http://www.sanjoseca.gov/?nid=1663>.

permitted landfill capacity of the five operating landfills in the City is approximately 5.3 million tons per year.

The project site is currently vacant and does not generate any solid waste.

4.17.1.5 *Applicable Utilities and Service Systems Regulations and Policies*

The General Plan includes the following utilities and service systems policies applicable to the proposed project.

Policy MS-1.4: Foster awareness in San José's business and residential communities of the economic and environmental benefits of green building practices. Encourage design and construction of environmentally responsible commercial and residential buildings that are also operated and maintained to reduce waste, conserve water, and meet other environmental objectives.

Policy MS-3.2: Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply as building codes permit.

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

Policy IN-3.10: Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES).

4.17.2 Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
c) Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
g) Comply with federal, state, and local statutes and regulations related to solid waste.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

4.17.2.1 *Water Supply (Checklist Questions b and d)*

Currently, the project site does not have any demand for water. The proposed project would use approximately 696,286 gallons of water annually.^{32,33} The General Plan FEIR determined that the three water suppliers for the City could serve planned growth under the City's General Plan until 2025. Water demand could exceed water supply with implementation of the General Plan during dry and multiple dry years after 2025. The General Plan has specific policies to reduce water consumption including expansion of the recycled water system and implementation of water conservation measures. The General Plan FEIR concluded that with implementation of existing regulations and adopted General Plan policies, full build out under the General Plan would not exceed the available water supply. The proposed project would be consistent with planned growth in the General Plan; therefore, implementation of the proposed project would have a less than significant impact on the City's water supply. **(Less Than Significant Impact)**

4.17.2.2 *Sanitary Sewer Capacity (Checklist Questions a, b, and e)*

The project site is currently vacant and does not generate any wastewater. The General Plan EIR states that average wastewater flow rates are approximately 70 to 80 percent of domestic water use and 85 to 95 percent of business use (assuming no internal recycling or reuse programs). For the purposes of this analysis, wastewater flow rates are assumed to be 90 percent of the total on-site water use. Implementation of the proposed project would generate approximately 622,324 gallons of waste water annually. As stated above, the City currently has approximately 38.8 mgd of excess treatment capacity at the Facility. Based on a sanitary sewer hydraulic analysis prepared for the General Plan FEIR, full build out under the General Plan would increase average dry weather flows by approximately 30.8 mgd. As a result, development allowed under the General Plan would not exceed the City's allocated capacity at the Facility. The proposed project is consistent with the

³² California Emissions Estimator Model. "Appendix D Default Data Tables." February 2011. Accessed: October 20, 2017. Available at:

http://www.trpa.org/documents/reisc/5_Comment%20References/LTSLT_FOWS_TASC_references/Trans%20Models%20VMT/CalEEMod%20AppendixD.pdf.

³³ 9,400 square feet of proposed commercial/retail building / 1000 square feet of strip mall x 74,073 gallons per size per year.

development assumptions in the General Plan. Therefore, implementation of the proposed project would have a less than significant impact on the Facility. **(Less Than Significant Impact)**

4.17.2.3 *Storm Drainage System (Checklist Question c)*

Under existing conditions, the project site is approximately 31 percent impervious. Upon completion of the proposed development, impervious surfaces on site would increase by approximately 54 percent, which would result in an increase in stormwater runoff.

Although the proposed project would result in an increase in stormwater runoff, the existing storm drainage system has sufficient capacity to support the proposed development. The project would be required to comply with the NPDES Municipal Regional Permit and all applicable plans, policies, and regulations for the treatment of stormwater. Implementation of the proposed project would have a less than significant impact on the City's storm drainage system. **(Less Than Significant Impact)**

4.17.2.4 *Solid Waste (Checklist Questions f and g)*

As mentioned in *Section 4.17.1.4*, the project site is currently vacant and does not currently generate any solid waste. Operation of the proposed project would generate approximately 24 pounds of solid waste per day for commercial/retail use.^{34,35} The General Plan FEIR concluded that the increase in waste generated by build out of the General Plan would not cause the City to exceed the capacity of existing landfills serving the City. Future increases in solid waste generation from developments allowed under the General Plan would be avoided through implementation of the City's Zero Waste Strategic Plan. The Zero Waste Strategic Plan in combination with existing regulations and programs, would ensure that full build out of the General Plan would not result in significant impacts on solid waste disposal capacity. **(Less Than Significant Impact)**

4.17.3 Conclusion

Implementation of the proposed project would not require new utility lines or facilities and would not exceed the capacity of existing utility and service systems. **(Less Than Significant Impact)**

³⁴ CalRecycle. "Estimated Solid Waste Generation Rates." Accessed: October 13, 2017. Available at: <https://www2.calrecycle.ca.gov/WasteCharacterization/General/Rates>.

³⁵ Solid waste generation was estimated at a rate of 2.5 pounds per 1,000 square feet per day for commercial retail space.

4.18

MANDATORY FINDINGS OF SIGNIFICANCE

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1-13
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-13
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-13

4.18.1 **Project Impacts** (*Checklist Question a*)

As discussed in the individual sections, the proposed project would not degrade the quality of the environment with implementation of the identified Standard Permit Conditions and mitigation measures.

Construction activities on-site would expose nearby sensitive receptors to temporary TAC emissions; however, implementation of the identified Standard Permit Conditions (*Section 4.3, Air Quality*) would reduce community risk impacts to less than significant.

As discussed in *Section 4.4 Biological Resources*, the project would not impact sensitive habitats or species. With implementation of MM BIO-1.1, the project would not impact nesting raptors or migratory birds. As discussed in *Section 4.4.3.3*, the project would require discretionary approval by the City and is consistent with the activity described in *Section 2.3.2* of the SCVHP. The project would be subject to all applicable SCVHP conditions and fees prior to the issuance of any grading permits. In addition, all projects in the City, including the proposed project, would be required to pay the cumulative nitrogen deposition fees.

Earthmoving activities on-site may result in the loss of unknown subsurface prehistoric resources. Implementation of the identified Standard Permit Conditions in *Section 4.5 Cultural Resources*

would avoid or reduce impacts to cultural resources to a less than significant level. The project would also implement the identified Standard Permit Conditions listed in *Section 4.6 Geology and Soils* to reduce construction related erosion impacts. The proposed project would be required to implement MM HAZ-1.1, MM HAZ-1.2, and MM HAZ-1.3, as mentioned in *Section 4.8 Hazards and Hazardous Materials*, to reduce construction workers' exposure to contaminated soils.

Construction of the project would temporarily increase noise levels in the immediate vicinity. As discussed in *Section 4.12 Noise and Vibration*, the project would be required to implement Standard Permit Conditions to reduce noise impacts from construction activities near sensitive land uses. The proposed project would not result in new or more significant impacts than identified in the General Plan FEIR.

4.18.2 Cumulative Impacts (*Checklist Question b*)

Under Section 15065(a)(3) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has potential environmental effects "that are individually limited, but cumulatively considerable." As defined in Section 15065(a)(3) of the CEQA Guidelines, cumulatively considerable means "that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." In addition, under Section 15152(f) of the CEQA Guidelines, where a lead agency has determined that a cumulative effect has been adequately addressed in a prior EIR, the effect is not treated as significant for purposes of later environmental review and need not be discussed in detail.

The proposed development would result in temporary water quality, biological, and noise impacts during construction. With the implementation of the identified Standard Permit Conditions, and measures identified in the General Plan FEIR, BMPs, mitigation measures, and consistency with adopted City policies, the construction impacts would be mitigated to a less than significant level. Because the nature of the identified impacts are temporary and would be mitigated, the proposed project would not have a cumulatively considerable impact on water quality, biological, and noise impacts in the project area.

Implementation of the proposed project could result in the loss of trees on-site. Any trees removed would be replaced in accordance to the City's Standard Tree Replacement Ratios (*Table 4.4-2*). The project would have no long-term effect on the urban forest or the availability of trees as nesting and/or foraging habitat. Therefore, the project would not have a cumulatively considerable impacts on biological resources.

Although there are no known subsurface resources on or adjacent to the project site, earthmoving activities on-site may result in the loss of unknown subsurface prehistoric resources on-site. Because the project would implement Standard Permit Conditions, as a condition of approval, the proposed project would not have a cumulatively considerable impact on cultural resources in the project area.

As discussed in the respective sections, the proposed project would have no impact or a less than significant impact on aesthetics, agriculture and forestry resources, geology and soils, mineral resources, noise, population and housing, public services, recreation, transportation, and utility and service facilities. The cumulative impacts to utilities, public services, and population and housing

have been addressed in the General Plan FEIR and accounted for in the City's long-term infrastructure service planning. The project would not have a cumulatively considerable impact on these resources areas.

The proposed project would not generate regional criteria pollutants and GHG emissions above BAAQMD's thresholds and, as a result, the project would not have a cumulatively considerable impact on air quality or global climate change. The proposed project and all future development under the proposed General Plan would be required to comply with all applicable City land use regulations.

4.18.3 Direct or Indirect Adverse Effects on Human Beings (*Checklist Question c*)

Consistent with Section 15065(a)(4) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has the potential to cause substantial adverse effects on human beings, either directly or indirectly. Under this standard, a change to the physical environment that might otherwise be minor must be treated as significant if people would be significantly affected. This factor relates to adverse changes to the environment of human beings generally, and not to effects on particular individuals. While changes to the environment that could indirectly affect human beings would be represented by all of the designated CEQA issue areas, those that could directly affect human beings include hazardous materials and noise. However, implementation of General Plan policies would reduce these impacts to a less than significant level. No other direct or indirect adverse effects on human beings have been identified.

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9. C2 Earth, Inc. *Geologic and Geotechnical Study*. February 17, 2016.
10. AEI Consultants. *Phase I Environmental Site Assessment*. October 25, 2017.
11. Federal Emergency Management Agency. *Flood Hazard Maps*. 2009.
12. Santa Clara Valley Water District. *Flood Inundation Maps*. 2016.
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SECTION 6.0 LEAD AGENCY AND CONSULTANTS

6.1 LEAD AGENCY

City of San José

Department of Planning, Building and Code Enforcement

Rosalynn Hughey, *Acting Director*

David Keyon, *Supervising Environmental Planner*

Krinjal Mathur, *Planner*

6.2 CONSULTANTS

David J. Powers & Associates, Inc.

Environmental Consultants and Planners

Judy Shanley, *Principal Project Manager*

Shannon George, *Senior Project Manager*

Fiona Phung, *Assistant Project Manager*

Zach Dill, *Graphic Artist*

AEI Consultants

Walnut Creek, CA

Hazardous Materials

C2 Earth

Campbell, CA

Geotechnical Study